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# SOUTH CAROLINA STATE REGISTER

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of the  
GENERAL ASSEMBLY

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This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

# ***SOUTH CAROLINA STATE REGISTER***

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

## **STYLE AND FORMAT**

Documents are arranged within each issue of the *State Register* according to the type of document filed:

**Notices** are documents considered by the agency to have general public interest.

**Notices of Drafting Regulations** give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

**Proposed Regulations** are those regulations pending permanent adoption by an agency.

**Pending Regulations Submitted to the General Assembly** are regulations adopted by the agency pending approval by the General Assembly.

**Final Regulations** have been permanently adopted by the agency and approved by the General Assembly.

**Emergency Regulations** have been adopted on an emergency basis by the agency.

**Executive Orders** are actions issued and taken by the Governor.

## **2022 PUBLICATION SCHEDULE**

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/14	2/11	3/11	4/8	5/13	6/10	7/8	8/12	9/9	10/14	11/11	12/9
Publishing Date	1/28	2/25	3/25	4/22	5/27	6/24	7/22	8/26	9/23	10/28	11/25	12/23

## **REPRODUCING OFFICIAL DOCUMENTS**

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## **PUBLIC INSPECTION OF DOCUMENTS**

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## **ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS**

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

## **EMERGENCY REGULATIONS**

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

## **REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW**

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

## **EFFECTIVE DATE OF REGULATIONS**

**Final Regulations** take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

**Emergency Regulations** take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

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 South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY	HOUSE COMMITTEE	SENATE COMMITTEE
4952	SR46-2		Procedure to Employ, through Contract or Otherwise, Qualified, Independent Third-Party Consultants or Experts	01/21/2022	Public Service Commission	Regs and Admin Procedures	Judiciary
5028	SR46-2		Term and Universal Life Insurance Reserve Financing	01/31/2022	Department of Insurance	Regs and Admin Procedures	Banking and Insurance
5029	SR46-2		Credit for Reinsurance	01/31/2022	Department of Insurance	Regs and Admin Procedures	Banking and Insurance
4977	SR46-3		Standards for Licensing Day Care Facilities for Adults	02/21/2022	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
5033	SR46-4		Raw Milk for Human Consumption; and Pasteurized Milk and Milk Products	03/14/2022	Department of Health and Envir Control	Regs and Admin Procedures	Ag and Nat Resources
5032	SR46-4		Seed Certification	03/16/2022	Clemson University	Regs and Admin Procedures	Ag and Nat Resources
5034	SR46-4		Emergency Temporary Work Permits	03/28/2022	LLR-Board of Cosmetology	Regs and Admin Procedures	Labor, Commerce and Industry
4993	SR46-5		South Carolina Jobs-Economic Development Authority	04/25/2022	SC Jobs-Economic Development Auth	Regs and Admin Procedures	Labor, Commerce and Industry
5037	SR46-5		Licensing Provisions; and Continuing Education	05/08/2022	LLR-Board of Funeral Service	Regs and Admin Procedures	Labor, Commerce and Industry
5043	SR46-5		Price Changes for Forest Tree Seedlings	05/11/2022	Commission of Forestry	Regs and Admin Procedures	Fish, Game and Forestry
5046	SR46-5		Allocation of Forest Tree Seedlings in Short Supply	05/11/2022	Commission of Forestry	Regs and Admin Procedures	Fish, Game and Forestry
5057	SR46-5		Standards for Licensing Home Health Agencies	05/11/2022	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
5041	SR46-5		Recreational Camps for Persons with Intellectual Disability	05/11/2022	Department of Disabilities and Spec Needs	Regs and Admin Procedures	Medical Affairs
5071	SR46-5		Field Trial Regulations	05/11/2022	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5051	SR46-5		Determination of Rates of Tuition and Fees	05/11/2022	Commission on Higher Education	Regs and Admin Procedures	Education
5063	SR46-5		Request for Contested Case Hearing	05/11/2022	South Carolina Criminal Justice Academy	Regs and Admin Procedures	Judiciary
5077	SR46-5		Vehicles Required to Stop at Railroad Crossings	05/11/2022	Department of Public Safety	Regs and Admin Procedures	Judiciary
5078	SR46-5		Safety Rules and Regulations	05/11/2022	Department of Public Safety	Regs and Admin Procedures	Judiciary
5067	SR46-5		Use of Warning Tickets	05/11/2022	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5079	SR46-5		Rule and Regulation Adopting Certain Federal Rules and Regulations	05/11/2022	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5080	SR46-5		Display of Decals Bearing Title Number	05/11/2022	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5082	SR46-5		Architectural Examiners	05/11/2022	LLR-Board of Architectural Examiners	Regs and Admin Procedures	Labor, Commerce and Industry
5083	SR46-5		Code of Ethics	05/11/2022	LLR-State Athletic Commission	Regs and Admin Procedures	Labor, Commerce and Industry
5073	SR46-5		Barber Examiners; Mobile Barbers; and Sanitary Rules Governing Barbers, Barbershops and Barber Colleges	05/11/2022	LLR-Board of Barber Examiners	Regs and Admin Procedures	Labor, Commerce and Industry
5084	SR46-5		International Building Code	05/11/2022	LLR-Building Codes Council	Regs and Admin Procedures	Labor, Commerce and Industry
5086	SR46-5		International Fuel Gas Code	05/11/2022	LLR-Building Codes Council	Regs and Admin Procedures	Labor, Commerce and Industry
5087	SR46-5		International Mechanical Code	05/11/2022	LLR-Building Codes Council	Regs and Admin Procedures	Labor, Commerce and Industry
5081	SR46-5		Fee Schedule for Board of Barber Examiners	05/11/2022	LLR	Regs and Admin Procedures	Labor, Commerce and Industry
5089	SR46-5		License Renewal; Retail Dealer Sales Transactions; Installers; Repairers; and Contractors	05/11/2022	LLR-Manufactured Housing Board	Regs and Admin Procedures	Labor, Commerce and Industry
5075	SR46-5		Counselors, Therapists, and Specialists	05/11/2022	LLR-Board of Examiners for Licensure of Prof Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists	Regs and Admin Procedures	Labor, Commerce and Industry
5050	SR46-5		Occupational Safety and Health Review Board	05/11/2022	LLR-Office of Occupational Safety and Health	Regs and Admin Procedures	Labor, Commerce and Industry
5049	SR46-5		Criteria for Physician Supervision of Nurses in Extended Role	05/11/2022	LLR-Board of Medical Examiners	Regs and Admin Procedures	Medical Affairs
5090	SR46-5		Emergency Licensure	05/11/2022	LLR-Board of Medical Examiners	Regs and Admin Procedures	Medical Affairs
5098	SR46-5		International Plumbing Code	05/11/2022	LLR-Building Codes Council	Regs and Admin Procedures	Labor, Commerce and Industry
5100	SR46-5		Real Estate Appraisers Board	05/11/2022	LLR-Real Estate Appraisers Board	Regs and Admin Procedures	Labor, Commerce and Industry
5101	SR46-5		Licensing Provisions	05/11/2022	LLR-Board of Examiners in Speech-	Regs and Admin Procedures	Medical Affairs

## 2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

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5095	SR46-5	Channel Nets	05/11/2022	Department of Empl and Workforce	Regs and Admin Procedures	Fish, Game and Forestry
5096	SR46-5	Commercial Permit Duration	05/11/2022	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5097	SR46-5	Gill Nets	05/11/2022	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5055	SR46-5	Emergency Medical Services	05/11/2022	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
5074	SR46-5	International Residential Code	05/11/2022	LLR-Building Codes Council	Regs and Admin Procedures	Labor, Commerce and Industry
5085	SR46-5	International Fire Code	05/11/2022	LLR-Building Codes Council	Regs and Admin Procedures	Labor, Commerce and Industry
5088	SR46-5	National Electrical Code	05/11/2022	LLR-Building Codes Council	Regs and Admin Procedures	Labor, Commerce and Industry
5065	SR46-5	Suitability in Annuity Transactions	05/11/2022	Department of Insurance	Regs and Admin Procedures	Banking and Insurance
5066	SR46-5	Term and Conditions for the Public's Use of State Lakes and Ponds Owned or Leased by the Department of Natural Resources	05/11/2022	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5044	SR46-5	General Regulations on South Carolina Forestry Commission Lands	05/11/2022	Commission of Forestry	Regs and Admin Procedures	Fish, Game and Forestry
5045	SR46-5	Hunting and Fishing Regulations on State Forest Lands Established as Wildlife Management Areas	05/11/2022	Commission of Forestry	Regs and Admin Procedures	Fish, Game and Forestry
5072	SR46-5	Wildlife Management Area Regulations	05/11/2022	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5058	SR46-5	Hazardous Waste Management Regulations	05/11/2022	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
5052	SR46-5	LIFE Scholarship Program and LIFE Scholarship Enhancement	05/11/2022	Commission on Higher Education	Regs and Admin Procedures	Education
5053	SR46-5	Palmetto Fellows Scholarship Program	05/11/2022	Commission on Higher Education	Regs and Admin Procedures	Education
5054	SR46-5	South Carolina Need-based Grants Program	05/11/2022	Commission on Higher Education	Regs and Admin Procedures	Education
5070	SR46-5	Additional Regulations Applicable to Specific Properties	05/11/2022	Department of Natural Resources	Regs and Admin Procedures	Fish, Game and Forestry
5076	SR46-5	Engineers and Land Surveyors	05/11/2022	LLR-Board of Registration for Prof Engineers and Land Surveyors	Regs and Admin Procedures	Labor, Commerce and Industry
5060	SR46-5	Contested Case Hearing	05/11/2022	South Carolina Criminal Justice Academy	Regs and Admin Procedures	Judiciary
5061	SR46-5	Denial of Certification for Misconduct	05/11/2022	South Carolina Criminal Justice Academy	Regs and Admin Procedures	Judiciary
5062	SR46-5	Final Decision by Law Enforcement Training Council	05/11/2022	South Carolina Criminal Justice Academy	Regs and Admin Procedures	Judiciary
5064	SR46-5	Withdrawal of Certification of Law Enforcement Officers	05/11/2022	South Carolina Criminal Justice Academy	Regs and Admin Procedures	Judiciary
5038	SR46-5	Appeal Procedures	05/11/2022	Department of Disabilities and Spec Needs	Regs and Admin Procedures	Medical Affairs
5039	SR46-5	Research Involving Persons Eligible for Services	05/11/2022	Department of Disabilities and Spec Needs	Regs and Admin Procedures	Medical Affairs
5040	SR46-5	Eligibility Determination	05/11/2022	Department of Disabilities and Spec Needs	Regs and Admin Procedures	Medical Affairs
5103	R152 SR46-5	Onsite Wastewater Systems	02/11/2023	Department of Health and Envir Control	Regs and Admin Procedures	Medical Affairs
5105	R195 SR46-6	Driver Training Schools	02/28/2023	Department of Motor Vehicles	Regs and Admin Procedures	Transportation
5104	R232 SR46-6	Promulgation of Regulations Pursuant to the South Carolina Electronic Notary Public Act	03/07/2023	Secretary of State	Regs and Admin Procedures	Family and Veterans' Services
<b>Permanently Withdrawn</b>						
5047		Accreditation Criteria		State Board of Education	Regs and Admin Procedures	Education
5099		Optometrists' Offices		LLR-Board of Examiners in Optometry	Regs and Admin Procedures	Medical Affairs

**Executive Order No. 2022-15**

**WHEREAS**, on May 16, 2022, a Grand Jury convened in Oconee County returned two Indictments charging Matthew Durham, a member of Oconee County Council, with Unlawful Neglect of Child, in violation of section 63-5-70 of the South Carolina Code of Laws, as amended, and one count of Domestic Violence, Second Degree, in violation of section 16-25-20(C) of the South Carolina Code of Laws, as amended; and

**WHEREAS**, article VI, section 8 of the South Carolina Constitution provides, in relevant part, that “[a]ny officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . may be suspended by the Governor until he shall have been acquitted” and “[i]n case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law”; and

**WHEREAS**, Matthew Durham, as a member of Oconee County Council, is an officer of the State or its political subdivisions; and

**WHEREAS**, under South Carolina law, moral turpitude “implies something immoral in itself, regardless of whether it is punishable by law as a crime,” involves “an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man,” or otherwise includes conduct “contrary to justice, honesty[,] and good morals,” *State v. Horton*, 271 S.C. 413, 414–15, 248 S.E.2d 263, 263–64 (1978); *see also Baddourah v. McMaster*, 433 S.C. 89, 112, 856 S.E.2d 561, 573 (2021) (“Under South Carolina’s moral turpitude framework, we focus ‘primarily on the duty to society and fellow man [that] is breached by the commission of the crime.’”); and

**WHEREAS**, upon consideration of the circumstances presented, to include the particularized facts alleged in the Indictments and the statutory definition and classification of the offenses, the undersigned has determined that one or both of the aforementioned Indictments charge Matthew Durham with “a crime involving moral turpitude” for purposes of article VI, section 8 of the South Carolina Constitution, *see Baddourah*, 433 S.C. at 108, 113–14, 856 S.E.2d at 571, 574 (“Under the circumstances presented here . . . we conclude the charge of second-degree domestic violence qualifies as a crime involving moral turpitude.” (footnote omitted)); *see also State v. Jenkins*, 278 S.C. 219, 222, 294 S.E.2d 44, 45–46 (1982) (noting that S.C. Code Ann. § 63-5-70’s predecessor statute, which was previously categorized as a misdemeanor, was “enacted to provide protection for those persons whose tender years or helplessness renders them incapable of self-protection” and that “the legislature intended that one who simply, without knowledge or intent that his act is criminal, fails to provide proper care and attention for a child or helpless person of whom he has legal custody, so that the life, health, and comfort of that child or helpless person is endangered or is likely to be endangered, violates [the statute]”); *Op. Att’y Gen.*, 1991 WL 474760, at \*2 (S.C.A.G. Apr. 30, 1991) (“Based upon a review of the facts set forth in the indictment, it is the opinion of this office that the offense [of Mistreatment of a Child] charged in the indictment constitutes one of moral turpitude.”); and

**WHEREAS**, for the foregoing reasons, and in accordance with article VI, section 8 of the South Carolina Constitution, the undersigned is authorized to suspend Matthew Durham from office as a member of Oconee County Council until such time as he shall be acquitted or convicted or until a successor is elected and qualifies as provided by law, whichever event occurs first.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby suspend Matthew Durham from office as a member of Oconee County Council until such time as he shall be formally acquitted or convicted or until a successor is elected and qualifies as provided by law, whichever event occurs first. This action in no manner addresses the guilt or innocence of Matthew Durham and shall not be construed as an expression of any opinion on such question. This Order is effective immediately.

## 4 EXECUTIVE ORDERS

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 16th DAY OF MAY, 2022.**

**HENRY MCMASTER  
Governor**

### **Executive Order No. 2022-16**

**WHEREAS**, the United States continues to experience various, significant, and sustained supply chain disruptions, which are adversely impacting the movement and availability of critical consumer goods and industrial materials in South Carolina and other States; and

**WHEREAS**, particularly as Americans face increasing prices for gasoline and other fuels, historic inflation, and difficulty obtaining limited supplies of essential products such as infant or baby formula, ongoing supply chain disruptions continue to impose additional burdens on businesses, individuals, and families; and

**WHEREAS**, although the State of South Carolina, which boasts robust and reliable transportation infrastructure, including the Port of Charleston and productive inland ports, remains uniquely prepared and positioned to mitigate interruptions in the national and international supply chains, the United States continues to experience significant supply chain disruptions; and

**WHEREAS**, the Federal Motor Carrier Safety Regulations limit, inter alia, the hours of service for operators of commercial vehicles, 49 C.F.R. §§ 390 et seq., and federal law prescribes certain weight limitations for vehicles on interstate highways, 23 U.S.C. § 127; and

**WHEREAS**, pursuant to 49 C.F.R. § 390.23, the governor of a state may suspend certain federal rules and regulations for commercial vehicles responding to an emergency if the governor determines that an emergency condition exists; and

**WHEREAS**, section 56-5-70(B) of the South Carolina Code of Laws, as amended, provides that “[w]hen an emergency is declared which triggers relief from regulations pursuant to 49 C.F.R. [§] 390.23 in North Carolina or Georgia, an emergency, as referenced in the regional emergency provision of 49 C.F.R. [§] 390.23(a)(1)(A), must be declared in this State by the Governor”; and

**WHEREAS**, on November 19, 2021, the Governor of the State of Georgia declared that emergency conditions existed in his State due to, inter alia, the continued negative impacts of COVID-19 and the need to facilitate economic recovery and, in doing so, the Governor of the State of Georgia temporarily waived or suspended certain motor vehicle and transportation-related rules and regulations in connection with the same; and

**WHEREAS**, on November 23, 2021, the undersigned issued Executive Order No. 2021-40, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles in connection with the cited supply chain disruptions and the declared emergency in the State of Georgia pursuant to 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

**WHEREAS**, on December 17, 2021, the Governor of the State of Georgia renewed his declaration that emergency conditions existed in his State and extended the waiver or suspension of certain motor vehicle and transportation-related rules and regulations in connection with the same; and

**WHEREAS**, on December 23, 2021, the undersigned issued Executive Order No. 2021-44, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles, for the

reasons set forth therein, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

**WHEREAS**, on January 18, 2022, the Governor of the State of Georgia again renewed his emergency declaration related to Georgia's continued economic recovery, including his waiver or suspension of certain motor vehicle and transportation-related rules and regulations; and

**WHEREAS**, on January 25, 2022, the undersigned issued Executive Order No. 2022-08, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles, for the reasons set forth therein, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

**WHEREAS**, on February 18, 2022, the Governor of the State of Georgia again renewed his emergency declaration related to Georgia's continued economic recovery, including his waiver or suspension of certain motor vehicle and transportation-related rules and regulations; and

**WHEREAS**, on February 28, 2022, the Governor of the State of North Carolina extended the terms of a previous emergency declaration and other orders pertaining to COVID-19, including transportation-related provisions contained therein; and

**WHEREAS**, on March 1, 2022, the undersigned issued Executive Order No. 2022-10, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles, for the reasons set forth therein, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

**WHEREAS**, on March 21, 2022, the Governor of the State of Georgia again renewed his emergency declaration related to Georgia's continued economic recovery, including his waiver or suspension of certain motor vehicle and transportation-related rules and regulations; and

**WHEREAS**, on March 31, 2022, the undersigned issued Executive Order No. 2022-11, waiving or suspending certain rules and regulations for commercial vehicles and operators of commercial vehicles, for the reasons set forth therein, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws; and

**WHEREAS**, on April 14, 2022, the Governor of the State of Georgia declared that emergency conditions existed in his State due to supply chain disruptions and, in doing so, the Governor of the State of Georgia temporarily waived or suspended certain motor vehicle and transportation-related rules and regulations in connection with the same; and

**WHEREAS**, on May 26, 2022, the Governor of the State of Georgia again renewed his declaration that emergency conditions existed in his State and extended the waiver or suspension of certain motor vehicle and transportation-related rules and regulations in connection with the same; and

**WHEREAS**, on May 31, 2022, the Governor of the State of North Carolina again extended the terms of a previous emergency declaration and other orders pertaining to COVID-19, including transportation-related provisions contained therein, and amended the scope of the same to account for the ongoing shortage of infant or baby formula; and

**WHEREAS**, for the aforementioned and other reasons and in accordance with the cited authorities, the undersigned has determined that the circumstances described herein in connection with existing, ongoing, and anticipated supply chain disruptions and any actual, potential, or perceived interruptions in the availability, transportation, or delivery of critical consumer goods and industrial materials in the State of South Carolina constitute an emergency for purposes of 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of

## 6 EXECUTIVE ORDERS

Laws such that it is necessary and prudent to provide additional relief to assist in facilitating, supporting, and strengthening South Carolina's transportation industries and infrastructure so as to avoid, mitigate, or minimize further national and international supply chain interruptions.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby order and direct as follows:

### **Section 1. Transportation Waivers to Address Continued Supply Chain Disruptions and Nationwide Infant Formula Shortage**

A. I hereby determine and declare that the existing, ongoing, and anticipated threats and circumstances described herein associated with supply chain disruptions and the impacts related to the same constitute an emergency pursuant to 49 C.F.R. § 390.23 for purposes of suspending certain rules and regulations, as set forth below, for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws.

B. I hereby authorize and direct the South Carolina Department of Transportation ("DOT") and the South Carolina Department of Public Safety ("DPS"), including the State Transport Police, as needed, to waive or suspend application and enforcement of the requisite state and federal rules and regulations pertaining to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles and operators of commercial vehicles operating in accordance with the provisions of the Federal Motor Carrier Safety Administration's ("FMCSA") May 27, 2022 Extension and Amendment of the Modified Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25 or the FMCSA's May 23, 2022 Regional Emergency Declaration No. 2022-005 Under 49 C.F.R. § 390.23, or any future amendments or supplements thereto; providing direct assistance as defined by 49 C.F.R. § 390.5 to the declared emergencies in the State of Georgia or the State of North Carolina; or otherwise assisting with the existing or anticipated threats and circumstances associated with supply chain disruptions, to include those related to the nationwide infant or baby formula shortage, as further described herein.

C. I hereby authorize DOT and DPS, as applicable, to apply for or request any additional federal regulatory relief, waivers, permits, or other appropriate flexibility deemed necessary, whether pertaining to the transportation of overweight loads on interstate highways or otherwise, on behalf of the State of South Carolina and to promptly implement the same without the need for further Orders.

D. This Section shall not be construed to require or allow an ill or fatigued driver to operate a commercial motor vehicle. In accordance with 49 C.F.R. § 390.23, "a driver who informs the motor carrier that he or she needs immediate rest must be permitted at least ten (10) consecutive hours off duty before the driver is required to return to such terminal or location." Likewise, this Section shall not be construed as an exemption from the applicable controlled substances and alcohol use and testing requirements in 49 C.F.R. § 382, the commercial driver's license requirements in 49 C.F.R. § 383, or the financial responsibility requirements in 49 C.F.R. § 387, and it shall not be interpreted to relieve compliance with any other state or federal statute, rule, order, regulation, restriction, or other legal requirement not specifically waived, suspended, or addressed herein or addressed in any additional or supplemental guidance, rules, regulations, restrictions, or clarifications issued, provided, or promulgated by DOT or DPS.

E. Subject to any guidance, rules, regulations, restrictions, or clarification issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DOT or DPS, as authorized herein or as otherwise provided by law, and notwithstanding the waiver or suspension of certain rules and regulations as set forth above, drivers in South Carolina are still subject to the following state requirements to ensure public safety:

1. Weight, height, length, and width for any such vehicle with five (5) weight bearing axles on highways or roadways maintained by the State of South Carolina shall not exceed, for continuous travel

on all non-interstates, United States, and South Carolina designated routes, maximum dimensions of twelve (12) feet in width (except as provided below), thirteen (13) feet six (6) inches in height, and ninety thousand (90,000) pounds in gross weight.

2. Posted bridges may not be crossed.

3. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall be clearly identified as a utility vehicle or shall provide appropriate documentation indicating they are responding to the emergency.

4. Except as provided below, any vehicles that exceed the above dimensions, weights, or both, must obtain a permit with defined routes from the South Carolina Department of Transportation Oversized/Overweight Permit Office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. – 5:00 p.m., or (803) 206-9566 after normal business hours.

5. In accordance with federal law, vehicles traveling on non-interstate routes within the National Network may not exceed a width of 102 inches or 8.6 feet without a special permit. Information regarding special permits for width on the National Network are available on DOT's website, and a list of routes on the National Network is set forth in Appendix A to 23 C.F.R. Part 658.

6. Transporters are responsible for ensuring they have oversize signs, markings, flags, and escorts as required by the South Carolina Code of Laws relating to oversized/overweight loads operating on South Carolina roadways.

F. I hereby authorize DOT and DPS to issue, provide, or promulgate any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application, implementation, or enforcement of this Section, or to otherwise provide clarification regarding the same, without the need for further Orders.

G. This Section is effective immediately and shall remain in effect for thirty (30) days or until the declared emergencies in the State of Georgia and State of North Carolina are terminated, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws. Unless otherwise modified, amended, extended, or rescinded by subsequent Order and absent any different or additional directives, upon the expiration of this Section, DOT and DPS may exercise discretion, to the extent appropriate and authorized or otherwise provided by law, over the application and enforcement of the requisite state and federal rules and regulations pertaining to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles and operators of commercial vehicles as necessary to address any ongoing supply chain disruptions, to include those related to the nationwide infant or baby formula shortage, as further described herein or any different or additional supply chain disruptions.

## **Section 2. Directives to Address Supply Chain Disruptions**

A.I hereby declare that the provisions of Section 2 of Executive Order No. 2021-40 shall remain in full force and effect unless otherwise modified, amended, extended, or rescinded by subsequent Order.

## **Section 3. General Provisions**

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective

## **8 EXECUTIVE ORDERS**

of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. I hereby expressly authorize the Office of the Governor to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Order or to otherwise to provide clarification regarding the same, through appropriate means, without the need for further Orders.

E. This Order is effective immediately and shall remain in effect unless otherwise expressly stated herein or modified, amended, extended, or rescinded by subsequent Order.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 9th DAY OF JUNE, 2022.**

**HENRY MCMASTER  
Governor**

**STATE FISCAL ACCOUNTABILITY AUTHORITY  
OFFICE OF THE STATE ENGINEER**

**NOTICE OF GENERAL PUBLIC INTEREST**

This notice is published pursuant to Sections 1-23-40(2) and 1-34-30(A).

Section 10-1-180 charges the State Engineer with the enforcement and interpretation of building codes applicable to state buildings. Section 1-34-30(A) requires that an agency adopt the latest edition of all nationally recognized codes which the agency is charged by statute with enforcing and allows the agency to propose such adoption by publishing a notice in the State Register.

The State Engineer proposes to adopt the below listed nationally recognized codes with South Carolina Building Council (SCBC) modifications, if any, effective January 1, 2023. Consistent with Section 10-1-180, information regarding the adoption of these codes, including the code editions, revision years, and any deletions, will be published in the Manual for Planning and Execution of State Permanent Improvements.

The predecessors of these codes were originally adopted pursuant to enactments of the General Assembly now codified as Section 10-1-180, with information regarding the code editions, revision years, and any deletions appearing in the Manual for Planning and Execution of State Permanent Improvements.

Interested persons are invited to submit comments concerning particular sections of the proposed edition. Comments should be sent to John White, State Engineer, Office of the State Engineer, 1201 Main Street, Suite 600, Columbia, SC 29201, within sixty days of the publication of this notice.

International Building Code (IBC), 2021 Edition with SCBC modifications  
 International Existing Building Code (IEBC), 2021 Edition  
 International Fire Code (IFC), 2021 Edition with SCBC modifications  
 International Fuel Gas Code (IFGC), 2021 Edition with SCBC modifications  
 International Mechanical Code (IMC), 2021 Edition with SCBC modifications  
 International Plumbing Code (IPC), 2021 Edition with SCBC modifications  
 International Private Sewage Disposal Code (IPSDC), 2021 Edition  
 International Property Maintenance Code (IPMC), 2021 Edition  
 International Residential Code for One and Two Family Dwellings (IRC), 2021 Edition with SCBC modifications  
 International Wildland – Urban Interface Code (IWUIC), 2021 Edition  
 International Code Council Performance Code (ICCPC), 2021 Edition  
 International Swimming Pool and Spa Code (ISPSC), 2021 Edition

The following organization issued the above listed nationally recognized codes:

International Code Council Inc.  
 500 New Jersey Avenue, NW, 6th Floor  
 Washington, DC 2001-2070

National Electrical Code (NEC) [NFPA-70], 2020 Edition with SCBC modifications

The following organization issued the above listed nationally recognized code:

National Fire Protection Association  
 1 Batterymarch Park  
 Quincy, MA 02169-7471

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### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication on **June 24, 2022**, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201, at (803) 545-4200, or by email at [coninfo@dhec.sc.gov](mailto:coninfo@dhec.sc.gov).

##### Affecting Charleston County

**Windwood Farm Home for Children, Inc. d/b/a Riverside Behavioral Health Service at Windwood Farm**  
Renovation for the addition of four (4) residential treatment beds for children and adolescents for a total of 16 beds at a total project cost of \$245,000.

##### Affecting Orangeburg County

###### **The Regional Medical Center of Orangeburg and Calhoun Counties**

Development of an Emergent and Elective Percutaneous Coronary Intervention (PCI) Program at a total project cost of \$628,397.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from **June 24, 2022**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200 or email [coninfo@dhec.sc.gov](mailto:coninfo@dhec.sc.gov).

##### Affecting Anderson County

###### **Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Expansion of an existing Pediatric Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in Anderson County at a total project cost of \$5,528.

##### Affecting Cherokee County

###### **Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Expansion of an existing Pediatric Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in Cherokee County at a total project cost of \$5,528.

##### Affecting Chester County

###### **Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Establishment of a Pediatric and Adult Specialty Home Health Agency limited to home infusion nursing services in Chester County at a total project cost of \$5,528.

##### Affecting Greenville County

###### **Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Expansion of an existing Pediatric Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in Greenville County at a total project cost of \$5,528.

##### Affecting Lancaster County

###### **Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Establishment of a Pediatric and Adult Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in Lancaster County at a total project cost of \$5,528.

**Affecting Laurens County****Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Expansion of an existing Pediatric Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in Laurens County at a total project cost of \$5,528.

**Affecting Lexington County****Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Establishment of a Pediatric and Adult Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in Lexington County at a total project cost of \$5,528.

**Affecting Newberry County****Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Establishment of a Pediatric and Adult Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in Newberry County at a total project cost of \$5,528.

**Affecting Oconee County****Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Expansion of an existing Pediatric Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in Oconee County at a total project cost of \$5,528.

**Affecting Pickens County****Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Expansion of an existing Pediatric Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in Pickens County at a total project cost of \$5,528.

**Affecting Richland County****Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Establishment of a Pediatric and Adult Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in Richland County at a total project cost of \$5,528.

**Affecting Union County****Home Choice Partners, Inc d/b/a Bioscrip Infusion Services**

Expansion of an existing Pediatric Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in Union County at a total project cost of \$5,528.

**Affecting York County****Home Choice Partners, Inc. d/b/a Bioscrip Infusion Services**

Expansion of an existing Pediatric Specialty Home Health Agency limited to home infusion nursing services to add adult home infusion nursing services in York County at a total project cost of \$5,528.

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL****NOTICE OF GENERAL PUBLIC INTEREST****CAPACITY USE AREA GROUNDWATER MANAGEMENT PLAN  
AND PUBLIC HEARING**

June 24, 2022

The Groundwater Use and Reporting Act requires that the groundwater resources of the State be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation, in order to conserve and protect these resources, prevent waste, and to provide and maintain conditions which are conducive to the

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development and use of water resources. See S.C. Code Section 49-5-20. Further, the Act states that the Department of Health and Environmental Control (the Department) shall coordinate the affected governing bodies and groundwater withdrawers (of a designated Capacity Use Area) to develop a groundwater management plan to achieve goals and objectives stated in Section 49-5-20. See S.C. Code Section 49-5-60(B). In those areas where the governing bodies and withdrawers are unable to develop a plan, the Department shall take action to develop the plan as required by law.

The Department in coordination with a local Stakeholder Workgroup, diverse in geographic and water user type representation, has developed a local groundwater management plan for the designated Santee-Lynches Capacity Use Area to bring before the Board for final approval. A public hearing for the final approval of the Santee-Lynches Capacity Use Area groundwater management plan is scheduled for Thursday, August 11, 2022, during the Board of Health and Environmental Control's monthly meeting. The public hearing and meeting will be held at 10:00 AM on the 3rd Floor, Room 3420, of the S.C. DHEC Central Office located at 2600 Bull St., Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. Public hearing procedures are subject to change in response to COVID-19 protocols. If applicable, the Department will provide notice of these changes twenty-four (24) hours in advance of the public hearing. Local governments, permitted water users, industry, public water suppliers, and the general public are invited to attend and participate.

If you have questions or comments, please contact Leigh Anne Monroe, Water Quantity Section, at (803) 898-2415 or by email at [monroela@dhec.sc.gov](mailto:monroela@dhec.sc.gov). You may also visit our webpage at <https://scdhec.gov/BOW/groundwater-use-reporting/groundwater-management-planning/santee-lynches-area-p-reliminary> for more information.

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY  
CHAPTER 37**

Statutory Authority: 1976 Code Sections 23-23-10 et seq.

**Notice of Drafting:**

The South Carolina Criminal Justice Academy proposes to amend Regulation 37-025 that addresses the denial of certification for misconduct. Interested persons may submit comments to Bradley J. Young, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C. 29212. To be considered, comments must be received no later than 5:00 p.m. August 5, 2022, the close of the drafting period.

**Synopsis:**

S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed regulation will define misconduct for the denial of certification of law enforcement officers.

Legislative review of this proposal will be required.

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY  
CHAPTER 37**

Statutory Authority: 1976 Code Sections 23-23-10 et seq.

**Notice of Drafting:**

The South Carolina Criminal Justice Academy proposes to draft a new regulation, 37-073, that addresses the denial of operator certification for misconduct. Interested persons may submit comments to Bradley J. Young, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C. 29212. To be considered, comments must be received no later than 5:00 p.m. August 5, 2022, the close of the drafting period.

**Synopsis:**

S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed regulation will address the denial of operator certification for misconduct.

Legislative review of this proposal will be required.

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY  
CHAPTER 37**

Statutory Authority: 1976 Code Sections 23-23-10 et seq.

**Notice of Drafting:**

The South Carolina Criminal Justice Academy proposes to amend Regulation 37-107 regarding Final Agency Decisions. Interested persons may submit comments to Bradley J. Young, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C. 29212. To be considered, comments must be received no later than 5:00 p.m. August 5, 2022, the close of the drafting period.

**Synopsis:**

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S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed regulation will define the procedure for Final Agency Decisions.

Legislative review of this proposal will be required.

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**  
**CHAPTER 37**  
Statutory Authority: 1976 Code Sections 23-23-10 et seq.

### **Notice of Drafting:**

The South Carolina Criminal Justice Academy proposes to amend Regulation 37-105 that addresses contested case hearings. Interested persons may submit comments to Bradley J. Young, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C. 29212. To be considered, comments must be received no later than 5:00 p.m. August 5, 2022, the close of the drafting period.

### **Synopsis:**

S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed regulation will define the procedure for holding contested case hearing.

Legislative review of this proposal will be required.

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**  
**CHAPTER 37**  
Statutory Authority: 1976 Code Sections 23-23-10 et seq.

### **Notice of Drafting:**

The South Carolina Criminal Justice Academy proposes to amend Regulation 37-026 that addresses the withdrawal of certification of law enforcement officers. Interested persons may submit comments to Bradley J. Young, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C. 29212. To be considered, comments must be received no later than 5:00 p.m. August 5, 2022, the close of the drafting period.

### **Synopsis:**

S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed regulation will define grounds for the withdrawal of certification of law enforcement officers.

Legislative review of this proposal will be required.

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY  
CHAPTER 37**

Statutory Authority: 1976 Code Sections 23-23-10 et seq.

**Notice of Drafting:**

The South Carolina Criminal Justice Academy proposes to draft a new regulation, 37-074, that addresses the withdrawal of operator certification for misconduct. Interested persons may submit comments to Bradley J. Young, South Carolina Criminal Justice Academy, 5400 Broad River Road, Columbia, S.C. 29212. To be considered, comments must be received no later than 5:00 p.m. August 5, 2022, the close of the drafting period.

**Synopsis:**

S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed regulation will address the withdrawal of operator certification for misconduct.

Legislative review of this proposal will be required.

**STATE ETHICS COMMISSION  
CHAPTER 52**

Statutory Authority: 1976 Code Sections 8-13-320, 8-13-1110, 8-13-1140, 8-13-1306, and 8-13-1356

**Notice of Drafting:**

The State Ethics Commission proposes to amend (1) Regulation 52-501 to replace language related to paper filing with language related to electronic filing and (2) Regulation 52-502 to replace language related to paper filing with language related to electronic filing and to replace the outdated filing deadlines with those currently mandated by statute. Interested parties may submit comments to Meghan L. Walker, Executive Director, State Ethics Commission, 201 Executive Drive, Suite 150, Columbia, S.C. 29210 by 5 p.m. on July 25, 2022.

**Synopsis:**

The State Ethics Commission proposes to amend Regulations 52-501 and 52-502 regarding Commission filings, to include updating language to reflect the current electronic filing system and to align the filing deadlines with those required by statute.

Legislative review of this amendment is required.

**STATE ETHICS COMMISSION  
CHAPTER 52**

Statutory Authority: 1976 Code Sections 8-13-320 and 8-13-540

**Notice of Drafting:**

The State Ethics Commission proposes to amend (1) Regulation 52-702 regarding the Commission's jurisdiction, (2) Regulation 52-713 regarding Commission hearings, and (3) Regulation 52-718 regarding confidentiality during the complaint process. Interested parties may submit comments to Meghan L. Walker, Executive Director, State Ethics Commission, 201 Executive Drive, Suite 150, Columbia, S.C. 29210 by 5 p.m. on July 25, 2022.

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### Synopsis:

The State Ethics Commission proposes to amend Regulation 52-702 to include language referring to the Commission's investigatory jurisdiction over candidates for and members of the General Assembly and to clarify that the Commission does not have jurisdiction over Administrative Law Judges. The State Ethics Commission further proposes to amend Regulation 52-713 to clarify that all contested case hearings are held in open session. Finally, the State Ethics Commission proposes to amend Regulation 52-718 to delete provisions related to confidentiality that conflict with the statute.

Legislative review of this amendment is required.

### STATE ETHICS COMMISSION CHAPTER 52

Statutory Authority: 1976 Code Section 8-13-320

### Notice of Drafting:

The State Ethics Commission proposes to amend (1) Regulation 52-208 to clarify that the proper court for appeals from Commission contested case hearings is the Court of Appeals and (2) Regulation 52-210 to clarify that the Commission's attorney alone represents the Commission and the Complainant during a contested case hearing. Interested persons may submit comments to Meghan L. Walker, Executive Director, State Ethics Commission, 201 Executive Drive, Suite 150, Columbia, S.C. 29210 by 5 p.m. on July 25, 2022.

### Synopsis:

The State Ethics Commission proposes to amend Regulation 52-208 to clarify that the Court of Appeals is the proper court for appeals from Commission contested case hearings. The State Ethics Commission further proposes to amend Regulation 52-210 to clarify that the Complainant and the Commission are represented by the Commission's attorney in a contested case hearing.

Legislative review of this amendment is required.

### STATE ETHICS COMMISSION CHAPTER 52

Statutory Authority: 1976 Code Sections 2-17-20, 2-17-25, 2-17-30, 2-17-35, 2-17-40, 2-17-90, and 8-13-320

### Notice of Drafting:

The State Ethics Commission proposes to amend (1) Regulation 52-402 to include language related to the electronic filing system and (2) Regulation 52-403 to accurately reflect the appropriate dates of filing as mandated by statute. Interested parties may submit comments to Meghan L. Walker, Executive Director, State Ethics Commission, 201 Executive Drive, Suite 150, Columbia, S.C. 29210 by 5 p.m. on July 25, 2022.

### Synopsis:

The State Ethics Commission proposes to amend Regulations 52-402 and 52-403 regarding Commission filings for lobbyists and lobbyist's principals, to include updating language to reflect the current electronic filing system and to align the filing deadlines with those required by statute.

Legislative review of this amendment is required.

**STATE ETHICS COMMISSION  
CHAPTER 52**

Statutory Authority: 1976 Code Sections 8-13-320, 8-13-1110, 8-13-1140, 8-13-1306, and 8-13-1356

**Notice of Drafting:**

The State Ethics Commission proposes to amend Regulations 52-601 and 52-607 to delete language related to paper filing and to replace outdated filing deadlines with those required by statute. Interested parties may submit comments to Meghan L. Walker, Executive Director, State Ethics Commission, 201 Executive Drive, Suite 150, Columbia, S.C. 29210 by 5 p.m. on July 25, 2022.

**Synopsis:**

The State Ethics Commission proposes to amend Regulations 52-601 and 52-607 regarding Commission filings, to include updating language to reflect the statutorily mandated electronic filing system and to delete language referring to paper filing.

Legislative review of this amendment is required.

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
CHAPTER 61**

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

**Notice of Drafting:**

The Department of Health and Environmental Control (Department) proposes amending R.61-62, Air Pollution Control Regulations and Standards. Interested persons may submit comments on the proposed amendments to Holly Randolph of the Air Regulation and SIP Management Section, Bureau of Air Quality; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; or via email at [randolhk@dhec.sc.gov](mailto:randolhk@dhec.sc.gov). To be considered, the Department must receive comments no later than 5:00 p.m. on July 25, 2022, the close of the Notice of Drafting comment period.

**Synopsis:**

The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments at 40 CFR Parts 60 and 63 include revisions to New Source Performance Standards (NSPS) and Emission Guidelines, and revisions to National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories. The Department proposes amending R.61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, and R.61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, to incorporate by reference federal amendments promulgated from January 1, 2021, through December 31, 2021.

The Department also proposes amending R.61-62.70, Title V Operating Permit Program, at 70.5(c), to correct an error in an earlier amendment as required by the EPA to maintain compliance with federal law.

The Department may also propose other changes to R.61-62, Air Pollution Control Regulations and Standards, as deemed necessary to maintain compliance with federal law. These changes may include corrections or other changes for internal consistency, clarification, reference, punctuation, codification, formatting, spelling, and overall improvement to the text of R.61-62.

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The Administrative Procedures Act, S.C. Code Section 1-23-120(H)(1), exempts these amendments from General Assembly review, as the Department proposes these amendments for compliance with federal law.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-7-110 through 44-7-340

#### Notice of Drafting:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-15, *Certification of Need for Health Facilities and Services*. Interested persons may submit written comments to the Office of Policy and Communications, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [HQRegs@dhec.sc.gov](mailto:HQRegs@dhec.sc.gov); or the Healthcare Quality Public Comment Form at <https://forms.office.com/g/9VMEXLWtq0>. To be considered, the Department must receive comments no later than 5:00 p.m. on July 25, 2022, the close of the Notice of Drafting comment period.

#### Synopsis:

Pursuant to S.C. Code Sections 44-7-110 through 44-7-340, the Department promulgates substantive and procedural regulations considered necessary by the Department and approved by the S.C. Board of Health and Environmental Control to carry out the Department’s Certificate of Need duties. The Department proposes amending R.61-15 for consistency with statutory requirements, to enable an electronic application process, to revise the application format and additional information required for the application process, and update exemption and non-applicability determination processes. The Department also proposes adding, removing, and modifying definitions contained within the regulation. The Department may update language and processes related to public hearings on Certificate of Need applications, the application and review process and related notifications, voidance and extension procedures, and periodic and final reporting requirements regarding issued Certificates of Need. The amendments may also revise the project review criteria and the monetary thresholds that trigger a Certificate of Need review.

The proposed amendments may also include corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

#### Notice of Drafting:

The Department of Health and Environmental Control (“Department”) proposes amending R.61-9, Water Pollution Control Permits. Interested persons may submit comment(s) on the proposed amendments to Crystal Rippey of the Bureau of Water; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [rippycd@dhec.sc.gov](mailto:rippycd@dhec.sc.gov). To be considered, the Department must receive comments no later than 5:00 p.m. on July 25, 2022, the close of the Notice of Drafting comment period.

#### Synopsis:

Pursuant to the South Carolina Pollution Control Act, S.C. Code Ann. 48-1-10 et seq., the Department establishes standards and requirements for the final use of domestic and industrial sludge and the land application of effluent. The Department proposes to amend certain parts of R.61-9 to specify requirements, as needed, for analysis, monitoring, recordkeeping, and reporting related to per- and polyfluoroalkyl substances (“PFAS”)-class chemicals in sludge and effluent intended for land application. The affected sections of the regulation may include: R.61-9.122, R.61-9.503, R.61-9.504, and R.61-9.505.

The proposed amendments may also include corrections for clarity and readability, grammar, punctuation, codification, and other such regulatory text improvements.

The Administrative Procedures Act, S.C. Code Section 1-23-120(A), requires General Assembly review of these proposed amendments.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
OFFICE OF STATE FIRE MARSHAL**

**CHAPTER 71**

Statutory Authority: 1976 Code Sections 23-9-20(A)(4) and (5), 23-9-30(C), 23-9-550, 23-35-45, and 23-36-80

**Notice of Drafting:**

The South Carolina Department of Labor, Licensing and Regulation, Office of State Fire Marshal, proposes to add to, amend and repeal certain regulations appearing in R.71-8300 through R.71-8306. Interested persons may submit comments to Jonathan Jones, State Fire Marshal, S.C. Department of Labor, Licensing and Regulation, Office of State Fire Marshal, 141 Monticello Trail, Columbia, South Carolina 29203.

**Synopsis:**

The South Carolina Department of Labor, Licensing and Regulation, Office of the State Fire Marshal, proposes to add to, amend and repeal certain regulations appearing in R.71-8300 through R.71-8306. Specifically, the proposed changes are required following the passage of Act No. 170 of 2022 and the five-year regulatory review, required by S.C. Code Section 1-23-120(J).

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
BOARD OF LANDSCAPE ARCHITECTURAL EXAMINERS**

**CHAPTER 76**

Statutory Authority: 1976 Code Sections 40-1-70, 40-28-30, 40-28-80(A), 40-28-120, and 40-28-140

**Notice of Drafting:**

The Board of Landscape Architectural Examiners proposes to amend various sections in Chapter 76. Interested parties may submit comments to Pam Dunkin, Administrator, Board of Landscape Architectural Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11419, Columbia, SC 29211.

**Synopsis:**

## **20 DRAFTING NOTICES**

The Board of Landscape Architectural Examiners proposes to amend Chapter 76, including but not limited to providing clarification and guidance regarding continuing education as well as clarifying scoring for the Examination for Landscape Architecture required by state or federal laws and regulations.

Legislative review of this amendment is required.

### **DEPARTMENT OF LABOR, LICENSING AND REGULATION MANUFACTURED HOUSING BOARD CHAPTER 79**

Statutory Authority: 1976 Code Section 40-29-10(D)

#### **Notice of Drafting:**

The South Carolina Manufactured Housing Board is considering proposing amendments to Chapter 79 of the Code of Regulations to add, amend or repeal certain sections of the Code to conform to HUD requirements and to effect recommendations made in conjunction with the five-year regulatory review required by S.C. Code Section 1-23-120(J). Interested persons may submit written comments to Molly F. Price, Administrator, Manufactured Housing Board, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211-1329.

#### **Synopsis:**

The South Carolina Manufactured Housing Board is considering proposing amendments to Chapter 79 of the Code of Regulations to add, amend or repeal certain sections of the Code to conform to HUD requirements and to effect recommendations made in conjunction with the five-year regulatory review required by S.C. Code Section 1-23-120(J).

Legislative review of this amendment is required.

### **DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF EXAMINERS IN OPTOMETRY CHAPTER 95**

Statutory Authority: 1976 Code Sections 40-37-40 and 40-37-320

#### **Notice of Drafting:**

The South Carolina Board of Examiners in Optometry proposes to amend Chapter 95 of the Code of Regulations to add regulations for optometrists' offices, which include mobile units, as authorized by S.C. Code Section 40-37-320, and to adopt a code of professional ethics appropriate to the profession of optometry. Interested persons may submit comments to Meredith Buttler, Administrator, Board of Examiners in Optometry, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.

#### **Synopsis:**

The South Carolina Board of Examiners in Optometry proposes to amend Chapter 95 of the Code of Regulations to add regulations for optometrists' offices, which include mobile units, as authorized by S.C. Code Section 40-37-320, and to adopt a code of professional ethics appropriate to the profession of optometry.

Legislative review of this amendment is required.

Document No. 5108  
**CLEMSON UNIVERSITY**  
CHAPTER 27

Statutory Authority: 1976 Code Section 59-119-320

Article 19. Parking and Traffic Regulations.

**Preamble:**

The proposed regulation changes will update outdated language and procedures related to parking permits and allow for more efficiencies and up-to-date communication of information directly related to parking areas, permits and restrictions for students, visitors, contractors, vendors, etc. New regulation language added to this section is intended to increase overall public safety and provide greater clarification on standards and compliance required to maintain public safety on campus.

Section-by-Section Discussion

27-3000.1. General Information

Add new text as listed below.

27-3000.2. Applicability

Delete and add new text as listed below.

27-3000.3. Definitions

Deleted and add new text as listed below.

27-3000.4. Official Traffic Control Devices

Deleted and add new text as listed below.

27-3001.1. Parking and Transportation Services Department

Delete and add new text as listed below.

27-3001.2. Motor Vehicles Required to Display a Parking Permit

Deleted and add new text as listed below.

27-3001.3. Accessible Parking for Persons With Disabilities

Deleted and add new text as listed below.

27-3001.7. Loading Zones

Delete and add new text as listed below.

27-3002.1. General

Delete and add new text as listed below.

27-3002.2. Special Event Parking Areas

Deleted and add new text as listed below.

27-3002.3. Employee/Student Parking Areas

Delete and add new text as listed below.

27-3002.4. Visitor Parking Areas

Delete and add new text as listed below.

## **22 PROPOSED REGULATIONS**

27-3002.5. Service Vehicle Parking Areas  
Deleted and add new text as listed below.

27-3002.6. Accessible Parking for Individuals with Disabilities  
Add new text as listed below.

27-3002.7. Timed Parking Areas  
Delete and add new text as listed below.

27-3002.8. Motorcycle Parking Areas  
Add next text as listed below.

27-3003. OPERATION OF MOTOR VEHICLES  
Add new text as listed below.

27-3003.5. Pedestrians  
Add new text as listed below.

27-3003.6. Obstructions of Vehicular or Pedestrian Traffic (New)  
Add new text as listed below.

27-3003.7. Obedience to Traffic Laws, Devices & Signals (New)  
Add new text as listed below.

27-3004.2. Notice of Violations  
Delete and add new text as listed below.

27-3004.3. Schedule of Parking Penalties  
Delete and add new text as listed below.

27-3004.4. Payment of Penalties  
Add new text as listed below.

27-3004.5. Moving Violations  
Delete and add next text as listed below.

27-3004.6. Delinquent Vehicles  
Delete and add new text as listed below.

27-3004.7. Vehicle Towing and Impounding  
Delete and add new text as listed below.

27-3005.3. Appeals  
Delete and add new text as listed below.

27.3005.4. Appointment of Boards and Committees  
Delete and add new text as listed below.

27-3005.5. Non-Parking Offense Appeals (New)  
Add new text as listed below.

27-3006. Non-Motorized Vehicles  
Delete and add new text as listed below.

27-3007. PUBLIC SAFETY ON CLEMSON UNIVERSITY PROPERTY (New)  
Add new text as listed.

27-3007.1. Disorderly Conduct (New)  
Add new text as listed below.

27-3007.2. Assault & Battery (New)  
Add new text as listed below.

27-3007.3. Malicious Damage (New)  
Add new text as listed below.

27-3007.4. Interfering with Officer in Performance of Duty (New)  
Add new text as listed below.

27-3007.5. Removal of Item(s) from Solid Waste Container and/or Vicinity; and/or Scavenging and/or Scattering Item(s) from or in the Vicinity of a Solid Waste Container (New)  
Add new text as listed below.

27-3007.6. Possession of Open Container or Consumption of Alcoholic Beverages; Unlawful Possession (New)  
Add new text as listed below.

27-3007.7. Possession of Drug Paraphernalia (New)  
Add new text as listed below.

27-3007.8. Forfeiture of Drug Paraphernalia (New)  
Add new text as listed below.

27-3007.9. Dogs at Large (New)  
Add new text as listed below.

27-3007.10. Fundraising, Selling, Panhandling, Vending, Soliciting (New)  
Add new text as listed below.

The Notice of Drafting was published in the *State Register* on February 25, 2022.

**Notice of Public Hearing and Opportunity for Public Comment:**

The public comment period will be open through July 29, 2022. Interested parties should submit written comments to Greg Mullen, Associate VP for Public Safety & Chief of Police, Clemson University, 124 Ravenel Center Pl, Seneca, SC 29678. If more than 25 requests are received for a public hearing, one will be scheduled for August 15, 2022, at 1:00pm at the Madren Center, Clemson University, Clemson, SC 29634.

**Preliminary Fiscal Impact Statement:**

None.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION:

## 24 PROPOSED REGULATIONS

Purpose: To set forth regulations related to issuance and enforcement of parking permits, parking regulations, and setting forth clear public safety requirements and enforcement procedures for activities at Clemson University.

Statutory Authority: 1976 Code Section 59-119-320.

Plan for Implementation: The implementation plan consists of providing public notice about the regulation changes and updates using a variety of communication platforms including social media, websites, and media announcements, as well as direct communication with students, staff, faculty and campus visitors. In addition, for violations of any new public safety will include a 30-day warning period prior to any citations being issued for offenses not relating to personal violence, property damage, or alcohol violations.

### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

University campuses such as Clemson's are unique environments that deal with emerging issues and concerns. These regulations have been proposed based on actual experiences with various challenges occurring on the campus. By implementing these regulations, University officers and judges will have appropriate opportunities to address behavior and administer consequences for such offenses and actions.

### DETERMINATION OF COSTS AND BENEFITS:

It is not anticipated that these regulations changes will create the need for additional personnel in the police department, the court or parking services division, nor will these changes incur any additional costs to the University or the State by their implementation. The primary goal of these regulations are to increase efficiencies and to provide uniformity and clarity in the application of the regulations.

### UNCERTAINTIES OF ESTIMATES:

None.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

None.

### Statement of Rationale:

The proposed regulation changes will create a structure where the University has the opportunity to continue its efforts to solicit voluntary compliance to maintain public safety and order on the campus, while also providing the means to take enforcement efforts if education and compliance does not eliminate the concern. The changes also reflect the changes in technologies, communication and expectations of students, employees and visitors on campus as it relates to traffic control and permitted parking on the campus.

### Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>. Full text may also be obtained from the promulgating agency.

Filed: June 1, 2022 12:28 pm

Document No. 5107  
**DEPARTMENT OF SOCIAL SERVICES**  
CHAPTER 114  
Statutory Authority: 1976 Code Section 43-1-80

114-550. Licensure of Family Foster Homes and Approval of Adoptive Homes for Children in Foster Care.

**Emergency Situation:**

The filing of the revised regulation is necessary to provide appropriate standards concerning swimming pools, wading pools, hot tubs, and spas in family foster homes and adoptive homes to ensure the safety and wellbeing of children in these homes. In addition, this emergency regulation will minimize a financial deterrent associated with installing suitable barriers around swimming and wading pools to licensing foster and adoptive homes. This deterrent has presented challenges to placement needs of children in foster care and those seeking an adoptive home.

**Text:**

114-550(N). Additional Health and Safety Standards.

N. Additional Health and Safety Standards.

(4) The applicants' home must meet the following standards concerning swimming pools, wading pools, hot tubs, and spas:

(a) Swimming pools and wading pools are to have a barrier on all sides. The method of access through the barrier shall be equipped with a safety device (i.e. latch, lock, etc.) and the access to the pool requires adult authorization and knowledge.

(b) Swimming pools must be equipped with a life saving device, such as a ring buoy.

(c) If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.

(d) Hot tubs and spas must have safety covers that are locked when not in use.

(e) Applicants will closely supervise the child in foster care when the child is near any swimming pool or body of water. When applicants cannot supervise, they must restrict the child access to swimming pools or bodies of water. The child must never be left to swim alone.

(f) Applicants will provide water safety instruction to the child in foster care as appropriate for his or her age and development if the home is adjacent to any body of water or has a swimming pool. Water safety instruction addresses key knowledge and skills on how to be safe around water and does not necessarily mean swimming lessons.

(g) Applicants will maintain the swimming pool in safe condition, including testing and maintaining the chlorine and pH levels as required by the manufacturer's specifications.

(h) Applicants will lock all entry points when the swimming pool is not in use.

## 26 EMERGENCY REGULATIONS

(i) Applicants will remove or secure any steps or ladders to the swimming pool to make them unusable when the pool is not in use.

(j) Applicants will set up and maintain wading pools according to the manufacturer's instructions, and empty and store them when not in use.

### **Statement of Need and Reasonableness:**

#### DESCRIPTION OF REGULATION:

Purpose: To ensure that children in family foster homes and adoptive homes do not have access to swimming pools, wading pools, hot tubs, and spas without the appropriate adult authorization and knowledge.

Legal Authority: 1976 Code Section 43-1-80.

Plan for Implementation: The proposed emergency regulation will take effect upon filing with the *State Register*. DSS will notify staff and licensing partners of the proposed emergency regulation, provide training, and post the proposed emergency regulation on the agency's website.

#### DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The agency with this emergency regulation seeks to promote child safety and active adult supervision of children in and around swimming pools and wading pools. The agency expects benefits including, but not limited to, increased safety of children in homes with swimming pools, wading pools, hot tubs, and spas and an expanded source of individuals whose homes may be considered for licensure as a family foster homes or adoptive home.

#### DETERMINATION OF COSTS AND BENEFITS:

There will be no additional costs incurred by the State or of any political subdivision.

#### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning this regulation.

#### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment. This regulation contributes to the agency's function of promoting safety, permanency, and well-being for children.

#### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment and public health of this State if this regulation is not implemented.

Document No. 5105  
**DEPARTMENT OF MOTOR VEHICLES**  
 CHAPTER 90  
 Statutory Authority: 1976 Code Section 56-23-100

Article 2. Driver Training Schools.

**Synopsis:**

The South Carolina Department of Motor Vehicles is amending Chapter 90, Article 2 on Driver Training Schools regarding how these entities conduct business in the State of South Carolina and are regulated by the Department of Motor Vehicles.

Additionally, the Federal Motor Carrier Safety Administration (FMCSA) under the United States Department of Transportation (USDOT) requires certain standards for training entry-level commercial drivers to be adopted and implemented by the states commencing February 7, 2022. Because the FMCSA has published the required Entry-Level Driver Training Regulations (49 CFR §380.600), there is no need for certain duplicative information to be included in our state regulations. The current 1976 Code Section 56-1-2005 states, “The rules adopted by and regulations promulgated by the USDOT relating to the safety of operation and to equipment (49 CFR Parts 380, 382-385, and 390-399 and amendments thereto) . . . must be adopted and enforced in South Carolina.”

The Notice of Drafting was published in the *State Register* on November 26, 2021.

**Instructions:**

Print the Regulation as shown below. All other items remain unchanged.

**Text:**

ARTICLE 2  
 DRIVER TRAINING SCHOOLS

90-100. Definitions.

A. “Behind the Wheel” (BTW) means training provided by an instructor where the student is actually in control of and operating the vehicle during a driving lesson conducted on public roads or on a range.

B. “Catalog” means a booklet which must be given to each student prior to classes beginning and must be presented at the time the student signs the enrollment contract. Each catalog should be dated upon publication and revision. The catalog should contain at a minimum, a history of the truck driver training school, list of owners, officers, or directors, including addresses, licensing authority, complaint procedures, class start and stop times, attendance and disciplinary rules, course outlines, cost of training, books, supplies, fees, and all other charges the student would be expected to bear, minimum entrance requirements, graduation requirements, refund policy, placement policy, procedures for providing CDL test services.

C. “Category” means theory instruction, field instruction, BTW instruction, and observation while on the road.

D. “Classroom” means student is in classroom environment learning principles, laws, regulations, and/or rules of the road for driving a motor vehicle.

E. “Class B” means any single vehicle with a Gross Vehicle Weight Rating (GVWR) of 11,794 kilograms or more (26,001 pounds or more), or any such vehicle towing a vehicle not in excess of 4,536 kilograms (10,000 pounds) GVWR.

F. “Class A” means any combination of vehicles with a Gross Combination Weight Rating (GCWR) of 26,001 pounds or more, provided the Gross Vehicle Weight Rating (GVWR) of the vehicle being towed is more than 10,000 pounds.

G. “Class A Non-Tractor Trailer” means any combination unit connected by a non-fifth wheel connection such as a pintle hook, goose neck, or ball-and-chain hook up where gross combination weight rating (GCWR)

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is 26,001 pounds or more, providing the towing unit has a GVWR less than 26,001 pounds and the towing unit has a GVRW of 10,001 or more GVWR.

H. "Commercial motor vehicle" means a vehicle with a gross vehicle weight rating of 10,001 pounds or more, used in commerce.

I. "Department" means the South Carolina Department of Motor Vehicles.

J. "Enrollment contract" means any agreement or instrument, however named, which creates or evidences an obligation binding a student to purchase or otherwise incur a legal obligation in exchange for receiving an educational course from a driver training school.

K. "Field training" means off road training in and around the type commercial motor vehicle used in truck driver training.

L. "Graduate" means any student who completes the minimum required hours and demonstrates proficiency in all lessons and classes required by the ELDT program (if applicable) and the Department and discharges any and all other requirements or obligations as prerequisites for completing the full course of study.

M. "Instructor" means an individual certified by the Department to give classroom and or BTW instruction to students enrolled in the school.

N. "Hour" when used in the context of requisite driver training periods, means an instructional period of fifty minutes.

O. "Observation" means when a student observes another student actually operate a motor vehicle on the public roads.

P. "Successfully Complete" means earning a grade of at least eighty percent on all ELDT required knowledge assessments and demonstrating proficiency in all other ELDT requirements for commercial driving school students and earning a grade of at least seventy percent for non-commercial driving school students.

Q. "Permanent Structure" means a building set on a foundation or is otherwise strapped to the ground and is in compliance with all zoning ordinances and codes and has been issued a "Certificate of Occupancy."

R. "Range" means a student practicing area that must be free of obstructions, has adequate sight lines and enables the driver to maneuver safely and free from interference from other drivers and hazards while, a student is practicing backing and other maneuvering exercises with a commercial motor vehicle.

S. "Record" means , either electronic or paper copies, which include, if applicable, program records, initial school licensure application, and supporting documents, vehicle registration and maintenance records for all vehicles used in training, enrollment records showing student admission qualifications, curriculum standards, handbooks, manuals of instruction, course outlines, instructor records showing qualifications for training, student driving records, , criminal history records (if required) training records, attendance records, permit issue date. "Records" also means appropriate documentation on instructor qualifications, statistical data required by the Department, and all other documents sufficient to justify the legitimate operation of the school.

(1) Records for Truck Driver Training Schools also includes all documents setting forth the requirements of 49 CFR, 380, lessons plans and training curricula for theory, and behind the wheel (BTW) (range and public road) training, documentation of individual entry level driver training assessments, tracking records showing assessment results to determine driver-trainees' proficiency in knowledge assessments in appendices A through E of 49 CFR part 380, as applicable; tracking records to determine a student's proficiency in BTW skills in accordance with the curricula in appendices A through D of Part 380, as applicable; documents tracking each driver-trainees' minimum scores in all other knowledge tests and skills assessments, documents tracking student training hours and documentation showing satisfaction of state minimum training hours, and any other records showing a student's level of mastery of training materials, and CDL test history (when applicable), criminal history (when required), drug screens; grades, attendance records.

(2) Truck Driver Training Schools Instructor Records include appropriate documentation demonstrating instructor qualifications for inclusion in the Training Provider Registry, statistical data required by the Department, instructor permit(s) and all other documents showing compliance with the federal ELDT program requirements for commercial driving instructors.

T. "Student" means any person who has signed a Contract and enrolled with a driver training school and who has not cancelled that Contract before the instruction begins.

U. "Theory instruction" means knowledge instruction on the operation of a motor vehicle and related matters provided by an instructor through lectures, demonstrations, audio-visual presentations, computer-based instruction, driving simulation devices, online training, or similar means.

V. “Truck Driver Training School” means any enterprise conducted by an individual, association, partnership, or corporation, not exempted under S.C. Code of Laws Section 56-23-20, for the education and training of persons, either in the classroom or behind-the-wheel, to operate or drive a truck-tractor combination unit, Class B/Straight Truck or Passenger Bus Training and charging a fee or tuition or otherwise binding a student to a legal obligation in exchange for those services.

90-101. Applicability.

A. The purpose of this Article is to set forth minimum standards for safety, quality, and effectiveness of all licensed South Carolina Driver Training Schools.

B. With regard to the licensing and regulation of Truck Driver Training Schools, the Department adopts all applicable rules, regulations, and standards promulgated by the United States Department of Transportation for all Entry-Level Driver Training (ELDT) programs, as set forth under Title 49 of the Code of Federal Regulations, Part 380, subparts (A) through (G), including Appendices A through F, Parts 382-385, and amendments thereto, Parts 390-399 and amendments thereto, as applicable, and Parts 171-180, including amendments, as applicable. South Carolina Truck Driver Training Schools must comply with all applicable ELDT program requirements referenced above, as well as meet any additional requirements set forth under the South Carolina Code of Laws or South Carolina Code of Regulations relating to Truck Driver Training Schools.

90-102. Driver Training School License Minimum Requirements.

A. The Department shall not issue a driving school license to any applicant unless:

(1) The driver training school is a permanent business located in this State as described by these rules and regulations;

(2) The applicant applying for the driving training school license is authorized to do business in this State, and all licensed driver training schools must make all school and training records and facilities available for inspection upon request by the Department during normal business hours; Records must be maintained by the driver training school for at least three (3) years.

(3) The driver training school employs or contracts with at least one individual listed on the Training Provider Registry who holds an instructor permit issued by the Department and who provides driving instruction for the school;

(4) Each applicant associated with a driver training school (owner, partner, or officer) is at least twenty-one years of age; and

(5) Each applicant holds a valid South Carolina driver’s license as defined in Section 56-1-20, 56-1-2030 (commercial), or a license of a foreign jurisdiction that is equivalent to the license for which the instructor is providing driver training.

B. No person may provide driver instruction unless licensed by the Department as a driving instructor.

90-103. Driving School Requirements.

Every application for a driving school license and every driving school license renewal application must be accompanied by:

A. A sample copy of the record of agreement or contract to be used between student(s) and school;

B. An outline of the services to be performed by the licensee;

C. Samples of forms or receipts used by the school;

D. A schedule of fees for instruction;

E. A complete list of manuals of instruction, course outlines, and other teaching materials used by the school to be made available upon request by the Department;

F. A complete list of all owners and those responsible for the day-to-day operation of the school, classes and students. Complete nationwide criminal background check of all managers upon initial certification. Any changes in ownership of a twenty-five percent or more requires a new application to be filed with the Department within fifteen days. Any changes in management personnel must be reported to the Department within fifteen days of the change, along with submission of any new applications and complete nationwide criminal background checks for any new instructors. All management personnel are subject to self-reporting of criminal convictions, and shall be subject to review and disqualification for just cause;

G. Copies of all applicable business licenses; and

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H. Any applicable fees.

### 90-104. Driver Training School License Application.

A. If the application for a driving school license is made by an individual, it must be signed by the individual. If the application is made by a partnership, the application must be signed by a general partner. If the application is made by a corporation or LLC, the application must be signed by an authorized corporate officer.

B. Driving school licenses are not transferable.

C. No application for a driver training school will be accepted if the applicant has adopted any name similar to the name of an already licensed driver training school or if the applicant has adopted any name similar to any state or national organization. Use of the words “South Carolina” or “South Carolina State” in any driver training school’s name is prohibited.

D. The application must be subscribed under oath. Each licensed driver training school, excluding duly accredited public colleges and public high schools, also must maintain a corporate surety bond in the amount of ten thousand (\$10,000.00) dollars. The bond must be conditioned to provide indemnification for tuition loss to: 1) any Student determined by a court of competent jurisdiction to have suffered a loss of tuition as a result of material violation of law or this regulation; 2) a school ceases operation prior to a Student Successfully Completing; or 3) the loss of a school license as a result of final Department action.

E. Applications for Driver Training School license renewals must be submitted to the Department at least thirty (30) days prior to license expiration. Any renewal application (see SC Code §56-23-40) received later than fifteen days after license’s expiration will be treated as a new application and the driver training school shall not continue operation unless and until relicensed by the Department. No school is permitted to operate with an expired license, unless the Driver Training School provides proof to the Department that a complete application for renewal was submitted by them at least ten days prior to the expiration and the school has been given specific written permission from the Department to continue to operate while the Department processes the renewal application.

F. Upon receipt of a license, the licensee must display the license in the school’s principal place of business. The Department must be notified within fifteen (15) days whenever there is a change in instructors, management, or insurance coverage. When any driving school ceases to operate, or if upon investigation it appears that the school has ceased to do business, the owner of the school must surrender the driving school license to the Department within fifteen (15) days. To be re-licensed, after the surrender of a school’s license, the school owner must apply and meet the same requirements as a new school.

### 90-105. Driver Training School Motor Vehicle Liability Insurance.

A. No driving school may be licensed by the Department unless it maintains personal injury and property damage liability insurance on all motor vehicles owned or operated in driving instruction on public roads or personal injury liability insurance on all motor vehicles owned or operated in driving instruction on non-public roads, while used in driving instruction on public roads, insuring the liability of the driving school, its certified driving instructors, and any person taking driving instructions, and any passengers within the vehicle.

B. Any insurance policy issued under subsection A must be in the name of the driver training school, its owner or a certified driving instructor with the school.

C. If licensed only for classroom instruction, liability insurance is not required.

D. A certificate of insurance, signed by the insurer or insurance carrier, as required, evidencing that a policy has been issued for the vehicles used in driving instruction listed on the policy containing as a minimum description of the vehicles, the make, model, year, and serial number or the vehicle identification number of vehicle or must specifically state that it is a “fleet” policy. The Department must be listed in the policy as an additional insured. The certificate must be submitted with each application filed for an original or renewal driving school license and upon the request of the Department.

E. If any policy of liability insurance is canceled by the insurance company, the insurance company and the driving school must immediately notify the Department in writing of the cancellation. The notification of cancellation of insurance shall be addressed to Compliance Reporting, South Carolina Department of Motor Vehicles, Post Office Box 1498, Blythewood, South Carolina, 29016-1498. The driver training school must cease to use any motor vehicle to conduct driver training or instruction if that vehicle is covered by the policy that has been cancelled.

**90-106. Driver Training School Instructor Qualifications.**

A. Every person, in order to qualify as an instructor for a driving school, in addition to meeting all applicable federal ELDT driver training requirements for commercial driving instructors, must, at the time of application, meet the following requirements:

- (1) Be at least twenty-one years of age;
- (2) Hold a valid South Carolina driver's license as defined in Section 56-1-20, 56-1-2030 (commercial), or a license of a foreign jurisdiction that is equivalent to the license for which the instructor is providing driver training on public roads. Any instructor may provide driver training without a current driver's license on non-public roads, so long as the instructor is otherwise qualified to provide the instruction.
- (3) Submit a complete nationwide criminal background check to the Department that shows no convictions within the last ten years for: a felony, or for crimes involving fraudulent or dishonest activity. The Department may deny an instructor permit to:
  - (a) anyone convicted within the past ten years of criminal domestic violence;
  - (b) anyone listed on the Sex Offender Registry,
  - (c) anyone having been declared a habitual offender, or
  - (d) anyone convicted of contributing to the delinquency of a minor.
- (4) Have no revocations, cancellations or suspensions of driving privileges in the three (3) years immediately preceding the date of application;
- (5) Have no convictions for traffic offenses involving moving violations totaling six (6) points in the year immediately preceding the date of application;

B. Every person, in order to qualify as an instructor for a driving school training non-commercial driver's licenses, must, at the time of application:

- (1) Have at least five years of driving experience;
- (2) Successfully complete a Department approved driver training instructor course which includes as a minimum thirty-four hours of formal classroom instruction in driver education and a minimum of six hours of actual behind the wheel training in driving instruction;
- (3) Successfully complete a Department approved written test which includes as a minimum testing of the ability of the applicant to give driver instruction to others and/or both written and demonstrative methods.

C. Every person, in order to qualify as an instructor for a commercial driving school training commercial drivers must, at the time of application, have satisfied the requirements for inclusion into the federal Training Provider Registry ("TPR"), as set forth under 49 CFR, Subpart G, 380.703, et seq.

D. All driver training school instructors may have no more than six points on their driving record while maintaining instructor certification. While using a defensive driving credit will help on the driving record, the Department will use the current total points computation, not adjusted points.

**90-107. Driving Instructor Permit.**

A. Every driving instructor must possess a permit issued by the Department which indicates the full name of the instructor and the full name of the driving training school employing or under contract with the instructor.

B. A driving instructor's permit will be valid only when the instructor is employed by or under contract with a licensed driving school(s), and only at the driving school(s) indicated on the license.

C. All truck driving instructors must complete the eligibility training requirements set forth under 49 CFR, §380.703, for certification and inclusion into the Training Provider Registry.

D. Every driving instructor must carry the permit upon his or her person at all times when engaged in conducting driving instruction in a motor vehicle. Upon request, the permitted driving instructor must display the permit to any student taking instruction and to any law enforcement officer or employee or agent of the Department.

**90-108. Motor Vehicles Operated by Driver Training Schools.**

A. Every motor vehicle operated by a driver training school must be properly owned, leased, or rented in the name of the driver training school or parent company.

B. A driver training school cannot use a motor vehicle for BTW training on public roads unless it meets all applicable Federal Motor Carrier Safety Administration requirements for commercial motor vehicles and until it has passed inspection as described satisfying the requirements set forth in S.C. Regs. 90-109 and 90-116.

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### 90-109. Driver Training School Motor Vehicle Safety and Identification Requirements.

A. Every motor vehicle used by a driver training school training for non-commercial driver's licenses in the course of driving instruction must be equipped with:

- (1) Dual controls on the foot brake and the clutch, if any, enabling the driving instructor to control the vehicle in case of an emergency;
- (2) Two inside rear-view mirrors, one for the student and one for the instructor's use (the vanity mirror located on the passenger side sun visor of most vehicles will not qualify as an additional rear view mirror for the instructor);
- (3) An outside rear view mirror on both sides of the vehicle;
- (4) All standard safety and operating equipment including tires, brakes, horn, and window glazing shall be in proper working order; seat belts for the operator of the vehicle, driving instructor, and all passengers;
- (5) Cushions for the proper seating of the driver of the vehicles.
- (6) If a driver training school undertakes to train persons who require special equipment to safely operate a motor vehicle, then vehicles used in the instruction of these persons must be equipped with the appropriate special operating equipment.

B. The vehicle used when training for non-commercial driver's licenses must be identified as a driving school vehicle

- (1) With the name of the school and the words "Driver Training" readily identifiable from each side and;
- (2) The rear of the vehicle shall have the words "Driver Training" on each side
- (3) With lettering or printing at least two inches tall and one-half inches wide

C. Every motor vehicle used by a driver training school training for commercial driver's licenses must be owned, registered to, leased, or rented by the driver training school or the parent company or used under a contractual agreement with a commercial driver training school or parent company for training on public roads, must meet all Federal Annual Inspection requirements (49 CFR, 380.711), and must meet the following requirements of the Department:

- (1) Must be limited to a maximum of five (5) seats including the seat for the instructor;
- (2) Equipped with seat belts for the operator and all passengers;
- (3) Have the school name and the words "Driver Training" conspicuously displayed on both sides and the back of the vehicle using letters not less than two inches tall, with a one-half inch wide brush stroke. For vehicles which must operate at night, the words "Driver Training" must be reflective;
- (4) If equipped with a seat in the sleeper, the seat must have a seat-back and seat belts that are properly secured;
- (5) Documentation of vehicles used in training must be retained by the school for a period of three years to include vehicle registration, maintenance records and proof of insurance, which must be made available to the Department upon request;
- (6) No school vehicle may be used to transport property or persons for compensation, other than properly enrolled students. Schools are allowed to add weight, as in a dummy load in the trailer for training purposes.
- (7) Trucks used for training on public roadways complying with this Regulation and allowing for use of short-term rentals through leasing companies or other agreements with the school are not required to be updated on the vehicle list with the Department.

### 90-110. Driver Training School Facilities, Hours of Operation, etc.

A. Each licensed driving school facility and any branch office(s) must have an office which contains adequate facilities to conduct the business of giving instructions on driving motor vehicles and in the preparation of students for written and driving examinations given by the Department for an operator's license.

B. The office of any driving school must be identified by a sign reasonably visible to the general public and complying with any existing local government ordinances.

C. The following shall be displayed in a prominent place in the driver training school's principal place of business:

- (1) The license issued by the Department to the school;
- (2) The names and driving instructor's license number(s) of all instructors employed by the school and;
- (3) The regular office hours.

D. The office of a driving school must be a Permanent Structure and may not consist of a room or block of rooms in a hotel or rooming house.

E. Each driving school must notify the Department of the location of its office(s) and the regular office hours. This information must be provided to the Department within five days prior to opening any office for business.

F. When a licensed branch office is closed or its location is changed, the driver training school must return the branch office license to the Department within fifteen days of the closing or moving of the branch office.

**90-111. Non-Commercial Driver Training School Course of Instruction.**

All non-commercial driver training school courses of instruction must be submitted for approval to the Department in the form of an outline and must include:

- A. A description of all materials used for instruction;
- B. A copy of the curriculum;
- C. Instructors' name(s) and;
- D. A theory instruction schedule.

**90-112. Driver Training School Student Instruction Record.**

A. All licensed driver training schools must maintain and make available for inspection by the Department a record of instruction for each student (hard copy or electronic) for three years after the instruction is complete. The record of instruction must contain:

- (1) The name and address of the driver training school;
- (2) The name of the student;
- (3) The student's date of birth;
- (4) The number of the driver's license or permit held by the student;
- (5) The type and dates of the instruction given; and the signature of the instructor; and
- (6) For commercial driver training schools, the record must also include any and all requirements listed in 49 CFR Part 380 and documentation showing assessment results for knowledge and skills testing (as applicable) and documentation tracking completion of minimum state training hours for each skill pertaining to the license anticipated or issued.

B. Records to be maintained for non-commercial driver training schools must include:

- (1) A student instruction record showing the date of all lesson(s) for theory/classroom or behind-the-wheel instruction;
- (2) The student's signature on the instruction record acknowledging the lesson was received;
- (3) The dated receipt or receipt number for each lesson given.

**90-113. Instruction Records and Files.**

A. Each driver training school must furnish the student with a copy of its instruction record when the student completes the lessons contracted for or otherwise ceases taking instruction from the school. The copy must be signed by the instructor and by the student acknowledging that the record is correct.

B. All student instruction records must be kept on file in the school's office for a period of three years after the student has ceased taking instruction at the school or completed the lessons contracted for.

**90-114. Receipts for Fees Paid for Non-Commercial Instruction.**

A. A departmentally approved receipt must be issued to a student each time a fee is collected for either theory or behind-the-wheel driver instruction or other services offered by the licensed driver training school, a driving school instructor, or agent or employee.

B. Approved receipts must be completed and contain:

- (1) The date the fee is collected;
- (2) The name of the student;
- (3) The total amount collected; and
- (4) The type of service given.

**90-115. Driver Training School Contracts.**

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A. All written contracts or records of agreement by or between any driving school and any individual, partnership, corporation, firm, or association for the sale, purchase, barter, or exchange of any driving instruction or any theory/classroom instruction, or the preparation of any application for an examination given by the Department for an operator's license or permit must differentiate between theory/classroom and behind-the-wheel training and contain the following:

- (1) A statement indicating the agreed upon contract price and terms of payment, including any additional fees that may be charged;
- (2) The type of vehicle to be used in non-commercial training (either a standard vehicle equipped with a standard or manual transmission with extra wheel brake and clutch pedal or a vehicle with an automatic transmission with an extra brake pedal);
- (3) The student's name; and
- (4) The name and address of the driver training school.

B. No driver training school may sell, transfer, trade, or otherwise dispose of any contract, portion of a contract, agreement of obligation, by or between any driving school and student unless the driving school has obtained the written consent of the student. Any contract or record of agreement for a student less than eighteen years of age must be signed by a parent, guardian, or responsible adult in the presence of the instructor offering the instruction. Any record or contract between the driving school and any student which is lost, mutilated, or destroyed shall be reported to the Department immediately in writing.

C. A commercial driver training school may enter into contracts with other organizations to provide training to employees or individuals under a pre-employment contract, provided that each of the following conditions are satisfied:

- (1) The contracting school shall notify the Department via approved methods of any scheduled training with outside companies and their employees 48 hours prior to conducting the training. Notification to the Department shall include company name and physical location where the training will be conducted;
- (2) The contracting organization certifies that all instructors meet the requirements of federal and state law, including drug and alcohol testing; and
- (3) Student records are retained by the school for three years.

### 90-116. Inspection of School Facilities.

Each driver training school must permit authorized agents of the Department to make periodic inspections of all school records, facilities, and vehicles used in driver training. During these inspections the owner(s), manager(s), or other person(s) in charge of the office must cooperate with the authorized representatives of the Department and, upon demand, must produce all student records described herein, instructional material, and any other items within the scope of these Regulations, which are deemed necessary to complete the inspection.

### 90-117. Cancellation and Refund Policy.

This section applies to all licensed driver training schools, excluding duly accredited public colleges.

A. A Student who is training for a commercial driver's license is entitled to a refund within thirty days under the following circumstances:

- (1) If a Student provides written notice of cancelling the Enrollment Contract within three days of signing an Enrollment Contract, a full refund of all money paid to the School is due, minus any fees incurred by the School. In the event the cancellation notice is mailed, the postmark date on the envelope is evidence of the date of cancellation;
- (2) If a Student provides written notice of cancelling the Enrollment Contract more than three (3) days after signing an Enrollment Contract, but prior to the start of classes, a full refund of all money paid to the School is due, minus one hundred dollars (\$100) and any fees incurred by the School;
- (3) If a Student has not visited the School facility prior to signing an Enrollment Contract, and provides written notice of cancelling the Enrollment Contract before the end of the first day of attendance at the School facility, a full refund of all money paid to the School is due, minus one hundred dollars (\$100) and any fees incurred by the School;
- (4) If the enrollment of a Student is procured as a result of a material misrepresentation in the written material utilized by a School, a full refund of all money paid to the School is due

(5) If a student provides written notice to the School within three days of attendance that they do not meet a material admissions requirement published in the School catalog, a full refund of all money paid to the School is due, minus any fees incurred by the School. No refund is due if the enrollment is based on false or misrepresented information provided by the Student;

(6) If a Student withdraws or is terminated from a School program after starting classes, the Student is entitled to a pro-rata refund based upon the number of days or hours of training completed, minus one hundred dollars (\$100) and any fees incurred by the School. Any Student completing more than fifty percent of the course days, hours or curriculum is not entitled to any refund.

**90-118. Driver Training School Advertising.**

A. No driver training school may publish, advertise, or otherwise represent that a student is guaranteed or assured success in receiving a South Carolina driver’s license.

B. No driver training school advertisement or publication may use any unique or distinguishing name, number, or phrase of another driver training school in a misleading manner. All driver training school publications and advertisements must prominently contain the name of the driver training school placing the advertisement or publication.

**90-119. Suspension, Revocation, Refusal to Renew Driver Training School License.**

The Department may suspend, revoke, or refuse to issue or renew a license of a driver training school for any of the following causes:

A. Conviction of any owner holding 25% ownership or more, manager, or instructor of any crime listed in S.C. Reg. 90-106(A)(3).

B. The school makes a material false statement, or signs a false affidavit or conceals a material fact in connection with the application for a driver training school license or the application for a driver training instructor’s license;

C. The school fails to comply with any federal or state laws providing for the licensing, regulation, and operation of driver training schools. ;

D. The school or any agent of the driver training school engages in fraudulent practices in securing for anyone a license to drive a motor vehicle. (“Fraudulent practices”, as used herein, means any conduct or representation on the part of a school or any agent or instructor of a school which would give the impression that a license to operate a motor vehicle may be obtained by any other means than those prescribed pursuant to Chapters 1 and 5 of Title 56 of the South Carolina Code);

E. The school’s owner(s) is(are) addicted to or dependent upon the use of alcohol, narcotics, or other controlled substances or becomes incompetent to operate a motor vehicle, as defined in Title 56 of the South Carolina Code;

F. The school violates the South Carolina Unfair Trades Practices Act, in Chapter 5 of Title 39 of the South Carolina Code; or

G. There is no qualified instructor employed by the school.

**90-120. Minimum Training Hours for Commercial Drivers Licenses.**

A. Requirements: One commercial motor vehicle must be provided for each three students during the highway training, provided four students per commercial motor vehicle are permitted if the vehicle has been inspected and approved for such use by the Department. No more than nine students per instructor will be allowed for field training.

B. Training Record: A training record must be completed and initialed by the student and instructor each day. The training record, including records tracking the minimum training hours required by the Department, should be maintained in the possession of the driver training school and must become part of the student record and made available for inspection by the Department upon request. The student’s completion of the state’s minimum training hours must be verified by the school and signed by the student.

C. Minimum Curriculum: To successfully complete truck driver training, licensed persons eighteen or older must complete a course satisfying the requirements of ELDT and consisting of the following minimum hours for the type of training being conducted:

(1) Class A Tractor-Trailer:

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(a) A course of instruction that includes all applicable requirements set forth under 49 CFR, Part 380, et seq., with a minimum of one-hundred-and-forty-eight (148) hours of training, to include a minimum of eight (8) hours of behind-the-wheel driving on public roads;

(b) A commercial driving school may provide a Class A behind-the-wheel course as a separate course of instruction with a minimum of ninety-eight (98) hours of training if theory training has already been completed through another training provider. The course must include a minimum of eight (8) hours of behind-the-wheel driving on public roads. The school must verify that students have successfully completed theory training before they are allowed to attend.

(2) Class A Non-Tractor Trailer:

(a) A course of instruction to include all applicable requirements set forth under 49 CFR, Part 380, et seq., with a minimum of seventy (70) hours of training. The course must include a minimum of 4 hours of behind-the-wheel driving on public roads.

(b) A commercial driving school must provide a Class A Non-Tractor trailer behind-the-wheel course as a separate course of instruction with a minimum twenty (20) hours of training. The course must include a minimum of four (4) hours of behind-the-wheel driving on public roads.

(3) Class B or Straight Truck/Passenger Bus Instruction

(a) A course of instruction to include all applicable requirements set forth under 49 CFR, Part 380, et seq with a minimum of seventy (70) hours of training. The course must include a minimum of four (4) hours of behind-the-wheel driving on public roads;

(b) A commercial driving school may provide a Class B behind-the-wheel course as a separate course of instruction with a minimum of twenty (20) hours of training. The course must include a minimum of four (4) hours of behind-the-wheel driving on public roads. The school must verify that students have successfully completed theory training before they are allowed to attend.

D. Students who complete the Class “B” training who wish to upgrade to a Class “A” license may do so. Students who upgrade, will be given credit for any theory training already performed that is equivalent to the Class “A” theory training.

E. Hazardous materials, passenger and school bus endorsement theory training as separate courses of instruction.

### **Fiscal Impact Statement:**

The SCDMV anticipates no state-incurred fiscal impact due to the amendment of these regulations.

### **Statement of Rationale:**

These regulations are updated to remove antiquated requirements for truck driver training schools and regular driver’s license training schools.

Furthermore, as of the publication date of this document, the Federal Motor Carrier Safety Administration (FMCSA) under the United States Department of Transportation (USDOT) will be requiring certain standards for training entry-level commercial drivers on February 7, 2022. Because the FMCSA is publishing, what it calls, the Entry-Level Driver Training Regulations (49 CFR §380.600), there is no need for certain duplicative information in state regulations.

Document No. 5104  
**SECRETARY OF STATE**  
 CHAPTER 113

Statutory Authority: 1976 Code Sections 26-2-5 et seq.

- 113-400. Registration. (New)
- 113-410. Application for Registration as an Electronic Notary. (New)
- 113-420. Course of Instruction. (New)
- 113-430. Electronic Notary Signature and Electronic Notary Seal. (New)
- 113-440. Employers of Electronic Notaries. (New)
- 113-450. Rejection of Electronic Notary Public Application. (New)
- 113-460. Change of Registration Information. (New)
- 113-470. Access and Use of Electronic Notary Seal and Electronic Signature. (New)
- 113-480. Electronic Notary Journal Preservation. (New)
- 113-490. Application for Electronic Notary Providers. (New)
- 113-500. Requirements for Systems and Providers. (New)
- 113-510. Electronic Notarization System Provider Changes. (New)

**Synopsis:**

The Office of the Secretary of State proposes to promulgate regulations to appear as Chapter 113, Article 4 of the South Carolina Code of Regulations. The South Carolina Electronic Public Notary Act (Section 26-2-5, et seq., Act 85 of 2021) was signed into law on May 18, 2021. The Act provides for notarial acts that can be performed electronically, restrictions for the performance of electronic notarizations, and the requirements to complete an electronic notarization. The Act further sets forth the procedures and requirements to become an electronic notary public and to be registered as an electronic notary solution provider. Prior to acceptance of electronic online notary public applications, administrative rules must be in effect and vendors of technology must be approved by the Secretary of State.

**Section-by-Section Discussion:**

- 113-400. Add new text that describes registration of notaries public to perform electronic notarial acts.
- 113-410. Add new text that sets forth information and requirements for application for registration as an electronic notary public.
- 113-420. Add new text that outlines the course of instruction and exam requirement for registration as an electronic notary public.
- 113-430. Add new text that describes the required elements of an electronic notary signature and electronic notary seal.
- 113-440. Add new text that describes limitations and requirements for employers of electronic notaries.
- 113-450. Add new text that describes when the Secretary of State may reject an electronic notary public application.
- 113-460. Add new text that sets forth requirements for electronic notaries public to notify the Secretary of State of changes to information provided in an application for registration.
- 113-470. Add new text that explains requirements for access and use of the electronic notary seal and electronic signature.
- 113-480. Add new text that describes requirements for electronic notary journal maintenance and preservation.
- 113-490. Add new text that sets forth information and requirements for application for registration as an electronic notary provider.
- 113-500. Add new text that describes the requirements for electronic notary systems and providers.
- 113-510. Add new text that sets forth requirements for electronic notarization system providers to notify the Secretary of State of changes to information provided in an application for registration.

The Notice of Drafting was published in the *State Register* on December 24, 2021.

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### Instructions:

Print the regulation as shown below. All other items remain unchanged.

### Text:

#### ARTICLE 4 ELECTRONIC NOTARIES PUBLIC

##### 113-400. Registration.

A. A notary public shall register to perform electronic notarial acts with the Secretary of State before performing notarial acts electronically.

B. The term of registration as an electronic notary shall coincide with the term of the notary's commission pursuant to Section 26-2-20(B). An electronic notary may commence performing electronic notarial duties upon receipt of confirmation of registration as an electronic notary public from the Secretary of State.

##### 113-410. Application for Registration as an Electronic Notary.

A. A notary public must submit the application for registration electronically with the Secretary of State. This electronic application shall include:

(1) The notary's full legal name and the name under which the notary public's commission was issued, if different;

(2) The residential address of the notary public and the county in which the notary public's commission is enrolled pursuant to Section 26-1-50;

(3) The email address of the notary;

(4) Proof of the successful completion of the electronic notary course of instruction, including the date of completion and name of the course of instruction on the duties of an electronic notary as approved by the Secretary of State;

(5) The expiration date of the notary public's commission;

(6) The disclosure of all license or commission revocations or other disciplinary actions against the notary public;

(7) A description of the notary technology that the notary public intends to use to perform notarial acts with respect to electronic notarizations, including the name of the electronic notary system provider. The description must include:

(a) The technology to be used in attaching an electronic notarial certificate, signature, or seal to an electronic document;

(b) The technology used to maintain the electronic journal; and

(c) The technology used to render electronic records tamper-evident;

(8) If the device used to create the registrant's electronic signature was issued or registered through a licensed certification authority, then the application must include:

(a) The name of that authority;

(b) The source of the license; and

(c) The starting and expiration dates of the device's term of registration; and

(9) A copy of the notary public's electronic signature, electronic notarial certificate and electronic seal, along with any necessary instructions or techniques supplied by the vendor or notary public that allows the signature and stamp to be read and authenticated.

B. The Secretary of State may exempt from disclosure under the Freedom of Information Act the residential address and email address of the notary, except as otherwise required by statute, regulation, or court order.

##### 113-420. Course of Instruction.

A. Before each registration to perform electronic notarial acts, a notary public shall complete a course of instruction approved by the Secretary of State, and pass an examination of this course.

B. The Secretary of State, or his designee, will administer the training course and testing for applicants for electronic notary public registration.

C. The content of the course shall include notarial rules, procedures, and ethical obligations pertaining to electronic notarization as provided in the South Carolina Electronic Notary Public Act or in any other law or official guideline of this State.

113-430. Electronic Notary Signature and Electronic Notary Seal.

A. An electronic notary signature must meet all of the following requirements.

(1) The electronic notary signature shall be independently verifiable and unique to the electronic notary;

(2) The electronic notary signature shall be retained under the electronic notary's sole control;

(3) When the electronic notary performs an electronic notarization, the electronic signature used by the electronic notary must be accessible by and attributable solely to the electronic notary to the exclusion of all other persons and entities for the entire time necessary to perform the electronic notarization;

(4) The electronic notary signature shall be attached or logically associated with the document, linking the data in such a manner that any subsequent alterations to the underlying document or electronic notary certificate are observable through visual examination; and

(5) An image of the electronic notary's handwritten signature shall appear on any visual or printed representation of an electronic notary certificate regardless of the technology being used to affix the electronic notary's electronic signature.

B. An electronic notary seal must meet all of the following requirements:

(1) The electronic notary seal shall be independently verifiable and unique to the electronic notary;

(2) The electronic notary seal shall be retained under the electronic notary's sole control;

(3) When the electronic notary performs an electronic notarization, the electronic seal used by the electronic notary shall be accessible by and attributable solely to the electronic notary to the exclusion of all other persons and entities for the entire time necessary to perform the electronic notarization;

(4) The electronic notary seal shall be attached or logically associated with the document, linking the data in such a manner that any subsequent alterations to the underlying document or electronic notary certificate are observable through visual examination;

(5) An image of the electronic notary's electronic seal shall appear on any visual or printed representation of the electronic notary certificate regardless of the technology being used to affix the electronic notary's electronic seal;

(6) The perimeter of the electronic notary seal may contain a border such that the physical appearance of the seal replicates the appearance of an inked seal on paper; and

(7) The electronic notary seal must have, within its border, the electronic notary public's name exactly as commissioned, the title "Notary Public", the words "State of South Carolina", the electronic notary public's registration number indicating that the electronic notary public may perform electronic notarial acts, and the expiration date of the electronic notary public's commission.

113-440. Employers of Electronic Notaries.

A. Neither the employer of an electronic notary public nor any of the employer's employees or agents shall use or permit the use of an electronic notary seal or signature by anyone other than the electronic notary public to whom it is registered.

B. Upon the cessation of employment of an electronic notary public, the employer of the notary must do the following, if applicable:

(1) Relinquish any and all control of the electronic notary public's electronic notary seal conveyed by the employer's provision of an electronic notarization system as part of the electronic notary's employment;

(2) Transfer possession of the electronic notary seal to the electronic notary public; and

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(3) Eliminate the ability of any other person to use the former employee's electronic notary seal if the electronic notarization system used by the employer does not permit transfer of possession of the electronic notary seal.

### 113-450. Rejection of Electronic Notary Public Application.

The Secretary of State may reject an application for registration as an electronic notary public for failure to comply with any of the requirements of the South Carolina Electronic Notary Public Act. In addition, the Secretary of State may reject an application for registration as an electronic notary public for the following reasons:

- A. If the application is incomplete or contains any misstatement or omission of fact;
- B. If there is a pending inquiry by the Secretary of State's Office or law enforcement into the applicant's alleged failure to comply with any of the statutes, regulations or policies governing notaries public and electronic notaries public;
- C. If there has been a finding against or an admission of liability by the applicant in any legal proceeding or disciplinary action based on the applicant's conduct as a notary public or an electronic notary public; or
- D. The applicant has been convicted of a criminal offense involving fraud, theft, forgery, or breach of trust.

### 113-460. Change of Registration Information.

A. An electronic notary public shall notify the Office of the Secretary of State of any changes in the information submitted in the notary public's application for registration within thirty (30) days following the change in information.

B. Notifications to the Office of the Secretary of State as required by this section must be made in a form or manner prescribed by the Secretary of State and must be accompanied by a fee of ten dollars.

C. Failure to timely notify the Secretary of State as required under this section may subject the electronic notary public to having his or her registration terminated.

D. Nothing herein shall be construed to prohibit an electronic notary public from receiving, installing, or using hardware and/or software updates to the technologies that the electronic notary public identified in the electronic notary public's application if the hardware or software update does not result in technologies that are materially different from the technologies that the electronic notary public identified previously.

### 113-470. Access and Use of Electronic Notary Seal and Electronic Signature.

A. The electronic notary public's electronic signature and seal shall remain within the exclusive control of the electronic notary public. Access to electronic notary signatures and electronic notary seals must be protected by the use of a biometric verification, password authentication, token authentication, or other form of authentication approved by the Secretary of State according to the South Carolina Electronic Notary Public Act.

B. An electronic notary public shall not disclose any access information used to affix the electronic notary public's electronic signature or electronic seal to electronic records except:

- (1) When requested by the Secretary of State's Office or a law enforcement officer;
- (2) When required by court order or subpoena; or
- (3) Pursuant to an agreement to facilitate electronic notarizations with a vendor or other technology provider identified in an application submitted under the South Carolina Electronic Notary Public Act.

C. An electronic notary public must replace an electronic seal or signature under any of the following circumstances:

- (1) The electronic notary public's registration has expired.
- (2) The electronic seal or signature is for any reason no longer valid or capable of authentication.
- (3) The electronic notary public has changed any of the following information, or the following information has changed for any reason:
  - (a) The electronic notary public's name;
  - (b) The electronic notary public's jurisdiction;
  - (c) The electronic notary public's registration number; or

(d) The expiration date of notary public commission.

#### 113-480. Electronic Notary Journal Preservation.

A. An electronic notary journal shall be created and stored in a computer or other electronic storage device or process that protects the electronic journal against unauthorized access by password, biometric verification, token, or other form of authentication.

B. An electronic notary journal is the exclusive property of the notary public and no employer or vendor of e-notary services may retain control of a notary public's electronic record for any reason.

C. An electronic notary journal shall be retained for at least ten (10) years after the last notarial act chronicled in the journal.

D. An electronic notary journal shall be tamper-evident.

E. A notary public shall not allow a record entry to be deleted or altered in content or sequence by the electronic notary public or any other person after a record of the electronic notarization is entered and stored.

F. An electronic notary journal must be capable of providing tangible or electronic copies of any entry made in the journal.

G. Upon the death or adjudication of incompetency of a current or former notary public who is registered to perform notarial acts with respect to electronic records, the electronic notary's personal representative or guardian or any other person knowingly in possession of a journal shall:

(1) comply with the retention requirements of this section;

(2) transmit the journal to a third person contracted to act as a repository to provide the storage required by this section; or

(3) transmit the journal in an industry-standard readable data storage device to the electronic notary public's notary technology provider.

#### 113-490. Application for Electronic Notary Providers.

Electronic notarization system providers applying to the Secretary of State for designation as a registered electronic notarization system provider must complete and submit electronically an application to the Secretary of State for review and approval before authorizing any electronic notary seals, digital certificates or electronic signatures for use by electronic notaries public in this State. The application must include the following information:

A. The legal name of the technology provider;

B. The mailing address of the technology provider;

C. The physical address of the technology provider;

D. A designated contact person for the technology provider;

E. The phone number, physical address, and email address of the contact person for the technology provider;

F. The name of the technology provided;

G. A description of the technology used, including hardware and software specifications and requirements for the provider's electronic notarization system; and

H. A plan for the retention and disposition of records created, generated, or retained in conjunction with the use of the technology, including any electronic journal or records created or retained during an electronic notarization, in the event the technology provider no longer engages in the business of providing electronic or online notary technology.

#### 113-500. Requirements for Systems and Providers.

Each electronic notarization system provider must:

A. Provide a free and readily available viewer/reader to enable all parties relying on the electronically notarized record or document to view the electronic notary public's electronic signature and the electronic notary seal without incurring any cost;

B. Comply with the laws, policies, and rules that govern South Carolina notaries public;

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C. Provide an electronic notarization system that complies with the technical specifications of the rules and standards that govern electronic notarization processes and procedures in South Carolina;

D. Verify that a notary public is registered to act as a South Carolina electronic notary public prior to authorizing an electronic notary seal and electronic signature for that notary public;

E. Notify the Secretary of State of the name of each notary public who enrolls in the provider's electronic notarization system within five days after enrollment by means prescribed by the Secretary of State;

F. Provide prorated fees to align the usage and cost of the electronic notarization system with the commission term limit of the electronic notary public purchasing the electronic notary seal and electronic signature;

G. Suspend the use of any electronic notarization system for any notary public whose commission has been revoked, suspended, or canceled by the Secretary of State, within 10 calendar days of receipt of notification from the Secretary of State;

H. Submit an exemplary of the electronic notary public's electronic signature and the electronic notary seal to the Secretary for each electronic notary public who subscribes to the provider's electronic notarization system;

I. Require access to the system by a password or other secure means of authentication;

J. Enable a notary public to affix the notary's electronic signature in a manner that attributes such signature to the notary as evidenced by a digital certificate and render every electronic notarial act tamper-evident; and

K. Respond to a request for information from the Office of the Secretary of State within the time directed. Any request for information shall be sent to the contact person designated by the provider upon registration, or as updated pursuant to Regulation 113-510.

### 113-510. Electronic Notarization System Provider Changes.

A. An electronic notarization system provider shall notify the Secretary of State's Office within 30 days of any changes, modifications or updates to information previously submitted to the Secretary of State. Notifications to the Office of the Secretary of State as required by this section must be made in a form or manner prescribed by the Secretary of State.

B. An electronic notarization system provider must be registered with the Secretary of State at the time it makes available to South Carolina electronic notaries any updates or subsequent versions of the provider's electronic notarization system.

### **Fiscal Impact Statement:**

At this time, the agency believes any additional costs will be able to be absorbed by the agency.

### **Statement of Rationale:**

Prior to acceptance of electronic online notary public applications, administrative rules must be in effect and vendors of technology must be approved by the Secretary of State. Therefore, promulgation of regulations is required to complete implementation of the South Carolina Electronic Notary Act.