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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.

## **2021 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	1/8	2/12	3/12	4/9	5/14	6/11	7/9	8/13	9/10	10/8	11/12	12/10
Publishing Date	1/22	2/26	3/26	4/23	5/28	6/25	7/23	8/27	9/24	10/22	11/26	12/24

## **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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 The history, status, and full text of these regulations are available on the  
 South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

<b>DOC. NO.</b>	<b>RAT. NO.</b>	<b>FINAL ISSUE</b>	<b>SUBJECT</b>	<b>EXP. DATE</b>	<b>AGENCY</b>	<b>HOUSE COMMITTEE</b>	<b>SENATE COMMITTEE</b>
4952			Procedure to Employ, through Contract or Otherwise, Qualified, Independent Third-Party Consultants or Experts	05/12/2021	Public Service Commission	Regs and Admin Procedures	Judiciary
4980			Transfers and Withdrawals	05/12/2021	State Board of Education		
4981			Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts	05/12/2021	State Board of Education		
4993			South Carolina Jobs-Economic Development Authority	05/12/2021	South Carolina Jobs-Economic Development Authority		
4982			Records of Charitable Trust	05/12/2021	Attorney General		
4983			Fees to Accompany Request for Confirmation of Solicitation Exemption	05/12/2021	Attorney General		
4991			Credential Classification	05/12/2021	State Board of Education		
4969			Protection of Consumer Data	05/12/2021	Public Service Commission		
4994			Sale or Lease of Renewable Energy Facilities	05/12/2021	Department of Consumer Affairs		
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4975			Hazardous Waste Management Regulations	05/12/2021	Department of Health and Envir Control		
4977			Standards for Licensing Day Care Facilities for Adults	05/12/2021	Department of Health and Envir Control		
4979			Septic Tank Site Evaluation Fees; Onsite Wastewater Systems; License to Construct or Clean Onsite Sewage Treatment and Disposal Systems and Self-Contained Toilets; and Licensing of Onsite Wastewater Systems Master Contractors	05/12/2021	Department of Health and Envir Control		

## 2 EXECUTIVE ORDERS

### Executive Order No. 2020-72

**WHEREAS**, the State of South Carolina has taken, and must continue to take, any and all necessary and appropriate actions in confronting and coping with the significant public health threats and other impacts associated with the 2019 Novel Coronavirus (“COVID-19”), which now present different, additional, and evolving emergency conditions and circumstances; and

**WHEREAS**, in preparing for and responding to the threats posed by COVID-19, the State must remain flexible to account for new and distinct circumstances and focus on implementing narrowly tailored emergency measures and expanding interagency coordination and targeted mitigation efforts designed to, *inter alia*, reduce community spread and transmission of COVID-19, minimize the resulting strain on healthcare facilities and resources, address emerging and amplifying issues associated with colder weather and influenza season, facilitate the safe resumption or continuation of in-person classroom instruction, enhance testing capacity, and deploy the required vaccine distribution program; and

**WHEREAS**, in furtherance of the foregoing, the undersigned has, *inter alia*, convened the Public Health Emergency Plan Committee (“PHEPC”), activated the South Carolina Emergency Operations Plan (“Plan”), and regularly conferred with state and federal agencies, officials, and experts, to include the White House Coronavirus Task Force, the South Carolina Department of Health and Environmental Control (“DHEC”), and the South Carolina Emergency Management Division (“EMD”); and

**WHEREAS**, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an imminent public health emergency for the State of South Carolina; and

**WHEREAS**, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 (“Stafford Act”); and

**WHEREAS**, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, and consistent with Section 1135 of the Social Security Act, 42 U.S.C. § 1320b-5, as amended, retroactive to March 1, 2020; and

**WHEREAS**, in addition to declaring an initial State of Emergency on March 13, 2020, the undersigned has issued various Executive Orders initiating, directing, and modifying further extraordinary measures designed to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, 2020-44, 2020-48, 2020-53, 2020-56, 2020-59, 2020-62, 2020-65, 2020-67, and 2020-70; and

**WHEREAS**, on March 24, 2020, the undersigned requested that the President of the United States declare that a major disaster exists in the State of South Carolina pursuant to Section 401 of the Stafford Act, and on March 27, 2020, the President of the United States granted the undersigned’s request and declared that such a major disaster exists and ordered federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic, with an effective date retroactive to January 20, 2020, and continuing; and

**WHEREAS**, on May 18, 2020, the undersigned approved and signed Act No. 135 of 2020 (H. 3411, R-140), as passed by the General Assembly and ratified on May 12, 2020, which expressly acknowledged “the public health emergency associated with the 2019 Novel Coronavirus (COVID-19)” and recognized that “given

the extraordinary challenges facing our State, our nation, and the world due to COVID-19, it is necessary to take emergency measures to combat the spread of this deadly virus”; *see also* Act No. 133 of 2020 (R-138, S. 635); Act No. 142 of 2020 (R-148, H. 5202); Act No. 143 of 2020 (R-149, H. 5305); Act No. 154 of 2020 (R-170, H. 3210); and

**WHEREAS**, on August 2, 2020, the undersigned issued Executive Order No. 2020-50, initiating additional proactive emergency actions designed to limit community spread and transmission of COVID-19, while also superseding, rescinding, and replacing specific prior Executive Orders and consolidating, restating, or otherwise incorporating, in whole or in part, certain provisions thereof to clarify which emergency measures remain in effect; and

**WHEREAS**, on September 24, 2020, the undersigned issued Executive Order No. 2020-63, superseding, rescinding, and replacing Executive Order No. 50 and amending and consolidating certain emergency measures to ensure that any remaining measures are targeted and narrowly tailored to address and mitigate the public health and other threats associated with COVID-19 in the least restrictive manner possible; and

**WHEREAS**, although the above-referenced and other measures have helped limit and slow the spread of COVID-19, the COVID-19 pandemic represents an evolving public health threat and now poses different and additional emergency circumstances, which require that the State of South Carolina take any and all necessary and appropriate actions in proactively preparing for and promptly responding to the public health emergency and the significant economic impacts and other consequences associated with the same; and

**WHEREAS**, as of November 23, 2020, DHEC has identified at least 194,002 confirmed cases of COVID-19 in the State of South Carolina, including 3,987 deaths due to COVID-19; and

**WHEREAS**, in recent days, state and federal public health experts and officials have identified significant increases in the number of confirmed cases of COVID-19 across the United States; and

**WHEREAS**, DHEC has noted that increased testing of both symptomatic and asymptomatic individuals is a critical component in the fight against COVID-19, and the State must focus on maximizing interagency coordination, cooperation, and collaboration to enhance existing capacity and the availability of, and access to, COVID-19 testing; and

**WHEREAS**, as a result of South Carolina’s testing and tracing initiatives, DHEC has also continued to identify additional “hot spots” in certain areas of the State, which warrants the implementation of further targeted outreach efforts to control the spread of COVID-19; and

**WHEREAS**, public health experts and officials have expressed concerns that the approaching holiday season and the arrival of cooler weather will lead to more people staying indoors, where COVID-19 can spread more easily, and may increase community transmission of COVID-19; and

**WHEREAS**, state and federal public health experts and officials have similarly cautioned that influenza season poses new public health concerns and amplifies existing threats in the context of COVID-19, as influenza is anticipated to lead to additional hospitalizations, which could further burden healthcare facilities and resources, and it is possible that individuals could contract influenza and COVID-19 at the same time, which would likely cause more complications than if influenza were the sole source of infection; and

**WHEREAS**, in addition to the foregoing, the State of South Carolina must take additional proactive action to utilize, maximize, and coordinate intergovernmental and interagency resources, operations, and response efforts to facilitate the deployment of the required vaccine distribution program; and

#### 4 EXECUTIVE ORDERS

**WHEREAS**, particularly as public and private K–12 schools and higher education institutions in the State of South Carolina continue to reopen, in whole or in part, for in-person instruction, it is critically important that the State remain vigilant in addressing COVID-19 by maximizing interagency coordination to facilitate the safe resumption or continuation of classroom instruction while simultaneously implementing measures to minimize the risk of community spread and transmission of COVID-19 in schools and other settings; and

**WHEREAS**, in light of the foregoing, and due to the continued spread of COVID-19, the significant number of individuals hospitalized in connection with the same, the risks associated with the approaching holiday season and the arrival of cooler weather, and the additional public health concerns associated with influenza season, including the anticipated increase in hospitalizations and the possibility of simultaneous infections, the State of South Carolina must promptly take any and all necessary and appropriate steps to implement and expand certain mitigation efforts designed to reduce community transmission and to minimize the resulting strain on healthcare facilities and resources; and

**WHEREAS**, section 1-3-420 of the South Carolina Code of Laws, as amended, provides that “[t]he Governor, when in his opinion the facts warrant, shall, by proclamation, declare that, because of . . . a public health emergency . . . a danger exists to the person or property of any citizen and that the peace and tranquility of the State, or any political subdivision thereof, or any particular area of the State designated by him, is threatened, and because thereof an emergency, with reference to such threats and danger, exists”; and

**WHEREAS**, as the elected Chief Executive of the State, the undersigned is authorized pursuant to section 25-1-440 of the South Carolina Code of Laws, as amended, to “declare a state of emergency for all or part of the State if he finds a disaster or a public health emergency . . . has occurred, or that the threat thereof is imminent and extraordinary measures are considered necessary to cope with the existing or anticipated situation”; and

**WHEREAS**, in accordance with section 44-4-130 of the South Carolina Code of Laws, as amended, a “public health emergency” exists when there is an “occurrence or imminent risk of a qualifying health condition,” which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”; and

**WHEREAS**, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned “may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation”; and

**WHEREAS**, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is “supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State”; and

**WHEREAS**, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

**WHEREAS**, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to “suspend provisions of existing regulations

prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

**WHEREAS**, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws authorizes the undersigned, during a declared emergency, to “transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable,” and to “compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order”; and

**WHEREAS**, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein”; and

**WHEREAS**, in the context of a public health emergency, section 25-1-440 of the South Carolina Code of Laws also “authorizes the deployment and use of any resources and personnel including, but not limited to, local officers and employees qualified as first responders, to which the plans apply and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to this act”; and

**WHEREAS**, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, “[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer”; and

**WHEREAS**, it is axiomatic that “[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign,” 1980 S.C. Op. Att’y Gen. 142, 1980 WL 81975, at \*1 (S.C.A.G. Sept. 5, 1980); and

**WHEREAS**, the State of South Carolina has made significant progress to date in limiting and controlling the outbreak and continued spread of COVID-19, but the extraordinary circumstances and conditions that necessitated the undersigned’s prior emergency declarations have since evolved and now present different and additional threats, which must be dealt with on their own terms and by maximizing interagency coordination, cooperation, and collaboration; and

**WHEREAS**, consistent with the findings set forth in section 44-4-110 of the South Carolina Code of Laws, as amended, the different and additional public health threats posed by COVID-19—as well as the need to, *inter alia*, address emerging and amplifying issues associated with the approaching holiday season, the arrival of cooler weather, and the simultaneous impact of influenza season; enhance existing testing capacity; deploy the requisite vaccine distribution program; and implement and expand other mitigation efforts designed to reduce community transmission and minimize the resulting strain on healthcare facilities and resources—“require the exercise of extraordinary government functions . . . to respond, rapidly and effectively” to the evolving emergency currently facing the entire State; and

**WHEREAS**, for the aforementioned and other reasons, and after consulting with various state and federal agencies, officials, and experts, the undersigned has determined based on the latest data, in accordance with section 44-4-130 of the South Carolina Code of Laws, that the current status of community spread and

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transmission of COVID-19 in the State represents the “occurrence” of a “qualifying health condition”—which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”—thereby warranting and necessitating the declaration of a unique and distinct public health emergency for the State of South Carolina, which must be dealt with on its own accord; and

**WHEREAS**, particularly as public and private K–12 schools and higher education institutions in the State of South Carolina seek to resume or continue, in whole or in part, in-person classroom instruction, the State must take additional proactive action and implement certain mitigation efforts designed to reduce and control the spread of COVID-19 and to minimize the impacts associated with the same; and

**WHEREAS**, it is imperative that the State of South Carolina continue to utilize targeted extraordinary measures and deploy substantial resources to meet the unprecedented threats posed by COVID-19 and the evolving nature and scope of this public health emergency, and in order to promptly and effectively do so, the State must take any and all necessary and appropriate steps to coordinate additional intergovernmental and interagency resources and response efforts to address the current and anticipated circumstances; and

**WHEREAS**, in addition to the foregoing, in further proactively preparing for and promptly responding to the spread of COVID-19, the State of South Carolina must simultaneously confront the significant economic impacts and other consequences associated with COVID-19, to include stabilizing and reinvigorating the State’s economy by addressing issues related to unemployment, facilitating the safe reopening of businesses and industries, permitting economic flexibility by reducing regulations, and accessing and utilizing federal funds and resources to assist with emergency operations; and

**WHEREAS**, as part of the ongoing process of facilitating economic recovery and revitalization in a safe, strategic, and incremental manner, the State of South Carolina must also continue to encourage effective “social distancing” practices and implement additional targeted and narrowly tailored emergency measures to combat and control the spread of COVID-19; and

**WHEREAS**, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned’s responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined—based on recent developments, new facts and data, changing conditions, and the previously unforeseen occurrence of a combination of extraordinary circumstances—that an effective response to the COVID-19 pandemic, including the different, additional, and evolving threats and risks cited herein, represents and requires the declaration of a new and distinct emergency, which warrants further proactive action by the State of South Carolina and the implementation and enforcement of additional extraordinary measures to address the same.

**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 declare that a State of Emergency exists in South Carolina. Accordingly, for the foregoing reasons and in accordance with the cited authorities and other applicable law, I further order and direct as follows:

### **Section 1. Emergency Measures**

To prepare for and respond to the new and distinct public health threats posed by COVID-19 and to mitigate the other significant impacts associated with the same, including the resulting strain on healthcare facilities and resources, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must take additional proactive action and enhance mitigation efforts to reduce community transmission of COVID-19 and implement narrowly tailored extraordinary measures to prepare for, respond to, and address the evolving public health threat posed by the COVID-19 pandemic, to

include the continued utilization and coordination of intergovernmental and interagency resources, operations, and response efforts to facilitate the deployment of the required vaccine distribution program and the expansion of testing capacity.

B. I hereby memorialize and confirm my prior activation of the Plan and direct that the Plan be further placed into effect and that all prudent preparations be taken at the individual, local, and state levels to proactively prepare for and promptly respond to the COVID-19 pandemic and the significant economic impacts and other consequences associated with the same. I further direct the continued utilization of all available resources of state government as reasonably necessary to address the current State of Emergency.

C. I hereby direct DHEC to utilize and exercise any and all emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

D. I hereby authorize and direct state correctional institutions and local detention facilities to suspend visitation processes and procedures, as necessary, during this State of Emergency.

E. I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws, as amended, and direct the Adjutant General to issue the requisite supplemental orders as he deems necessary and appropriate. I further order the activation of South Carolina National Guard personnel and the utilization of appropriate equipment at the discretion of the Adjutant General, and in coordination with the Director of EMD, to take necessary and prudent actions to assist the people of this State. I authorize Dual Status Command, as necessary, to allow the Adjutant General or his designee to serve as commander over both federal (Title 10) and state forces (National Guard in Title 32 and/or State Active Duty status).

F. I hereby order that all licensing and registration requirements regarding private security personnel or companies who are contracted with South Carolina security companies in protecting property and restoring essential services in South Carolina shall be suspended, and I direct the South Carolina Law Enforcement Division (“SLED”) to initiate an emergency registration process for those personnel or companies for a period specified, and in a manner deemed appropriate, by the Chief of SLED.

G. I hereby declare that the prohibitions against price gouging pursuant to section 39-5-145 of the South Carolina Code of Laws, as amended, are in effect and shall remain in effect for the duration of this State of Emergency.

H. I hereby declare that the provisions of Executive Order No. 2020-63 are hereby extended and shall remain in full force and effect for the duration of the State of Emergency declared herein, unless otherwise modified, amended, or rescinded below or by future Order.

## **Section 2. Protection of First Responders**

To ensure the uninterrupted performance and provision of emergency services and to maintain peace and good order during the State of Emergency, while simultaneously implementing proactive measures to safeguard the health and safety of law enforcement authorities and other first responders, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must continue to undertake and implement additional proactive measures to safeguard the health and safety of law enforcement authorities and other first responders who risk

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potential exposure to COVID-19 while providing emergency and other essential services during the State of Emergency.

B. I hereby authorize and direct any and all 911 operators or other emergency dispatchers to ask any individual placing a call for service whether such individual or any member of their household has tested positive for COVID-19 or is exhibiting symptoms consistent with the same.

C. I hereby authorize and instruct DHEC, upon consultation with SLED, to provide any necessary and appropriate additional or supplemental guidance regarding the interpretation, application, or enforcement of this Section.

### Section 3. Transportation Waivers

To expedite the State of South Carolina's preparation for and response to the new and evolving emergency conditions related to COVID-19 and to facilitate the prompt transportation and delivery of any critical resources, supplies, and personnel identified and deemed necessary in connection with the same, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. I hereby suspend 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, as amended.

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 September 11, 2020 Extension of the Modified Expanded Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25, or any future amendments or supplements thereto; responding to the declared emergency in the State of South Carolina or providing direct assistance to supplement state and local efforts and capabilities to protect public health and safety in connection with COVID-19; or otherwise assisting with the public health threat posed by COVID-19, to include commercial vehicles and operators of commercial vehicles transporting essential goods and products, such as food, water, medicine, medical supplies and equipment, fuels and petroleum products (to include fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum), livestock, poultry, feed for livestock and poultry, and crops and other agricultural products ready to be harvested (to include timber and wood chips). I further authorize and direct DOT and DPS to issue, provide, or promulgate any necessary and appropriate clarification, guidance, rules, regulations, or restrictions regarding the application of this Section.

C. 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.

D. This Section is subject to any clarification, guidance, rules, regulations, or restrictions 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. 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 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, 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. 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. 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.

E. This Section is effective immediately and shall remain in effect for thirty (30) days or the duration of the State of Emergency, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70(D) of the South Carolina Code of Laws, except that requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles travelling on non-interstate routes for up to one hundred twenty (120) days, pursuant to the provisions of section 56-5-70(A) of the South Carolina Code of Laws, unless otherwise modified, amended, or rescinded by subsequent Order.

#### **Section 4. Enforcement**

A. I hereby authorize any and all law enforcement officers of the State, or any political subdivision thereof, to do whatever may be deemed necessary to maintain peace and good order during the State of Emergency and to enforce the provisions of this Order and any prior or future Orders issued by the undersigned in connection with the present State of Emergency.

B. Pursuant to section 16-7-10(A) of the South Carolina Code of Laws, any individual who “refuse[s] to disperse upon order of a law enforcement officer,” “wilfully fail[s] or refuse[s] to comply with any lawful order or direction of any law enforcement officer,” or otherwise violates any provision of any Order issued by the undersigned in connection with the State of Emergency “is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.”

C. In accordance with section 1-3-440(4) of the South Carolina Code of Laws, I further authorize, order, and direct any State, county, or city official to enforce the provisions of this Order and any prior or future Orders issued in connection with the present State of Emergency, as necessary and appropriate, in the courts of the State by injunction, mandamus, or other appropriate legal action.

D. In addition to the foregoing, I further authorize, order, and direct DHEC to exercise and utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, to implement and enforce the provisions of this Order. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

#### **Section 5. 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

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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 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. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

D. This Order is effective immediately and shall remain in effect for a period of fifteen (15) days unless otherwise expressly stated herein or modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 23rd DAY OF NOVEMBER, 2020.**

**HENRY MCMASTER  
Governor**

### **Executive Order No. 2020-73**

**WHEREAS**, the State of South Carolina has taken, and must continue to take, any and all necessary and appropriate actions in confronting and coping with the significant public health threats and other impacts associated with the 2019 Novel Coronavirus (“COVID-19”), and in doing so, the State must remain flexible to account for new and distinct circumstances and focus on implementing narrowly tailored emergency measures and expanding interagency coordination and targeted mitigation efforts designed to, *inter alia*, reduce community spread and transmission of COVID-19, minimize the resulting strain on healthcare facilities and resources, address emerging and amplifying issues associated with colder weather and influenza season, facilitate the safe resumption or continuation of in-person classroom instruction, enhance testing capacity, and deploy the required vaccine distribution program; and

**WHEREAS**, in furtherance of the foregoing, the undersigned has, *inter alia*, convened the Public Health Emergency Plan Committee (“PHEPC”), activated the South Carolina Emergency Operations Plan (“Plan”), and regularly conferred with state and federal agencies, officials, and experts, to include the White House Coronavirus Task Force, the South Carolina Department of Health and Environmental Control (“DHEC”), and the South Carolina Emergency Management Division (“EMD”); and

**WHEREAS**, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an imminent public health emergency for the State of South Carolina; and

**WHEREAS**, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states,

tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 (“Stafford Act”); and

**WHEREAS**, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, and consistent with Section 1135 of the Social Security Act, 42 U.S.C. § 1320b-5, as amended, retroactive to March 1, 2020; and

**WHEREAS**, on March 16, 2020, based on updated information and recommendations from the Centers for Disease Control and Prevention (“CDC”), the President of the United States and the White House Coronavirus Task Force issued new guidance—titled, “The President’s Coronavirus Guidelines for America”—to help protect Americans during the global COVID-19 outbreak; and

**WHEREAS**, on March 24, 2020, the undersigned requested that the President of the United States declare that a major disaster exists in the State of South Carolina pursuant to Section 401 of the Stafford Act, and on March 27, 2020, the President of the United States granted the undersigned’s request and declared that such a major disaster exists and ordered federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic, with an effective date retroactive to January 20, 2020, and continuing; and

**WHEREAS**, on March 29, 2020, the President of the United States extended and expanded the provisions of his Coronavirus Guidelines for America based on the ongoing nature and evolving scope of the global COVID-19 pandemic; and

**WHEREAS**, on April 16, 2020, the President of the United States issued new Guidelines on Opening Up America Again, which contemplate individual States reopening in phases using a deliberate, data-driven approach tailored to address the situation in each State; and

**WHEREAS**, on May 18, 2020, the undersigned approved and signed Act No. 135 of 2020 (H. 3411, R-140), as passed by the General Assembly and ratified on May 12, 2020, which expressly acknowledged “the public health emergency associated with the 2019 Novel Coronavirus (COVID-19)” and recognized that “given the extraordinary challenges facing our State, our nation, and the world due to COVID-19, it is necessary to take emergency measures to combat the spread of this deadly virus”; *see also* Act No. 133 of 2020 (R-138, S. 635); Act No. 142 of 2020 (R-148, H. 5202); Act No. 143 of 2020 (R-149, H. 5305); Act No. 154 of 2020 (R-170, H. 3210); and

**WHEREAS**, in addition to declaring an initial State of Emergency on March 13, 2020, the undersigned has issued various Executive Orders initiating, directing, and modifying further extraordinary measures designed to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, 2020-44, 2020-48, 2020-53, 2020-56, 2020-59, 2020-62, 2020-65, 2020-67, 2020-70, and 2020-72; and

**WHEREAS**, on August 2, 2020, the undersigned issued Executive Order No. 2020-50, initiating additional proactive emergency actions designed to limit community spread and transmission of COVID-19, while also superseding, rescinding, and replacing specific prior Executive Orders and consolidating, restating, or otherwise incorporating, in whole or in part, certain provisions thereof to clarify which emergency measures remain in effect; and

**WHEREAS**, on September 24, 2020, the undersigned issued Executive Order No. 2020-63, superseding, rescinding, and replacing Executive Order No. 50 and amending and consolidating certain emergency measures to ensure that any remaining measures are targeted and narrowly tailored to address and

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mitigate the public health and other threats associated with COVID-19 in the least restrictive manner possible; and

**WHEREAS**, in addition to issuing the above-referenced Executive Orders and directing other emergency measures, the undersigned has consistently and repeatedly urged South Carolinians to practice effective “social distancing” and wear face coverings to limit community spread and transmission of COVID-19 and has further encouraged counties and municipalities of this State to enact or implement appropriate and narrowly tailored emergency ordinances, orders, or other measures requiring individuals to wear face coverings in public settings where they are, will be, or reasonably could be located in close proximity to others who are not members of the same household and where it is not feasible to maintain six (6) feet of separation from such individuals or to otherwise practice effective “social distancing” in accordance with CDC and DHEC guidance; and

**WHEREAS**, although the above-referenced and other measures have helped limit and slow the spread of COVID-19, the COVID-19 pandemic represents an evolving public health threat and now poses different and additional emergency circumstances, which require that the State of South Carolina take any and all necessary and appropriate actions in proactively preparing for and promptly responding to the public health emergency and mitigating the resulting burdens on healthcare facilities and resources, as well as the significant economic impacts and other consequences associated with the COVID-19 pandemic; and

**WHEREAS**, based on the latest data and developments, and after conferring with various state and federal public health agencies, officials, and experts regarding ongoing testing and tracing initiatives and the results thereof, the undersigned is informed that congregate settings in restaurants, bars, and other similar establishments, as well as large indoor and outdoor public gatherings, have been identified as sources of, or contributing factors to, continued community spread and transmission of COVID-19; and

**WHEREAS**, particularly as public and private K–12 schools and higher education institutions in the State of South Carolina seek to resume or continue, in whole or in part, in-person classroom instruction, the State must take additional proactive action and implement certain mitigation efforts designed to reduce and control the spread of COVID-19 and to minimize the impacts associated with the same; and

**WHEREAS**, due to the continued spread of COVID-19, the significant number of individuals hospitalized in connection with the same, and the anticipated increase in hospitalizations in connection with influenza season, the State of South Carolina must promptly take any and all necessary and appropriate steps to implement and expand certain mitigation efforts designed to reduce community transmission and to minimize the resulting strain on healthcare facilities and resources; and

**WHEREAS**, in view of the foregoing, and in an effort to provide for and protect the health and welfare of the people of this State, the undersigned has determined that it is necessary and appropriate to initiate or extend certain temporary, targeted, and narrowly tailored emergency measures and restrictions designed to limit community spread and transmission of COVID-19 and to mitigate the resulting strain on healthcare resources, while also hopefully avoiding the need to resort to more restrictive means of addressing the same; and

**WHEREAS**, in addition to initiating or extending certain measures designed to limit community spread and transmission of COVID-19, in further proactively preparing for and promptly responding to the threats posed by COVID-19, the State of South Carolina must also simultaneously confront the significant economic impacts and other consequences associated with COVID-19 and undertake efforts to stabilize and reinvigorate the State’s economy by addressing issues related to unemployment, facilitating the safe reopening of businesses and industries, permitting economic flexibility by reducing regulations, accessing and utilizing federal funds and resources to assist with emergency operations, and maximizing interagency or intergovernmental coordination, cooperation, and collaboration to enhance the State’s response to COVID-19; and

**WHEREAS**, for the aforementioned and other reasons, the undersigned has determined that it is also necessary and appropriate to modify certain emergency restrictions as part of the process of regularly reviewing such measures to account for new and distinct threats and to ensure that any remaining restrictions are targeted and narrowly tailored to address and mitigate the current circumstances in the least restrictive manner possible; and

**WHEREAS**, in view of the foregoing objectives, the undersigned has deemed it necessary to supersede, rescind, and replace Executive Order No. 2020-63 and to consolidate, restate, or otherwise incorporate, in whole or in part, any modified or extended provisions thereof to clarify which emergency measures are in effect; and

**WHEREAS**, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned “may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation”; and

**WHEREAS**, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is “supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State”; and

**WHEREAS**, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

**WHEREAS**, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

**WHEREAS**, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws authorizes the undersigned, during a declared emergency, to “transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable,” and to “compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order”; and

**WHEREAS**, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein”; and

**WHEREAS**, in the context of a public health emergency, section 25-1-440 of the South Carolina Code of Laws also “authorizes the deployment and use of any resources and personnel including, but not limited to, local officers and employees qualified as first responders, to which the plans apply and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to this act”; and

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**WHEREAS**, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, “[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer”; and

**WHEREAS**, in addition to the foregoing authorities, pursuant to section 61-6-4160 of the South Carolina Code of Laws, as amended, “[i]t is unlawful to sell alcoholic liquors . . . during periods proclaimed by the Governor in the interest of law and order or public morals and decorum” and “[f]ull authority to proclaim these periods is conferred upon the Governor in addition to all his other powers”; and

**WHEREAS**, section 61-6-4160 of the South Carolina Code of Laws further provides that “[a] person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be punished as follows: (a) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days; (b) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and (c) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years”; and

**WHEREAS**, the Attorney General has previously opined that “[t]he obvious intent of [section 61-6-4160’s predecessor statute] is to afford the Governor the right to order the sale of alcoholic liquors to be discontinued during temporary periods of emergency” and that “[i]t is clear that [the Governor] ha[s] the authority . . . to order that the sale of liquors be prohibited at such places in the State in which, in [his] judgement, the interest of law and order and public morals and decorum, require such action,” 1968 WL 13075, at \*1 (S.C.A.G. Apr. 27, 1968); and

**WHEREAS**, it is axiomatic that “[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign,” 1980 S.C. Op. Att’y Gen. 142, 1980 WL 81975, at \*1 (S.C.A.G. Sept. 5, 1980); and

**WHEREAS**, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned’s authority and responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined that the State of South Carolina must take proactive action and implement, extend, and modify certain extraordinary measures designed to slow the spread of COVID-19, limit the resulting strain on healthcare resources, and mitigate the significant economic impacts and other consequences associated with COVID-19.

**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 order and direct as follows:

### **Section 1. Modification, Consolidation, and Continuation of Previous Emergency Measures**

A. I hereby supersede, rescind, and replace Executive Order No. 2020-63, with any remaining provisions thereof restated, in whole or in part, below or otherwise incorporated herein.

B. I hereby expressly rely upon and incorporate by reference the recitals and other specific factual findings, legal authorities, determinations, and conclusions contained in previous Orders, including Executive Order Nos. 2020-50, 2020-63, and 2020-72.

### **Section 2. Emergency Requirements Regarding Face Coverings**

A. I hereby urge counties and municipalities of this State to enact or implement appropriate and narrowly tailored emergency ordinances, orders, or other measures requiring individuals to wear a Face Covering, as set forth below and further defined herein, in public settings where they are, will be, or reasonably could be located in close proximity to others who are not members of the same household and where it is not feasible to maintain six (6) feet of separation from such individuals or to otherwise practice effective “social distancing” in accordance with CDC and DHEC guidance.

B. I hereby order and direct that individuals shall wear a Face Covering in state government offices, buildings, and facilities in accordance with guidelines and procedures developed and promulgated by the South Carolina Department of Administration (“Department of Administration”), as authorized herein, in consultation with DHEC.

C. Subject to any additional or supplemental clarification, guidance, rules, regulations, or restrictions issued, provided, or promulgated by the Department of Administration, the following persons or groups of persons shall not be required to wear a Face Covering in state government offices, buildings, and facilities:

1. A child who is two (2) years old or younger or a child whose parent, guardian, or responsible adult has been unable to place the Face Covering safely on the child’s face.

2. A person who is seeking to communicate with someone who is hearing-impaired in a manner that requires the mouth to be visible.

3. A person with a physical, mental, or behavioral health condition or disability (including, but not limited to, any person who has trouble breathing, or is unconscious or incapacitated, or is otherwise unable to put on or remove a Face Covering without assistance) that prevents wearing a Face Covering, provided that a non-employee or visitor who represents that they cannot wear a Face Covering for one or more of these reasons should not be required to produce documentation or any other form of proof of such a condition.

4. A person who is actively engaged in eating or drinking or obtaining a service that requires access to or visibility of the face.

5. A person who is engaging in strenuous exercise or physical activity.

6. A person who is operating or occupying a vehicle alone or with other persons who are members of the same household.

7. A person who is voting or assisting with the administration of an election, although wearing a Face Covering is strongly encouraged.

8. A person who must remove a Face Covering for purposes of identification or security screening or surveillance.

9. A person who is incarcerated in a correctional institution or short-term detention facility, which shall be governed by the rules and regulations of the applicable agency, institution, or facility.

10. A person for whom wearing a Face Covering would create a risk to the health or safety of the person due to their occupation, job function, or work assignment where wearing a Face Covering would be inconsistent with industry safety standards or protocols or federal, state, or local regulations or guidelines.

D. For purposes of this Order, “Face Covering” shall mean a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is otherwise wrapped around the lower face. A Face Covering can be made of natural or synthetic fabrics and can be handmade or improvised from other items. A face shield that covers the nose and mouth and extends below the chin shall satisfy the Face Covering requirements of this Order. Medical-grade masks or respirators shall satisfy the Face Covering requirements of this Order; however, according to the latest CDC guidance, these critical supplies should be reserved for use by healthcare workers and medical first responders.

E. I hereby authorize the Department of Administration to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders.

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F. This Section shall not apply to buildings or structures, or portions thereof, that are occupied or controlled by agencies, departments, officials, or employees of the Legislative or Judicial Branches of the State of South Carolina, which shall be governed by their respective orders, rules, or regulations.

### Section 3. Emergency Restrictions Regarding Restaurant Operations

A. I hereby order and direct that any and all restaurants or other food-service establishments (collectively, "Restaurants"), as set forth below, which prepare, produce, or otherwise offer or sell food or beverages of any kind for on-premises consumption in the State of South Carolina, shall be subject to and shall adhere to the following restrictions and conditions of operation:

1. Restaurants that elect to provide indoor or outdoor customer dining services for on-premises or dine-in consumption, as authorized herein, shall take reasonable steps to incorporate, implement, comply with, and adhere to any applicable sanitation guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials, as well as relevant industry guidance, to limit exposure to, and prevent the spread of, COVID-19.

2. Restaurants shall require that all employees, customers, patrons, suppliers, vendors, and other visitors wear Face Coverings, as defined in Section 2(D) of this Order, except while actively engaged in eating or drinking, subject to any applicable exceptions set forth in Section 2(C)(1)–(10) of this Order.

3. Restaurants shall not permit the sale or consumption of beer, wine, or alcoholic liquor between the hours of 11:00 p.m. and 10:00 a.m. the following day in accordance with Section 5 of this Order.

4. Restaurants should space indoor and outdoor tables at least six (6) feet apart, to the extent possible, to ensure that customers and patrons are at least six (6) feet apart from any other party or group.

5. Restaurants should limit seating at each table to no more than eight (8) customers and patrons, exclusive of family units or members of the same household.

6. Restaurants should adopt and enforce a process to ensure that customers and patrons are able to maintain a minimum of six (6) feet of separation from other parties while waiting to be seated. If there is any indoor or outdoor waiting area, Restaurants should use tape or other markings to help customers and patrons identify and maintain a minimum of six (6) feet of separation from other parties.

7. Restaurants should not allow patrons and customers to stand or congregate in any bar area. Restaurants should remove bar stools or arrange them in a manner that will ensure that customers and patrons are able to maintain a minimum of six (6) feet of separation from other parties.

8. Restaurants shall post signage at each public entrance informing customers, patrons, suppliers, vendors, and other visitors that entry is prohibited for individuals who are experiencing symptoms of COVID-19 or who have tested positive for COVID-19 within the preceding fourteen (14) days.

9. Restaurants shall conduct, prior to or at the beginning of each shift, an employee survey and screening process, which should include taking each employee's temperature before they begin their shift and inquiring about common symptoms of COVID-19.

10. Restaurants should immediately excuse and exclude any employees indicating symptoms of COVID-19 or who have tested positive for COVID-19 or have been in contact with someone who has tested positive for COVID-19 within the preceding fourteen (14) days.

11. Restaurants should actively encourage and require employees who are sick, who have symptoms of COVID-19, who have tested positive for COVID-19, or who have recently had close contact with a person who has tested positive for COVID-19 to stay at home, and should develop policies to encourage any such employees to stay at home without fear of reprisal or adverse employment action on this basis.

12. Restaurants should remove common-use condiments, such as salt, pepper, and ketchup, from tables. These items should be provided upon request and cleaned and sanitized between uses if single-use options are not available.

13. Restaurants should not place utensils on a table until after a customer or patron is seated and, if possible, should offer disposable single-use utensils.

14. Restaurants should utilize disposable paper menus if possible or sanitize menus after each use.



15. Restaurants shall use approved sanitizing solutions to clean tables, chairs, and check presenters after each table turn or seating.

16. Restaurants shall provide a cleaning station or alcohol-based hand sanitizer at all entry points.

17. Restaurants shall discontinue self-service buffets or food stations to prevent customers and patrons from reusing service utensils to avoid potential physical contamination; however, employees may be permitted to dispense food via cafeteria-style buffet service.

18. Restaurants should minimize, modify, or discontinue services that allow customers and patrons to fill or refill their own beverage cups.

19. Restaurants shall sanitize all doorknobs and other shared or frequently touched surfaces as much as possible between newly arriving parties with approved sanitizing solutions.

20. Restaurants should only use kiosks or touch screens for customers and patrons if they can be sanitized between uses and should encourage touchless payment operations like credit cards with no signature required.

B. Notwithstanding the foregoing restrictions and conditions of operation, Restaurants are authorized and encouraged to prepare, produce, or otherwise offer or sell food or beverages for off-premises consumption to the extent currently authorized, permitted, or otherwise allowed by law, whether via delivery, carry-out or drive-thru distribution, curbside pick-up, or other alternate means.

C. For purposes of this Section, “Restaurants” are defined as “retail food establishment[s],” pursuant to citation 1-201.10(B)(106) of Regulation 61-25 of the South Carolina Code of Regulations, licensed or permitted by DHEC in accordance with section 44-1-140 of the South Carolina Code of Laws, as amended, or other applicable law, with the exception of “independent living food service operations” or “licensed healthcare facilities,” which are expressly excluded from the definition of Restaurants. This Section does not direct the closure of retail beverage venues that currently provide for the sale of alcoholic beverages for off-site consumption and does not require the closure of production operations or wholesale distribution at breweries, wineries, or distilleries. Notwithstanding the foregoing, to the extent that Restaurants are licensed or permitted by the South Carolina Department of Revenue (“DOR”) for the on-premises sale of “alcoholic liquors” or “alcoholic beverages,” as defined by section 61-6-20(1)(a) of the South Carolina Code of Laws, as amended, DOR and the South Carolina Law Enforcement Division (“SLED”) are authorized to administer the provisions of this Order, and enforce compliance with the same, as necessary and appropriate. Pursuant to section 1-23-370(c) of the South Carolina Code of Laws, as amended, “[i]f the agency finds that public health, safety[,] or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action.”

D. I hereby authorize and encourage law enforcement officials to enforce the provisions of this Section in accordance with Section 14 of this Order. In addition to the authorities set forth in Section 14 of this Order, noncompliance with this Section shall also be governed by the provisions of section 16-7-10(A) of the South Carolina Code of Laws. I further authorize DHEC, DOR, and SLED to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders.

E. This Section shall not be interpreted, applied, implemented, or construed in a manner so as to limit the ability of Restaurants to impose additional restrictions or to prohibit law enforcement officers or local officials from enforcing trespassing laws or other applicable laws, regulations, orders, or ordinances in removing individuals at the request of businesses or property owners.

F. This Section shall not be interpreted, applied, implemented, or construed in a manner so as to prohibit counties and municipalities of this State from enacting or implementing appropriate and narrowly tailored emergency ordinances, orders, or other measures regarding, or applicable to, Restaurants to the extent allowed by law.

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### Section 4. Emergency Restrictions on Gatherings

A. I hereby urge any and all residents and visitors of the State of South Carolina to practice “social distancing” in accordance with CDC guidance and take precautions to avoid potential exposure to, and to slow the spread of, COVID-19.

B. Subject to any additional or supplemental clarification, guidance, rules, regulations, or restrictions issued, provided, or promulgated by the South Carolina Department of Commerce (“Department of Commerce”), as authorized herein, I hereby order and direct that the following categories or types of businesses, facilities, venues, services, activities, events, or mass gatherings (collectively, “Gathering”), as set forth and further defined below, shall be subject to and shall adhere to the following restrictions and conditions:

1. The total number of employees, customers, patrons, suppliers, vendors, visitors, or other persons present for or in attendance at the Gathering shall not exceed fifty percent (50%) of the location’s occupancy limit as determined by the fire marshal, if applicable, or two hundred fifty (250) persons, whichever is less.

2. All employees, customers, patrons, suppliers, vendors, visitors, or other persons in attendance at the Gathering shall wear a Face Covering, as defined in Section 2(D) of this Order, subject to any applicable exceptions set forth in Section 2(C)(1)–(10) of this Order, as a condition of entry or participation.

3. The sale or consumption of beer, wine, or alcoholic liquor shall be prohibited at any Gathering between the hours of 11:00 p.m. and 10:00 a.m. the following day in accordance with Section 5 of this Order.

4. The organizers, operators, owners, or hosts of, or other parties responsible for, a Gathering shall take reasonable steps to incorporate, implement, comply with, and adhere to any applicable sanitation, “social distancing,” and hygiene guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials, as well as relevant industry guidance, to limit exposure to, and prevent the spread of, COVID-19.

C. For purposes of this Section, a “Gathering” shall be defined as a planned or spontaneous indoor or outdoor event that involves or is reasonably expected to involve a large number of people physically present, congregating together, or otherwise simultaneously in attendance at a single indoor or outdoor location and shall include, but not be limited to, the following: festivals, parades, concerts, theaters, stadiums, arenas, coliseums, auditoriums, grandstands, event venues, dance halls, concert halls, amphitheaters, gymnasiums, chambers, assemblies, nightclubs, performing arts centers, parks, racetracks, or similarly situated or operated businesses, facilities, venues, services, activities, events, or mass gatherings, the occurrence or resulting impacts of which could strain the public health, planning, and response resources of the community hosting the same. A Gathering shall not include individuals collectively performing or assisting with military, healthcare, public safety, or emergency response operations, as well as any other operations or services identified by the United States Cybersecurity and Infrastructure Security Agency in its March 28, 2020 Memorandum, or any future amendments or supplements thereto, as essential to continued critical infrastructure viability in connection with COVID-19. A Gathering shall not include the normal operations of public and private schools and higher education institutions or religious activities or services, including those conducted in churches, synagogues, or other houses of worship.

D. I hereby authorize and direct the Department of Commerce, in consultation with DHEC, to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section and to provide clarification, as necessary and appropriate and in accordance with the process set forth below, regarding the application of this Section to any particular Gathering(s), or exceptions for any particular Gathering(s).

E. The organizers, operators, owners, or hosts of, or other parties responsible for, any Gathering(s) may seek clarification regarding the application of this Section to any particular Gathering(s), or exceptions for any particular Gathering(s), from the Department of Commerce using a form provided by the Department of Commerce, which shall be available for public access and submission via the Department of Commerce’s website, at [www.sccommerce.com](http://www.sccommerce.com). Individuals or entities may also submit questions or requests for clarification

or exceptions to the Department of Commerce by email to [covid19sc@sccommerce.com](mailto:covid19sc@sccommerce.com) or by telephone at 803-734-2873. A team from the Department of Commerce will review each request for clarification or an exception and provide a response with the Department of Commerce's determination within twenty-four (24) hours of receipt.

F. The Department of Commerce shall review any requests for clarification regarding the applicability of this Section to any particular Gathering(s) or any requests for an exception for any particular Gathering(s) and shall evaluate the same, in consultation with DHEC, and make a determination regarding whether the Gathering(s) may proceed, in whole or in part, on a normal or modified basis. The Department of Commerce shall grant exceptions only upon a thorough and satisfactory demonstration that any particular Gathering(s) will comply with, and operate according to, any applicable sanitation, "social distancing," and hygiene guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials. Any determination issued by the Department of Commerce shall be deemed and considered provisional and shall be subject to revision, alteration, or revocation at any point, and in the sole discretion of the Department of Commerce, based on and to account for, *inter alia*, the evolving nature and scope of the public health emergency associated with COVID-19.

G. This Section does not apply to the conduct of official business by, or meetings of, any agency or department of the State of South Carolina or any political subdivision thereof, to include the operations of public schools and higher education institutions and the conduct of elections and related activities.

**Section 5. Emergency Restrictions Regarding Alcoholic Beverages at Restaurants, Bars, and Other Establishments After 11:00 p.m.**

A. I hereby determine and proclaim, pursuant to section 61-6-4160 of the South Carolina Code of Laws and other applicable law, that it is necessary and appropriate and "in the interest of law and order" and "public morals and decorum" to prohibit the sale of beer, wine, and alcoholic liquor under certain conditions and during certain periods, as set forth below, to address and reduce instances of community spread and transmission of COVID-19 among individuals congregating in restaurants, bars, and other establishments, to mitigate the resulting burdens on healthcare facilities and resources, and to maintain peace and good order during the State of Emergency.

B. I hereby order and direct that the sale or consumption of beer, wine, or alcoholic liquor on the licensed premises of all persons or businesses authorized to sell beer, wine, or alcoholic liquor in the State of South Carolina (collectively, "Licensees"), as set forth below, shall remain prohibited between the hours of 11:00 p.m. and 10:00 a.m. the following day, as previously set forth in Executive Order Nos. 2020-45, 2020-50, and 2020-63, for the duration of the State of Emergency unless otherwise modified, amended, extended, or rescinded by subsequent Order.

C. For purposes of this Section, "beer, wine, and alcoholic liquors" shall refer to those alcoholic beverages as defined in Chapters 4 and 6 of Title 61 of the South Carolina Code of Laws, as amended. For purposes of this Section, "Licensees" include only those persons or businesses holding the following permits or licenses issued by DOR pursuant to Title 61 of the South Carolina Code of Laws:

1. On-Premises Beer and Wine Permits (PBW) or 7-Day On-Premises Beer and Wine Permit (PO7);
2. Instate Winery Permit (PWY), Domestic Winery Permit (PDW), or 7-Day Winery Permit (P7W);
3. Brewpub Beer Permit (PBB);
4. Brewery Permit (PWY);
5. Business Liquor by the Drink License (PLB);
6. Non-Profit Private Club Liquor by the Drink License (PLC); or
7. Special Event Permit or Special Non-Profit Event Permit.

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This Section does not limit the hours of sales for beer, wine, or alcoholic liquors for off-premises consumption, which shall continue to be governed by existing law.

D. Pursuant to sections 1-3-430 and 1-3-440 of the South Carolina Code of Laws, the undersigned is authorized to enforce the provisions of this Order “by use of all appropriate available means,” to include, *inter alia*, “[o]rder[ing] any and all law enforcement officers of the State or any of its subdivisions to do whatever may be deemed necessary to maintain peace and good order” and “order[ing] or direct[ing] any State, county[,] or city official to enforce the provisions of such proclamation in the courts of the State by injunction, mandamus, or other appropriate legal action.”

E. I hereby authorize, order, and direct DOR and SLED to administer the provisions of this Order and enforce compliance with the same as necessary and appropriate. Noncompliance with this Section shall constitute grounds for suspension of a license or permit in accordance with the provisions of Title 61, including but not limited to sections 61-4-580, 61-6-50, and 61-6-100, as amended. Pursuant to the process established in section 1-23-370(c) of the South Carolina Code of Laws, as amended, if DOR “finds that public health, safety[,] or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings.” Unless otherwise provided by DOR, any summary suspension under this Section will be effective for at least the duration of this Order and any amendments to or extensions of the same. Notwithstanding the foregoing, this Section does not prevent or prohibit DOR from seeking or imposing additional penalties as authorized by law if warranted by the Licensee’s actions. I hereby further order and direct DOR, upon suspension of a license or permit for noncompliance with this Section, to promptly institute proceedings in the Administrative Law Court to review the summary suspension, as required by section 1-23-370(c).

F. In addition to the foregoing authorities, noncompliance with this Section shall be further governed by the provisions of sections 16-7-10(A) and 61-6-4160 of the South Carolina Code of Laws. Pursuant to section 61-6-4160 of the South Carolina Code of Laws, “[a] person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be punished as follows: (a) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days; (b) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and (c) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years.”

G. I hereby authorize DOR and SLED to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders.

### **Section 6. Regulatory Flexibility to Accelerate Emergency Preparation and Response Measures**

A. I hereby authorize and direct any agency within the undersigned’s Cabinet or any other department within the Executive Branch, as defined by section 1-30-10 of the South Carolina Code of Laws, as amended, through its respective director or secretary, to waive or “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency,” in accordance with section 25-1-440 of the South Carolina Code of Laws and other applicable law.

B. I hereby authorize and direct state agencies and departments to use the emergency procurement procedures set forth in section 11-35-1570 of the South Carolina Code of Laws, as amended, and any regulations issued pursuant thereto, as necessary and appropriate, to facilitate and expedite acquisition of any critical resources during the State of Emergency.

C. I hereby suspend, in accordance with section 25-1-440 of the South Carolina Code of Laws and other applicable law, any existing procurement-related regulations “if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency.”

**Section 7. Regulatory Flexibility and Other Emergency Measures to Expedite the Provision of Critical Healthcare Services**

A. I hereby authorize and direct DHEC to suspend, for the duration of the State of Emergency, pursuant to Regulation 61-112 of the South Carolina Code of Regulations, any necessary and applicable provisions of Regulations 61-15 and 61-16, which restrict the use of unlicensed beds or space, the conversion of single and double occupancy patient rooms to account for higher patient capacity, or the establishment of wards, dormitories, or other spaces not designated as patient rooms.

B. I hereby suspend the monetary thresholds set forth in Section 102 of Regulation 61-15 of the South Carolina Code of Regulations for items requiring Certificate of Need Review, to the extent necessary and applicable, so as to permit healthcare facilities to make those capital expenditures and acquire medical equipment deemed necessary to prevent, diagnose, treat, or monitor the progression of COVID-19.

C. I further direct DHEC to suspend certain sections of the South Carolina Health Plan addressing health services requiring Certificate of Need Review, as DHEC deems necessary and appropriate, to allow a healthcare facility to provide temporary health services to adequately care for patients that may be affected by COVID-19. Healthcare facilities shall address any such requests pursuant to this Section to DHEC and coordinate with DHEC regarding the same.

D. I hereby direct the Adjutant General to continue implementing and overseeing efforts to coordinate with, between, and among the South Carolina National Guard and hospitals or other healthcare providers, as necessary and applicable, regarding any actual or potential requirements for, or contingency plans related to, the mobilization, utilization, or acquisition of resources; the creation, modification, or construction of mobile or temporary facilities or other critical infrastructure; or other anticipated or unanticipated matters related to the State’s preparation for, and response to, the evolving public health threat posed by COVID-19. In accordance with section 25-1-1840 of the South Carolina Code of Laws, Executive Order No. 2020-48, and other applicable law, I further authorize and direct the Adjutant General to activate and utilize any and all South Carolina National Guard personnel and equipment he deems necessary and appropriate and to issue the requisite supplemental orders.

**Section 8. Regulatory Flexibility to Facilitate “Social Distancing” in Restaurants and Retail Settings**

A. I have determined that the State of South Carolina must continue to undertake and implement additional measures to slow the spread of COVID-19, minimize the current and future strain on healthcare providers, and mitigate the economic impacts on affected individuals and businesses. In furtherance of the foregoing, and in accordance with the President’s Coronavirus Guidelines for America, the State must promote and facilitate effective “social distancing” practices, including “[a]void[ing] eating or drinking at bars, restaurants, and food courts—use drive-thru, pickup, or delivery options.”

B. I hereby suspend Regulation 7–702.5 of the South Carolina Code of Regulations, which provides, in pertinent part, that “[a] permit holder, employee of a permit holder, or agent of a holder must not sell or deliver beer or wine to anyone who remains in a motor vehicle during the transaction.”

C. I hereby authorize and direct DOR to implement, interpret, and apply the provisions of this Order, as necessary and appropriate and in accordance with and to the extent allowed by state and federal law, in a manner that will facilitate current holders of a valid Beer and Wine Permit (“Permit”), as set forth below,

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selling or delivering beer and wine in a sealed container for curbside delivery or pickup and off-premises consumption.

D. Subject to any further clarification, guidance, or regulations issued or promulgated by DOR, Permit holders electing to offer curbside delivery or pickup shall be subject to the following definitions, conditions, and restrictions:

1. For purposes of this Section, "Permit" is defined as an on- or off-premises permit issued by DOR in accordance with Title 61, Chapter 4 of the South Carolina Code of Laws, with the exception of "special event" permits, for use at fairs and special functions, issued pursuant to section 61-4-550 of the South Carolina Code of Laws, as amended.

2. A retailer shall have a clearly designated delivery or pickup area abutting or adjacent to the retailer's place of business.

3. A customer who purchases beer or wine must prove at the time of curbside delivery or pickup that he is twenty-one (21) years of age or older by providing a valid government-issued identification.

4. A retailer shall not allow curbside delivery of beer or wine to, or pickup of beer or wine by, an intoxicated person or a person who is under twenty-one (21) years of age.

5. Any Permit holder's employee or agent who is responsible for delivering beer or wine in sealed containers for off-premises consumption to a customer's vehicle shall be eighteen (18) years of age or older.

6. Curbside delivery or pickup of "alcoholic liquors," as defined by section 61-6-20 of the South Carolina Code of Laws, as amended, shall be prohibited.

### **Section 9. Emergency Measures to Ensure the Continuity of Essential Government Operations and Emergency Services and to Provide for the Health and Safety of State Employees**

A.I hereby direct that all non-essential employees and staff of the State of South Carolina, as described below, shall not report to work, physically or in-person, until further notice. For purposes of this Section, essential employees and staff are those designated by, and in the sole discretion of, the corresponding Agency Head, or their designee, as essential or mission-critical to the State's preparation for and response to emergency conditions related to COVID-19 or otherwise necessary to serving the State of South Carolina by ensuring the continuity of critical operations of state government. Essential employees and staff may still be required to report to work as determined by, and in the sole discretion of, the corresponding Agency Head or their designee. Notwithstanding the foregoing or any previous event-specific employment classifications or designations, for purposes of this emergency, essential may be defined differently than it has been defined or applied in the context of hazardous weather events. In accordance with prior directives, as well as related guidance issued by the Department of Administration, state agencies and departments shall utilize, to the maximum extent possible, telecommuting or work-from-home options for non-essential employees and staff. This Section shall apply to state government agencies, departments, and offices under the authority of the undersigned. I further direct the Department of Administration to continue to provide any necessary and appropriate supplemental guidance to such agencies, departments, and offices and to any additional agencies, departments, and offices so as to facilitate and expedite implementation of these initiatives.

B. I hereby prohibit any county, municipality, or other political subdivision of the State of South Carolina from closing any location or facility that is occupied or utilized, in whole or in part, by any agency, department, official, or employee of the State. Accordingly, pursuant to sections 1-3-410, 25-1-440, and 25-1-450 of the South Carolina Code of Laws, as well as other applicable law, I hereby direct that any such county, municipality, or other political subdivision of this State shall authorize, allow, and provide access to such locations or facilities by any state agency or department, and the officials and employees thereof, as deemed necessary and appropriate and in the manner prescribed by the state agency or department so as to ensure the uninterrupted performance and provision emergency, essential, or otherwise mission-critical government functions and services during the State of Emergency.

### **Section 10. Authorization of Voluntary COVID-19 Testing at Public Schools**

A. I hereby authorize DHEC’s Director of Public Health to issue a statewide standing order to allow for the voluntary testing of students, teachers, and staff for COVID-19 at public schools in the State of South Carolina. Any and all such testing shall be conducted pursuant to the terms of the standing order issued by the Director of Public Health, with the requisite prior consent, and in a manner that is consistent with applicable law. To facilitate the foregoing initiative, I hereby direct DHEC to develop and distribute a standardized form to memorialize and confirm that prior consent for voluntary testing is obtained from any participant or participant’s parent, guardian, legal custodian, foster-care provider, or other representative authorized to provide consent, as applicable, in a manner that is consistent with state and federal law.

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

### **Section 11. Extension of Emergency Measures for Unemployment Claims and Benefits**

A. The State of South Carolina must continue to undertake and implement additional measures to prepare for and respond to the economic impacts associated with COVID-19 and to mitigate the resulting burdens on individuals and businesses. In recognition of the complexities posed by the existing and anticipated emergency circumstances, the United States Department of Labor (“DOL”) issued Unemployment Insurance Program Letter No. 10-20 on March 12, 2020 (“DOL Letter No. 10-20”), providing guidance to states and state workforce agencies on various matters regarding unemployment benefits and “flexibilities related to COVID-19,” and in doing so, recommended, *inter alia*, that “states should consider temporarily waiving” state-specific requirements related to waiting periods for individuals who are otherwise eligible for unemployment benefits. Accordingly, to facilitate and expedite the processing of claims submitted by eligible individuals whose employment has been impacted a result of COVID-19, and in response to DOL Letter No. 10-20’s recommendation, the undersigned issued Executive Order No. 2020-11 on March 19, 2020, directing, *inter alia*, the South Carolina Department of Employment and Workforce (“DEW”) to waive application of the one-week waiting period for individuals who are otherwise eligible to receive unemployment benefits or to determine that otherwise eligible individuals submitting claims between March 15, 2020, and April 18, 2020, in response to the unique circumstances and public health threat presented by COVID-19 “cannot pursue other employment for the usual one week’s waiting period and that the terms of the [applicable] statute cannot be met in such an unusual and limited circumstance,” 1989 S.C. Op. Att’y Gen. 286 (Oct. 3, 1989). Subsequently, on March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Public Law No. 116–136, Title II, Subtitle A of which provides, *inter alia*, temporary full federal funding of the first week of state unemployment insurance benefits for states that do not have a waiting week or have waived any waiting-week requirement.

B. I hereby direct DEW to waive, on a temporary basis and consistent with the aforementioned DOL guidance, application of the one-week waiting period for individuals who are otherwise eligible to receive unemployment benefits, pursuant to section 41-35-110(4) of the South Carolina Code of Laws, as amended, or alternatively, to determine that otherwise eligible individuals submitting claims in response to or associated with the unique circumstances and public health threat presented by COVID-19 “cannot pursue other employment for the usual one week’s period and that the terms of the statute cannot be met in such an unusual and limited circumstance.” 1989 S.C. Op. Att’y Gen. 286 (Oct. 3, 1989). If and to the extent allowed by state and federal law, I further instruct DEW to implement, interpret, and apply the foregoing directives, as necessary and appropriate, in a manner that will facilitate and expedite the processing of claims submitted by eligible individuals who have suffered an unanticipated separation from employment or reduction of hours. Subject to any additional or supplemental guidance, rules, regulations, or restrictions issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DEW, and to the maximum extent permitted by state and federal law, this Section shall apply to claims submitted on or after April 19, 2020, and for the duration of the State of Emergency unless otherwise modified, amended, extended, or rescinded. Notwithstanding the

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foregoing, this Section shall not be construed to limit DEW's authority, to the extent allowed by state and federal law, to extend the period of any such temporary waivers or determinations to account for exigent circumstances.

### **Section 12. Extension of Prior Authorization for COVID-19 Support Payments by Employers**

A. I have determined that the State of South Carolina must continue to undertake and implement additional measures to prepare for and respond to the economic impacts associated with COVID-19 and to mitigate the resulting burdens on individuals and businesses in the State of South Carolina. Many South Carolina employers have been financially strained by the significant economic impacts associated with COVID-19, which will negatively affect the ability of many employers to sustain operations at current levels. As a result of such operational reductions, businesses in this State may be required to furlough current employees. For purposes of this Section, a "furlough" shall mean and refer to a temporary period of time during which an employee performs no personal services for the employer as a result of a layoff caused by the economic impacts of COVID-19. Employers have stated that furloughs may be necessary to sustain an adequate level of working capital and to maintain a ready workforce in preparation for resuming operations when the risks associated with COVID-19 have dissipated. In acknowledging that employees may need to be furloughed due to the ongoing and anticipated economic impacts associated with COVID-19, some employers have indicated a desire to offset the financial impacts of such furloughs by making voluntary COVID-19-related support payments ("COVID-19 Support Payments"), as set forth below, to certain employees.

B. For purposes of this Section, "COVID-19 Support Payments" shall mean a voluntary payment, or series of payments, made by an employer to an employee in response to furloughing the employee, which is for services rendered by the employee in the past, which the employee or the employee's estate is not obligated to repay, which is provided without obligation for the employee to perform or not perform any act in connection with the individual's status as an employee, and which is made pursuant to a plan provided to DEW on a form that DEW shall prepare and publish on its website ("COVID-19 Support Payments Plan"), as set forth below and further defined herein. COVID-19 Support Payments shall be classified as a form of severance pay. South Carolina courts have interpreted severance pay as a form of payment for services previously rendered and, thus, not "wages" as that term is currently defined in section 41-27-380 of the South Carolina Code of Laws. *See S. Bell Tel. & Tel. Co. v. S.C. Employment Sec. Comm'n*, 240 S.C. 40, 45, 124 S.E.2d 505, 507 (1962). Classification of COVID-19 Support Payments as non-wages will ensure that such payments do not reduce the unemployment benefits an otherwise eligible individual would be entitled to receive, in accordance with the terms of prior Orders and as otherwise provided by law.

C. A COVID-19 Support Payments Plan submitted to DEW must detail the anticipated length of the furlough, state the amount of the COVID-19 Support Payments, identify the names of the employees receiving the COVID-19 Support Payments, and include an attestation that the employer is not making the COVID-19 Support Payments as a form of remuneration for the employees' performance of personal services during the furlough and that employees are not required to return or repay the COVID-19 Support Payments. Further, employers shall file employer-filed unemployment insurance claims, according to guidance provided by DEW, for each employee receiving COVID-19 Support Payments. A COVID-19 Support Payments Plan that satisfies the requirements set forth herein is not required to be approved by DEW prior to an employer making COVID-19 Support Payments.

D. I hereby authorize and direct DEW to interpret furloughed recipients of COVID-19 Support Payments as unemployed, pursuant to section 41-27-370 of the South Carolina Code of Laws and Regulation 47-20 of the South Carolina Code of Regulations, in response to or associated with the unique circumstances and public health threat presented by COVID-19. I further authorize and instruct DEW to implement, interpret, and apply the foregoing directives, as necessary and appropriate, in a manner such that an employee will not be considered as having been overpaid unemployment insurance benefits solely because the employee received COVID-19 Support Payments pursuant to a COVID-19 Support Payments Plan. Subject to any further clarification or guidance issued by DEW, and to the maximum extent permitted by state and federal law, this



Section shall apply to any COVID-19 Support Payments paid by an employer for the duration of the State of Emergency unless otherwise modified, amended, extended, or rescinded.

**Section 13. Emergency Measures to Facilitate Law Enforcement Assistance and Support**

A. I hereby authorize law enforcement agencies or departments in this State to enter into mutual aid agreements in connection with the State of Emergency, pursuant to Title 23, Chapter 20 of the South Carolina Code of Laws, “for the purpose of providing the proper and prudent exercise of public safety functions across jurisdictional lines, including, but not limited to, multijurisdictional task forces, criminal investigations, patrol services, crowd control, traffic control and safety, and other emergency service situations.”

B. In accordance with section 23-20-60 of the South Carolina Code of Laws, as amended, I hereby waive the requirement for a written mutual aid agreement for law enforcement services for the duration of the State of Emergency.

**Section 14. Enforcement**

A. I hereby authorize any and all law enforcement officers of the State, or any political subdivision thereof, to do whatever may be deemed necessary to maintain peace and good order during the State of Emergency and to enforce the provisions of this Order and any prior or future Orders issued by the undersigned in connection with the State of Emergency.

B. I hereby authorize, order, and direct any and all law enforcement officers of the State, or any political subdivision thereof, in accordance with section 16-7-10 of the South Carolina Code of Laws and other applicable law, to prohibit or disperse any congregation or gathering of people, unless authorized or in their homes, in groups of three (3) or more people, if any such law enforcement official determines, in their discretion, that any such congregation or gathering of people poses, or could pose, a threat to public health. Pursuant to section 16-7-10(A) of the South Carolina Code of Laws, any individual who “refuse[s] to disperse upon order of a law enforcement officer,” “wilfully fail[s] or refuse[s] to comply with any lawful order or direction of any law enforcement officer,” or otherwise violates any provision of any Order issued by the undersigned in connection with the State of Emergency “is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.” I further authorize and instruct SLED, in consultation with the Attorney General of South Carolina, to provide any necessary and appropriate additional or supplemental guidance to law enforcement agencies, departments, or officers of the State, or any political subdivision thereof, regarding the interpretation, application, or enforcement of section 16-7-10 of the South Carolina Code of Laws.

C. In accordance with section 1-3-440(4) of the South Carolina Code of Laws, I further authorize, order, and direct any State, county, or city official to enforce the provisions of this Order and any prior or future Orders issued in connection with the State of Emergency, as necessary and appropriate, in the courts of the State by injunction, mandamus, or other appropriate legal action.

D. In addition to the foregoing, I further authorize, order, and direct DHEC to exercise and utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, to implement and enforce the provisions of this Order. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

**Section 15. 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

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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 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. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

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 for the duration of the State of Emergency unless otherwise modified, amended, extended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 25th DAY OF NOVEMBER, 2020.**

**HENRY MCMASTER  
Governor**

### **Executive Order No. 2020-74**

**WHEREAS**, the undersigned has been notified of the passing of Judge G. Ross Anderson, Jr., Senior United States District Judge for the District of South Carolina; and

**WHEREAS**, in addition to his tenure on the United States District Court for the District of South Carolina, Judge Anderson previously served as a member of the South Carolina House of Representatives; and

**WHEREAS**, prior to his accomplished legal career and nearly forty years of distinguished and patriotic federal judicial service, Judge Anderson served honorably in the United States Air Force; and

**WHEREAS**, Judge Anderson was a remarkable individual, respected jurist, accomplished lawyer, revered son of the City of Anderson, and devoted father and family man, and his passing warrants the people of this State further recognizing and appropriately honoring his extraordinary legacy and lifetime of distinguished service to the State of South Carolina and the United States of America; and

**WHEREAS**, section 10-1-161(E) of the South Carolina Code of Laws, as amended, provides that “upon the death of a person of extraordinary stature, the Governor may order that the flags atop the State Capitol Building be lowered to half-staff at a designated time or for a designated period of time.”

**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 that the flags atop the State Capitol Building be lowered to half-staff from sunrise until sunset on Sunday, December 6, 2020, in honor of Judge Anderson and in recognition of his extraordinary legacy and lifetime of distinguished service to the State of South Carolina and the United States of America. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 4th DAY OF DECEMBER, 2020.**

**HENRY MCMASTER**  
Governor

**Executive Order No. 2020-75**

**WHEREAS**, the State of South Carolina has taken, and must continue to take, any and all necessary and appropriate actions in confronting and coping with the significant public health threats and other impacts associated with the 2019 Novel Coronavirus (“COVID-19”), which now present different, additional, and evolving emergency conditions and circumstances; and

**WHEREAS**, in preparing for and responding to the threats posed by COVID-19, the State must remain flexible to account for new and distinct circumstances and focus on implementing narrowly tailored emergency measures and expanding interagency coordination and targeted mitigation efforts designed to, *inter alia*, reduce community spread and transmission of COVID-19, minimize the resulting strain on healthcare facilities and resources, address emerging and amplifying issues associated with the nationwide increase in new cases and the impact of colder weather and influenza season, facilitate the safe resumption or continuation of in-person classroom instruction, enhance testing capacity, and deploy the required vaccine distribution program; and

**WHEREAS**, in furtherance of the foregoing, the undersigned has, *inter alia*, convened the Public Health Emergency Plan Committee (“PHEPC”), activated the South Carolina Emergency Operations Plan (“Plan”), and regularly conferred with state and federal agencies, officials, and experts, to include the White House Coronavirus Task Force, the South Carolina Department of Health and Environmental Control (“DHEC”), and the South Carolina Emergency Management Division (“EMD”); and

**WHEREAS**, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an imminent public health emergency for the State of South Carolina; and

**WHEREAS**, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 (“Stafford Act”); and

**WHEREAS**, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, and consistent with Section 1135 of the Social Security Act, 42 U.S.C. § 1320b-5, as amended, retroactive to March 1, 2020; and

**WHEREAS**, in addition to declaring an initial State of Emergency on March 13, 2020, the undersigned has issued various Executive Orders initiating, directing, and modifying further extraordinary measures designed to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate

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the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina, certain provisions of which have been extended by subsequent and distinct emergency declarations set forth in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, 2020-44, 2020-48, 2020-53, 2020-56, 2020-59, 2020-62, 2020-65, 2020-67, 2020-70, and 2020-72; and

**WHEREAS**, on March 24, 2020, the undersigned requested that the President of the United States declare that a major disaster exists in the State of South Carolina pursuant to Section 401 of the Stafford Act, and on March 27, 2020, the President of the United States granted the undersigned's request and declared that such a major disaster exists and ordered federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic, with an effective date retroactive to January 20, 2020, and continuing; and

**WHEREAS**, on May 18, 2020, the undersigned approved and signed Act No. 135 of 2020 (H. 3411, R-140), as passed by the General Assembly and ratified on May 12, 2020, which expressly acknowledged "the public health emergency associated with the 2019 Novel Coronavirus (COVID-19)" and recognized that "given the extraordinary challenges facing our State, our nation, and the world due to COVID-19, it is necessary to take emergency measures to combat the spread of this deadly virus"; *see also* Act No. 133 of 2020 (R-138, S. 635); Act No. 142 of 2020 (R-148, H. 5202); Act No. 143 of 2020 (R-149, H. 5305); Act No. 154 of 2020 (R-170, H. 3210); and

**WHEREAS**, on August 2, 2020, the undersigned issued Executive Order No. 2020-50, initiating additional proactive emergency actions designed to limit community spread and transmission of COVID-19, while also superseding, rescinding, and replacing specific prior Executive Orders and consolidating, restating, or otherwise incorporating, in whole or in part, certain provisions thereof to clarify which emergency measures remain in effect; and

**WHEREAS**, on September 24, 2020, the undersigned issued Executive Order No. 2020-63, superseding, rescinding, and replacing Executive Order No. 2020-50 and amending and consolidating certain emergency measures to ensure that any remaining measures were targeted and narrowly tailored to address and mitigate the public health and other threats associated with COVID-19 in the least restrictive manner possible; and

**WHEREAS**, on November 25, 2020, the undersigned issued Executive Order No. 2020-73, superseding, rescinding, and replacing Executive Order No. 2020-63 and further modifying and amending certain emergency measures to ensure that any remaining initiatives are targeted and narrowly tailored to address the current circumstances and public health and other threats associated with COVID-19; and

**WHEREAS**, although the above-referenced and other measures have helped limit and slow the spread of COVID-19, the COVID-19 pandemic represents an evolving public health threat and now poses different and additional emergency circumstances, which require that the State of South Carolina take any and all necessary and appropriate actions in proactively preparing for and promptly responding to the public health emergency and the significant economic impacts and other consequences associated with the same; and

**WHEREAS**, as of December 8, 2020, DHEC has identified at least 220,961 confirmed cases of COVID-19 in the State of South Carolina, including 4,253 deaths due to COVID-19; and

**WHEREAS**, state and federal public health experts and officials across the United States have recently identified significant increases in the number of confirmed cases of COVID-19, and the White House Coronavirus Task Force has noted that the current fall to winter surge continues to spread to every corner of the United States; and

**WHEREAS**, in recent days, South Carolina has experienced a similar increase in new cases of COVID-19, as well as increases in the percentage of positive tests for COVID-19 and the number of hospital admissions associated with COVID-19; and

**WHEREAS**, DHEC has noted that increased testing of both symptomatic and asymptomatic individuals is a critical component in the fight against COVID-19, and the State must focus on maximizing interagency coordination, cooperation, and collaboration to enhance existing capacity and the availability of, and access to, COVID-19 testing; and

**WHEREAS**, as a result of South Carolina’s testing and tracing initiatives, DHEC has also continued to identify additional “hot spots” in certain areas of the State, which warrants the implementation of further targeted outreach efforts to control the spread of COVID-19; and

**WHEREAS**, public health experts and officials have expressed concerns that the holiday season and the arrival of cooler weather will lead to more people staying indoors, where COVID-19 can spread more easily, and may increase community transmission of COVID-19; and

**WHEREAS**, state and federal public health experts and officials have similarly cautioned that influenza season poses new public health concerns and amplifies existing threats in the context of COVID-19, as influenza is anticipated to lead to additional hospitalizations, which will further burden healthcare facilities and resources, and it is possible that individuals could contract influenza and COVID-19 at the same time, which would likely cause more complications than if influenza were the sole source of infection; and

**WHEREAS**, in addition to the foregoing, the State of South Carolina must take additional proactive action to utilize, maximize, and coordinate intergovernmental and interagency resources, operations, and response efforts to facilitate the deployment of the required vaccine distribution program; and

**WHEREAS**, particularly as public and private K–12 schools and higher education institutions in the State of South Carolina continue to reopen, in whole or in part, for in-person instruction, it is critically important that the State remain vigilant in addressing COVID-19 by maximizing interagency coordination to facilitate the safe resumption or continuation of classroom instruction while simultaneously implementing measures to minimize the risk of community spread and transmission of COVID-19 in schools and other settings; and

**WHEREAS**, in light of the foregoing, and due to the continued spread of COVID-19, the significant number of individuals hospitalized in connection with the same, the risks associated with the holiday season and the arrival of cooler weather, and the additional public health concerns associated with influenza season, including the anticipated increase in hospitalizations and the possibility of simultaneous infections, the State of South Carolina must promptly take any and all necessary and appropriate steps to implement and expand certain mitigation efforts designed to reduce community transmission and to minimize the resulting strain on healthcare facilities and resources; and

**WHEREAS**, section 1-3-420 of the South Carolina Code of Laws, as amended, provides that “[t]he Governor, when in his opinion the facts warrant, shall, by proclamation, declare that, because of . . . a public health emergency . . . a danger exists to the person or property of any citizen and that the peace and tranquility of the State, or any political subdivision thereof, or any particular area of the State designated by him, is threatened, and because thereof an emergency, with reference to such threats and danger, exists”; and

**WHEREAS**, as the elected Chief Executive of the State, the undersigned is authorized pursuant to section 25-1-440 of the South Carolina Code of Laws, as amended, to “declare a state of emergency for all or part of the State if he finds a disaster or a public health emergency . . . has occurred, or that the threat thereof is imminent and extraordinary measures are considered necessary to cope with the existing or anticipated situation”; and

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**WHEREAS**, in accordance with section 44-4-130 of the South Carolina Code of Laws, as amended, a “public health emergency” exists when there is an “occurrence or imminent risk of a qualifying health condition,” which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”; and

**WHEREAS**, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned “may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation”; and

**WHEREAS**, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is “supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State”; and

**WHEREAS**, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

**WHEREAS**, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

**WHEREAS**, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws authorizes the undersigned, during a declared emergency, to “transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable,” and to “compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order”; and

**WHEREAS**, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein”; and

**WHEREAS**, in the context of a public health emergency, section 25-1-440 of the South Carolina Code of Laws also “authorizes the deployment and use of any resources and personnel including, but not limited to, local officers and employees qualified as first responders, to which the plans apply and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to this act”; and

**WHEREAS**, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, “[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including,

but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer”; and

**WHEREAS**, it is axiomatic that “[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign,” 1980 S.C. Op. Att’y Gen. 142, 1980 WL 81975, at \*1 (S.C.A.G. Sept. 5, 1980); and

**WHEREAS**, the State of South Carolina has made significant progress to date in limiting and controlling the outbreak and continued spread of COVID-19, but the extraordinary circumstances and conditions that necessitated the undersigned’s prior emergency declarations have since evolved and now present different and additional threats, which must be dealt with on their own terms and by maximizing interagency coordination, cooperation, and collaboration; and

**WHEREAS**, consistent with the findings set forth in section 44-4-110 of the South Carolina Code of Laws, as amended, the different and additional public health threats posed by COVID-19—as well as the need to, *inter alia*, address emerging and amplifying issues associated with the holiday season, the arrival of cooler weather, and the simultaneous impact of influenza season; enhance existing testing capacity; deploy the requisite vaccine distribution program; and implement and expand other mitigation efforts designed to reduce community transmission and minimize the resulting strain on healthcare facilities and resources—“require the exercise of extraordinary government functions . . . to respond, rapidly and effectively” to the evolving emergency currently facing the entire State; and

**WHEREAS**, for the aforementioned and other reasons, and after consulting with various state and federal agencies, officials, and experts, the undersigned has determined based on the latest data, in accordance with section 44-4-130 of the South Carolina Code of Laws, that the current status of community spread and transmission of COVID-19 in the State represents the “occurrence” of a “qualifying health condition”—which includes “an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness”—thereby warranting and necessitating the declaration of a unique and distinct public health emergency for the State of South Carolina, which must be dealt with on its own accord; and

**WHEREAS**, particularly as public and private K–12 schools and higher education institutions in the State of South Carolina seek to resume or continue, in whole or in part, in-person classroom instruction, the State must take additional proactive action and implement certain mitigation efforts designed to reduce and control the spread of COVID-19 and to minimize the impacts associated with the same; and

**WHEREAS**, it is imperative that the State of South Carolina continue to utilize targeted extraordinary measures and deploy substantial resources to meet the unprecedented threats posed by COVID-19 and the evolving nature and scope of this public health emergency, and in order to promptly and effectively do so, the State must take any and all necessary and appropriate steps to coordinate additional intergovernmental and interagency resources and response efforts to address the current and anticipated circumstances; and

**WHEREAS**, in addition to the foregoing, in further proactively preparing for and promptly responding to the spread of COVID-19, the State of South Carolina must simultaneously confront the significant economic impacts and other consequences associated with COVID-19, to include stabilizing and reinvigorating the State’s economy by addressing issues related to unemployment, facilitating the safe reopening of businesses and industries, permitting economic flexibility by reducing regulations, and accessing and utilizing federal funds and resources to assist with emergency operations; and

**WHEREAS**, as part of the ongoing process of facilitating economic recovery and revitalization in a safe, strategic, and incremental manner, the State of South Carolina must also continue to encourage effective

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“social distancing” practices and implement additional targeted and narrowly tailored emergency measures to combat and control the spread of COVID-19; and

**WHEREAS**, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned’s responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined—based on recent developments, new facts and data, changing conditions, and the previously unforeseen occurrence of a combination of extraordinary circumstances—that an effective response to the COVID-19 pandemic, including the different, additional, and evolving threats and risks cited herein, represents and requires the declaration of a new and distinct emergency, which warrants further proactive action by the State of South Carolina and the implementation and enforcement of additional extraordinary measures to address the same.

**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 declare that a State of Emergency exists in South Carolina. Accordingly, for the foregoing reasons and in accordance with the cited authorities and other applicable law, I further order and direct as follows:

### **Section 1. Emergency Measures**

To prepare for and respond to the new and distinct public health threats posed by COVID-19 and to mitigate the other significant impacts associated with the same, including the resulting strain on healthcare facilities and resources, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must take additional proactive action and enhance mitigation efforts to reduce community transmission of COVID-19 and implement narrowly tailored extraordinary measures to prepare for, respond to, and address the evolving public health threat posed by the COVID-19 pandemic, to include the continued utilization and coordination of intergovernmental and interagency resources, operations, and response efforts to facilitate the deployment of the required vaccine distribution program and the expansion of testing capacity.

B. I hereby memorialize and confirm my prior activation of the Plan and direct that the Plan be further placed into effect and that all prudent preparations be taken at the individual, local, and state levels to proactively prepare for and promptly respond to the COVID-19 pandemic and the significant economic impacts and other consequences associated with the same. I further direct the continued utilization of all available resources of state government as reasonably necessary to address the current State of Emergency.

C. I hereby direct DHEC to utilize and exercise any and all emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

D. I hereby authorize and direct state correctional institutions and local detention facilities to suspend visitation processes and procedures, as necessary, during this State of Emergency.

E. I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws, as amended, and direct the Adjutant General to issue the requisite supplemental orders as he deems necessary and appropriate. I further order the activation of South Carolina National Guard personnel and the utilization of appropriate equipment at the discretion of the Adjutant General, and in coordination with the Director of EMD, to take necessary and prudent actions to assist the people of this State. I authorize Dual Status Command, as necessary, to allow the



Adjutant General or his designee to serve as commander over both federal (Title 10) and state forces (National Guard in Title 32 and/or State Active Duty status).

F. I hereby order that all licensing and registration requirements regarding private security personnel or companies who are contracted with South Carolina security companies in protecting property and restoring essential services in South Carolina shall be suspended, and I direct the South Carolina Law Enforcement Division (“SLED”) to initiate an emergency registration process for those personnel or companies for a period specified, and in a manner deemed appropriate, by the Chief of SLED.

G. I hereby declare that the prohibitions against price gouging pursuant to section 39-5-145 of the South Carolina Code of Laws, as amended, are in effect and shall remain in effect for the duration of this State of Emergency.

H. I hereby declare that the provisions of Executive Order No. 2020-73 are hereby extended and shall remain in full force and effect for the duration of the State of Emergency declared herein, unless otherwise modified, amended, or rescinded below or by future Order.

## **Section 2. Protection of First Responders**

To ensure the uninterrupted performance and provision of emergency services and to maintain peace and good order during the State of Emergency, while simultaneously implementing proactive measures to safeguard the health and safety of law enforcement authorities and other first responders, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must continue to undertake and implement additional proactive measures to safeguard the health and safety of law enforcement authorities and other first responders who risk potential exposure to COVID-19 while providing emergency and other essential services during the State of Emergency.

B. I hereby authorize and direct any and all 911 operators or other emergency dispatchers to ask any individual placing a call for service whether such individual or any member of their household has tested positive for COVID-19 or is exhibiting symptoms consistent with the same.

C. I hereby authorize and instruct DHEC, upon consultation with SLED, to provide any necessary and appropriate additional or supplemental guidance regarding the interpretation, application, or enforcement of this Section.

## **Section 3. Transportation Waivers**

To expedite the State of South Carolina’s preparation for and response to the new and evolving emergency conditions related to COVID-19 and to facilitate the prompt transportation and delivery of any critical resources, supplies, and personnel identified and deemed necessary in connection with the same, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. I hereby suspend 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, as amended.

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

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Administration's December 1, 2020 Expansion and Extension of the Modified Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25, or any future amendments or supplements thereto; responding to the declared emergency in the State of South Carolina or providing direct assistance to supplement state and local efforts and capabilities to protect public health and safety in connection with COVID-19; or otherwise assisting with the public health threat posed by COVID-19, to include commercial vehicles and operators of commercial vehicles transporting essential goods and products, such as food, water, medicine, medical supplies and equipment, fuels and petroleum products (to include fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum), livestock, poultry, feed for livestock and poultry, and crops and other agricultural products ready to be harvested (to include timber and wood chips). I further authorize and direct DOT and DPS to issue, provide, or promulgate any necessary and appropriate clarification, guidance, rules, regulations, or restrictions regarding the application of this Section.

C. 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.

D. This Section is subject to any clarification, guidance, rules, regulations, or restrictions 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. 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 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, 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. 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. 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.

E. This Section is effective immediately and shall remain in effect for thirty (30) days or the duration of the State of Emergency, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70(D) of the South Carolina Code of Laws, except that requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles travelling on non-interstate routes for up to one hundred twenty (120) days, pursuant to the provisions of section 56-5-70(A) of the South Carolina Code of Laws, unless otherwise modified, amended, or rescinded by subsequent Order.

### Section 4. Enforcement

A. I hereby authorize any and all law enforcement officers of the State, or any political subdivision thereof, to do whatever may be deemed necessary to maintain peace and good order during the State of Emergency and to enforce the provisions of this Order and any prior or future Orders issued by the undersigned in connection with the present State of Emergency.

B. Pursuant to section 16-7-10(A) of the South Carolina Code of Laws, any individual who “refuse[s] to disperse upon order of a law enforcement officer,” “wilfully fail[s] or refuse[s] to comply with any lawful order or direction of any law enforcement officer,” or otherwise violates any provision of any Order issued by the undersigned in connection with the State of Emergency “is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.”

C. In accordance with section 1-3-440(4) of the South Carolina Code of Laws, I further authorize, order, and direct any State, county, or city official to enforce the provisions of this Order and any prior or future Orders issued in connection with the present State of Emergency, as necessary and appropriate, in the courts of the State by injunction, mandamus, or other appropriate legal action.

D. In addition to the foregoing, I further authorize, order, and direct DHEC to exercise and utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, to implement and enforce the provisions of this Order. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.”

#### **Section 5. 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 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. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

D. This Order is effective immediately and shall remain in effect for a period of fifteen (15) days unless otherwise expressly stated herein or modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 8th DAY OF DECEMBER, 2020.**

**HENRY MCMASTER  
Governor**

CLEMSON UNIVERSITY

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that the Department of Plant Industry, under the authority of the State Crop Pest Commission and at the recommendation of the South Carolina Invasive Species Advisory Committee, will be adding *Pyrus calleryana* (i.e. Callery Pear; Bradford Pear) and *Elaeagnus* spp. (*E. angustifolia*, *E. pungens*, and *E. umbellata*) to the State Plant Pest List. The listing of these invasive plants will effectively make it illegal to sell, trade, or otherwise move them within the boundaries of South Carolina.

The Department of Plant Industry expects to initiate a grandfathering period to enable industry transition away from these plants and specifically requests comments regarding a desired length of grandfathering period or other comments concerning unforeseen consequences or concerns related to the listing of these plants as plant pests. Written comments may be submitted to: The Department of Plant Industry, at 511 Westinghouse Road, Pendleton, SC 29560 or by email at [plantindustry@clemsun.edu](mailto:plantindustry@clemsun.edu).

If no comments are received within sixty (60) days of publication of this Notice, the Department will proceed with listing *Pyrus calleryana* (i.e. Callery Pear; Bradford Pear) and *Elaeagnus* spp. (*E. angustifolia*, *E. pungens*, and *e*) as a plant pest and taking steps to eradicate it from South Carolina.

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 **December 25, 2020** 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**

**Spring Street Senior Housing OPCO, LLC d/b/a Spring Street Health Center**

Construction for the establishment of a 23-bed skilled nursing facility at a total project cost of \$7,703,284.

**Affecting Greenville County**

**Prisma Health d/b/a Prisma Health Patewood Outpatient Surgery Center**

Renovation of existing ambulatory surgery center for the addition of 6 OR's for a total of 12 OR's at a total project cost of \$18,764,740.

**Prisma Health d/b/a Prisma Health Centennial Outpatient Surgery Center**

Construction for the establishment of an ambulatory surgery center including 6 OR's at a total project cost of \$25,598,880.

**Millennium ASC, LLC d/b/a Millennium ASC**

Construction for the establishment of a 34,700 sf ambulatory surgery center including 6 OR's and 2 endoscopy rooms at a total project cost of \$38,678,597.

**Affecting Horry County**

**Grand Strand Regional Medical Center, LLC d/b/a Grand Strand Medical Center**

Renovation of an existing facility for the construction of a new patient bed tower and addition of 52 acute care beds at a total project cost of \$67,563,251.

**Grand Strand Regional Medical Center, LLC d/b/a South Strand Medical Center**

Renovation of an existing facility for the establishment of an acute care hospital through addition of 59 acute care beds and 4 operating rooms, and expansion of the emergency department, at a total project cost of \$146,157,308.

**Affecting Richland County****Prisma Health d/b/a Prisma Health Baptist Parkridge Endoscopy Center**

Establishment of an ambulatory surgery center restricted to endoscopic procedures at a total project cost of \$1,964,000.

**Affecting Spartanburg County****Agape Hospice of the Low Country, LLC d/b/a Upstate Community Hospice House**

Renovation of existing 1,609 sf facility adding 6 inpatient hospice beds for a total of 18 inpatient hospice beds at a total project cost of \$145,030.

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 **December 25, 2020**. "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 Abbeville County****Interim Healthcare of the Upstate, LLC**

Establishment of home health services in Abbeville County at a total project cost of \$35,000.

**Affecting Charleston County****Medical University Hospital Authority d/b/a MUSC Shawn Jenkins Children's Hospital and Pearl Tourville Women's Pavilion**

Addition of 3 intermediate bassinets (totaling 39 Intermediate bassinets) and 6 Intensive bassinets (totaling 52 Intensive bassinets) for a total of 91 NICU bassinets at a total project cost of \$2,786,450.

**Affecting Fairfield County****Precious Jewels Medical and Health Services, LLC**

Establishment of Home Health Agency in Fairfield county at a total project cost of \$15,000.

**Affecting Greenville County****Upstate Surgical Center, LLC (USC)**

Construction of a 29,995 sf ambulatory surgery center at a total project cost of \$18,034,295.

**Affecting Spartanburg County****White Oak Manor-Spartanburg, Inc. d/b/a White Oak Anderson Mill**

Construction of a new 65,000 sq. ft. nursing home for the replacement of the current White Oak Manor - Spartanburg Nursing Home and the addition of 40 skilled nursing beds for a total of 100 skilled nursing beds at a total project cost of \$24,087,818.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF PUBLIC COMMENT PERIOD FOR AN ADDENDUM TO THE SOUTH CAROLINA  
2020-2021 ANNUAL MONITORING NETWORK PLAN

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

The South Carolina Department of Health and Environmental Control (Department) is publishing this Notice of General Public Interest to provide opportunity to comment on a proposed addendum to the 2020-2021 South Carolina Annual Ambient Air Monitoring Network Plan (Network Plan) to meet obligations to the U.S. Environmental Protection Agency (EPA) and provide documentation of the establishment and maintenance of an air quality surveillance system. This surveillance system consists of a network of state or local air monitoring stations (SLAMS) that includes federal reference method (FRM) and federal equivalent method (FEM) monitors that are part of SLAMS, national core multipollutant monitoring stations (NCore), chemical speciation network (CSN), and special purpose monitor (SPM) stations. The proposed addendum to the Network Plan is available for public inspection and comment for 30 days prior to submission to the EPA to include any received comments. To be considered, the Department must receive comments no later than 5:00 p.m. on January 25, 2021, the close of the comment period.

The Department is also providing the interested public with the opportunity to request a public hearing on the issue. If requested, the Department will hold a public hearing on February 2, 2021, at 10:00 a.m., in Room 2151 of the Sims Building, 2600 Bull Street, Columbia, South Carolina. In the event that a requested public hearing cannot be held in person due to the COVID-19 guidelines restricting in-person meetings, the public hearing will be held using an alternative method that provides the public the ability to participate remotely.

Pursuant to 40 CFR 51.102, if the Department does not receive a request for a public hearing by the close of the comment period, 5:00 p.m. on January 25, 2021, the Department will cancel the public hearing. If the public hearing will be held remotely using an alternative method, or if the Department cancels the public hearing, then the Department will notify the public and provide instructions for accessing any remote public hearing (if a hearing is requested) at least one week prior to the scheduled hearing via the Department's Public Notices webpage: <http://www.scdhec.gov/PublicNotices/>. Interested persons may also contact G. Renee' Madden, Air Data Analysis and Support Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201; via phone at (803) 898-3822; or email at [maddengr@dhec.sc.gov](mailto:maddengr@dhec.sc.gov) for more information or to find out if the Department will hold the public hearing. A copy of the proposed addendum to the 2020-2021 South Carolina Annual Ambient Air Monitoring Network Plan is also located on the Department's Public Notices webpage: <https://apps.dhec.sc.gov/Environment/PublicNotices/SearchAndDisplay/Display/11603>.

**Synopsis:**

In October 2006 and in April 2016, the EPA published requirements for an annual monitoring network plan (Network Plan). This Network Plan must contain the information, as required and described in 40 CFR Part 58.10, Annual Monitoring Network Plan and Periodic Network Assessment, for each monitoring station in the network.

Any network modifications to SLAMS networks are subject to the approval of the EPA Regional Administrator, who shall approve or disapprove the plan within 120 days of submission of a complete plan to the EPA. The 2020-2021 South Carolina Annual Ambient Air Monitoring Network Plan that covers the eighteen-month period from July 1, 2020, through December 31, 2021, was submitted to the EPA on July 1, 2020. The Department is proposing this addendum to include notification of termination for the Big Creek Site and discontinuation of monitoring of precipitation and precipitation chemistry at the Congaree Bluff Site. Definitive termination dates will be included in the 2021 Network Plan.

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL****NOTICE OF GENERAL PUBLIC INTEREST**

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than January 25, 2020 to:

Contractor Certification Program  
South Carolina Department of Health and Environmental Control  
Bureau of Land and Waste Management - Underground Storage Tank Program  
Attn: Michelle Dennison  
2600 Bull Street  
Columbia, SC 29201

The following company has applied for certification as Underground Storage Tank Site Rehabilitation Contractor:

**Class II****EnviroBusiness, Inc. dba EBI Consulting**

Attn: Bruce Speidel  
21 B Street  
Burlington, MA 01803

## **40 DRAFTING NOTICES**

### **DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS CHAPTER 88**

Statutory Authority: 1976 Code Section 44-20-220

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

The South Carolina Department of Disabilities and Special Needs proposes to add Article 7, Regulations 88-705, 88-710, and 88-715 to provide the procedure for the appeal of adverse decisions within the scope of state funded services provided by the Department. Interested persons may submit comments to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240.

#### **Synopsis:**

Article 7, Regulations 88-705, 88-710, and 88-715 is added so individuals who are denied eligibility or services, have services reduced, suspended, or terminated are aware of appeal procedures.

Legislative review of this amendment is required.

### **DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS CHAPTER 88**

Statutory Authority: 1976 Code Section 44-20-220

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

The South Carolina Department of Disabilities and Special Needs proposes to add Article 5, Regulation 88-505 to provide the procedure establishing eligibility within the scope of state funded services provided by the Department. Interested persons may submit comments to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240.

#### **Synopsis:**

The South Carolina Department of Disabilities and Special Needs proposes to add Article 5, Regulation 88-505 to provide the procedure establishing eligibility within the scope of state funded services provided by the Department.

Legislative review of this amendment is required.

### **DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS CHAPTER 88**

Statutory Authority: 1976 Code Section 44-20-220

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

The South Carolina Department of Disabilities and Special Needs proposes to repeal Article 3 in regard to Recreational Camps for Persons with Intellectual Disability. Interested persons may submit comments to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240.



**Synopsis:**

The South Carolina Department of Disabilities and Special Needs proposes to repeal Article 3 as the Department no longer licenses recreational camps.

Legislative review of this amendment is required.

**DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS**

**CHAPTER 88**

Statutory Authority: 1976 Code Section 44-20-220

**Notice of Drafting:**

The South Carolina Department of Disabilities and Special Needs proposes to add Article 8, Regulations 88-805, 88-810, 88-815, and 88-820 to establish procedures for research involving persons eligible for services through the Department. Interested persons may submit comments to Mary Poole, State Director, Department of Disabilities and Special Needs, 3440 Harden Street Extension, Post Office Box 4706, Columbia, South Carolina, 29240.

**Synopsis:**

The South Carolina Department of Disabilities and Special Needs proposes to add Article 8 , Regulations 88-805, 88-810, 88-815, and 88-820 to establish procedures for research involving persons eligible for services through the Department.

Legislative review of this amendment is required.

## 42 PROPOSED REGULATIONS

Document No. 5030  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**

Statutory Authority: 1976 Code Sections 44-61-10 et seq.

61-7. Emergency Medical Services.

### **Preamble:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-7 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, revise requirements to Emergency Medical Technician (EMT) training programs, ambulance design and equipment to reflect current industry standards, incident reporting, sanitation and infection control, monetary penalties, and other requirements for EMS agency licensure, ambulance permitting, and EMT certification. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation. R.61-7 was last amended in 2016.

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

The Department had a Notice of Drafting published in the February 28, 2020, *South Carolina State Register*.

### Section-by-Section Discussion of Proposed Amendments:

Amended the Table of Contents to reflect the proposed Changes

Former **SECTION 100. SCOPE AND PURPOSE** - Removed section title for consistency with other Departmental regulations.

Former **Section 101. Scope of Act 1118 of 1974 as amended.** Removed title 101 and content for consistency with other Departmental regulations.

Former **SECTION 200. DEFINITIONS** - Removed section title for consistency with other Departmental regulations.

**SECTION 100 – DEFINITIONS, LICENSURE, AND CERTIFICATION** - Added section for consistency with other Departmental Regulations

**101. Definitions.** Added title for consistency with other Departmental Regulations and amended order and number of subsections for consistency in organization.

101.A. Abandonment added for clarity.

101.B. Advanced Emergency Medical Technician (AEMT) – recodified from former 200.N.3 and amended for clarity.

101.C Advanced Life Support (ALS) recodified from former 101.A and amended for consistency with statute.

Former 200.B Advanced Life Support Service term no longer used in the regulation .

101.D Air Ambulance. recodified prior 200.C.

101.E Ambulance. recodified prior 101.R and amended for clarity.

101.F Ambulance Remount added for clarity.

101.G Attendant. added for clarity.

101.H Attendant-driver. added for clarity.

Former 200.D Basic Life Support Service recodified to 101.I and amended for clarity.

- 101.J Commission on Accreditation of Allied Health Education Programs prior 200.E.
- 101.K Committee on Accreditation of Educational Program for the Emergency Medical Service Professionals prior 200.F.
- 101.L Condition Requiring an Emergency Response. prior 200.G.
- 101.M Continuing Education Program. prior 200.H.
- Former 200.I Credentialing Information System (CIS) removed due to change in software system.
- 101.N Department. recodified from 101.II.
- 101.O Do Not Resuscitate Bracelet (“Bracelet”) added to provide clarity.
- 101.P Do Not Resuscitate Order for Emergency Services (“DNR Order”). added to provide clarity.
- 101.Q Driver former 101.J. amended for clarity.
- 101.R. Electronic Patient Care Reports (ePCR) prior 101.K amended to remove specifically named software.
- 101.S Emergency prior 200.L.
- 101.T. Emergency Medical Responder Agency added for clarity and consistency with statutes.
- 101.U Emergency Medical Technician (EMT) recodified from 101.N.1 and amended for clarity.
- Former 101.O EMT Rapid Responder Agency was deleted and replaced with the statutory language in Section 101. T.
- 101.V Emergency Transport prior 200.M.
- Former 101.N recodified to 101.U.
- Former 101.O recodified to 101.T.
- 101.W Emergency Medical Service Agency added for clarity.
- 101.X Federal Aviation Administration prior 200.X.
- 101.Y Flight Nurse recodified from 200.Q and amended for clarity.
- Former 200 R removed and recodified to 101.E.
- Former 200.S. HIPAA - removed due not being used in the regulation.
- 101.Z Healthcare Provider added for clarity.
- 101.AA Incident added for clarity.
- 101.BB Intermediate Life Support prior 200.T amended for clarity.
- 101.CC Investigative Review Committee added for clarity.
- Former 101.U Joint Policy Statement on Equipment for Ground Ambulance removed as it is not used in the regulation.
- Former 101.V Medical Control removed and included in the body of the regulation .
- 101.DD Medical Control Physician added for clarity.
- 101.EE Moral Turpitude prior 200.W.
- 101.FF. National Emergency Medical Services Information System prior 200 X.
- 101.GG. National Registry of Emergency Medical Technicians prior 200.Y.
- 101.HH Nonemergency Transport prior 200.Z.
- 101.II Palliative Care added for clarity and to reflect statute.
- 101.JJ Patient prior 101.AA amended for clarity.
- 101.KK. Paramedic – recodified from former 101.N.4 and amended for clarity.
- Former 200.CC definition removed as no longer used in the regulation.
- 101.MM Physician Orders for Scope of Treatment (POST) Form added for clarity and to reflect statute.
- 101.NN. Protocols added for clarity.
- 101.OO Resuscitative Treatment added for clarity.
- 101.PP Revocation prior 200.DD.
- 101.QQ Special Purpose Ambulance added for clarity.
- 101.RR Special Purpose EMT prior 200.EE.
- 101.SS Specialty Care prior 200.FF.
- 101.TT Star of Life prior 200.GG.
- 101.UU Suspension prior 200.HH.
- Former II removed as no longer used in the regulation.
- 101.VV Variance added for clarity.
- 101.WW prior 200.JJ.
- 101.XX prior 200.KK.

## 44 PROPOSED REGULATIONS

**102. Licensure** - added title and content and partly recodified from former section 401 for consistency with other Departmental regulations.

**103. Ems Agency Licensure Application** - added title for consistency with other Departmental regulations. Recodified content from former Section 401 and amended for consistency with other Departmental regulations.

**104. Medical Control Physician** – added title for reorganizational purposes. Recodified content from former section 402 and amended to provide clarity and record keeping.

**105. Driver. (I)** – added title for reorganizational purposes. Recodified content from former section 403 and 404.D. Amended content to align with South Carolina Statute and amended to provide clarity.

**106. Emergency Medical Responder Agency** – added for clarity and to reflect statute

**107. Ambulance Service Agency** – added for clarity and to reflect statute.

107.A Recodified content from former sections 404, 405, 406, 407, 408, and 409 and amended to provide clarity.

107 B Recodified content from former section 404,410, 411, and 501 and amended for clarity.

**108. Quick response Vehicle** added for clarity

**109. Tiered Response System** – added for clarity and to reflect statute.

108.A – recodified from 405.A and amended for clarity.

**110. Emergency Medical Technicians** – added title for recodification of prior Section 900

109.A Recodified content from former section 901 and amended for clarity.

109.B Recodified content from former sections 901 and 902 and amended for clarity.

**111. Initial EMT, AEMT, and Paramedic Certification** – added title due to recodification. Recodified content from former section 902 and amended for clarity and consistency with other Departmental regulations.

**112. Issuance and Terms of Certification** – added title for reorganizational purposes. Recodified content from former section 902 and added content for clarity and consistency with other department regulations and statutory requirements.

**113. EMT, AEMT, or Paramedic Certification Renewal** – added title for reorganizational purposes. Recodified content from former section 903 and amended for clarity and consistency with other Departmental regulations.

**114. Special Purpose EMT** - added title for reorganizational purposes. Recodified content from former section 904 and amended for clarity and consistency with other Departmental regulations.

**115. Reciprocity** - added title for reorganizational purposes. Recodified content from former section 905 and amended for clarity.

**116. Certification Examinations** recodified content from former section 906 and amended for clarity.

**117. Training Programs.** recodified content from former section 906 and amended for clarity.

**118. Continuing Education Program. (II)** - recodified content from former section 907 and amended for clarity.

**119. Continuing Education Units (CEUs)** - recodified content from former section 907 and amended for clarity.

**120. Pilot Programs** - recodified content from former Section 907 and amended for clarity.

**121. Certified EMT, AEMT, and Paramedic Instructors** - recodified content from former Section 907 and amended for clarity.

**122. Endorsement of Credentials** former Section 908

**123. Variance.** - added for clarity and consistency with other Departmental regulations

**SECTION 200 – ENFORCEMENT OF REGULATIONS** – added section title for consistency with other Departmental regulations.

**201. Inspections and Investigations** - added title for consistency with other Departmental regulations. Recodified content from former section 301 and 302 and amended for clarity and consistency with other Departmental regulations.

**202. Plan of Correction** - added title and content for consistency with other Departmental regulations.

**203. Consultations** - added title and content for consistency with other Departmental regulations.

Former SECTION 300. ENFORCING REGULATIONS – removed section title for consistency with other Departmental regulations.

**SECTION 300 – ENFORCEMENT ACTIONS** - added section title for consistency with other regulations.

Former **Section 301. General** – removed and recodified to proposed Section 201.

Former **Section 302. Inspections and Investigations** – removed and recodified to proposed Section 201

Former **Section 303. Enforcement Actions** - removed and recodified to proposed Sections 301 and 302.

**Section 301. Violation Classifications.** former Section 304 recodified.

Former 304.G – removed due to no longer being relevant.

Former 304.H – removed due to no longer being necessary in the regulation.

**Section 302. EMS Agency Fines and Monetary Penalties** – added title. Recodified content from 1501 and amended. Added content to create clarity and consistency with other Departmental regulations.

**Section 303. Enforcement Actions against Emergency Medical Technicians** – added title for organizational purposes. Recodified content from 1100 and amended for clarity.

**Section 304. Investigative Review Committee** – added for clarity and to reflect statute

Former SECTION 400. LICENSING PROCEDURES – removed title for organizational purposes.

**SECTION 400 – POLICIES AND PROCEDURES** – added title for organizational purposes and consistency with other Departmental regulations.

Former **Section 401. Application** – recodified to proposed section 103.

Former **Section 402. Medical Control Physician.** (I) – removed and recodified to proposed section 104.

Former **Section 403. Non-Credentialed Ambulance Operator or Driver.** (II) – removed and recodified to proposed section 105.

Former **Section 404. Criteria for License Category Basic Life Support (Ambulance).** (II) – removed and recodified to proposed Sections 106 and 107.

Former **Section 405. Criteria for License Category – Intermediate Life Support: (Ambulance).** (II) – removed and recodified to proposed Sections 106 and 107.

Former **Section 406. Criteria for License Category – Advanced Life Support: (Ambulance).** (II) – removed and recodified to proposed Sections 106 and 107.

Former **Section 407. Criteria for License Category – Special Purpose Ambulance Provider: (Ambulance).** (II) - removed and recodified to proposed Section 106 and 107.

Former **Section 408. Advanced Life Support Information.** (II) - removed and recodified to proposed Sections 106 and 107.

Former **Section 409. Advertising Level of Care.** (II) - removed and recodified to proposed Sections 106 and 107.

Former **Section 410. Criteria for License Category – EMT Rapid Responder.** (II) - removed and recodified to proposed Section 106.

Former **Section 411. Special Exemptions for Volunteer EMS Providers Squads.** - removed due not being relevant

400.A – added for clarity regarding policies and procedures

400.B – added for clarity regarding policies and procedures

400.C – added for clarity regarding policies and procedures

Former SECTION 500. PERMITS, AMBULANCE (I) – removed title for organizational purposes.

**SECTION 500 – PERSONNEL REQUIREMENTS** – added title for organizational purposes and consistency with other regulations.

Former **Section 501. Vehicle and Equipment** - removed title and content and recodified to proposed Section 1800

Former **Section 502. Temporary Assets.** - removed title and content and recodified to proposed Section 1800  
500.A and B recodified prior Section 1000 amended for clarity

## 46 PROPOSED REGULATIONS

Former SECTION 600. STANDARDS FOR AMBULANCE PERMIT - removed title for organizational purposes.

**SECTION 600 – REPORTING** – added title for organizational purposes and consistency with other Departmental regulations.

Former **Section 601. Ambulance Design and Equipment** - removed and recodified to proposed section 1902 and 2100.

**601. Incident Reporting (I)** – added title and content to create consistency with other Departmental regulations and to clarify reporting requirements.

**602. Collisions** – and title and recodified content from former 501.F; amended for clarity.

**603. Animal Bites, Communicable Diseases, and Infections** – added title and content to create consistency with other Departmental regulations and clarity on reporting.

**604. Administration Changes** - added title and recodified content from former sections 401 and 402; amended for clarity and to create consistency with other Departmental regulations.

**605. Accounting of Controlled Substances (I)** – added title and content to create consistency with other Departmental regulations and to provide clarity on reporting.

**606. Agency Closure** – added title and content to create consistency with other Departmental regulations and to provide clarity on reporting.

Former SECTION 700. EQUIPMENT (II) removed title for organizational purposes.

**SECTION 700 – PATIENT CARE** – added title for organizational purposes and to create consistency with other regulations.

Former **Section 701. Minimum Ambulance Medical Equipment.** – removed title for organizational purposes and recodified content to proposed section 2100.

Former **Section 702. Intermediate and Advanced Equipment** – removed title for organizational purposes and recodified content to proposed section 2100.

Former **Section 703. EMT Rapid Responder Equipment**– removed title for organizational purposes and recodified content to proposed Section 2100

Former **Section 704. Special Purpose Ambulance Equipment**– removed title for organizational purposes and recodified content to proposed Section 2100

**701. General** – recodified from former section 1301 and amended for clarity.

**702. Data Manager**– recodified from former section 1302 and amended for clarity.

**703. Content**– recodified from former section 1303 and amended for clarity.

**704. Report Maintenance** – recodified from former section 1304 and amended for clarity.

**705. Do Not Resuscitate (DNR) Order** – recodified from former section 1400 and amended for clarity

**706. Physician Orders for Scope of Treatment (POST)** – added for clarity and reflect statute

Former SECTION 800. SANITATION STANDARDS FOR LICENSED PROVIDERS – removed title for organizational purposes and consistency with other Departmental regulations.

Former **Section 801. Exterior Surfaces** – removed and recodified content to proposed section 1701 for consistency with other Departmental regulations.

Former **Section 802. Interior Surfaces Patient Compartment-Ambulance** – removed and recodified content to proposed section 1702 for consistency with other Departmental regulations.

Former **Section 803. Linen** – removed and recodified content to proposed section 1703 for consistency with other Departmental regulations.

Former **Section 804. Oxygen Administration Apparatus. (II)** – removed and recodified content to proposed section 1704 for consistency with other Departmental regulations.

Former **Section 805. Resuscitation Equipment. (II)** – removed and recodified content to proposed section 1705 for consistency with other Departmental regulations.

Former **Section 806. Suction Unit** – removed and recodified content to proposed section 1706 for consistency with other Departmental regulations.

Former **Section 807. Splints** – removed and recodified content to proposed section 1707 for consistency with other Departmental regulations.

Former **Section 808. Stretchers and Spine Boards** – removed and recodified content to proposed section 1708 for consistency with other Departmental regulations.

Former **Section 809. Bandages and Dressings. (II)** – removed and recodified content to proposed section 1709 for consistency with other Departmental regulations.

Former **Section 810. Obstetrical (OB) Kits. (II)** – removed and recodified content to proposed section 1710 for consistency with other Departmental regulations.

Former **Section 811. Oropharyngeal Appliances. (II)** – removed and recodified content to proposed section 1711 for consistency with other Departmental regulations.

Former **Section 812. Communicable Diseases. (II)** – removed and recodified content to proposed section 1712 for consistency with other Departmental regulations.

Former **Section 813. Miscellaneous Equipment** – removed and recodified content to proposed section 1713 for consistency with other Departmental regulations.

Former **Section 814. Equipment and Materials Storage Areas** – removed and recodified content to proposed section 1714 for consistency with other Departmental regulations.

Former **Section 815. Personnel** – removed and recodified content to proposed section 1715 for consistency with other Departmental regulations.

Former SECTION 900. EMERGENCY MEDICAL TECHNICIANS – removed title for organizational purposes and consistency with other Departmental regulations.

Former **Section 901. General.** – removed and recodified content to proposed section 110 for consistency with other Departmental regulations.

Former **Section 902. Initial EMT, AEMT, and Paramedic Certification. (I)** – removed and recodified content to proposed section 112 for consistency with other Departmental regulations.

Former **Section 903. Recertification of EMT, AEMT, and Paramedic Certification.** – removed and recodified content to proposed section 113 for consistency with other Departmental regulations.

Former **Section 904. Special Purpose EMT.** – removed and recodified content to proposed section 114 for consistency with other Departmental regulations.

Former **Section 905. Reciprocity.** – removed and recodified content to proposed section 115 for consistency with other Departmental regulations.

Former **Section 906. Certification Examinations.** – removed and recodified content to proposed section 116 for consistency with other Departmental regulations.

Former **Section 907. Emergency Medical Technician Training Programs. (II)** – removed and recodified content to proposed Section 117 for consistency with other Departmental regulations.

Former **Section 908. Endorsement of Credentials.** – removed as no longer relevant

Former **Section 909. Certification Patches.** – removed as no longer relevant

Former SECTION 1000. PERSONNEL REQUIREMENTS (I) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 500.

Former SECTION 1100. REVOCATION OR SUSPENSION OF CERTIFICATES OF EMERGENCY MEDICAL TECHNICIANS (I) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 114.

Former SECTION 1200. AIR AMBULANCES– removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2200.

Former **Section 1201. Licensing. (I)** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2201.

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Former **Section 1202. Medical Supplies and Equipment. (II)** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2201 and 2202.

Former **Section 1203. Special Purpose Air Ambulances. (II)** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2203.

Former **Section 1204. Medication and Fluids for Advanced Life Support Air Ambulances. (II)** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2204.

Former **Section 1205. Rescue Exception. (II)** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2205.

Former SECTION 1300. PATIENT CARE REPORTS (III) ) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 700.

Former **Section 1301. Patient Care Reports.** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 701.

Former **Section 1302. Data Manager.** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 702.

Former **Section 1303. Content.** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 703.

Former **Section 1304. Report Maintenance.** – removed for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 704.

Former SECTION 1400. DO NOT RESUSCITATE ORDER – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 705

Former **1401. Purpose and Authority of Emergency Medical Services Do Not Resuscitate Order** -removed due to not being necessary in regulation.

Former **Section 1402. Definitions** - removed due to not being necessary in regulation.

Former **Section 1403. General Provisions** removed due to not being necessary in regulation.

Former **Section 1404. Revocation of EMS DNR Order** – recodified to proposed section 705 and amended for clarity.

Former **Section 1405. Patient’s Assessment and Intervention. (II)** – recodified to proposed section 705 and amended for clarity.

Former **Section 1406. Resuscitative Measures to be Withheld or Withdrawn. (II)** – recodified to proposed section 705 and amended for clarity.

Former **Section 1407. Procedures to Provide Palliative Treatment. (II)** – recodified to proposed section 705 and amended for clarity.

Former **Section 1408. DNR Information for the Patient, the Patient’s Family, the Health Care Provider and EMS Personnel. (II)** - removed due to not being necessary in regulation.

Former SECTION 1500. FINES AND MONETARY PENALTIES) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 300.

Former **Section 1501. Fines and Monetary Penalties** - recodified to proposed section 300.

Former SECTION 1600. SEVERABILITY) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2700.

Former SECTION 1700. GENERAL) – removed title for organizational purposes and consistency with other Departmental regulations. Recodified content to proposed section 2800.

Propose Sections 900 -1600 Reserved



**1700 – SANITATION AND INFECTION CONTROL** – added title for organizational purposes and consistency with other Departmental regulations.

**1701. Exterior Surfaces** – recodified from former section 801 and amended for clarity.

**1702. Interior Surfaces Patient Compartment-Ambulance.** – recodified from former section 802 and amended for clarity.

**1703. Linen.** – recodified from former section 803 and amended for clarity.

**1704. Oxygen Administration Apparatus. (II)** – recodified from former section 804 and amended for clarity.

**1705. Resuscitation Equipment. (II)** – recodified from former section 805 and amended for clarity.

**1706. Suction Unit.** – recodified from former section 806 and amended for clarity.

**1707. Splints.** – recodified from former section 807 and amended for clarity.

**1708. Stretchers and Spine Boards.** – recodified from former section 808 and amended for clarity.

**1709. Bandages and Dressings. (II)** – recodified from former section 809 and amended for clarity.

**1710. Obstetrical (OB) Kits. (II)** – recodified from former section 810 and amended for clarity.

**1711. Oropharyngeal Appliances. (II)** – recodified from former section 811 and amended for clarity.

**1712. Communicable Diseases. (II)** – recodified from former section 812 and amended for clarity.

**1713. Miscellaneous Equipment.** – recodified from former section 813 and amended for clarity.

**1714. Equipment and Materials Storage Areas.** – recodified from former section 814 and amended for clarity.

**1715. Personnel.** – recodified from former section 815 and amended for clarity.

**SECTION 1800 – AMBULANCE PERMITS** – added title for organizational purposes.

**1801. General** – recodified from former section 501 and amended for clarity.

**1802. Temporary Ambulance Permit** – recodified from former section 502 and amended for clarity.

**SECTION 1900 – STANDARDS FOR AMBULANCE PERMIT**– added title for organizational purposes.

**Section 1901. – Ambulance Design** – recodified from former section 601 and amended for clarity and current practice.

**Section 1902. Re-mounted Ambulance Design and Equipment** – added to create consistency with national standards.

**SECTION 2000 – [RESERVED]** – added to create consistency with other Departmental regulations.

**SECTION 2100 – AMBULANCE EQUIPMENT** – added title for organizational purposes and consistency with other regulations; recodified content from former section 700.

**SECTION 2200 – AIR AMBULANCE**

**2201. Licensing. (I)** – recodified from former section 1201 and amended for clarity

**2202. Medical Supplies and Equipment. (II)** – recodified from former section 1202 and amended for clarity

**2203. Special Purpose Air Ambulances. (II)** – recodified from former section 1203 and amended for clarity

**2204. Medication and Fluids for Advanced Life Support Air Ambulances. (II)** – recodified from former section 1204 and amended for clarity

**2205. Rescue Exception. (II)** – recodified from former section 1205 and amended for clarity

**SECTION 2300 – [RESERVED]** - added to create consistency with other Departmental regulations.

**SECTION 2400 – [RESERVED]** - added to create consistency with other Departmental regulations.

**SECTION 2500 – [RESERVED]** added to create consistency with other Departmental regulations.

**SECTION 2600 – [RESERVED]** added to create consistency with other Departmental regulations.

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**SECTION 2700 – SEVERABILITY** added to create consistency with other Departmental regulations.

**SECTION 2800 – GENERAL** added to create consistency with other Departmental regulations.

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

Interested persons may submit comment(s) on the proposed amendments to Healthcare Quality of the S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [HQRegs@dhec.sc.gov](mailto:HQRegs@dhec.sc.gov). To be considered, the Department must receive the comment(s) by 5:00 p.m. on January 25, 2021, the close of the comment period.

The S.C. Board of Health and Environmental Control will conduct a public hearing on the proposed amendments during its February 11, 2021, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. Because of ongoing COVID-19 concerns, interested persons who do not wish to appear in person may participate in the public hearing by calling in through an assigned conference line. These participants may register in advance by visiting the DHEC Events webpage ([www.scdhec.gov/events](http://www.scdhec.gov/events)) and selecting the appropriate Board meeting date. A link to register will be provided on the accompanying meeting information page. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agenda>.

The Department publishes a Monthly Regulation Development Update tracking the status of its proposed new regulations, amendments, and repeals and providing links to associated State Register documents at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>.

### **Preliminary Fiscal Impact Statement:**

Implementation of this regulation will not require additional resources. There is no anticipated additional cost by the Department or state government due to any requirements of this regulation.

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

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: 61-7, Emergency Medical Services.

Purpose: The Department proposes amending R.61-7 to update provisions in accordance with current practices and standards. The Department further proposes revisions for clarity and readability, grammar, references, codification, and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-61-10 et seq.

Plan for Implementation: Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information. The DHEC Regulation Development Update (<http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to these proposed amendments. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office.

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

The proposed amendments are necessary to update provisions in accordance with current practices and standards. The amendments include updated language for EMS agencies applying for licensure and certification of EMS personnel, incorporate provisions delineating requirements for protocols, ambulance permitting, Emergency Medical Responder agencies, training programs, ambulance design and equipment, and medical equipment. The proposed amendments revise and incorporate requirements regarding maintenance of policies and procedures, Department inspections and investigations, maintenance of accurate and current patient reports, and other requirements for licensure. The proposed amendments also update the structure of the regulation throughout for consistency with other Department regulations.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of these proposed amendments will not require additional resources. There is no anticipated additional cost to the Department or state government due to any inherent requirements of these proposed amendments. There are no anticipated additional costs to the regulated community.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to R.61-7 seek to support the Department's goals relating to the protection of public health through implementing updated requirements and current best practices for the emergency medical agencies and personnel. There are no anticipated effects on the environment.

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

There is no anticipated detrimental effect on the environment. If the proposed revision is not implemented, the regulation will be maintained in its current form without realizing the benefits of the proposed amendments herein.

**Statement of Rationale:**

Here below is the Statement of Rationale pursuant to S.C. Code Section 1-23-110(h):

The Department proposes amending R.61-7 to update provisions in accordance with current practices and standards. Proposed amendments incorporate and revise provisions relating to statutory mandates, update definitions to conform to the terminology widely used and understood within the provider community, and revise requirements to Emergency Medical Technician (EMT) training programs, ambulance design and equipment to reflect current industry standards, incident reporting, sanitation and infection control, monetary penalties, and other requirements for EMS agency licensure, ambulance permitting, and EMT certification

**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.

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Document No. 5029  
**DEPARTMENT OF INSURANCE**  
**CHAPTER 69**

Statutory Authority: 1976 Code Sections 1-23-110 et seq., 38-3-110 et seq., and 38-9-200

69-53. Credit for Reinsurance.

### **Preamble:**

Changes to Regulation 69-53 outline the requirements for companies to take credit for reinsurance when ceded to a Reciprocal Jurisdiction and is the regulation backing the revisions to Section 38-9-200 which were added during the 2020 legislative Session. These amendments are based upon the National Association of Insurance Commissioners (NAIC) Model Regulation which has been drafted to implement these changes.

### Section-by-Section Discussion

Section IX. Credit for Reinsurance – Reciprocal Jurisdictions. New text.

Form RJ-1 - Outlines the requirements for companies to take credit for reinsurance when ceded to a Reciprocal Jurisdiction. New text.

The Notice of Drafting was published in the November 27, 2020 edition of the *State Register*.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the South Carolina Code Annotated, such a hearing will be held before the Administrative Law Judge beginning at 10:00 a.m. on February 12, 2021, at the Administrative Law Court, 2<sup>nd</sup> Floor hearing room, Edgar A. Brown Building, 1205 Pendleton Street, Columbia, South Carolina. If no qualifying request is received by 5:00 p.m. on January 27, 2021, the hearing will be cancelled. Requests for a hearing and written comments should be submitted in writing to Melissa Manning, Associate General Counsel, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina, 29201. To be considered, all comments or hearing requests must be received no later than 5:00 p.m. on January 27, 2021.

### **Preliminary Fiscal Impact Statement:**

No additional state funding is requested. The Department estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 69-53.

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

#### DESCRIPTION OF REGULATION:

Purpose: The purpose of the amendments to this regulation is to outline the requirements for companies to take credit for reinsurance when ceded to a Reciprocal Jurisdiction and is the regulation backing the revisions to Section 38-9-200 which were added during the 2020 legislative Session.

Legal Authority: 1976 Code Sections 1-23-110 et seq., 38-3-110 et seq., and 38-9-200.

Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly and publication in the State Register. This regulation will also be published on the S.C. Legislature website in the S.C. Code of Regulations.

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

The amendments to this regulation are necessary to outline the requirements for companies to take credit for reinsurance when ceded to a Reciprocal Jurisdiction and is the regulation backing the revisions to Section 38-9-200 which were added during the 2020 legislative Session.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no increased cost to the state or its political subdivisions, nor will the proposed amendments result in any increased cost to the business community.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

The proposed amendments have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not amended.

**Statement of Rationale:**

The proposed amendments to the regulation will outline the requirements for companies to take credit for reinsurance when ceded to a Reciprocal Jurisdiction and is the regulation backing the revisions to Section 38-9-200 which were added during the 2020 legislative Session.

**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.

Document No. 5028  
**DEPARTMENT OF INSURANCE**  
CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-110 et seq., 38-3-110 et seq., and 38-9-200

69-81. Term and Universal Life Insurance Reserve Financing. (New)

**Preamble:**

The Department is proposing to implement Regulation 69-81 to establish uniform, national standards governing reserve financing arrangements pertaining to term and universal life insurance policies with secondary guarantees. These amendments are based upon the National Association of Insurance Commissioners (NAIC) Model Regulation which has been drafted to implement these standards.

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### Section-by-Section Discussion

- Section I. Purpose and Intent – states the purpose and intent of the regulation
- Section II. Applicability – the regulation applies to reinsurance treaties that cede liabilities pertaining to Covered Policies issued by any life insurance company domiciled in this state.
- Section III. Exemptions – the regulation does not apply to certain policies described within.
- Section IV. Definitions
- Section V. The Actuarial Method – describes the methodology used to determine the Required Level of Primary Security
- Section VI. Requirements Applicable to Covered Policies to Obtain Credit for Reinsurance; Opportunity for Remediation – describes certain requirements necessary in order to obtain credit for reinsurance.
- Section VII. Severability
- Section VIII. Prohibition Against Avoidance – prohibits insurers from taking action to avoid this regulation.
- Section IX. Effective Date – upon publication in the State Register

The Notice of Drafting was published in the November 27, 2020 edition of the *State Register*.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the South Carolina Code Annotated, such a hearing will be held before the Administrative Law Judge beginning at 2:00 p.m. on February 12, 2021, at the Administrative Law Court, 2<sup>nd</sup> Floor hearing room, Edgar A. Brown Building, 1205 Pendleton Street, Columbia, South Carolina. If no qualifying request is received by 5:00 p.m. on January 27, 2021, the hearing will be cancelled. Requests for a hearing and written comments should be submitted in writing to Melissa Manning, Associate General Counsel, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina, 29201. To be considered, all comments or hearing requests must be received no later than 5:00 p.m. on January 27, 2021.

#### **Preliminary Fiscal Impact Statement:**

No additional state funding is requested. The Department estimates that no additional costs will be incurred by the state in complying with the proposed language of 69-81.

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

##### DESCRIPTION OF REGULATION:

**Purpose:** The purpose of this regulation is to establish uniform, national standards governing reserve financing arrangements pertaining to term and universal life insurance policies with secondary guarantees.

**Legal Authority:** 1976 Code Sections 1-23-110 et seq., 38-3-110 et seq., and 38-9-200.

**Plan for Implementation:** The proposed amendments will take effect upon approval by the S.C. General Assembly and publication in the State Register. This regulation will also be published on the S.C. Legislature website in the S.C. Code of Regulations.

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

The amendments to this regulation are necessary to establish uniform, national standards governing reserve financing arrangements pertaining to term and universal life insurance policies with secondary guarantees.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the state or its political subdivisions, nor will the proposed amendments result in any increased cost to the business community.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not amended.

**Statement of Rationale:**

The proposed amendments to the regulation will establish uniform, national standards governing reserve financing arrangements pertaining to term and universal life insurance policies with secondary guarantees.

**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.

Document No. 5027

**DEPARTMENT OF NATURAL RESOURCES  
CHAPTER 123**

Statutory Authority: 1976 Code Sections 50-15-55 and 50-15-80

123-152. Regulations for Nonnative Wildlife. (New)

**Preamble:**

The South Carolina Department of Natural Resources is proposing to add Regulation 123-152 - Regulations for Nonnative Wildlife. The proposed regulation provides for the implementation of authority granted by S.C. Code of Laws section 50-15-55 and establishes the list of Restricted Nonnative Wildlife. This includes species that have the potential to become established in this State in sufficient numbers to become a nuisance and/or pose a demonstrable deleterious and widespread threat to wildlife, agriculture, or human health and safety. Regulations include restrictions on possession, sale, offer for sale, transfer of possession, import, release, reproduction, and escape of designated species and associated permitting. The Black and White Tegu (*Salvator merianae*) is added to the list of Restricted Nonnative Wildlife, and regulations establish specific provisions for the possession and permitting of this species.

The following is a section-by-section summary of the proposed additions:

123-152. Regulations for Nonnative Wildlife.

A. Specifies that the Department has determined that the following list of species as Restricted Nonnative Wildlife.

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1. Adds Black and White Tegu (*Salvator merianae*) list of Restricted Nonnative Wildlife.
- B. Establishes restrictions on Restricted Nonnative Wildlife unless otherwise authorized.
- C. Allows the Department to issue permits for the prohibited activities with Restricted Nonnative Wildlife.
- D. Establishes additional provisions for specific species of Restricted Nonnative Wildlife.
  1. Establishes provisions applicable to Black and White Tegu (*Salvator merianae*).
    - i. Establishes Registration Period for Black and White Tegus and permitting.
    - ii. Requires Black and White Tegu to be microchipped with unique identification numbers prior to registration.
    - iii. Establishes permit requirement, duration, renewal, and conditions of surrender of the permit.
    - iv. Prohibits reproduction of this species.
    - v. Establishes containment and caging criteria both indoors and outdoors.
    - vi. Requires reporting of escapes and missing Black and White Tegu.
    - vii. States permits are void upon death of registered Black and White Tegu and that permit must be surrendered to the Department.
- E. References statutory penalties section.

The Notice of Drafting was published in the *State Register* on October 23, 2020.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted at 1000 Assembly Street on February 4, 2021 at 10:00 am in Room 335, Rembert C. Dennis Building. Written comments may be directed to Emily Cope, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202, no later than January 25, 2021.

### **Preliminary Fiscal Impact Statement:**

The addition of Regulation 123-152 will result in limited fiscal impact and may prevent damage to the state's natural resources. These regulations are targeted to prevent the establishment of nonnative wildlife known to pose a threat to the State's resources. Preventing the introduction and establishment of these species will prevent negative fiscal impacts to State resources. Additionally, there are numerous other species available in the pet trade that can be bought, sold, and traded freely available to offset any impact by limitations on sale of an individual species of Restricted Nonnative Wildlife.

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

The statement of need and reasonableness was determined based on staff analysis pursuant to S.C. Code Sections 1-23-115(C) (1) through (3) and (9) through (11).

### **DESCRIPTION OF THE REGULATION:**

**Purpose:** These regulations add Regulation 123-152 in order to support the implementation of Act 177 and the authority granted under S.C. Code of Laws 50-15-55. These regulations establish criteria for wildlife species designated as Restricted Nonnative Wildlife and associated limitations on possession, sale, offer for sale, transfer, importation, release, reproduction, and permitting for the preceding activities for scientific and other special purposes. Regulations establish a list of species designated as Restricted Nonnative Wildlife and provide additional provisions for the designated species.

**Legal Authority:** Under Section 50-15-55, of the S.C. Code of Laws, it is unlawful for anyone to release nonnative wildlife from captivity in the State, unless otherwise authorized by law. Additionally, the Department is allowed promulgate regulations to prohibit or otherwise restrict certain species of nonnative wildlife that have the potential to become established in sufficient numbers so as to become a nuisance, pose a demonstrable deleterious and widespread threat to wildlife, agriculture, or human health and safety.



Plan for Implementation: Once the regulation has been approved by the General Assembly, the Department will incorporate all regulations into the website. The public will be notified through this publication and through news releases and other Department media outlets and publications.

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

The introduction and establishment of nonnative wildlife poses a significant potential threat to South Carolina's wildlife and agricultural resources as well as human health and safety. There are numerous examples of the dramatic impacts the introduction of nonnative species can have in novel environments. To combat the potential introduction and establishment of species that are known to pose a threat, should they become established, it is important to limit the legal pathways that these species can enter and be exchanged within the State. It is also important to establish clear restrictions on possession, sale, transfer, importation, release, and reproduction to protect the State's resources and in some cases human health and safety.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state and allows flexibility to identify species that pose demonstrable deleterious impacts to the State's resources. The regulation of these species of Restricted Nonnative Wildlife can prevent future costs associated with damage and impact as well as mitigation, extermination, and control costs.

UNCERTAINTIES OF ESTIMATES:

Staff does not anticipate any increased costs with the promulgation of this regulation. Accordingly, no cost estimates and the uncertainties associated with them are provided.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of these regulations benefits the environment and public health by allowing targeted regulation of deleterious species.

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

This regulation is needed to help prevent detrimental impacts to public health and the environment by specific species of nonnative wildlife. If the regulation is not implemented, the Department will be unable to regulate specific species that pose a demonstrable deleterious impact to the State's resources and importation and trade of these species will be uncontrolled.

**Statement of Rationale:**

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in managing wildlife populations. These regulations have been developed with the input of staff, professional biologists, and stakeholders.

**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.

## 58 FINAL REGULATIONS

Document No. 5000  
**CLEMSON UNIVERSITY**  
**STATE LIVESTOCK-POULTRY HEALTH COMMISSION**  
CHAPTER 27  
Statutory Authority: 1976 Code Sections 47-4-30 and 47-17-130

27-1023. State Meat Inspection Regulation.

### Synopsis:

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce. These updated regulations are necessary to comply with the Federal Meat Inspection Act (21 USCA 661, Section 301) which established Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations "at least equal to" those adopted by the federal government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements.

The Notice of Drafting was published in the *State Register* on August 28, 2020.

### Instructions:

Print Regulation 27-1023 as shown below.

### Text:

27-1023. State Meat Inspection Regulation.

#### A. Definitions.

1. Commission means the State Livestock-Poultry Health Commission, Clemson University.
2. Director means the Director, Livestock-Poultry Health Programs, Clemson University.
3. Custom Processor means the custom preparation by any person of carcasses, parts thereof, meat or meat food products derived from the slaughter by any individual of cattle, sheep, swine or goats of his own raising or from game animals, delivered by the owner thereof for such custom preparation and transportation in commerce of such custom prepared article, exclusively for the use in the household by the owner and members of the owners household and the owners non-paying guests and employees in an establishment permitted by the State Meat Inspection Department for that purpose.

#### B. Permit required; fee; application; refusal, revocation or suspension.

1. Custom processors shall secure a permit from the Commission.
2. The permit fee is twenty-five dollars (\$25.00) annually or for part of a year. The permit year is July 1 to June 30. The fee must be retained by the Commission. The Commission by regulation may increase the fee to not more than fifty dollars (\$50.00).
3. The Commission, for cause, may refuse to grant a permit, may revoke or modify a permit, or assess a civil penalty in accordance with Section 47-4-130, South Carolina Code of Laws (1976) as amended.

#### C. Adoption of Federal Meat Inspection Regulations.

The United States Department of Agriculture, Food Safety and Inspection Service, Meat Inspection Regulations, 9 CFR, Chapter III, Subchapter A, Parts 300-321, 325, 329, 332, 335, 352 and 354, and Subchapter E, Parts 412, 416-418, 424, 430, 441, 442 and 500 and all changes thereto in effect as of January 1, 2021 are hereby adopted as the State Meat Inspection Regulations, with exceptions as noted below.

#### D. Exceptions to the Federal Meat Inspection Regulations.

1. Subchapter A, Part 307, Section 307.5(a) – Overtime Inspection Service. Fees and charges for overtime inspection service will be established, as required, by the Commission.
2. Subchapter A, Part 307, Section 307.5(b) – Holiday Inspection Service. State holidays as designated by the State Budget and Control Board will be utilized by the state inspection program.
3. Subchapter A, Part 312 – Official Marks, Devices and Certificates. Official state marks, devices and certificates of inspection will be utilized by the state inspection program.
4. Subchapter A, Part 352, Section 352.5 – Holiday and Overtime Inspection Services. Fees and charges for overtime and state holiday inspection services will be established, as required by the Commission.
5. Subchapter A, Part 352, Section 352.7 – Marking Inspected Products. Official state marks, devices and certificates of inspection will be utilized by the state inspection program.

E. In addition to temporary suspension in whole or in part of inspection services, as provided for in this regulation, the Director may, when he determines that the operator of any official establishment or any subsidiary therein, acting within the scope of his office, employment or agency, has threatened to forcible assault or has forcibly assaulted, intimidated, harassed or interfered with any program employees in or on account of his official duties under the law, assess a civil penalty in accordance with Section 47-4-130(b), S.C. Code of Laws, (1976) as amended.

F. The complete text of these regulations is available for review at the Meat-Poultry Inspection Department, Livestock-Poultry Health Programs, Clemson University.

**Fiscal Impact Statement:**

None.

**Statement of Rationale:**

None.

Document No. 5001  
**CLEMSON UNIVERSITY**  
**STATE LIVESTOCK-POULTRY HEALTH COMMISSION**  
 CHAPTER 27  
 Statutory Authority: 1976 Code Sections 47-4-30, 47-19-30, and 47-19-170

27-1022. State Poultry Products Inspection Regulation.

**Synopsis:**

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce. These updated regulations are necessary to comply with the Federal Meat Inspection Act (21 USCA 661, Section 301) which established Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations “at least equal to” those adopted by the federal government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements

The Notice of Drafting was published in the *State Register* on August 28, 2020.

**Instructions:**

Print Regulation 27-1022 as shown below.

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### Text:

27-1022. State Poultry Products Inspection Regulation.

#### A. Definitions.

1. Commission means the State Livestock-Poultry Health Commission, Clemson University.
2. Director means the Director, Livestock-Poultry Health Programs, Clemson University.

#### B. Adoption of Federal Poultry Products Regulations.

The United States Department of Agriculture, Food Safety and Inspection Service, Poultry Products Inspection Regulations, 9 CFR, Chapter III, Subchapter A, Parts 362 and 381 and Subchapter E. Parts 412, 416-418, 424, 430, 441, 442 and 500 and all changes thereto in effect as of January 1, 2021 are hereby adopted as the State Poultry Inspection Regulations, with exception as noted below.

#### C. Exceptions to the Federal Poultry Products Inspection Regulations.

(1) Subchapter A, Part 362, Voluntary Poultry Inspection Regulations, Section 362.5. Fees and charges for voluntary inspection services will be established, as required, by the Commission.

(2) Subchapter A, Part 381, Subpart G, Facilities for Inspection, Section 381.38. State holidays as designated by the State Budget and Control Board will be utilized by the state inspection program.

(3) Subchapter A, Part 381, Subpart G, Facilities for Inspection, Section 381.39. Fees and charges for overtime and holiday inspection services will be established, as required, by the Commission.

(4) Subchapter A, Part 381, Subpart M, Official Marks, Devices and Certificates. Official state marks, devices and certificates of inspection will be utilized by the state inspection program.

D. The complete text of these regulations is available for review at the Meat-Poultry Inspection Department, Livestock-Poultry Health Programs, Clemson University.

### Fiscal Impact Statement:

None.

### Statement of Rationale:

None.

Document No. 4978  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
CHAPTER 61

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

61-62. Air Pollution Control Regulations and Standards.

### Synopsis:

Pursuant to the South Carolina Pollution Control Act, S.C. Code Sections 48-1-10 et seq., and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department of Health and Environmental Control (Department) must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.

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, 63, and 68

include revisions to New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and Chemical Accident Prevention Provisions.

The Department is amending R.61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; R.61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and R.61-62.68, Chemical Accident Prevention Provisions, to incorporate federal amendments promulgated from January 1, 2019, through December 31, 2019.

The Department is also amending R.61-62.60 to add Subpart UUUUa, which will include provisions for facilitating implementation of the EPA's "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," also known as the Affordable Clean Energy (ACE) rule, as published in the *Federal Register* on July 8, 2019 (84 FR 32520). This amendment is to ensure compliance with federal law.

The Department is also amending R.61-62.60 to delete Subpart B - "Adoption and Submittal of State Plans for Designated Facilities." This subpart incorporates by reference EPA implementing regulations found at 40 CFR Part 60, Subpart B, which is directly applicable to EPA and states. These implementing regulations have been updated through EPA's promulgation of 40 CFR Part 60, Subpart Ba, which is also directly applicable to EPA and states and need not be incorporated by reference by the Department. The Department therefore deletes R.61-62.60, Subpart B for simplicity and to maintain compliance with federal law.

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

South Carolina industries are already subject to national air quality standards and NSPS, NESHAP, and Chemical Accident Prevention Provisions as a matter of federal law. The Department must incorporate amendments to the federal regulations because the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. Federal law also requires South Carolina's adoption of a state plan for compliance with EPA's ACE rule. Thus, there will be no increased cost to the state or its political subdivisions resulting from adoption of these federal amendments beyond those mandated by federal law. South Carolina is already reaping the environmental benefits of these amendments.

The Department had a Notice of Drafting published in the February 28, 2020, *South Carolina State Register*.

**Instructions:**

Revise Regulation 61-62 as shown below. All other items and sections remain unchanged.

**Text:**

**Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards**

**Regulation 61-62.60, Subpart B, shall be deleted in its entirety:**

**Subpart Cf - "Performance Standards and Compliance Times for Existing Municipal Solid Waste Landfills"**

(A) All designated facilities as defined at 40 CFR 60.31f must comply with the requirements of this subpart.

(B) The compliance times, emission guideline conditions and requirements, operational standards for collection and control systems, test methods and procedures, compliance provisions, monitoring requirements,

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reporting requirements, recordkeeping requirements, and specifications for active collection systems set forth in 40 CFR 60.32f through 60.40f, as originally published in the Federal Register as listed below, are incorporated by reference as if fully repeated herein and applicable to each designated facility.

40 CFR Part 60 Subpart Cf			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 81	August 29, 2016	[81 FR 59276]
Revision	Vol. 84	August 26, 2019	[84 FR 44547]

(C) 40 CFR 60.41f, Definitions, is adopted and incorporated by reference as if fully repeated herein, except as follows: the word “Administrator” as used in this subpart shall mean the Department of Health and Environmental Control, with the exception of the sections within this subpart that may not be delegated by the EPA.

(D) The following authorities will not be delegated to state, local, or tribal agencies:

(1) Approval of alternative methods to determine the NMOC concentration or a site-specific methane generation rate constant (k).

(2) [Reserved]

**Regulation 61-62.60, Subpart CCCC, shall be revised as follows:**

**Subpart CCCC - “Standards of Performance for Commercial and Industrial Solid Waste Incineration Units”**

The provisions of 40 CFR Part 60 Subpart CCCC, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 60 Subpart CCCC			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 65	December 1, 2000	[65 FR 75338]
Revision	Vol. 66	March 27, 2001	[66 FR 16605]
Revision	Vol. 70	September 22, 2005	[70 FR 55568]
Revision	Vol. 76	May 18, 2011	[76 FR 28662]
Revision	Vol. 78	February 7, 2013	[78 FR 9112]
Revision	Vol. 81	June 23, 2016	[81 FR 40956]
Revision	Vol. 84	April 16, 2019	[84 FR 15846]

**Regulation 61-62.60, Subpart QQQQ title shall be revised as follows:**

**Subpart QQQQ - “Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces”**

**Regulation 61-62.60, Subpart TTTT title shall be revised as follows:**

**Subpart TTTT - “Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units”**

**Regulation 61-62.60, Subpart UUUUa, shall be added in alpha-numeric order as follows:**

**Subpart UUUUa - “Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units”**

(A) Applicability: Except as provided in (B) below, “designated facilities” that commenced construction on or before January 8, 2014, and meet the criteria set forth in 40 CFR 60.5775a(b) are subject to this subpart and must comply with all applicable requirements of this subpart, and must comply with the plan that the Department develops to implement the emission guidelines as required in 40 CFR 60.5770a(a), including permit conditions adopted pursuant to such plan and this subpart.

(B) The types of units described in 40 CFR 60.5780a are excluded from this subpart.

(C) For purposes of this subpart, “you” means the owner or operator of the designated facility, and “Department” means the South Carolina Department of Health and Environmental Control.

(D) The Department will set a standard of performance for each designated facility according to 40 CFR 60.5755a and compliance periods for each standard of performance according to 40 CFR 60.5750a through construction permits issued to each designated facility. Construction permits issued pursuant to this provision will be subject to the public participation procedures in Regulation 61-62.1, Section II.N. Each designated facility shall comply with the applicable standard of performance, compliance period, and associated requirements as set forth in the facility’s construction permit, in addition to those requirements set forth in this subpart.

(E) For the Department to determine a standard of performance for each designated facility according to 40 CFR 60.5735a and 60.5755a, and issue a construction permit, each designated facility must submit to the Department upon request the information set forth in (E)(1) through (E)(5) below. Submission in full of the information in (E)(1) through (E)(5), in combination with any additional application information under Regulation 61-62.1, Section II.C.3 requested by the Department as relevant, will constitute a designated facility’s permit application for purposes of construction permits issued to satisfy the requirements of this subpart.

(1) An evaluation of the applicability of each of the heat rate improvements specified in 40 CFR 60.5740a(a)(1) to the designated facility;

(2) An evaluation of the degree of emission limitation achievable ranges set forth in Table 1 to 40 CFR 60.5740a(a)(2)(i) through application of the heat rate improvements at the designated facility;

(3) If applicable, a summary of the application of remaining useful life or other relevant factors as provided in 40 CFR 60.24a(e) in the Department’s derivation of the designated facility’s standard of performance;

(4) The information listed in 40 CFR 60.5740a(a)(4)(i) through (iv) as applicable; and

(5) Supporting material, including any other materials requested by the Department or otherwise necessary to support the Department’s review and determination of standards of performance.

(F) Monitoring, Recordkeeping, and Reporting Requirements. Each designated facility must comply with the following requirements in accordance with the compliance schedule set forth in the designated facility’s construction permit referenced in paragraph (D) of this subpart:

(1) You must either:

(a) Monitor and report emission and electricity generation data according to 40 CFR Part 75; or

(b) Implement an alternative monitoring, recordkeeping, and reporting program that meets the requirements of 40 CFR 60.5785a(a)(2). A designated facility implementing such a program shall conduct all

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alternative monitoring, recordkeeping, and reporting in accordance with specific requirements set forth in the construction permit referenced in paragraph (D) of this subpart.

(2) You must keep records for a minimum of five (5) years from the date the record is used to determine compliance with a standard of performance requirement. Each record must be in a form suitable and readily available for expeditious review.

(G) For the Department to consider a revised standard of performance for a designated facility, such designated facility shall submit to the Department, either of its own accord or upon Department request, the information specified in paragraph (E) of this subpart.

(H) Definitions of terms used in this subpart are set forth in 40 CFR 60.5805a, except as otherwise provided in paragraph (C).

### **Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories**

**Regulation 61-62.63, Subpart A, shall be revised as follows:**

#### **Subpart A - "General Provisions"**

The provisions of 40 Code of Federal Regulations (CFR) Part 63 Subpart A, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

<b>40 CFR Part 63 Subpart A</b>			
<b>Federal Register Citation</b>	<b>Volume</b>	<b>Date</b>	<b>Notice</b>
Original Promulgation	Vol. 59	March 16, 1994	[59 FR 12430]
Revision	Vol. 59	April 22, 1994	[59 FR 19453]
Revision	Vol. 59	December 6, 1994	[59 FR 62589]
Revision	Vol. 60	January 25, 1995	[60 FR 4963]
Revision	Vol. 60	June 27, 1995	[60 FR 33122]
Revision	Vol. 60	September 1, 1995	[60 FR 45980]
Revision	Vol. 61	May 21, 1996	[61 FR 25399]
Revision	Vol. 61	December 17, 1996	[61 FR 66227]
Revision	Vol. 62	December 10, 1997	[62 FR 65024]
Revision	Vol. 63	May 4, 1998	[63 FR 24444]
Revision	Vol. 63	May 13, 1998	[63 FR 26465]
Revision	Vol. 63	September 21, 1998	[63 FR 50326]
Revision	Vol. 63	October 7, 1998	[63 FR 53996]
Revision	Vol. 63	December 1, 1998	[63 FR 66061]
Revision	Vol. 64	January 28, 1999	[64 FR 4300]
Revision	Vol. 64	February 12, 1999	[64 FR 7468]
Revision	Vol. 64	April 12, 1999	[64 FR 17562]
Revision	Vol. 64	June 10, 1999	[64 FR 31375]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 67	February 14, 2002	[67 FR 6968]
Revision	Vol. 67	February 27, 2002	[67 FR 9156]
Revision	Vol. 67	April 5, 2002	[67 FR 16582]
Revision	Vol. 67	June 10, 2002	[67 FR 39794]



40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 67	July 23, 2002	[67 FR 48254]
Revision	Vol. 68	February 18, 2003	[68 FR 7706]
Revision	Vol. 68	April 21, 2003	[68 FR 19375]
Revision	Vol. 68	May 6, 2003	[68 FR 23898]
Revision	Vol. 68	May 8, 2003	[68 FR 24653]
Revision	Vol. 68	May 20, 2003	[68 FR 27646]
Revision	Vol. 68	May 23, 2003	[68 FR 28606]
Revision	Vol. 68	May 27, 2003	[68 FR 28774]
Revision	Vol. 68	May 28, 2003	[68 FR 31746]
Revision	Vol. 68	May 29, 2003	[68 FR 32172]
Revision	Vol. 68	May 30, 2003	[68 FR 32586]
Revision	Vol. 68	November 13, 2003	[68 FR 64432]
Revision	Vol. 68	December 19, 2003	[68 FR 70960]
Revision	Vol. 69	January 2, 2004	[69 FR 130]
Revision	Vol. 69	February 3, 2004	[69 FR 5038]
Revision	Vol. 69	April 9, 2004	[69 FR 18801]
Revision	Vol. 69	April 19, 2004	[69 FR 20968]
Revision	Vol. 69	April 22, 2004	[69 FR 21737]
Revision	Vol. 69	April 26, 2004	[69 FR 22602]
Revision	Vol. 69	June 15, 2004	[69 FR 33474]
Revision	Vol. 69	July 30, 2004	[69 FR 45944]
Revision	Vol. 69	September 13, 2004	[69 FR 55218]
Revision	Vol. 70	April 15, 2005	[70 FR 19992]
Revision	Vol. 70	May 20, 2005	[70 FR 29400]
Revision	Vol. 70	October 12, 2005	[70 FR 59402]
Revision	Vol. 71	February 16, 2006	[71 FR 8342]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 71	July 28, 2006	[71 FR 42898]
Revision	Vol. 71	December 6, 2006	[71 FR 70651]
Revision	Vol. 72	January 3, 2007	[72 FR 26]
Revision	Vol. 72	January 23, 2007	[72 FR 2930]
Revision	Vol. 72	July 16, 2007	[72 FR 38864]
Revision	Vol. 72	October 29, 2007	[72 FR 61060]
Revision	Vol. 72	November 16, 2007	[72 FR 64860]
Revision	Vol. 72	December 26, 2007	[72 FR 73180]
Revision	Vol. 72	December 28, 2007	[72 FR 74088]
Revision	Vol. 73	January 2, 2008	[73 FR 226]
Revision	Vol. 73	January 9, 2008	[73 FR 1738]
Revision	Vol. 73	January 10, 2008	[73 FR 1916]
Revision	Vol. 73	January 18, 2008	[73 FR 3568]
Revision	Vol. 73	February 7, 2008	[73 FR 7210]
Revision	Vol. 73	March 7, 2008	[73 FR 12275]
Revision	Vol. 73	July 23, 2008	[73 FR 42978]
Revision	Vol. 73	December 22, 2008	[73 FR 78199]
Revision	Vol. 74	June 25, 2009	[74 FR 30366]

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40 CFR Part 63 Subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 74	October 28, 2009	[74 FR 55670]
Revision	Vol. 75	September 9, 2010	[75 FR 54970]
Revision	Vol. 75	September 13, 2010	[75 FR 55636]
Revision	Vol. 77	September 11, 2012	[77 FR 55698]
Revision	Vol. 78	January 30, 2013	[78 FR 6674]
Revision	Vol. 78	January 31, 2013	[78 FR 7138]
Revision	Vol. 78	February 1, 2013	[78 FR 7488]
Revision	Vol. 78	June 20, 2013	[78 FR 37133]
Revision	Vol. 79	February 27, 2014	[79 FR 11228]
Revision	Vol. 79	March 27, 2014	[79 FR 17340]
Revision	Vol. 80	June 30, 2015	[80 FR 37365]
Revision	Vol. 80	August 19, 2015	[80 FR 50385]
Revision	Vol. 80	September 18, 2015	[80 FR 56699]
Revision	Vol. 80	October 15, 2015	[80 FR 62389]
Revision	Vol. 80	October 26, 2015	[80 FR 65469]
Revision	Vol. 80	December 1, 2015	[80 FR 75178]
Revision	Vol. 80	December 4, 2015	[80 FR 75817]
Revision	Vol. 81	August 30, 2016	[81 FR 59800]
Revision	Vol. 82	January 18, 2017	[82 FR 5401]
Revision	Vol. 82	October 11, 2017	[82 FR 47328]
Revision	Vol. 82	October 16, 2017	[82 FR 48156]
Revision	Vol. 83	October 15, 2018	[83 FR 51842]
Revision	Vol. 83	November 14, 2018	[83 FR 56713]
Revision	Vol. 84	February 28, 2019	[84 FR 6676]
Revision	Vol. 84	March 4, 2019	[84 FR 7682]
Revision	Vol. 84	March 15, 2019	[84 FR 9590]

Regulation 61-62.63, Subpart HHHH, shall be revised as follows:

**Subpart HHHH - “National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production”**

The provisions of 40 CFR Part 63 Subpart HHHH, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart HHHH			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	April 11, 2002	[67 FR 17824]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	February 28, 2019	[84 FR 6676]

**Regulation 61-62.63, Subpart NNNN, shall be revised as follows:**

**Subpart NNNN - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances”**

The provisions of 40 CFR Part 63 Subpart NNNN, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart NNNN			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	July 23, 2002	[67 FR 48254]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	March 15, 2019	[84 FR 9590]

**Regulation 61-62.63, Subpart OOOO, shall be revised as follows:**

**Subpart OOOO - “National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles”**

The provisions of 40 CFR Part 63 Subpart OOOO, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart OOOO			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 29, 2003	[68 FR 32172]
Revision	Vol. 69	August 4, 2004	[69 FR 47001]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 71	May 24, 2006	[71 FR 29792]
Revision	Vol. 84	March 15, 2019	[84 FR 9590]

**Regulation 61-62.63, Subpart QQQQ, shall be revised as follows:**

**Subpart QQQQ - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products”**

The provisions of 40 CFR Part 63 Subpart QQQQ, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart QQQQ			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 28, 2003	[68 FR 31746]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	March 4, 2019	[84 FR 7682]

**Regulation 61-62.63, Subpart RRRR, shall be revised as follows:**

**Subpart RRRR - “National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture”**

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The provisions of 40 CFR Part 63 Subpart RRRR, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart RRRR			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 23, 2003	[68 FR 28606]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	March 15, 2019	[84 FR 9590]

**Regulation 61-62.63, Subpart TTTT, shall be revised as follows:**

### **Subpart TTTT - “National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations”**

The provisions of 40 CFR Part 63 Subpart TTTT, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart TTTT			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	February 27, 2002	[67 FR 9156]
Revision	Vol. 70	February 7, 2005	[70 FR 6355]
Revision	Vol. 84	February 12, 2019	[84 FR 3308]

**Regulation 61-62.63, Subpart JJJJJ title shall be revised as follows:**

### **Subpart JJJJJ - “National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing”**

**Regulation 61-62.63, Subpart KKKKK, shall be revised as follows:**

### **Subpart KKKKK - “National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing”**

The provisions of 40 CFR Part 63, Subpart KKKKK, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart KKKKK			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 16, 2003	[67 FR 26690]
Revision	Vol. 68	May 28, 2003	[68 FR 31744]
Revision	Vol. 71	April 20, 2006	[71 FR 20445]
Revision	Vol. 71	June 23, 2006	[71 FR 36014]
Revision	Vol. 80	October 26, 2015	[80 FR 65469]
Revision	Vol. 80	December 4, 2015	[80 FR 75817]
Revision	Vol. 84	November 1, 2019	[84 FR 58601]

**Regulation 61-62.63, Subpart QQQQ, shall be revised as follows:**

**Subpart QQQQ - “National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities”**

The provisions of 40 CFR Part 63 Subpart QQQQ, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 Subpart QQQQ			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	October 18, 2002	[67 FR 64498]
Revision	Vol. 71	April 20, 2006	[71 FR 20446]
Revision	Vol. 84	February 8, 2019	[84 FR 2742]

**Regulation 61-62.63, Subpart CCCCC title shall be revised as follows:**

**Subpart CCCCC - “National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities”**

**Regulation 61-62.68, Chemical Accident Prevention Provisions**

**Regulation 61-62.68.1 shall be revised as follows:**

Regulation 61-62.68 sets forth the list of regulated substances and thresholds, the requirements for owners or operators of stationary sources concerning the prevention of accidental releases, and the state accidental release prevention programs approved under Section 112(r) of the Clean Air Act. The list of substances, threshold quantities, and accident prevention regulations promulgated under Regulation 61-62.68 do not limit in any way the general duty provisions under Section 112(r)(1) of the Clean Air Act.

**Regulation 61-62.68.3 shall be revised as follows:**

Terms used in Regulation 61-62.68 that are not defined below or in Regulation 61-62.1, Section I, have the meaning given to them in the Clean Air Act and in 40 CFR Part 68, Subpart A.

- (a) **Accidental release** means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.
- (b) **Administrative controls** mean written procedural mechanisms used for hazard control.
- (c) **Administrator** means the administrator of the U.S. Environmental Protection Agency.
- (d) **AICHE/CCPS** means the American Institute of Chemical Engineers/Center for Chemical Process Safety.
- (e) **API** means the American Petroleum Institute.
- (f) **Article** means a manufactured item, as defined under 29 CFR 1910.1200(b), that is formed to a specific shape or design during manufacture, that has end use functions dependent in whole or in part upon the shape or design during end use, and that does not release or otherwise result in exposure to a regulated substance under normal conditions of processing and use.
- (g) **ASME** means the American Society of Mechanical Engineers.

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(h) **CAS** means the Chemical Abstracts Service.

(i) **Catastrophic release** means a major uncontrolled emission, fire, or explosion, involving one or more regulated substances that presents imminent and substantial endangerment to public health and the environment.

(j) **CBI** means confidential business information.

(k) **Classified information** means “classified information” as defined in the Classified Information Procedures Act, 18 U.S.C. App. 3, Section 1(a) as “any information or material that has been determined by the United States Government pursuant to an executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security.”

(l) **Condensate** means hydrocarbon liquid separated from natural gas that condenses due to changes in temperature, pressure, or both, and remains liquid at standard conditions.

(m) **Covered process** means a process that has a regulated substance present in more than a threshold quantity as determined under Section 68.115.

(n) **Crude oil** means any naturally occurring, unrefined petroleum liquid.

(o) **DOT** means the United States Department of Transportation.

(p) **Environmental receptor** means natural areas such as national or state parks, forests, or monuments; officially designated wildlife sanctuaries, preserves, refuges, or areas; and Federal wilderness areas, that could be exposed at any time to toxic concentrations, radiant heat, or overpressure greater than or equal to the endpoints provided in Section 68.22(a), as a result of an accidental release and that can be identified on local U.S. Geological Survey maps.

(q) **Field gas** means gas extracted from a production well before the gas enters a natural gas processing plant.

(r) **Hot work** means work involving electric or gas welding, cutting, brazing, or similar flame or spark-producing operations.

(s) **Injury** means any effect on a human that results either from direct exposure to toxic concentrations; radiant heat; or overpressures from accidental releases or from the direct consequences of a vapor cloud explosion (such as flying glass, debris, and other projectiles) from an accidental release and that requires medical treatment or hospitalization.

(t) **LEPC** means local emergency planning committee as established under 42 U.S.C. 11001(c).

(u) **Major change** means introduction of a new process, process equipment, or regulated substance, an alteration of process chemistry that results in any change to safe operating limits, or other alteration that introduces a new hazard.

(v) **Mechanical integrity** means the process of ensuring that process equipment is fabricated from the proper materials of construction and is properly installed, maintained, and replaced to prevent failures and accidental releases.

(w) **Medical treatment** means treatment, other than first aid, administered by a physician or registered professional personnel under standing orders from a physician.

(x) **Mitigation or mitigation system** means specific activities, technologies, or equipment designed or deployed to capture or control substances upon loss of containment to minimize exposure of the public or the environment.

Passive mitigation means equipment, devices, or technologies that function without human, mechanical, or other energy input. Active mitigation means equipment, devices, or technologies that need human, mechanical, or other energy input to function.

(y) **NAICS** means North American Industry Classification System.

(z) **Natural gas processing plant (gas plant)** means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).

(aa) **NFPA** means the National Fire Protection Association.

(bb) **Offsite** means areas beyond the property boundary of the stationary source, and areas within the property boundary to which the public has routine and unrestricted access during or outside business hours.

(cc) **OSHA** means the U.S. Occupational Safety and Health Administration.

(dd) **Owner or operator** means any person who owns, leases, operates, controls, or supervises a stationary source.

(ee) **Petroleum refining process unit** means a process unit used in an establishment primarily engaged in petroleum refining as defined in NAICS code 32411 for petroleum refining (formerly SIC code 2911) and used for the following: Producing transportation fuels (such as gasoline, diesel fuels, and jet fuels), heating fuels (such as kerosene, fuel gas distillate, and fuel oils), or lubricants; separating petroleum; or separating, cracking, reacting, or reforming intermediate petroleum streams. Examples of such units include, but are not limited to, petroleum based solvent units, alkylation units, catalytic hydrotreating, catalytic hydrorefining, catalytic hydrocracking, catalytic reforming, catalytic cracking, crude distillation, lube oil processing, hydrogen production, isomerization, polymerization, thermal processes, and blending, sweetening, and treating processes. Petroleum refining process units include sulfur plants.

(ff) **Population** means the public.

(gg) **Process** means any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

(hh) **Produced water** means water extracted from the earth from an oil or natural gas production well, or that is separated from oil or natural gas after extraction.

(ii) **Public** means any person except employees or contractors at the stationary source.

(jj) **Public receptor** means offsite residences, institutions (e.g., schools, hospitals), industrial, commercial, and office buildings, parks, or recreational areas inhabited or occupied by the public at any time without restriction by the stationary source where members of the public could be exposed to toxic concentrations, radiant heat, or overpressure, as a result of an accidental release.

(kk) **Regulated substance** means any substance listed pursuant to Section 112(r)(3) of the Clean Air Act as amended, in Section 68.130.

(ll) **Replacement in kind** means a replacement that satisfies the design specifications.

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(mm) **Retail facility** means a stationary source at which more than one-half of the income is obtained from direct sales to end users or at which more than one-half of the fuel sold, by volume, is sold through a cylinder exchange program.

(nn) **RMP** means the risk management plan required under Subpart G.

(oo) **Stationary source** means any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur. The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of Regulation 61-62.68. A stationary source includes transportation containers used for storage not incident to transportation and transportation containers connected to equipment at a stationary source for loading or unloading. Transportation includes, but is not limited to, transportation subject to oversight or regulation under 49 CFR Parts 192, 193, or 195, or a state natural gas or hazardous liquid program for which the state has in effect a certification to DOT under 49 U.S.C. Section 60105. A stationary source does not include naturally occurring hydrocarbon reservoirs. Properties shall not be considered contiguous solely because of a railroad or pipeline right-of-way.

(pp) **Threshold quantity** means the quantity specified for regulated substances pursuant to Section 112(r)(5) of the Clean Air Act as amended, listed in Section 68.130 and determined to be present at a stationary source as specified in Section 68.115.

(qq) **Typical meteorological conditions** means the temperature, wind speed, cloud cover, and atmospheric stability class, prevailing at the site based on data gathered at or near the site or from a local meteorological station.

(rr) **Vessel** means any reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose, or other container.

(ss) **Worst-case release** means the release of the largest quantity of a regulated substance from a vessel or process line failure that results in the greatest distance to an endpoint defined in Section 68.22(a).

### **Regulation 61-62.68.10 shall be revised as follows:**

(a) Except as provided in paragraphs (b) through (f) of this section, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under Section 68.115, shall comply with the requirements of Regulation 61-62.68 no later than the latest of the following dates:

(1) June 21, 1999;

(2) Three years after the date on which a regulated substance is first listed under Section 68.130;

(3) The date on which a regulated substance is first present above a threshold quantity in a process; or

(4) For any revisions to Regulation 61-62.68 that incorporate revisions to 40 CFR Part 68, the effective date of the final rule that revises 40 CFR Part 68.

(b) By March 14, 2018, the owner or operator of a stationary source shall comply with the emergency response coordination activities in Section 68.93, as applicable.

(c) Within three (3) years of when the owner or operator determines that the stationary source is subject to the emergency response program requirements of Section 68.95, pursuant to Section 68.90(a), the owner or operator must develop and implement an emergency response program in accordance with Section 68.95.



(d) By December 19, 2023, the owner or operator shall have developed plans for conducting emergency response exercises in accordance with provisions of Section 68.96, as applicable.

(e) The owner or operator of a stationary source shall comply with the public meeting requirement in Section 68.210(b) within ninety (90) days of any RMP reportable accident at the stationary source with known offsite impacts specified in Section 68.42(a), that occurs after March 15, 2021.

(f) After December 19, 2024, for any RMP initially submitted as required by Section 68.150(b)(2) or (3) or submitted as an update required by Section 68.190, the owner or operator shall comply with the following risk management plan provisions of Subpart G:

(1) Reporting a public meeting after an RMP reportable accident under Section 68.160(b)(21);

(2) Reporting emergency response program information under Section 68.180(a)(1);

(3) Reporting emergency response program information under Section 68.180(a)(2) and (3), as applicable; and,

(4) Reporting emergency response program and exercises information under Section 68.180(b), as applicable. The owner or operator shall submit dates of the most recent notification, field, and tabletop exercises in the RMP, for exercises completed as required under Section 68.96 at the time the RMP is either submitted under Section 68.150(b)(2) or (3), or is updated under Section 68.190.

(g) Program 1 eligibility requirements. A covered process is eligible for Program 1 requirements as provided in Section 68.12(b) if it meets all of the following requirements:

(1) For the five years prior to the submission of an RMP, the process has not had an accidental release of a regulated substance where exposure to the substance, its reaction products, overpressure generated by an explosion involving the substance, or radiant heat generated by a fire involving the substance led to any of the following offsite:

(i) Death;

(ii) Injury; or

(iii) Response or restoration activities for an exposure of an environmental receptor;

(2) The distance to a toxic or flammable endpoint for a worst-case release assessment conducted under Subpart B and Section 68.25 is less than the distance to any public receptor, as defined in Section 68.3; and

(3) Emergency response procedures have been coordinated between the stationary source and local emergency planning and response organizations.

(h) Program 2 eligibility requirements. A covered process is subject to Program 2 requirements if it does not meet the eligibility requirements of either paragraph (g) or paragraph (i) of this section.

(i) Program 3 eligibility requirements. A covered process is subject to Program 3 if the process does not meet the requirements of paragraph (g) of this section, and if either of the following conditions is met:

(1) The process is in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532; or

(2) The process is subject to the OSHA process safety management standard, 29 CFR 1910.119.

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(j) If at any time a covered process no longer meets the eligibility criteria of its Program level, the owner or operator shall comply with the requirements of the new Program level that applies to the process and update the RMP as provided in Section 68.190.

(k) The provisions of Regulation 61-62.68 shall not apply to an Outer Continental Shelf (OCS) source, as defined in 40 CFR 55.2.

### **Regulation 61-62.68.12 shall be revised as follows:**

(a) General requirements. The owner or operator of a stationary source subject to Regulation 61-62.68 shall submit a single RMP, as provided in Sections 68.150 to 68.185. The RMP shall include a registration that reflects all covered processes.

(b) Program 1 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process eligible for Program 1, as provided in Section 68.10(g), shall:

(1) Analyze the worst-case release scenario for the process(es), as provided in Section 68.25; document that the nearest public receptor is beyond the distance to a toxic or flammable endpoint defined in Section 68.22(a); and submit in the RMP the worst-case release scenario as provided in Section 68.165;

(2) Complete the five-year accident history for the process as provided in Section 68.42 and submit it in the RMP as provided in Section 68.168;

(3) Ensure that response actions have been coordinated with local emergency planning and response agencies; and

(4) Certify in the RMP the following: “Based on the criteria in 40 CFR 68.10, the distance to the specified endpoint for the worst-case accidental release scenario for the following process(es) is less than the distance to the nearest public receptor: [list process(es)]. Within the past five years, the process(es) has (have) had no accidental release that caused offsite impacts provided in the risk management program rule (40 CFR 68.10(g)(1)). No additional measures are necessary to prevent offsite impacts from accidental releases. In the event of fire, explosion, or a release of a regulated substance from the process(es), entry within the distance to the specified endpoints may pose a danger to public emergency responders. Therefore, public emergency responders should not enter this area except as arranged with the emergency contact indicated in the RMP. The undersigned certifies that, to the best of my knowledge, information, and belief, formed after reasonable inquiry, the information submitted is true, accurate, and complete. [Signature, title, date signed].”

(c) Program 2 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process subject to Program 2, as provided in Section 68.10(h), shall:

(1) Develop and implement a management system as provided in Section 68.15;

(2) Conduct a hazard assessment as provided in Sections 68.20 through 68.42;

(3) Implement the Program 2 prevention steps provided in Sections 68.48 through 68.60 or implement the Program 3 prevention steps provided in Sections 68.65 through 68.87;

(4) Coordinate response actions with local emergency planning and response agencies as provided in Section 68.93;

(5) Develop and implement an emergency response program, and conduct exercises, as provided in Sections 68.90 to 68.96; and

(6) Submit as part of the RMP the data on prevention program elements for Program 2 processes as provided in Section 68.170.

(d) Program 3 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process subject to Program 3, as provided in Section 68.10(i) shall:

(1) Develop and implement a management system as provided in Section 68.15;

(2) Conduct a hazard assessment as provided in Sections 68.20 through 68.42;

(3) Implement the prevention requirements of Sections 68.65 through 68.87;

(4) Coordinate response actions with local emergency planning and response agencies as provided in Section 68.93;

(5) Develop and implement an emergency response program, and conduct exercises, as provided in Sections 68.90 to 68.96; and

(6) Submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in Section 68.175.

**Regulation 61-62.68.28(e)(2) shall be revised as follows:**

(2) Failure scenarios identified under Sections 68.50 or 68.67.

**Regulation 61-62.68.42(b)(11) shall be revised as follows:**

(11) Operational or process changes that resulted from investigation of the release and that have been made by the time this information is submitted in accordance with Section 68.168.

**Regulation 61-62.68.48(a)(1) shall be revised as follows:**

(1) Safety Data Sheets (SDS) that meet the requirements of 29 CFR 1910.1200(g);

**Regulation 61-62.68.48(b) shall be revised as follows:**

(b) The owner or operator shall ensure that the process is designed in compliance with recognized and generally accepted good engineering practices. Compliance with federal or state regulations that address industry-specific safe design or with industry-specific design codes and standards may be used to demonstrate compliance with this paragraph.

**Regulation 61-62.68.56(d) shall be revised as follows:**

(d) The owner or operator shall perform or cause to be performed inspections and tests on process equipment. Inspection and testing procedures shall follow recognized and generally accepted good engineering practices. The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations, industry standards or codes, good engineering practices, and prior operating experience.

**Regulation 61-62.68.58(a) shall be revised as follows:**

(a) The owner or operator shall certify that he or she has evaluated compliance with the provisions of this Subpart at least every three years to verify that the procedures and practices developed under this Subpart are adequate and are being followed.

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### **Regulation 61-62.68.60 shall be revised as follows:**

- (a) The owner or operator shall investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release.
- (b) The owner or operator shall initiate an incident investigation as promptly as possible, but not later than 48 hours following the incident.
- (c) An incident investigation team shall be established and consist of at least one person knowledgeable in the process involved and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.
- (d) The owner or operator shall prepare a report at the conclusion of the investigation which includes at a minimum:
  - (1) Date of incident;
  - (2) Date investigation began;
  - (3) A description of the incident;
  - (4) The factors that contributed to the incident; and
  - (5) Any recommendations resulting from the investigation.
- (e) The owner or operator shall promptly address and resolve the investigation findings and recommendations. Resolutions and corrective actions shall be documented.
- (f) The owner or operator shall ensure that the findings are reviewed with all affected personnel whose job tasks are affected by the findings.
- (g) The owner or operator shall retain the incident investigation reports for five years.

### **Regulation 61-62.68.65(a) shall be revised as follows:**

- (a) The owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule. The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process.

### **Regulation 61-62.68.65(b) shall be revised as follows:**

- (b) Information pertaining to the hazards of the regulated substances in the process. This information shall consist of at least the following:
  - (1) Toxicity information;
  - (2) Permissible exposure limits;
  - (3) Physical data;

- (4) Reactivity data;
- (5) Corrosivity data;
- (6) Thermal and chemical stability data; and
- (7) Hazardous effects of inadvertent mixing of different materials that could foreseeably occur.

Safety Data Sheets (SDS) meeting the requirements of 29 CFR 1910.1200(g) may be used to comply with this requirement to the extent they contain the information required by this subparagraph.

**Regulation 61-62.68.67(c)(2) shall be revised as follows:**

- (2) The identification of any previous incident which had a likely potential for catastrophic consequences;

**Regulation 61-62.68.67(d) shall be revised as follows:**

(d) The process hazard analysis shall be performed by a team with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.

**Regulation 61-62.68.67(f) shall be revised as follows:**

(f) At least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements in paragraph (d) of this section, to assure that the process hazard analysis is consistent with the current process. Updated and revalidated process hazard analyses completed to comply with 29 CFR 1910.119(e) are acceptable to meet the requirements of this paragraph.

**Regulation 61-62.68.73(d)(3) shall be revised as follows:**

(3) The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

**Regulation 61-62.68.79(a) shall be revised as follows:**

(a) The owner or operator shall certify that he or she has evaluated compliance with the provisions of this Subpart at least every three years to verify that procedures and practices developed under this Subpart are adequate and are being followed.

**Regulation 61-62.68.81(a) shall be revised as follows:**

(a) The owner or operator shall investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release.

**Regulation 61-62.68.90(a) shall be revised as follows:**

(a) Responding stationary source. Except as provided in paragraph (b) of this section, the owner or operator of a stationary source with Program 2 and Program 3 processes shall comply with the requirements of Sections 68.93, 68.95, and 68.96.

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### **Regulation 61-62.68.90(b) shall be revised as follows:**

(b) Non-responding stationary source. The owner or operator of a stationary source whose employees will not respond to accidental releases of regulated substances need not comply with Section 68.95 provided that:

(1) For stationary sources with any regulated toxic substance held in a process above the threshold quantity, the stationary source is included in the community emergency response plan developed under 42 U.S.C. 11003;

(2) For stationary sources with only regulated flammable substances held in a process above the threshold quantity, the owner or operator has coordinated response actions with the local fire department;

(3) Appropriate mechanisms are in place to notify emergency responders when there is a need for a response.

(4) The owner or operator performs the annual emergency response coordination activities required under Section 68.93; and

(5) The owner or operator performs the annual notification exercises required under Section 68.96(a).

### **Regulation 61-62.68.91-94 shall be revised as follows:**

#### **Section 68.91-92 [Reserved]**

### **Regulation 61-62.68.93 shall be added in alpha-numeric order as follows:**

#### **Section 68.93 Emergency response coordination activities.**

The owner or operator of a stationary source shall coordinate response needs with local emergency planning and response organizations to determine how the stationary source is addressed in the community emergency response plan and to ensure that local response organizations are aware of the regulated substances at the stationary source, their quantities, the risks presented by covered processes, and the resources and capabilities at the stationary source to respond to an accidental release of a regulated substance.

(a) Coordination shall occur at least annually, and more frequently if necessary, to address changes: At the stationary source; in the stationary source's emergency response and/or emergency action plan; and/or in the community emergency response plan.

(b) Coordination shall include providing to the local emergency planning and response organizations: The stationary source's emergency response plan if one exists; emergency action plan; updated emergency contact information; and other information necessary for developing and implementing the local emergency response plan. For responding stationary sources, coordination shall also include consulting with local emergency response officials to establish appropriate schedules and plans for field and tabletop exercises required under Section 68.96(b). The owner or operator shall request an opportunity to meet with the local emergency planning committee (or equivalent) and/or local fire department as appropriate to review and discuss those materials.

(c) The owner or operator shall document coordination with local authorities, including: The names of individuals involved and their contact information (phone number, email address, and organizational affiliations); dates of coordination activities; and nature of coordination activities.

(d) Classified and restricted information. The disclosure of information classified or restricted by the Department of Defense or other federal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of that classified or restricted information.

**Regulation 61-62.68.94 shall be added in alpha-numeric order as follows:**

**Section 68.94 [Reserved]**

**Regulation 61-62.68.95(a)(1)(i) shall be revised as follows:**

(i) Procedures for informing the public and the appropriate federal, state, and local emergency response agencies about accidental releases;

**Regulation 61-62.68.95(a)(4) shall be revised as follows:**

(4) Procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of changes. The owner or operator shall review and update the plan as appropriate based on changes at the stationary source or new information obtained from coordination activities, emergency response exercises, incident investigations, or other available information, and ensure that employees are informed of the changes.

**Regulation 61-62.68.96 shall be added in alpha-numeric order as follows:**

**Section 68.96 Emergency response exercises.**

(a) Notification exercises. At least once each calendar year, the owner or operator of a stationary source with any Program 2 or Program 3 process shall conduct an exercise of the stationary source's emergency response notification mechanisms required under Section 68.90(b)(3) or Section 68.95(a)(1)(i), as appropriate, before December 19, 2024, and annually thereafter. Owners or operators of responding stationary sources may perform the notification exercise as part of the tabletop and field exercises required in paragraph (b) of this section. The owner/operator shall maintain a written record of each notification exercise conducted over the last five (5) years.

(b) Emergency response exercise program. The owner or operator of a stationary source subject to the requirements of Section 68.95 shall develop and implement an exercise program for its emergency response program, including the plan required under Section 68.95(a)(1). Exercises shall involve facility emergency response personnel and, as appropriate, emergency response contractors. When planning emergency response field and tabletop exercises, the owner or operator shall coordinate with local public emergency response officials and invite them to participate in the exercise. The emergency response exercise program shall include:

(1) Emergency response field exercises. The owner or operator shall conduct field exercises involving the simulated accidental release of a regulated substance (i.e., toxic substance release or release of a regulated flammable substance involving a fire and/or explosion).

(i) Frequency. As part of coordination with local emergency response officials required by Section 68.93, the owner or operator shall consult with these officials to establish an appropriate frequency for field exercises.

(ii) Scope. Field exercises shall involve tests of the source's emergency response plan, including deployment of emergency response personnel and equipment. Field exercises should include: Tests of procedures to notify the public and the appropriate federal, state, and local emergency response agencies about an accidental release; tests of procedures and measures for emergency response actions including evacuations and medical treatment; tests of communications systems; mobilization of facility emergency response personnel, including contractors, as appropriate; coordination with local emergency responders; emergency response equipment deployment; and any other action identified in the emergency response program, as appropriate.

(2) Tabletop exercises. The owner or operator shall conduct a tabletop exercise involving the simulated accidental release of a regulated substance.

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(i) Frequency. As part of coordination with local emergency response officials required by Section 68.93, the owner or operator shall consult with these officials to establish an appropriate frequency for tabletop exercises, and shall conduct a tabletop exercise before December 21, 2026, and at a minimum of at least once every three (3) years thereafter.

(ii) Scope. Tabletop exercises shall involve discussions of the source's emergency response plan. The exercise should include discussions of: Procedures to notify the public and the appropriate federal, state, and local emergency response agencies; procedures and measures for emergency response including evacuations and medical treatment; identification of facility emergency response personnel and/or contractors and their responsibilities; coordination with local emergency responders; procedures for emergency response equipment deployment; and any other action identified in the emergency response plan, as appropriate.

(3) Documentation. The owner or operator shall prepare an evaluation report within ninety (90) days of each field and tabletop exercise. The report should include: A description of the exercise scenario; names and organizations of each participant; an evaluation of the exercise results including lessons learned; recommendations for improvement or revisions to the emergency response exercise program and emergency response program, and a schedule to promptly address and resolve recommendations.

(c) Alternative means of meeting exercise requirements. The owner or operator may satisfy the requirement to conduct notification, field and/or tabletop exercises through:

(1) Exercises conducted to meet other federal, state, or local exercise requirements, provided the exercises meet the requirements of paragraphs (a) and/or (b) of this section, as appropriate.

(2) Response to an accidental release, provided the response includes the actions indicated in paragraphs (a) and/or (b) of this section, as appropriate. When used to meet field and/or tabletop exercise requirements, the owner or operator shall prepare an after-action report comparable to the exercise evaluation report required in paragraph (b)(3) of this section, within ninety (90) days of the incident.

**Regulation 61-62.68.96-99 shall be revised as follows:**

**Section 68.97-99 [Reserved]**

**Regulation 61-62.68.115(b)(2)(i) shall be revised as follows:**

(i) General provision. If a regulated substance is present in a mixture and the concentration of the substance is below one percent by weight of the mixture, the mixture need not be considered when determining whether more than a threshold quantity of the regulated substance is present at the stationary source. Except as provided in paragraph (b)(2)(ii) and (b)(2)(iii) of this section, if the concentration of the substance is one percent or greater by weight of the mixture, then, for purposes of determining whether a threshold quantity is present at the stationary source, the entire weight of the mixture shall be treated as the regulated substance unless the owner or operator can demonstrate that the mixture itself does not have a National Fire Protection Association flammability hazard rating of 4. The demonstration shall be in accordance with the definition of flammability hazard rating 4 in the NFPA 704, Standard System for the Identification of the Hazards of Materials for Emergency Response, National Fire Protection Association, Quincy, MA, 1996. Available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-O8, Waterside Mall, 401 M. St. SW., Washington DC; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). Boiling point and flash point shall be defined and determined in accordance with NFPA 30, Flammable and Combustible Liquids Code, National Fire Protection Association, Quincy, MA, 1996. Available from the National Fire



Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-O8, Waterside Mall, 401 M. St. SW., Washington DC; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). The owner or operator shall document the National Fire Protection Association flammability hazard rating.

**Regulation 61-62.68.125 shall be revised as follows:**

Agricultural nutrients. Ammonia used as an agricultural nutrient, when held by farmers, is exempt from all provisions of Regulation 61-62.68.

**Regulation 61-62.68.126 shall be revised as follows:**

Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities. A flammable substance listed in Tables 3 and 4 of Section 68.130 is nevertheless excluded from all provisions of Regulation 61-62.68 when the substance is used as a fuel or held for sale as a fuel at a retail facility.

**Regulation 61-62.68.130(a) shall be revised as follows:**

(a) Regulated toxic and flammable substances under Section 112(r) of the Clean Air Act are the substances listed in Tables 1, 2, 3, and 4. Threshold quantities for listed toxic and flammable substances are specified in the tables.

**Regulation 61-62.68.150(a) shall be revised as follows:**

(a) The owner or operator shall submit a single RMP that includes the information required by Sections 68.155 through 68.185 for all covered processes. The RMP shall be submitted in the method and format to the central point specified by EPA as of the date of submission.

**Regulation 61-62.68.150(c) shall be revised as follows:**

(c) The owner or operator of any stationary source for which an RMP was submitted before June 21, 2004, shall revise the RMP to include the information required by Sections 68.160(b)(6) and (14) by June 21, 2004, in the manner specified by EPA prior to that date. Any such submission shall also include the information required by Sections 68.160(b)(20) (indicating that the submission is a correction to include the information required by Sections 68.160(b)(6) and (14) or an update under Sections 68.190).

**Regulation 61-62.68.150(d) shall be revised as follows:**

(d) RMPs submitted under this section shall be updated and corrected in accordance with Sections 68.190 and 68.195.

**Regulation 61-62.68.151(a) shall be revised as follows:**

(a) Except as provided in paragraph (b) of this section, an owner or operator of a stationary source required to report or otherwise provide information under Regulation 61-62.68 may make a claim of confidential business information for any such information that meets the criteria set forth in 40 CFR 2.301.

**Regulation 61-62.68.151(b)(1) shall be revised as follows:**

(1) Registration data required by Section 68.160(b)(1) through (b)(6) and (b)(8), (b)(10) through (b)(13), and (b)(21), and NAICS code and Program level of the process set forth in Section 68.160(b)(7);

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### **Regulation 61-62.68.151(c)(2) shall be revised as follows:**

(2) A sanitized (redacted) copy of the RMP, with the notation "CBI" substituted for the information claimed confidential, except that a generic category or class name shall be substituted for any chemical name or identity claimed confidential; and

### **Regulation 61-62.68.160(b) shall be revised as follows:**

(b) The registration shall include the following data:

(1) Stationary source name, street, city, county, state, zip code, latitude and longitude, method for obtaining latitude and longitude, and description of location that latitude and longitude represent;

(2) The stationary source Dun and Bradstreet number;

(3) Name and Dun and Bradstreet number of the corporate parent company;

(4) The name, telephone number, and mailing address of the owner or operator;

(5) The name and title of the person or position with overall responsibility for RMP elements and implementation, and (optional) the e-mail address for that person or position;

(6) The name, title, telephone number, 24 - hour telephone number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists) of the emergency contact;

(7) For each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process, and the Program level of the process;

(8) The stationary source EPA identifier;

(9) The number of full-time employees at the stationary source;

(10) Whether the stationary source is subject to 29 CFR 1910.119;

(11) Whether the stationary source is subject to 40 CFR Part 355;

(12) If the stationary source has a CAA Title V operating permit, the permit number;

(13) The date of the last safety inspection of the stationary source by a federal, state, or local government agency and the identity of the inspecting entity;

(14) As of June 21, 2004, the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any);

(15) Source or Parent Company E-mail Address (Optional);

(16) Source Homepage address (Optional);

(17) Phone number at the source for public inquiries (Optional);

(18) Local Emergency Planning Committee (Optional);

(19) OSHA Voluntary Protection Program status (Optional);

(20) As of June 21, 2004, the type of and reason for any changes being made to a previously submitted RMP; the types of changes to RMP are categorized as follows:

(i) Updates and re-submissions required under Section 68.190(b);

(ii) Corrections under Section 68.195 or for purposes of correcting minor clerical errors, updating administrative information, providing missing data elements or reflecting facility ownership changes, and which do not require an update and re-submission as specified in Section 68.190(b);

(iii) De-registrations required under Section 68.190(c); and

(iv) Withdrawals of an RMP for any facility that was erroneously considered subject to Regulation 61-62.68.

(21) Whether a public meeting has been held following an RMP reportable accident, pursuant to Section 68.210(b).

**Regulation 61-62.68.165(b)(5) shall be revised as follows:**

(5) Scenario (explosion, fire, toxic gas release, or liquid spill and evaporation);

**Regulation 61-62.68.168 shall be revised as follows:**

The owner or operator shall submit in the RMP the information provided in Section 68.42(b) on each accident covered by Section 68.42(a).

**Regulation 61-62.68.170(j) shall be revised as follows:**

(j) The completion date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation.

**Regulation 61-62.68.175(e) shall be revised as follows:**

(e) The date of completion of the most recent Process Hazard Analysis (PHA) or update and the technique used.

**Regulation 61-62.68.175(l) shall be revised as follows:**

(l) The completion date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation;

**Regulation 61-62.68.180 shall be revised as follows:**

**Section 68.180 Emergency response program and exercises.**

(a) The owner or operator shall provide in the RMP:

(1) Name, phone number, and email address of local emergency planning and response organizations with which the stationary source last coordinated emergency response efforts, pursuant to Section 68.10(g)(3) or Section 68.93;

(2) The date of the most recent coordination with the local emergency response organizations, pursuant to

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Section 68.93; and

(3) A list of federal or state emergency plan requirements to which the stationary source is subject.

(b) The owner or operator shall identify in the RMP whether the facility is a responding stationary source or a non-responding stationary source, pursuant to Section 68.90.

(1) For non-responding stationary sources, the owner or operator shall identify:

(i) For stationary sources with any regulated toxic substance held in a process above the threshold quantity, whether the stationary source is included in the community emergency response plan developed under 42 U.S.C. 11003, pursuant to Section 68.90(b)(1);

(ii) For stationary sources with only regulated flammable substances held in a process above the threshold quantity, the date of the most recent coordination with the local fire department, pursuant to Section 68.90(b)(2);

(iii) What mechanisms are in place to notify the public and emergency responders when there is a need for emergency response; and

(iv) The date of the most recent notification exercise, as required in Section 68.96(a).

(2) For responding stationary sources, the owner or operator shall identify:

(i) The date of the most recent review and update of the emergency response plan, pursuant to Section 68.95(a)(4);

(ii) The date of the most recent notification exercise, as required in Section 68.96(a);

(iii) The date of the most recent field exercise, as required in Section 68.96(b)(1); and

(iv) The date of the most recent tabletop exercise, as required in Section 68.96(b)(2).

### **Regulation 61-62.68.190(a) shall be revised as follows:**

(a) The owner or operator shall review and update the RMP as specified in paragraph (b) of this section and submit it in the method and format to the central point specified by EPA as of the date of submission.

### **Regulation 61-62.68.195(a) shall be revised as follows:**

(a) New accident history information—For any accidental release meeting the five-year accident history reporting criteria of Section 68.42 and occurring after April 9, 2004, the owner or operator shall submit the data required under Sections 68.168, 68.170(j), and 68.175(l) with respect to that accident within six months of the release or by the time the RMP is updated under Section 68.190, whichever is earlier.

### **Regulation 61-62.68.195(b) shall be revised as follows:**

(b) Emergency contact information—Beginning June 21, 2004, within one month of any change in the emergency contact information required under Section 68.160(b)(6), the owner or operator shall submit a correction of that information.

### **Regulation 61-62.68.200 shall be revised as follows:**

The owner or operator shall maintain records supporting the implementation of Regulation 61-62.68 at the

stationary source for five years, unless otherwise provided in Subpart D.

**Regulation 61-62.68.210(a) shall be revised as follows:**

(a) RMP availability. The RMP required under Subpart G shall be available to the public under 42 U.S.C. 7414(c) and 40 CFR Part 1400.

**Regulation 61-62.68.210(b) shall be revised as follows:**

(b) Public meetings. The owner or operator of a stationary source shall hold a public meeting to provide information required under Section 68.42(b), no later than ninety (90) days after any RMP reportable accident at the stationary source with any known offsite impact specified in Section 68.42(a).

(c) Classified and restricted information. The disclosure of information classified or restricted by the Department of Defense or other federal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of that classified or restricted information.

**Regulation 61-62.68.215(a) shall be revised as follows:**

(a) These requirements apply to any stationary source subject to Regulation 61-62.68 and Regulation 61-62.70. The Regulation 61-62.70 permit for the stationary source shall contain:

(1) A statement listing Regulation 61-62.68 as an applicable requirement;

(2) Conditions that require the source owner or operator to submit:

(i) A compliance schedule for meeting the requirements of Regulation 61-62.68 by the date provided in Sections 68.10(a) through (f) and 68.96(a) and (b)(2)(i), or;

(ii) As part of the compliance certification submitted under Section 61-62.70.6(c)(5), a certification statement that the source is in compliance with all requirements of Regulation 61-62.68, including the registration and submission of the RMP.

**Regulation 61-62.68.215(c) shall be revised as follows:**

(c) For Regulation 61-62.70 permits issued prior to the deadline for registering and submitting the RMP and which do not contain permit conditions described in paragraph (a) of this section, the owner or operator or the Department shall initiate permit revision or reopening according to the procedures of Section 61-62.70.7 to incorporate the terms and conditions consistent with paragraph (a) of this section.

**Regulation 61-62.68.215(d) and (e) shall be revised as follows:**

(d) The Department may delegate the authority to implement and enforce the requirements of paragraph (e) of this section to a state or local agency or agencies other than the Department. An up-to-date copy of any delegation instrument shall be maintained by the Department. The state may enter a written agreement with the Administrator under which EPA will implement and enforce the requirements of paragraph (e) of this section.

(e) The Department will, at a minimum:

(1) Verify that the source owner or operator has registered and submitted an RMP or a revised plan when required by Regulation 61-62.68;

(2) Verify that the source owner or operator has submitted a source certification or in its absence has submitted

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a compliance schedule consistent with paragraph (a)(2) of this section;

(3) For some or all of the sources subject to this section, use one or more mechanisms such as, but not limited to, a completeness check, source audits, record reviews, or facility inspections to ensure that permitted sources are in compliance with the requirements of Regulation 61-62.68; and

(4) Initiate enforcement action based on paragraphs (e)(1) and (e)(2) of this section as appropriate.

### **Regulation 61-62.68.220 shall be revised as follows:**

(a) In addition to inspections for the purpose of regulatory development and enforcement of the Act, the Department will periodically audit RMPs submitted under Subpart G to review the adequacy of such RMPs and require revisions of RMPs when necessary to ensure compliance with Subpart G.

(b) The Department will select stationary sources for audits based on any of the following criteria:

(1) Accident history of the stationary source;

(2) Accident history of other stationary sources in the same industry;

(3) Quantity of regulated substances present at the stationary source;

(4) Location of the stationary source and its proximity to the public and environmental receptors;

(5) The presence of specific regulated substances;

(6) The hazards identified in the RMP; and

(7) A plan providing for neutral, random oversight.

(c) Exemption from audits. A stationary source with a Star or Merit ranking under OSHA's voluntary protection program shall be exempt from audits under paragraphs (b)(2) and (b)(7) of this section.

(d) The owner or operator of a stationary source subject to Regulation 61-62.68 shall provide the Department access to the stationary source, supporting documentation, and any area where an accidental release could occur.

(e) Based on the audit, the Department may issue the owner or operator of a stationary source a written preliminary determination of necessary revisions to the stationary source's RMP to ensure that the RMP meets the criteria of Subpart G. The preliminary determination shall include an explanation for the basis for the revisions, reflecting industry standards and guidelines (such as AIChE/CCPS guidelines and ASME and API standards) to the extent that such standards and guidelines are applicable, and shall include a timetable for their implementation.

(f) Written response to a preliminary determination.

(1) The owner or operator shall respond in writing to a preliminary determination made in accordance with paragraph (e) of this section. The response shall state the owner or operator will implement the revisions contained in the preliminary determination in accordance with the timetable included in the preliminary determination or shall state that the owner or operator rejects the revisions in whole or in part. For each rejected revision, the owner or operator shall explain the basis for rejecting such revision. Such explanation may include substitute revisions.

(2) The owner or operator shall provide to the Department the written response under paragraph (f)(1), within

ninety (90) days of the issue of the preliminary determination or a shorter period of time as the Department specifies in the preliminary determination as necessary to protect public health and the environment. Prior to the written response being due and upon written request from the owner or operator, the Department may provide in writing additional time for the response to be received.

(g) After providing the owner or operator an opportunity to respond under paragraph (f) of this section, the Department may issue the owner or operator a written final determination of necessary revisions to the stationary source's RMP. The final determination may adopt or modify the revisions contained in the preliminary determination under paragraph (e) of this section or may adopt or modify the substitute revisions provided in the response under paragraph (f) of this section. A final determination that adopts a revision rejected by the owner or operator shall include an explanation of the basis for the revision. A final determination that fails to adopt a substitute revision provided under paragraph (f) of this section shall include an explanation of the basis for finding such substitute revision unreasonable.

(h) Thirty (30) days after completion of the actions detailed in the implementation schedule set in the final determination under paragraph (g) of this section, the owner or operator shall be in violation of Subpart G and this section unless the owner or operator revises the RMP prepared under Subpart G as required by the final determination, and submits the revised RMP as required under Section 68.150.

(i) The public shall have access to the preliminary determinations, responses, and final determinations under this section in a manner consistent with Section 68.210.

(j) Nothing in this section shall preclude, limit, or interfere in any way with the authority of EPA, the Department to exercise its enforcement, investigatory, and information gathering authorities concerning Regulation 61-62.68 under other state or federal statutes.

**Statement of Need and Reasonableness:**

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: Amendment of R.61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (SIP).

Purpose: The EPA promulgated amendments to national air quality regulations in 2019. The recent federal amendments include clarification, guidance, and technical revisions to requirements for NSPS mandated by 42 U.S.C. Section 7411, and for federal NESHAP for Source Categories mandated by 42 U.S.C. Section 7412. The Department, therefore, amends R.61-62 to incorporate these amendments to federal standards promulgated from January 1, 2019, through December 31, 2019. Additionally, the Department amends R.61-62.60 to add Subpart UUUUa, "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," to facilitate implementation of the federal ACE rule and ensure compliance with federal law. The Department also amends R.61-62.68 to adopt amendments to the corresponding federal regulations at 40 CFR Part 68 to ensure compliance with those regulations. The Department makes corrections for internal consistency, clarification, and codification, to improve the overall text as necessary to maintain compliance with federal law.

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

Plan for Implementation: Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendments and any associated information. The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to these amendments. Additionally, printed copies are available for a fee from the Department's Freedom of Information Office.

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

The EPA promulgates amendments to its air quality regulations throughout each calendar year. Federal amendments in 2019 included revised NSPS rules and NESHAPs for Source Categories. South Carolina is mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both state and federal regulations. The amendments also include amending R.61-62.60 to add Subpart UUUUa, "Performance Standards and Compliance Times for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," to facilitate implementation of the federal ACE rule and ensure compliance with federal law. The revisions also include amending R.61-62.68 to adopt amendments to the corresponding federal regulations at 40 CFR Part 68, to ensure compliance with those regulations. The Department also makes corrections for internal consistency, clarification, and codification, to improve the overall text as necessary to maintain compliance with federal law.

### DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increase in costs to the state or its political subdivisions resulting from these revisions. The NSPS, NESHAP, and Chemical Accident Prevention standards to be adopted are already in effect and applicable to the regulated community as a matter of federal law, thus the amendments do not present a new cost to the regulated community. The Department must incorporate amendments to the federal regulations because the EPA has delegated South Carolina authority for implementation and enforcement of these federal regulations. Federal law also requires South Carolina's adoption of a state plan for compliance with EPA's ACE rule. The Department proposes the addition of Subpart UUUUa to R.61-62.60 to facilitate required implementation of the ACE rule. Costs to the regulated community resulting from this amendment are attributable to and required by the federal ACE rule and discussed therein.

The amendments incorporate revisions to the EPA regulations, which the Department implements pursuant to the authority granted by Section 48-1-50 of the Pollution Control Act. The amendments will benefit the regulated community by clarifying and updating the regulations and increasing their ease of use.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the recent changes in federal regulations through the amendments to R.61-62 will provide continued protection of the environment and public health.

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

The state's authority to implement federal requirements, which are beneficial to the public health and environment, would be compromised if these amendments are not adopted.