

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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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.

THE 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 OF THE SOUTH CAROLINA STATE REGISTER

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 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.

1999 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

All documents appearing in the South Carolina *State Register* are prepared and printed at public expense. There are no restrictions on the re-publication of official documents appearing in the *State Register*. All media services are especially encouraged to give wide publicity to all documents printed in the *State Register*.

Public Inspection of Documents

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Certificate

Pursuant to Section 1-23-20, Code of Laws of South Carolina, 1976, this issue contains all previously unpublished documents required to be published and filed before the closing date of the issue.

Lynn P. Bartlett
Editor

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 renewable once.

SUBSCRIPTIONS

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Enclosed is my check or money order for \$_____. Date _____

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REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

Pending as of August 17, 1999 1

GOVERNOR’S EXECUTIVE ORDERS

No. 99-33: South Carolina Technology Initiative 2000.....2
 No. 99-34: South Carolina Military Assistance Council3
 No. 99-35: James T. Coursey Appointed Coroner of Greenwood County4
 No. 99-36: Louisa G. Wardlaw Removed From Governor’s Mansion and Lace House Commission.....5
 No. 99-37: Gordon M. Badgley Removed and Isadore Edward Lourie Appointed as the At-Large
 Chairman of the South Carolina Museum Commission5
 No. 99-38: South Carolina Commission on Teacher Quality Created.....6

NOTICES

EDUCATION, DEPARTMENT OF

ERRATA: Special Education, Education of Students with Disabilities9

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Certificate of Need.....9
 Embedded Microprocessors and the Year 200013
 Underground Storage Tank Site Rehabilitation Contractors14

NOTICES OF DRAFTING REGULATIONS

EDUCATION, DEPARTMENT OF

School Bus Driver Training and Certification15
 Facility Specifications.....15
 Vocational-Technical Education FY2001-200416

EMPLOYMENT SECURITY COMMISSION

Contributions, Collection Authority, Update Chapter.....16

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Environmental Protection Fees17
 Hazardous Waste Management.....19
 Solid Waste Processing Facilities19
 X-Rays20

REVENUE, DEPARTMENT OF

Jurisdiction of the Comptroller General and the Department of Revenue.....21

TRANSPORTATION, DEPARTMENT OF

Disadvantaged Business Enterprise Program.....21
 Specific Information Service Signing22

TABLE OF CONTENTS

PROPOSED REGULATIONS

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Document No. 2442: Chemical Accident Prevention Provisions 23
Document No. 2443: Hazardous Waste Management 27
Document No. 2444: Medical Waste Combustion, Definitions and General Requirements 36

EMERGENCY REGULATIONS

LABOR, LICENSING AND REGULATION, DEPARTMENT OF

Contractor’s Licensing Board

Document No. 2446: Owner Prepared Financial Statement 43

Manufactured Housing Board

Document No. 2447: Fees 44

TRANSPORTATION, DEPARTMENT OF

Document No. 2448: Disadvantaged Business Enterprise Program 45

FINAL REGULATIONS

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Document No. 2436: Radioactive Materials 48

LABOR, LICENSING AND REGULATION, DEPARTMENT OF

Labor Division

Document No. 2445: Occupational Safety and Health Standards 58

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date

**The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: www.lpitr.state.sc.us**

DOC NO.	SUBJECT	EXP. DATE	AGENCY
2400	Computing Experience for Teachers	1 23 00	Board of Education
2350	Subdivision Water & Sewage	2 01 00	Health and Envir Control
2427	Principal Induction Program	3 11 00	Board of Education
2425	Textbook Adoption	3 11 00	Board of Education
2424	Summer Programs	3 13 00	Board of Education
2430	Hunt Units and Wildlife Management	3 13 00	Dept of Natural Resources
2429	Breathalyzer Tests	3 26 00	Law Enforcement Division
2428	Alcoholic Beverages Culinary Course	3 29 00	Higher Education

REQUEST FOR AN ASSESSMENT REPORT (120 DAY REVIEW PERIOD TOLLED)

DOC NO.	DATE	SUBJECT	AGENCY
2248	4 14 99	Primary and Substantial Portion (Video Game Machines)	Dept of Revenue

REQUEST TO WITHDRAW (120 DAY REVIEW PERIOD TOLLED)

DOC NO.	DATE	SUBJECT	AGENCY
2193	2 11 98	Video Poker; Def "Single Place" ...	Dept of Revenue

RESOLUTIONS INTRODUCED TO DISAPPROVE:(120 DAY REVIEW PERIOD TOLLED)

DOC NO.	DATE	SUBJECT	AGENCY
1984	1 14 99	Principal Evaluation	Board of Education
1981	1 14 99	Policy Development	Board of Education
2360	5 20 99	LIFE Scholarship	Higher Education

WITHDRAWN:

DOC NO.	DATE	SUBJECT	AGENCY
2372	6 22 99	Procedures for Contested Cases	Health and Envir Control

2 EXECUTIVE ORDERS

No. 99-33

WHEREAS, the economic well-being of South Carolina's citizens is a matter of paramount public interest, and

WHEREAS, for South Carolina to prosper in the 21st century it must become a recognized leader in attracting, creating, growing, and retaining world class technology-intensive companies, and

WHEREAS, the 1997 report *Strategies for Developing a Knowledge-based Economy* defined the strategic direction needed to nurture a knowledge-based economy in South Carolina, and

WHEREAS, implementing bold new strategies will require leadership, vision, and a passion for achieving sustainable results which can be accomplished only through strong partnerships involving industry, schools, institutions of higher learning, and government.

NOW, THEREFORE, I hereby call upon the South Carolina Technology Alliance, a public/private partnership sharing my vision for the future in this vital area, to develop and create *South Carolina Technology Initiative 2000*, a comprehensive plan addressing policy, legislation, and funding initiatives which will lead South Carolina boldly into the 21st century.

MOREOVER, *South Carolina Technology Initiative 2000* should concentrate on strategies which will:

- (1) create new academic programs at our State's research universities to address critical shortages of technology-intensive workers for industries identified by the South Carolina Department of Commerce,
- (2) increase the length and academic content of value-added Special Schools training programs up to the associate degree level through the nationally recognized State Board for Technical and Comprehensive Education,
- (3) promote technology careers, and
- (4) provide for stronger linkages between South Carolina's colleges, universities, and research institutions and the state's businesses and industries.

IN ADDITION, the report should address initiatives which will:

- (1) promote the growth of technology-related businesses,
- (2) stimulate research and development, and
- (3) expand the infrastructure required to support increasingly complex and sophisticated technology-based operations.

FURTHERMORE, the South Carolina Department of Commerce is hereby authorized to allocate or reallocate, to the extent possible, funds to any South Carolina research university for the purpose of creating and enhancing academic programs which address critical shortages of trained workers in technology-related fields and to the South Carolina Technical and Comprehensive Education System to support high technology Special Schools training programs.

IT IS FURTHER DIRECTED that all state agencies, public schools, and institutions of higher learning place a high priority on cooperating and providing assistance to the Alliance, and to the extent possible, state agencies may allocate or reallocate existing funds, to the extent possible, for the express purpose of enhancing or facilitating those initiatives identified by the South Carolina Technology Alliance as critical to the development of a globally competitive, knowledge-based economy for South Carolina. In addition, business, industry, and other organizations are strongly encouraged to support and assist the Alliance in this important endeavor.

South Carolina Technology Initiative 2000 should be presented to the Governor, State Senate, and House of Representatives by December 1, 1999.

This order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 9th DAY OF
JULY, 1999.**

**JIM HODGES
Governor**

No. 99-34

WHEREAS, the manpower resources of the State of South Carolina are vital to the economic growth of the State; and

WHEREAS, a partnership between the private sector, the military services and government is necessary to improve economic development and job creation; and

WHEREAS, military reduction of forces has a definite impact on the State's economy; and

WHEREAS, the military is a unique source of well-trained and highly motivated workers, who have proven capability to move into the private sector and contribute; and

WHEREAS, the nation and the State have recognized the importance of transition assistance for veterans as they return to the private sector for jobs, training, and education; and

WHEREAS, the coordination of the employment, training, and education must be properly planned and properly executed to ensure the smooth transition of military personnel and their family members from the military services into the State of South Carolina's workforce and educational institutions; and

WHEREAS, coordination of transition services is essential to assure minimal impact on the economy of the State of South Carolina; and

WHEREAS, military installations and facilities are integral components of local municipalities providing positive partnership in the social and economic realm; and

WHEREAS, facilitating the interaction of military installation leadership with local, county, and state government and private sector leadership is instrumental in maintaining the viability of the Department of Defense presence in South Carolina; and

WHEREAS, this partnership is vital to the strategic planning and development of the resources and communities associated with this State's military installations.

4 EXECUTIVE ORDERS

NOW, THEREFORE, by virtue of the powers vested in me by the Constitution and Laws of this State, I hereby establish the South Carolina Military Assistance Council to coordinate the efforts of the military, private sector, and government in all military matters that affect South Carolina.

The South Carolina Military Assistance Council shall be comprised of individuals from state and federal levels. The Chairman of the Council shall be the Executive Director of the S.C. Employment Security Commission and the Vice Chairman shall be the Executive Director of the S.C. Department of Vocational Rehabilitation. The remaining members of the Council shall be: the Secretary of the S.C. Department of Commerce; the Executive Director of the S.C. Commission on Higher Education or his designee; a designee from the S.C. Employment Security Commission; the Executive Director of the S.C. State Board for Technical & Comprehensive Education, or his designee; the State Superintendent of Education, or her designee; the Director of the S.C. Department of Parks, Recreation, & Tourism, or his designee; the Director of the Office of Veterans Affairs; the Executive Director of the S.C. State Budget and Control Board, or his designee; the Director of the S.C. Department of Social Services, or her designee; a representative from the South Carolina Adjutant General's office; a representative from the U.S. Veterans Administration, Columbia Regional Office; the Military Base Development Manager of the S.C. State Budget and Control Board; a representative from the U.S. Small Business Administration; a representative from the S.C. Small Business Development Center; a representative from the U.S. Department of Labor's Veterans Employment and Training Service; a representative from the S.C. Chamber of Commerce; a representative from the S.C. Department of Veterans of Foreign Wars; a representative from the S.C. Department of Disabled American Veterans; and a representative from the S.C. Department of American Legion, and representatives from each of the State's military installations.

This Order supersedes the terms of Executive Order 93-08 and shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 9th DAY OF
JULY, 1999.**

JIM HODGES
Governor

No. 99-35

WHEREAS, Fred Teeter has resigned as Greenwood County Coroner, effective immediately; and

WHEREAS, the undersigned is authorized to appoint a County Coroner in the event of a vacancy pursuant to Code of Laws of South Carolina (1976), as amended, Sections 1-3-220(2) (Supp. 1998), 4-11-20(1) and 17-5-50; and

WHEREAS, James T. Coursey of 422 Trestle Road, Greenwood, South Carolina 29649, is a fit and proper person to serve as the Greenwood County Coroner.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint James T. Coursey as Coroner of Greenwood County until the next general election and until his successor shall qualify.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 19th DAY OF
JULY, 1999.**

JIM HODGES
Governor

No. 99-36

WHEREAS, S.C. Code Ann. § 1-3-240(B) states: "[a]ny person appointed to a state office by a Governor, either with or without the advice and consent of the Senate, other than those officers enumerated in subsection (C), may be removed from office by the Governor at his discretion by an Executive Order removing the officer"; and

WHEREAS, membership on the Governor's Mansion and Lace House Commission is a state office created by S.C. Code Ann. § 10-3-10 that is not listed among the exempt state offices enumerated in S.C. Code Ann. § 1-3-240(C); and

WHEREAS, Louisa G. Wardlaw of 18 Formisa Drive, Charleston, South Carolina 29407, was previously named as member of the Governor's Mansion and Lace House Commission by a Governor of this State.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina, I hereby remove Louisa G. Wardlaw from the Governor's Mansion and Lace House Commission and declare the office vacant.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 19th DAY OF
JULY, 1999.**

JIM HODGES
Governor

No. 99-37

WHEREAS, S.C. Code Ann. § 1-3-240(B) states: "[a]ny person appointed to a state office by a Governor, either with or without the advice and consent of the Senate, other than those officers enumerated in subsection (C), may be removed from office by the Governor at his discretion by an Executive Order removing the officer"; and

WHEREAS, the undersigned is authorized to appoint nine members of the South Carolina Museum Commission for a term of four years and in the event of a vacancy pursuant to Code of Laws of South Carolina (1976), as amended, Section 60-13-10 (Supp. 1998); and

6 EXECUTIVE ORDERS

WHEREAS, Gordon M. Badgley of Charleston, South Carolina, was previously named as the At-Large Chairman of the South Carolina Museum Commission by a Governor of this State; and

WHEREAS, Isadore Edward Lourie of 420 Catesby Circle, Columbia, South Carolina 29206, is a fit and proper person to serve as the At-Large Chairman of the South Carolina Museum Commission.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby remove Gordon M. Badgley from the South Carolina Museum Commission and appoint Isadore Edward Lourie of Columbia as the At-Large Chairman of the South Carolina Museum Commission.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 5th DAY OF
AUGUST, 1999.**

JIM HODGES
Governor

No. 99-38

WHEREAS, the education of our children is an issue fundamental to South Carolina's future and its quality of life; and

WHEREAS, the State of South Carolina has taken bold steps in reform and accountability, the success of which depend on the quality of the teachers in our schools and the training and support they receive; and

WHEREAS, our State must continue to improve its primary, secondary, and higher education systems.

NOW, THEREFORE, by virtue of the powers conferred upon me by the Constitution and Statutes of the State, I hereby create the South Carolina Commission on Teacher Quality, which is to serve as a body for reviewing issues concerning the training, recruitment, retention, and continuing education of a quality teaching force. The initial members of the Commission are listed in the Attachment to this Order, which is hereby incorporated by reference.

The Commission for Teacher Quality shall be charged with the following:

1. Examining the existing programs and practices relating to teacher quality in South Carolina and their interaction and impact on teacher training, recruitment, and retention.
2. Reviewing model practices and national innovations in the training, recruitment, certification, and retention of teachers.
3. Identifying steps to better align and coordinate State efforts in the preparation, recruitment, and professional development of quality teachers.

4. Developing recommendations for guiding policy decisions regarding improvement in teacher training, recruitment, retention, certification, and professional development of quality teachers.

It is further ordered that the Commission on Teacher Quality shall provide a preliminary report on its findings and recommendations to the Governor for his consideration and review no later than December 1, 1999, and a final report no later than September 1, 2000. To assist in the implementation of its charge pursuant to this Order, the Commission may create such advisory committees or subcommittees as it deems necessary.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 6th DAY OF
AUGUST, 1999.**

**JIM HODGES
Governor**

8 EXECUTIVE ORDERS

ATTACHMENT TO EXECUTIVE ORDER NO. 99-38

The Commission will be chaired by Senator Nikki Setzler, and co-chaired by State Superintendent Inez Tenenbaum, and Larry Wilson, President of Policy Management Systems Corporation.

The other members of the Commission are as follows:

Rep. Ronny Townsend, Chair of House Education and Public Works Committee

Clavis Anderson, Teacher, Richland District 2, Milken National Educator

Phyllis O. Bonanno, President, Columbia College

Elliott Close, Rock Hill business and civic leader

Dr. Leroy Davis, President, South Carolina State University

Joe Erwin, President, Erwin-Penland Advertising Company

Vince Ford, Vice President, Palmetto Health Alliance, Richland 1 School Board

Herman Gaither, Executive Superintendent, Beaufort County School System

Lawrence Gressette, Commission on Higher Education, former CEO of SCANA

Dr. Sarah Lynn Hayes, Principal, Richmond Drive Elementary, Rock Hill District 3

Dr. Harry Lightsey, Commission on Higher Education,
former President, College of Charleston

Mary Lostetter, South Carolina Teacher of the Year

Darla Moore, USC Board of Trustees

Alex Sanders, President, College of Charleston

Minor M. Shaw, Wofford Board of Trustees, S.C. Board of Independent
Colleges and Universities

DEPARTMENT OF EDUCATION

ERRATA

243.1. Special Education, Education of Students with Disabilities

The amendment of R.43-243.1 published in the State Register, Volume 23, Issue No. 5 (May 28, 1999), is corrected so that section R.43-243.1.5(C)(4)(c) is amended to add (1) An assessment of the frequency of dysfluencies; (2) An assessment of the type of dysfluencies; (3) A description of the child's fluency patterns in another setting;

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication August 27, 1999, 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 Mr. Albert N. Whiteside, Director, Planning and Certification of Need Section, 2600 Bull St., Columbia, SC 29201 at (803) 737-7200.

Affecting Aiken County

Addition of three (3) nursing care beds which will not participate in the Medicaid (Title XIX) Program for a total of sixty (60) nursing home beds.

Carriage Hill Plantation and Rehabilitation Center

Aiken, South Carolina

Project Cost: \$ 6,000

Affecting Anderson County

Construction and renovation for the development of an adult open heart surgery program with two operating rooms and a third cardiac catheterization laboratory with the development of a therapeutic cardiac catheterization program.

Anderson Area Medical Center

Anderson, South Carolina

Project Cost: \$ 4,631,181

Affecting Beaufort County

Construction of an ambulatory surgery center with two (2) operating rooms for the single specialty of dermatology and related plastic surgical procedures.

Dermatology Surgery Center, LLC

Hilton Head Island, South Carolina

Project Cost: \$ 542,941

Affecting Charleston County

Construction of an ambulatory surgery center with two (2) operating rooms for the single specialty of otolaryngology services; purchase of a CT scanner.

ENT Surgery Center

Charleston, South Carolina

Project Cost: \$ 568,302

10 NOTICES

Affecting Greenville County

Establishment of an ambulatory surgery center with two (2) operating rooms for the single specialty of orthopaedic surgery.

The Carolina Orthopaedic Surgery Center

Greenville, South Carolina

Project Cost: \$ 2,628,074

Addition of eleven (11) nursing home beds which will not participate in the Medicaid (Title XIX) Program, for a total of 99 nursing home beds.

Magnolia Manor-Greenville

Greenville, South Carolina

Project Cost: \$ -0-

Construction of an addition to the Memorial Medical Office Building to house a second outpatient diagnostic cardiac catheterization laboratory.

Greenville Hospital System

Greenville, South Carolina

Project Cost: \$ 3,608,288

Affecting Horry County

Construction of an ambulatory surgery center with two (2) operating rooms and one (1) procedure room for the single specialty of urology.

Grand Strand Urology Surgery Center

Myrtle Beach, South Carolina

Project Cost: \$ 3,788,998

Affecting Lexington County

Construction of an additional thirty-six (36) nursing home beds in a separate building for Alzheimer=s patients which will not participate in the Medicaid (Title XIX) Program for a total licensed capacity of 388 nursing home beds.

Lexington Medical Center Extended Care

Lexington, South Carolina

Project Cost: \$ 3,388,494

Renovation of the existing facility to add a fourth operating room.

Outpatient Surgery Center of Lexington Medical Center in Irmo

Columbia, South Carolina

Project Cost: \$ 339,507

Affecting Richland County

Construction of 2 new patient floors for the addition of 54 general acute care beds for a total licensed capacity of 247 general acute care beds to include a new front entrance, relocating and expanding the ICU and creating a combination ICU/IICU

Providence Hospital

Columbia, South Carolina

Project Cost: \$ 29,755,028

Affecting York County

Renovation of surgical department to include renovation of six (6) operating rooms, and renovation/expansion of the recovery room, post-operative area, physician/staff lounges and locker room, and associated operating room support area; lease of mobile cardiac catheterization laboratory during renovation phase of project.

Piedmont Healthcare System
Rock Hill, South Carolina
Project Cost: \$ 3,898,507

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning August 27, 1999. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Planning and Certification of Need Section, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 737-7200.

Affecting Aiken County

Addition of three (3) nursing care beds which will not participate in the Medicaid (Title XIX) Program for a total of sixty (60) nursing home beds.

Carriage Hill Plantation and Rehabilitation Center
Aiken, South Carolina
Project Cost: \$ 6,000

Affecting Anderson County

Construction and renovations for the development of an open heart surgery program with two operating rooms and a third cardiac catheterization laboratory with the development of a therapeutic Cardiac Catheterization program.

Anderson Area Medical Center
Anderson, South Carolina
Project Cost: \$ 4,631,181

Affecting Beaufort County

Construction of an ambulatory surgery center with two (2) operating rooms for the single specialty of dermatology and related plastic surgical procedures.

Dermatology Surgery Center, LLC
Hilton Head Island, South Carolina
Project Cost: \$ 542,941

Affecting Darlington County

Establishment of an ambulatory surgery center with two (2) suites restricted to endoscopy and related procedures.

Darlington Endoscopy Center
Darlington, South Carolina
Project Cost: \$ 99,245

12 NOTICES

Affecting Lexington County

Renovation of the existing facility to add a fourth operating room.
Outpatient Surgery Center of Lexington Medical Center in Irmo
Columbia, South Carolina
Project Cost: \$ 339,507

Affecting Richland County

Construction of 2 new patient floors for the addition of 54 general acute care beds for a total licensed capacity of 247 general acute care beds to include a new front entrance, relocating and expanding the ICU and creating a combination ICU/IICU.
Providence Hospital
Columbia, South Carolina
Project Cost: \$ 29,755,028

Renovation and expansion of the hospital's labor and delivery areas located on the fourth floor of Five Richland Medical Park and the North Tower.
Palmetto Richland Memorial Hospital
Columbia, South Carolina
Project Cost: \$ 6,555,985

Affecting Union County

Purchase of a dual head camera system and renovation and expansion of the Nuclear Medicine Imaging Program.
Wallace Thomson Hospital
Union, South Carolina
Project Cost: \$ 818,525

**South Carolina Department of Health and
Environmental Control**

**Notice to the Regulated Community Concerning Embedded Microprocessors
and the Year 2000**

The South Carolina Department of Health and Environmental Control is actively working to assure all agency computer hardware and software systems will continue to function in the year 2000 and beyond. As part of that effort, the agency hereby advises the regulated community of potential problems with microprocessor-controlled equipment and devices used in the conduct of their business.

Information systems (hardware and software) used for essential business activities should be assessed for Year 2000 compliance, and, if necessary, renovated or replaced to achieve compliance. This includes devices, such as laboratory and communication equipment, which contain a microprocessor. It is possible these devices may not work properly after the year 2000, and could affect your compliance with state and federal regulations.

You are encouraged to contact the manufacturers of any such devices and obtain a Year 2000 Certification for the equipment. Many certifications are already posted on the companies' world-wide web sites.

If you have questions or require additional information, please contact Ken Knight, DHEC Year 2000 Coordinator at (803) 898-3726, or Steve Vassey, EQC Information Technology, at (803) 898-3953.

14 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

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. 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 individuals listed below, please submit your comments in writing, no later than September 27, 1999 to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Division of Underground Storage Tank Management
Attn: Cathy Kuchinsky
2600 Bull Street
Columbia, SC 29201

The following companies and individuals have applied for certification as Underground Storage Tank Site Rehabilitation Contractors:

Class I	Class II
Terry Environmental Services	
Nesco Environmental, P.L.L.C.	

DEPARTMENT OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-67-410, & 59-67-570

Notice of Drafting:

The Department of Education proposes drafting amendments to Regulation 43-80, General, Parts "N" and "T," dealing with School Bus Driver Training and Certification. Interested persons may submit comments to Mr. Donald Tudor, Director, Office of Transportation, S. C. Department of Education, 1429 Senate Street, Columbia, S. C. 29201. To be considered, comments must be received no later than 5:00 p.m. on September 30, 1999, the close of the drafting comment period.

Synopsis:

The Department of Education desires to align its school bus driver testing requirements with those of the Department of Public Safety. The Department of Public Safety is establishing new commercial driver's licenses that are specifically designed for school bus drivers. The Department of Public Safety will offer a School Bus Driver Restricted Commercial Driver's License (CDL-P restricted) and a Commercial Driver's License with a School Bus Driver Endorsement (CDL-S endorsement). This new commercial driver's licenses will contain testing requirements equivalent to the existing testing requirements of the Department of Education School Bus Driver's Certification. The proposed regulation will allow the Department of Education to accept the new school bus driver commercial driver's licenses as appropriate tests to determine a school bus driver's competency. The Department of Education will provide school bus driver training as a prerequisite for a driver qualifying to take either of the new school bus driver commercial driver's licenses. However, the School Bus Driver Restricted Commercial Driver's License will be issued for drivers operating a governmental owned and operated school bus and according to Federal statute this commercial driver's license does not require a physical examination. The existing regulation requires that all school bus drivers must have a physical examination before operating a school bus and that the driver must renew the physical examination every three years. Therefore, to maintain this requirement the proposed regulation will retain a requirement that school bus drivers must take a physical examination and that the driver's physical must be renewed every two years. This requirement will establish parity with a similar Federal requirement for all drivers of non-governmental owned and operated commercial vehicles. The Department of Education also proposes that the school bus driver testing process require that drivers show proof that they can physically operate the school bus and be able to assist students in the emergency evacuation of the school bus. To determine a school bus driver's ability to perform these physical actions, the proposed regulation directs the Department of Education to establish a physical performance test as an extension of the school bus driver's commercial driving test.

Legislative review of this proposal will be required.

DEPARTMENT OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 & 59-23-10, et seq.

Notice of Drafting:

The Department of Education proposes drafting amendments to Regulation 43-191, Facility Specifications, which address school facilities planning and construction. Interested persons may submit comments to John B. Kent, Director, Office of School Facilities, South Carolina Department of Education, 1429 Senate Street, Room 706, Columbia, South Carolina 29201. To be considered, comments must be received no later than 5:00 p.m. on September 30, 1999, the close of the drafting comment period.

16 DRAFTING NOTICES

Synopsis:

S.C. Code § 59-23-40 (1990) requires that drawings and specifications for all public school buildings be submitted to, and approved by, the State Superintendent or her agent, prior to being constructed. S.C. Code § 59-23-190 (1990) requires that all public school buildings be approved by the State Superintendent of Education or her agent, before first occupied. Implementation of these mandated responsibilities has been conducted in accordance with the South Carolina School Facilities Planning and Construction Guide (R43-191), last amended in 1983. This regulation contains procedures, standards and requirements, guidelines and design recommendations. Passage of time has rendered certain sections of the regulation obsolete and outdated. Furthermore, it is the intent of the Department to drop from the regulation all procedures, guidelines and recommendations that are subject to change over time. These will be published in an easily updated guide, separate and apart from the regulation.

Legislative review of this proposal will be required.

DEPARTMENT OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Section 59-5-60 & 59-53-1810;
United States Code Sections 20 USCS 11-14, et seq.

Notice of Drafting:

The South Carolina Department of Education proposes drafting amendments to Regulation 43-233, State Plan for Vocational-Technical Education, FY 2001-2004. Interested persons may submit comments to Dr. James R. Couch, Director, Office of Occupational Education, 912A Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201. To be considered, comments must be received no later than September 30, 1999.

Synopsis:

President Clinton signed the Carl D. Perkins Vocational-Technical Education Act of 1998 into law on October 31, 1998. The Perkins Act requires each state to submit a state plan to the U.S. Department of Education to receive federal assistance. The state plan will contain the vision and planned activities to improve and expand vocational and technical education at both the secondary and postsecondary levels for the next four years. Federal guidance requires that the plan address program administration, accountability, special populations, tech prep and finance. The four year state plan will serve as the state regulation.

Legislative review of this proposal will not be required.

EMPLOYMENT SECURITY COMMISSION

CHAPTER 47

Statutory Authority: 1976 Code Section 41-42-130, et. seq.

Notice of Drafting:

The South Carolina Employment Security Commission proposes to draft:

1. an amendment to Regulation 47-16, Contributions: Interest, to reflect legislative changes to Sections 41-27-410, 41-31-10, 41-31-40, 41-31-50, 41-31-60, 41-31-80, 41-31-110, 41-31-670 that were enacted by the General Assembly during the 1999 legislative session;

2. a new regulation implementing certain collection authority provisions of Section 41-31-390 et. seq. that were enacted by the General Assembly during the 1999 legislative session; and to,

3. generally revise and update the entire body of the South Carolina Employment Security Commission rules and regulations to reflect current law and policies.

Interested persons may submit comments to Mr. H. Williams Funderburk, Jr., Esquire, South Carolina Employment Security Commission, Post Office Box 995, 631 Hampton Street, Columbia, South Carolina 29201. To be considered, comments must be received no later than 5:00p.m. on September 27, 1999, the close of the drafting period.

Synopsis:

During the 1999 legislative session, the General Assembly amended the South Carolina Employment Security Commission Law to modify the statewide Unemployment Insurance Trust Fund reserve requirements, to enact a permanent employer contribution "base rate", and to provide a mechanism for temporary rate adjustments when trust fund levels are not adequate. Regulation amendments will reflect these changes.

During the 1999 legislative session, the General Assembly also amended the South Carolina Employment Security Commission Law so as to confer upon the South Carolina Employment Security Commission the same collection powers as granted to the Department of Revenue by Title 12, for the purpose of collecting unpaid Unemployment Insurance taxes. The amended law requires the Commission to promulgate regulations to effectuate the amended provisions.

Finally, since it has been a number of years since the South Carolina Employment Security Commission regulations have been updated, the Commission also proposes to generally update its regulations to reflect current law and policies.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Section 48-2-10 et seq.

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R. 61-30, Environmental Protection Fees, to incorporate new fees for NPDES Storm Water Permitting, to add a fee for Laboratory Analysis of Private Drinking Water Wells, to increase fees for Laboratory Certification, Infectious Waste Management and for some Radioactive Materials Licenses. This amendment will also address Time Frames for Review of certain Air Quality Permits. Interested persons should submit their views in writing to Michael E. Rowe, Office of Environmental Quality Control, S.C. Dept. Of Health and Environmental Control, 2600 Bull Street, Columbia, S.C., 29201. To be considered, comments should be received no later than September 30, 1999, the close of the initial drafting comment period.

18 DRAFTING NOTICES

Synopsis:

Radioactive Materials Licenses (administered by the Radiological Health Bureau, Office of Health Services). Fees for these activities haven't been increased for over fifteen years. South Carolina's fees are lower than other Southeastern states and the Nuclear Regulatory Commission (NRC). Training, which was previously funded by the NRC, is still required but no longer federally funded. The Department is required by statute (Section 13-7-45, S.C. Code) to set fees in an amount to fund the program. Radiological Material Licenses administered by the Land and Waste Management Bureau of the Office of Environmental Quality Control are excluded from this Notice.

Infectious Waste Management. The fee schedule for this program will be expanded and increased in some areas. The schedule of fees will be re-located from another regulation to assure customers a common business structure for billing and administration of the revenue program.

Laboratory Certification. This program has suffered almost a forty percent (40%) reduction in revenue from fees since 1994. The reduction has occurred because of the highly competitive nature of the commercial lab industry over the past few years. The program has operated at a deficit, with the loss of one full time position for 2 years. An increase in the number of criminal fraud cases has created an added workload to the program which did not previously exist. Operating money for the program does not exist and vehicle replacements for inspectors as well as restoring the lost position (FTE) is a priority. In addition, the program has been asked by the regulated community to re-instate the out-of-state evaluation program which cannot be done without additional staff.

Storm Water Permits. We are in the process of issuing two Municipal Separate Storm Sewer System (MS4) NPDES Permits. Our present fee structure is based on the number of pipes which would create a disproportionately large fee compared to industrial and municipal wastewater systems. We plan to create a separate category for MS4 permits. Also the Phase II storm water regulations to be published by EPA in October will lower the NPDES threshold for coverage of construction sites down to 1 acre. We presently do not require submittal of plans for projects less than 2 acres under the State Sediment and Erosion Control Program. This new federal requirement will significantly increase the work load in this program.

Private Well Monitoring. The Department plans to charge a nominal fee for analysis and return of results to private well owners. This fee is separate from permitting fees assessed for the individual residential and irrigation well permitting regulations and the total coliform analysis included in those fees. This fee structure will have three fees: one for total/fecal coliform; one for the metals and minerals analysis (11 inorganic parameters); and a third for any other chemical contaminant or scan. There are no state appropriations directed for this service. The cost of this 20+ year old program comes from funds appropriated for public drinking water oversight monitoring. The costs of performing these analyses and delivering the results back to the owner has more than doubled in the past 20 years. The proposed fee will not cover 100% of the cost, but will be used to defray a portion. The Department will develop procedures for providing this service for indigent well owners seeking assistance.

Air Quality Permits. A reference will be added to the ATime Frames for Review for Air Quality Construction Permits@ for permits covered under the National Emissions Standards for Hazardous Air Pollutants(NESHAP) Regulation (R.61- 62.63.43 {f}). This existing regulation contains permit review times specific to this type of activity.

Legislative review is required for this amendment.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Section 44-56-30

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend Regulation R.61-79, Hazardous Waste Management Regulations, to adopt federal amendments through June 30, 1999, and the Universal Waste Rule which adds hazardous waste lamps to the federal list of universal wastes, published July 6, 1999. Interested persons are invited to present their views in writing to John Litton, Director of Division of Hazardous/Infectious Waste, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by 5:00 p.m. on September 28, 1999.

Synopsis:

The United States Environmental Protection Agency (USEPA) promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year. Recent amendments include Petroleum Refining Process Wastes K169 through K172 and exemption for Leachate from Non-Hazardous Waste Landfills; Land Disposal Restrictions Phase IV, Zinc Micronutrient Fertilizers; Emergency Revision of the Land Disposal Restrictions Treatment Standards for Listed Hazardous Wastes from Carbamate Production; Standards Applicable to Owners and Operators of Closed and Closing Hazardous Waste Management Facilities, flexibility of Post-Closure Permit Requirement and Closure Process; HWIR - Media, to streamline permitting for Treatment Storage and Disposal of remediation wastes at cleanup sites; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; LDR Phase IV Treatment Standards for Wood Preserving Wastes, Treatment Standards for Metal Wastes, Zinc Micronutrient Fertilizers, Carbamate Treatment Standards and K088 Treatment Standards; and Guidelines Establishing Test Procedures for the Analysis of Oil & Grease and Non-Polar Material Under the Clean Water Act and RCRA. These rules and other amendments have been published in the Federal Register between July 1, 1998, and June 30, 1999. In addition, the Department will adopt the modification of the Universal Waste Rule adding hazardous waste lamps to the federal list of universal wastes, published July 6, 1999.

The Department intends to amend R.61-79 to maintain conformity with federal requirements and ensure compliance with federal standards. No preliminary assessment report, fiscal impact statement, nor legislative review of this amendment will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code

Sections: 44-96-290, 44-96-300, 44-96-360, 44-96-400, 44-96-450, and 44-96-460

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-107.6, Solid Waste Processing Facilities. The amendment will define specific types of processing facilities and requirements for each. Interested persons may submit their views by writing to Art Braswell at SCDHEC, Bureau of Land and Waste Management, 2600 Bull St., Columbia, SC, 29201. To be considered, written comments must be received no later than 5:00pm on September 27, 1999, the close of the drafting period.

20 DRAFTING NOTICES

Synopsis:

The proposed revisions will address, but not be limited to, operating standards, monitoring and reporting requirements and permit application requirements as they relate to each type of processing facility. The types of facilities which will be specifically addressed, at a minimum, are as follows: municipal solid waste processing facilities, construction and demolition debris processing facilities and industrial/special waste processing facilities.

Legislative review of this proposal is required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: S.C. 1976 Code Section 13-7-10, 13-7-40 and 13-7-45 *et seq.* and Supplement

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend Sections 1.16, 4.2.3 and 5.3.3 of R.61-64, X-Rays (Title B), Rules and Regulations for Radiation Control. Interested persons may submit their views in writing to Ms. Pamela M. Dukes, Director, Electronic Products Section, Radiological Health Branch, 2600 Bull Street, Columbia, S.C. 29201. To be considered, written comments must be received no later than 5:00 p.m. on September 27, 1999, the close of the drafting period.

Synopsis:

The Department proposes to revise Sections 1.16, 4.2.3 and 5.3.3 of R.61-64 to incorporate changes required by the amendment of Title 44 of the S.C. 1976 Code. The amendment enacts the Medical Radiation Health and Safety Act and creates the South Carolina Quality Standards Association, which will establish minimum standards of education and provide for the appropriate examination and certification of persons using equipment emitting ionizing radiation on humans for diagnostic and therapeutic purposes. The Act requires the Department to promulgate regulations consistent with this provision. Specifically, Section 44-74-50 of the Act requires: the Department to take appropriate action against the registrant of the x-ray equipment for employing or allowing a person to operate x-ray equipment without a certificate; requires the Department to act on complaints of violations of the Act within ninety days; and, requires the Department to review a current copy of each operator's certificate at the time of inspection. Section 44-74-60 of the Act also requires a person from the Radiological Health Branch to serve as a nonvoting representative on the Board.

The public and regulated community are invited to recommend issues for consideration to the proposed amendment stated above.

The proposed revision will require legislative review.

DEPARTMENT OF REVENUE
CHAPTER 117
Statutory Authority: Section 12-4-320 of the 1976 Code

Notice of Drafting:

The Department of Revenue proposes to draft a new regulation dealing with the jurisdiction over functions performed by the Department of Revenue and the Comptroller General. Interested persons may submit comments to Mr. Meredith Cleland, South Carolina Department of Revenue, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on September 27, 1999, the close of the drafting comment period.

Synopsis:

The regulation will clarify the respective jurisdictions of the Comptroller General and the Department of Revenue, to establish a set of agreed upon procedures for these two agencies to follow in administering their respective areas of responsibility, and to establish a guide for county officials to use in interacting with these two agencies. These guides and procedures are not intended to be all inclusive and are intended to cover only those areas where doubt has existed between the two agencies and with the local officials. The regulation will also improve the services of these two agencies to the public and to the local county officials who are subject to supervision by these agencies. Our combined goal is to provide consistent, accurate and timely advice to those officials who depend upon this information in order to perform their duties pursuant to law and to be able to deal with the public in a consistent manner.

DEPARTMENT OF TRANSPORTATION
Chapter 63
Statutory Authority: 1976 Code Section 12-27-1320

Notice of Drafting:

The South Carolina Department of Transportation proposes to draft a new regulation concerning the Disadvantaged Business Enterprise Program. Interested persons may submit comments to Ms. Deborah Brooks Durden, SCDOT, PO Box 191, Columbia, SC 29202-0191. To be considered, comments must be received no later than 5 p.m. on September 24, 1999, the close of the drafting comment period.

Synopsis:

Federal Regulations published at Section 49, Code of Federal Regulations, Parts 23 and 26, published February 2, 1999, require that South Carolina Department of Transportation, as a recipient of federal highway funds, must revise its Disadvantaged Business Enterprise program by August 31, 1999. South Carolina Department of Transportation filed an emergency regulation on July 22, 1999, which adopts the federal requirements and provides for hearings on appeal of agency decisions related to the Disadvantaged Business Enterprise program. South Carolina Department of Transportation proposes to draft a new regulation which permanently enacts the emergency regulation.

Because this regulation is promulgated to comply with federal law, no legislative review will be required.

22 DRAFTING NOTICES

DEPARTMENT OF TRANSPORTATION CHAPTER 63

Statutory Authority: 1976 Code Section 57-25-170 and 63-338
Specific Information Service Signing

Notice of Drafting:

The South Carolina Department of Transportation proposes to draft new regulations that address the interstate logo program. Interested persons may submit comments to Ms. Deborah Brooks Durden, SCDOT, PO Box 191, Columbia, SC 29202-0191. To be considered, comments must be received no later than 5 p.m. on September 24, 1999, the close of the drafting comment period.

Synopsis:

SCDOT administers the specific information service signing program on interstate highways within South Carolina to inform motorists of gas, food, lodging, and camping facilities.

The proposed regulation will provide for four (4) changes:

1. Will allow for trailblazer signs to be used along crossing roads to provide additional guidance where it is needed.
2. Allow flexibility at double exit interchanges in the configuration of panels to allow the maximum participation in the program.
3. Revise the criteria for participation by food businesses to allow participation by businesses open at least six (6) days a week and twelve (12) hours a day. It will also allow participation by businesses which meet either the indoor seating requirement or have drive-through service.
4. Provide for attraction signing for traffic generator attractions that do not qualify for traditional highway department guide signs.

Legislative review of this proposal will be required.

Document No. 2442
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
 CHAPTER 61
 Statutory Authority: S.C. Code Section 48-1-30 through 48-1-60.

61-62.68. Chemical Accident Prevention Provisions.

Preamble:

The United States Environmental Protection Agency (USEPA) has promulgated a final rule for amendments to the *Accidental Release Prevention Requirements; Risk Management Programs Under Clean Air Act Section 112 (r)(7)*. These amendments were published as a final rule in the Federal Register on January 6, 1999, (64 FR 964) and May 26, 1999, (64 FR 28695) under 40 CFR Part 68. With this action, the USEPA has amended the rule to: add four mandatory and five optional risk management plan (RMP) data elements, establish specific procedures for protecting confidential business information when submitting RMPs, and replace the use of Standard Industrial Classification (SIC) codes with the North American Industry Classification System (NAICS) codes. In addition, the amendments revise the worst-case release scenario analysis for flammable substances and make technical corrections and clarifications.

The Department proposes to amend R.61-62.68, *Chemical Accident Prevention Provisions* of the Air Pollution Control Regulations and Standards, R.61-62 to incorporate the Federal requirements and ensure compliance with the rule.

A Notice of Drafting for the proposed amendment was published in the State Register on February 26, 1999. A second Notice of Drafting was published on June 25, 1999. This amendment is being promulgated to comply with federal law; neither a preliminary fiscal impact statement nor a preliminary assessment report is required.

Discussion of Proposed Revisions

SECTION CITATION:	EXPLANATION OF CHANGE:
R.61-62.68.1 - R.61-62.68.220	Adds the word "Section" to each section title for the purposes of clarification.
R.61-62.68.3(v)	Adds "NAICS" to the definitions section.
R.61-62.68.3(v-ii)	Existing definitions are renumbered.
R.61-62.68.3(jj)	Deletes definition for "SIC".
R.61-62.68.10(d)(1)	The SIC codes are deleted and replaced with NAICS codes.
R.61-62.68.25(e)	Amended to read "flammable gases" instead of "flammables" Other amendments for clarification.
R.61-62.68.25(e)(1) and (e)(2)	New language added pertaining to the worst-case release scenario for flammable gases.
R.61-62.68.25(f), (f)(1) and (f)(2)	New language added pertaining to the worst-case release scenario for flammable liquids.
R.61-62.68.25(g) through (i)	Existing paragraphs (f),(g), and (h) are renumbered as (g), (h), and (i).

24 PROPOSED REGULATIONS

R.61-62.68.42(d)(3)	Amended to require that mixtures containing regulated toxic substances provide the percentage concentration by weight of the substance.
R.61-62.68.42(d)(4)	Adds requirement that data on NAICS codes be provided.
R.61-62.68.42(d)(4-10)	Existing paragraphs are renumbered.
R.61-62.68.58(a)	Amended for clarification.
R.61-62.68.79(a)	Amended for clarification.
R.61-62.68.130(b)	Revises table 4 by deleting duplicate column of CAS numbers.
R.61-62.68.150(e)	Adds new paragraph on where confidential business information can be found.
R.61-62.68.151	Deletes section reservation and adds new section explaining what information may not be claimed as confidential and what information should be submitted with the claim.
R.61-62.68.152	Adds new section on how to substantiate a claim of confidential business information.
R.61-62.68.153-154	Reserves these two sections.
R.61-62.68.160(b)(1)	Revised to require more data on latitude and longitude.
R.61-62.68.160(b)(7)	Revised to replace requirement for SIC code with NAICS code.
R.61-62.68.160(b)(12)	Revised to require that Title V permit number be provided.
R.61-62.68.160(b)(14)-(18)	Adds five optional data requirements.
R.61-62.68.165(b)(2)	Adds requirement for submission of data on percentage weight of chemicals.
R.61-62.68.165(b)(2)-(13)	Renumbered.
R.61-62.68.170(b)	Revised to replace SIC codes with NAICS codes.
R.61-62.68.175(b)	Revised to replace SIC codes with NAICS codes.
R.61-62.68.180(b)	Revised for clarification.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public to attend a staff-conducted informational forum to be held on September 27, 1999, at 10:00 a.m. on the second floor of the Aycock Building in Room 2380 at the Department of Health and Environmental Control at 2600 Bull

Street, Columbia, S.C. 29201. The purpose of the forum is to answer questions and receive comments from interested persons on the proposed regulation.

Interested persons are also provided an opportunity to submit written comments to Heather Preston at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on September 27, 1999. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing scheduled below. Copies of the proposed regulation for public notice and comment may be obtained by contacting Heather Preston at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4287.

Notice of Board Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-111:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on October 14, 1999, to be held in Room 3420 (Board Room) of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Heather Preston at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on September 27, 1999. Comments received shall be considered by the staff in formulating the final proposed regulation for public hearing on October 14, 1999, as noticed above. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the proposed regulation for consideration at the public hearing on October 14, 1999, may be obtained by contacting Heather Preston at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4287.

Statement of Need and Reasonableness

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION:

Purpose: The proposed amendment will incorporate revisions to 40 CFR Part 68. The proposed amendment will add four mandatory and five optional risk management plan (RMP) data elements and establish specific procedures for protecting confidential business information when submitting RMPs. In addition, the proposed amendment will replace the use of Standard Industrial Classification (SIC) codes with the North American Industry Classification System (NAICS) codes. Finally, the proposed amendments will revise the worst-case release scenario analysis for regulated flammable substances and make technical corrections and clarifications.

Legal Authority: The legal authority for R. 61-62 is Sections 48-1-30 through 48-1-60, S.C. Code of Laws.

26 PROPOSED REGULATIONS

Plan for Implementation: The proposed amendment will take effect upon promulgation by the Board and publication in the *State Register*. The Department has been and will continue to perform outreach to the regulated community concerning the requirements of this rule. Once promulgated, copies of the proposed regulation will be provided to the regulated community.

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

In the Clean Air Act (CAA) Amendments of 1990, Congress added subsection (r) to CAA Section 112 for the prevention of chemical accidents. Under Section 112(r), owners and operators of stationary sources who produce, process, handle, or store extremely hazardous substances have a general duty to initiate specific activities to prevent and mitigate accidental releases. The Act required the USEPA to promulgate a list of regulated substances as well as threshold quantities of the substances and develop reasonable regulations and guidance to provide for the prevention and detection of accidental releases and for responses to such releases. On January 31, 1994, the USEPA promulgated 40 CFR Part 68, *Chemical Accident Prevention Provisions* listing the regulated substances and threshold quantities. In addition, the Federal rule mandated operating requirements for applicable sources. The Federal rule was revised on June 20, 1996; August 25, 1997; and January 6, 1998. The Department incorporated the Federal requirements into the State air quality regulations by creating Regulation 61-62.68, *Chemical Accident Prevention Provisions*. The Board approved the regulation on August 13, 1998, and it became effective upon publication in the *State Register* on August 28, 1998. On January 6, 1999, and May 26, 1999, the USEPA promulgated further amendments to 40 CFR Part 68. The Department proposes to amend Regulation 61-62.68, *Chemical Accident Prevention Provisions*, to incorporate these revisions. This amendment will comply with Federal law.

DETERMINATION OF COSTS AND BENEFITS:

This regulation consists primarily of technical amendments and corrections to the existing *Chemical Accident Prevention Provisions* regulation. The bulk of the revisions are administrative, such as the change in the use of the industry classification system. In addition, the amendment establishes procedures to protect confidential business information. This last provision is optional and is designed to assist facilities with concerns about confidentiality. Finally, with respect to the amendments to the worst-case release scenario analysis, the revision does not require additional reporting elements in the risk management plan. Rather, it merely provides an alternative approach for sources already subject to the rule. Therefore, it is the Department's belief that there will be no increased cost to the regulated community as a result of these amendments. Nor will there be any increased cost to the State or its political subdivisions resulting from these amendments. According to information contained in the Federal Register on January 6, 1999 [64 FR 964], the USEPA has determined that the total nationwide capital costs for this amendment is zero and the annual nationwide cost is less than \$1 million.

UNCERTAINTIES OF ESTIMATES:

See explanation above.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH

See explanation above.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

See explanation above.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: www.lpitr.state.sc.us. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2443
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
 CHAPTER 61
 Statutory Authority: 1976 Code Ann. Section 44-56-30

R. 61-79. Hazardous Waste Management Regulations

Preamble:

The Department proposes to amend Regulation 61-79 to adopt federal amendments through June 30, 1998. Adoption of federal amendments will ensure federal compliance.

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year. Recent amendments include clarification, guidance and technical amendments regarding organic air emission standards for tanks, surface impoundments and containers ("CC"); Land Disposal Regulations Phase IV, second half, to include Soil Treatment Standards; the RCRA Comparable/Syngas Fuel Exclusion; and the addition of waste codes for organobromine production wastes. These rules and other amendments were published in the Federal Register between July 1, 1997, and June 30, 1998. These amendments appeared at 62 FR 37694-699, 7/14/97; 62 FR 45568-4557, 8/28/97; 62 FR 63458-463, 12/1/97; 62 FR 64504-64509, 12/5/97; 62 FR 64636-64671, 12/8/97; 63 FR 18504-18751, 4/15/98; 63 FR 24596-24628 and; 63 FR 35147-35150, 5/4/98 and 6/29/98; 63 FR 24963-24969, 5/6/98; 63 FR 28556-28753 and 63 FR 31266, 5/26/98 and 6/8/98; 63 FR 33782 - 33829, 6/19/98.

The Department is also making minor corrections to previous amendments. These amendments and corrections will maintain conformity with federal requirements and ensure compliance with federal standards. No preliminary assessment report, fiscal impact statement, nor legislative review of this amendment will be required.

A Notice of Drafting for the proposed amendments was published in the State Register on February 26, 1999. Neither a preliminary assessment report, an impact statement, nor legislative review of this amendment is required. See Discussion and Table of Proposed Revisions below and Statement of Need and Reasonableness herein.

Discussion of Proposed Revisions:

Changes were made to conform R. 61-79 with federal amendments to 40 CFR 124 through 273 as of June 30, 1998.

Section Citation	Explanation of Change:
260.11(a)(11)	Replace; SW-846 has been updated
261.1(b)(2)(i)	Replace; clarifies when materials may be a solid waste
261.2(c)(3) and table following 261.2	Replace; reflect exclusions at 261.4(a)(15) and

28 PROPOSED REGULATIONS

	(16)
261.2(e)(1)(iii)	Replace; facilitate reclamation of certain metals
261.2(e)(2)(iv)	Replace; to add class of materials which are solid waste
261.2(f)	Replace; insert reference to Subtitle C of RCRA
261.3(a), (a)(1) and (2)(i)	Replace; stylistic changes
261.3(a)(2)(v) and (v)(A) and (B)	Add; adopt rebuttable presumption for used oil
261.4(a)(9)(iii) and (iii)(A)(B)(C)(D)(E); add (a)(15)(16) and (17)	Add; facilitate reuse of certain wastes by exclusion
261.4(b)(7)(i) and (ii); add 261.4(b)(7)(iii)	Replace and add text for the exclusion of spent wood preserving solutions
261.32 K140 in alphanumeric order, after K136	Add newly listed waste K140, organobromine production waste
261.33 U408, in alphanumeric order, after U011	Add newly listed waste U408, organobromine production waste
261.38	Add new comparable/syngas fuel exclusion
261 Appendix VII in alphanumeric order (after K139)	Add K140, organobromine production waste
261 Appendix VIII in alphabetic order (after Trillate)	Add 2,4,6-Tribromophenol.
264.15(b)(4)	Replace; clarifications and amendments to organic air emission standards
264.73(b)(6)	Replace; clarifications and amendments to organic air emission standards
264.1030(b)(3)	Replace; clarifications and amendments to organic air emission standards
264.1030(c)	Replace; clarifications and amendments to organic air emission standards
264.1030(d)	Add and reserve
264.1030(e)	Add; clarifications and amendments to organic air emission standards
264.1031 definition of "In light service"	Replace; clarifications and amendments to organic air emission standards
264.1033(a)(2)	Revise (a)(2) to (a)(2)(i) and (a)(2)(ii); clarifications and amendments to organic air emission standards
264.1033(a)(2)(iii) and (iv)	Add; clarifications and amendments to organic air

	emission standards
264.1034(b) and (f)	Replace; clarifications and amendments to organic air emission standards
264.1050(b)(3); (c)(f) and (g)	Replace; reserve (g); clarifications and amendments to organic air emission standards
264.1060(a); (b)(1)-(4)	Replace (a); add (b)(1)-(4); clarifications and amendments to organic air emission standards
264.1062(b)(2) and (3)	Replace; clarifications and amendments to organic air emission standards
264.1064(g)(6)	Replace; clarifications and amendments to organic air emission standards
264.1064(m)	Replace; clarifications and amendments to organic air emission standards
264.1080(b) and (c)	Replace; clarifications and amendments to organic air emission standards
264.1080(e)	Add and reserve
264.1082(b)	Replace; clarifications and amendments to organic air emission standards
264.1082(c)(2)(ix)(A) and (B)	Replace; clarifications and amendments to organic air emission standards
264.1082(c)(3) and (4)(ii)	Replace; clarifications and amendments to organic air emission standards
264.1083(a)(2) and (b)(1)	Replace; clarifications and amendments to organic air emission standards
264.1084(c)(2)(iii) and (iii)(B), adding (B)(1) and (2)	Replace; add; clarifications and amendments to organic air emission standards
264.1084(e)(4)	Add; clarifications and amendments to organic air emission standards
264.1084(f)(3)(i)(D)(4) and (f)(3)(iii)	Replace; clarifications and amendments to organic air emission standards
264.1084(f)(4) and (j)(2)(iii)	Add; clarifications and amendments to organic air emission standards
264.1085(b)(2)	Replace; clarifications and amendments to organic air emission standards
264.1085(d)(1)(iii), (d)(2)(i)(B) and add (e)(2)(iii)	Replace; add; clarifications and amendments to organic air emission standards
264.1086(c)(2) and (c)(4)(i), (d)(4)(i) and (g)	Replace; clarifications and amendments to organic air emission standards

30 PROPOSED REGULATIONS

264.1087(c)(3)(ii) and (c)(7)	Replace; clarifications and amendments to organic air emission standards
264.1089(a), (b)(1)(ii)(B), and (f)(1); add (j) and (j)(1) and (2)	Replace; add; clarifications and amendments to organic air emission standards
265.15(b)(4)	Replace; clarifications and amendments to organic air emission standards
265.73(b)(6)	Replace; clarifications and amendments to organic air emission standards
265.1030(b)(3)	Replace; clarifications and amendments to organic air emission standards
265.1030(c) and (d)	Add both; reserve (c); clarifications and amendments to organic air emission standards
265.1033(a)(2)(i) through (iv)	Add; clarifications and amendments to organic air emission standards
264.1033(f)(2)(vi)(B)	Replace; clarifications and amendments to organic air emission standards
265.1050(b)(3) and (e)	Replace; clarifications and amendments to organic air emission standards
265.1060	Replace; renumber lead in to an (a) and add (b)(1) through (4); clarifications and amendments to organic air emission standards
265.1062(b)(2) and (3)	Replace; clarifications and amendments to organic air emission standards
265.1064(g)(6) and (m)	Replace; clarifications and amendments to organic air emission standards
265.1080	Replace (b)(1) and (c); add (e) and reserve; clarifications and amendments to organic air emission standards
265.1081 definition of "In light material service"	Replace; clarifications and amendments to organic air emission standards
265.1082(a) through (d)	Replace; retain (b)(2)(ii) and (iii); clarifications and amendments to organic air emission standards
265.1083(b), (c)(2)(ix)(A) and (B), (c)(3) and (c)(4)(ii)	Replace; clarifications and amendments to organic air emission standards
265.1084 (a)(2), (a)(3)(ii)(B), (a)(3)(iii)(F), (a)(3)(iii)(G), (a)(3)(iii)(G)(1)	Replace; clarifications and amendments to organic air emission standards; retain (a)(3)(iii)(F)(1) and (2), and (a)(3)(iii)(G)(2)
265.1084(a)(3)(iv), make lead in (A) and amend (A), and replace three of the six definitions within the following equation	Replace; clarifications and amendments to organic air emission standards

265.1084(a)(3)(iv)(B), (B)(1) and (2), and (a)(3)(v)	Add; clarifications and amendments to organic air emission standards
265.1084(a)(4)(iv)	Replace; clarifications and amendments to organic air emission standards
265.1084(b)(1) and (b)(3)(ii)(B) and (B)(iii) and (b)(3)(F) and (G) and (b)(3)(iv) and three of the six definitions following the equation; add (b)(3)(v)	Replace; add; clarifications and amendments to organic air emission standards
265.1084(b)(8)(iii)	Move the equation for mass removal rate from below "where" to above "where" to clarify organic air emission standards
265.1084(b)(9)(iv) and move the equation for mass removal	Replace; move equation for mass removal from below "where" to above "where"; clarifications and amendments to organic air emission standards
265.1084(d)(5)(ii)	Replace; clarifications and amendments to organic air emission standards
265.1085(c)(2)(iii) and (iii)(B) and add (c)(2)(iii)(B)(1) and (2)	Replace; add; clarifications and amendments to organic air emission standards
265.1085(e)(4)	Add; clarifications and amendments to organic air emission standards
265.1085 (f)(3)(i)(D)(4) and add (f)(4)	Replace; clarifications and amendments to organic air emission standards
265.1085(j)(2)(iii)	Add clarifications and amendments to organic air emission standards
265.1086(b)(2) and (d)(1)(iii)	Replace; clarifications and amendments to organic air emission standards
265.1086(d)(1)(iv)(2)(i)(B)	Replace; clarifications and amendments to organic air emission standards
265.1086(e)(2)(iii)	Add; clarifications and amendments to organic air emission standards
265.1087(c)(4)(i)	Replace; clarifications and amendments to organic air emission standards
265.1087(d)(3)(v)(4)(i)	Replace; clarifications and amendments to organic air emission standards
265.1087(g)	Replace; clarifications and amendments to organic air emission standards
265.1088(c)(3)(ii)	Replace; clarifications and amendments to organic air emission standards
265.1088(c)(7)	Replace; clarifications and amendments to organic air emission standards
	Replace; clarifications and amendments to organic

32 PROPOSED REGULATIONS

265.1090 (a), (b)(1)(ii)(B), and (f)(1)	air emission standards
265.1090(j) and (j)(1) and (2)	Add; clarifications and amendments to organic air emission standards
Appendix VI to 265	Replace; amend title; clarifications and amendments to organic air emission standards
268.1(e)(5)	Delete; reflect new Land Disposal Restriction (LDR) provisions
268.2(i); (k)	Replace (i); add (k); reflect new LDR definition
268.3(d)	Add; clarify LDR provision regarding impermissible dilution
268.4(a)(2)(ii) and (iii)	Replace; clarifies and corrects LDR provision regarding surface impoundments
268.6(k)	Replace; clarifies and corrects LDR provision regarding surface impoundments
268.7(a)(1) and (2); add (2)(i) and (ii)	Replace; add; determination and recordkeeping requirements for generators, treaters and disposal facilities
268.7(a)(3) and (3)(ii) and (4) and Generator Paperwork Requirements Table 268.7(a)(4)	Replace; determination and recordkeeping requirements for generators, treaters and disposal facilities
268.7(a)(5)(6)(7) and (9)(I); add (10)	Replace; add; reflect provision for small quantity generators with tolling agreements
268.7(b)(1) and (2) and (3) and Treatment Facility Paperwork Requirements Table 268.7	Replace; determination and recordkeeping requirements for generators, treaters and disposal facilities
268.7(b)(4) with a two-paragraph certification; add 268.7(b)(4)(iv) and (v)	Replace; determination and recordkeeping requirements for generators, treaters and disposal facilities
268.7(b)(5) and (6)	Replace; LDR corrections
268.7(e)(1) and (2)	Add; determination and recordkeeping requirements for generators, treaters and disposal facilities
268.30(d)(3) and (4)	Add a new 268.30(d)(3) and move previous (3) to (4); clarifications of standards for hazardous waste LDR treatment variances
268.33, .34, .35, and .36 for specific new waste specific prohibitions	Add specific new waste-specific prohibitions for metal wastes and mineral processing wastes; reserve .35 and .36
268.40(e)	Replace

268.40(h)	Add new LDR provisions for D001 through D011
268.40 Table "Treatment Standards for Hazardous Wastes"	Replace; reflects new treatment standards for LDR mineral processing wastes D001 through D043; adds two waste streams and makes numerous corrections
268.42 lead in and (a)	Replace lead in and (a); delete (a)(1) and (2) and (3) (retain 268.42(a)Table 1); to make LDR corrections
268.44(a), and (1) and (2)	Replace(a); add (1) and (2); clarifications of standards for hazardous waste LDR treatment variances
268.44(d) (e), (h); (h)(1); (h)(2) through (5); (m); (p)	Replace 268.44(d) (e) and (h); add (h)(1) through (5); replace (m); continue to reserve (n); remove (p); amend variances from a treatment standard
268.45(d)(3) and (4)	Replace; clarifies new treatment standards
268.48 Universal Treatment Standards Table, including footnotes	Replace; reflect new LDR treatment standards
268.49 (a) through (e)	Add; alternative LDR treatment standards for contaminated soil; reflects determination and recordkeeping requirements for generators, treaters and disposal facilities
270.3(d)	Replace, updating name change
270.14(b)(5)	Replace, incorporating note; clarifications and amendments to organic air emission standards
270.42(j)	Add; new syngas/hazardous waste combustor standards
Appendix I to 270.42, L.9.	Add "classification of permit Modification" at L.9.; new syngas/hazardous waste combustor standards regarding incinerators, boilers and industrial furnaces
270.62(d)	Replace to reflect requirement regarding submittal of trial burn results
270.72(a)(6); (b)(8)	Replace; add; new syngas/hazardous waste combustor standards

34 PROPOSED REGULATIONS

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control (DHEC) invites members of the public and regulated community to attend a staff-conducted informational forum to be held on Thursday, September 30 at 9:00 a.m. in Peebles Auditorium, 3rd floor, DHEC, 2600 Bull Street, Columbia, S.C. The purpose of the forum is to answer questions, clarify issues and receive comments from interested persons on the proposed amendment of R. 61-79. Written comments may be submitted for the forum to John Litton, Director of the Division of Hazardous and Infectious Waste Management, 2600 Bull Street, Columbia, SC 29201. To be considered, comments received for the forum must be received by noon on September 30th. Comments received shall be considered by staff in formulating the submission to the Board of Health and Environmental Control for a public hearing scheduled for November 4, 1999. Relevant technical comments shall be summarized for the Board's consideration at the public hearing noticed below.

Information to obtain copies of the proposed text for public notice and comment may be obtained at <http://www.lpittr.state.sc.us/register.htm> or by calling Suzanne Rhodes at (803) 896-4174.

Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Ann. Sections 1-23-110 and 1-23-111:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on November 4, 1999. The Hearing will be held in the Board Room of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control (DHEC) at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m., at which time the Board will consider items in order presented on its agenda. The agenda is published by the Department ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Written comments to be considered at the public hearing may be submitted by writing to John Litton, Director of the Division of Hazardous and Infections Waste Management, 2600 Bull Street, Columbia SC, 29201. To be considered, comments must be received by 5:00 p.m. November 1, 1999. Comments received will be considered by staff in formulating the submission to the Board of Health and Environmental Control on November 4. Relevant technical comments will be summarized for the Board's consideration.

Information to obtain copies of the amended regulations to be considered at the Board hearing may be obtained at <http://www.lpittr.state.sc.us/register.htm> or by calling Suzanne Rhodes at (803) 896-4174.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness complies with S. C. Code Ann. Section 1-23-115(C)(1)-(3) and (9)-(11). This amendment facilitates compliance with federal law.

DESCRIPTION OF PROPOSED AMENDMENT TO REGULATION 61-79 Hazardous Waste Management Regulations: The purpose of this amendment is to meet compliance requirements of the United States Environmental Protection Agency (EPA), which promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year. Recent federal amendments include clarification, guidance and technical amendments regarding organic air emission standards for tanks, surface impoundments and containers ("CC"); Land Disposal Regulations Phase IV, second half, to include Soil Treatment Standards; the RCRA Comparable/Syngas Fuel Exclusion; and the addition of waste codes for organobromine production wastes. These rules and other amendments were published in the Federal Register between July 1, 1997, and June 30, 1998.

The Department will also make any corrections to previous amendments as may be necessary. These amendments and any necessary corrections will maintain conformity with federal requirements and ensure compliance with federal standards. No preliminary assessment report, fiscal impact statement, nor legislative review of this amendment will be required.

Legal Authority for this amendment is S.C. Code Ann. Section 44-56-30, the Hazardous Waste Management Act, to facilitate the Resource Conservation and Recovery Act of 1976 as amended.

Plan for Implementation: Upon publication in the State Register as a final regulation, amended regulations will be provided to the regulated community at cost through 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 EPA promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year. Recent amendments include clarification, guidance and technical amendments regarding organic air emission standards for tanks, surface impoundments and containers ("CC"); Land Disposal Regulations Phase IV, second half, to include Soil Treatment Standards; the RCRA Comparable/Syngas Fuel Exclusion; and the addition of waste codes for organobromine production wastes. These rules and other amendments were published in the Federal Register between July 1, 1997, and June 30, 1998.

The Department will also make any corrections to previous amendments as may be necessary. These amendments and any necessary corrections will maintain conformity with federal requirements and ensure compliance with federal standards. No preliminary assessment report, fiscal impact statement, nor legislative review of this amendment will be required.

DETERMINATION OF COSTS AND BENEFITS: Each amendment reflects a federal provision. EPA estimated costs and benefits of the various amendments are summarized below. The summaries are taken from the cited Federal Register notices. A significant regulatory action is defined as one that (5/26/98 in 63 FR 28630) "is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or state local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements...; or (4) raise novel legal or policy issues arising out of legal mandates..."

- Clarification, guidance and technical amendments regarding organic air emission standards for tanks, surface impoundments and containers ("CC");

Although the original organic air emission standards were considered significant, the amendments clarify the rule, provide more compliance alternatives, make certain regulatory provisions more lenient, and correct structural problems with the drafting of some sections. The Agency and the Office of Management and Budgets have determined this amendment to be non-significant (12/8/97 in 62 FR 64655&56) .

- Land Disposal Regulations Phase IV, second half, to include Soil Treatment Standards;

EPA analyzed compliance costs and economic impacts for the newly identified wastes affected by this rule, as well as media contaminated with these wastes (5/26/98 in 63 FR 28630). In addition, the analysis addressed the cost savings associated with the new soil treatment standards. Newly identified mineral processing wastes include 118 mineral processing wastes identified as potentially characteristically hazardous, metal wastes, and treatment standards for contaminated media. EPA estimates the total costs of the final rule would save \$6 million annually, thus not economically significant.

- RCRA Comparable/Syngas Fuel Exclusion

36 PROPOSED REGULATIONS

EPA estimated (6/19/98 in 63 FR 33818&9) that the rule will result in national annual cost savings to generators ranging from \$11 to \$36 million net annually, thus non-significant. Blending and combustion facilities are estimated to experience reduced receipts for managing hazardous wastes coupled with the costs of replacing these materials with more expensive substitutes.

- The addition of waste codes for organobromine production wastes.

EPA estimated (5/4/98 in 63 FR 24623) that this rule is estimated to have an annualized incremental cost of \$48,000 per year, a fraction of the \$100 million annual cost which is judged "significant." Furthermore two firms in southern Arkansas account for 95 percent of the organobromine chemicals produced in the U.S.

UNCERTAINTIES OF ESTIMATES: No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The overall effects of these rules are expected to be beneficial to the public health and environment and also reflect federal provisions in State law.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: The State's authority to implement federal requirements, which are believed to be beneficial to the public health and environment, would be compromised if these amendments are not adopted in South Carolina.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: www.lpitr.state.sc.us. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2444

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: S.C. Code Sections 48-1-30 through 48-1-60 *et seq.*

R.61-62.5, Standard Number 3.1, Medical Waste Incineration.

R.61-62.1, Definitions and General Requirements.

Preamble:

The United States Environmental Protection Agency promulgated New Source Performance Standards (NSPS) and Emission Guidelines on September 15, 1997, to reduce air emissions from hospital/medical/infectious waste incinerator(s) (HMIWI). 40 CFR Part 60, Subpart Ec governs standards of performance for new or reconstructed HMIWI, and subpart Ce contains the emission guidelines for existing HMIWI. The standards and guidelines implement sections 111 and 129 of the Clean Air Act (CAA) as amended in 1990. The standards and guidelines apply to units whose primary purpose is the combustion of hospital waste and/or medical/infectious waste. The promulgated standards and guidelines establish emission limits for particulate matter (PM), opacity, sulfur dioxide (SO₂), hydrogen chloride (HCl), oxides of nitrogen (NO_x), carbon monoxide (CO), lead (Pb), cadmium (Cd), mercury (Hg), and dioxins/furans. The standards and guidelines also establish requirements for HMIWI operator training/qualification, waste management plans, and testing or monitoring of pollutants and operating parameters, and equipment inspection requirements. States are required to implement these Federal requirements and guidelines within one year of promulgation date of the Federal regulation.

The Department proposes to amend R.61-62.5, Standard Number 3.1, *Medical Waste Incineration* and the South Carolina State Implementation Plan to incorporate and implement these Federal requirements. In addition, the Department will propose amendments to some of the existing provisions of the State Medical Waste Incineration Regulation which are not Federally mandated. Also, the Department will amend R.61-62.1, *Definitions and General Requirements*, by adding new definitions to Section I, Definitions, and deleting existing definitions that are no longer applicable. The title of the existing Standard Number 3.1 regulation will be changed to be more descriptive of the amended regulation. See Discussion of Proposed Revisions and Statement of Need and Reasonableness herein. Notices of Drafting for the proposed amendment were published on March 27, 1998, and March 26, 1999.

Discussion of Proposed Revisions

R.61-62.5, Standard Number 3.1, *Medical Waste Incineration*

<u>SECTION CITATION</u>	<u>CHANGE:</u>
Title	Regulation title changed from “Medical Waste Incineration” to “Hospital/Medical/Infectious Waste Incinerators.”
Section I.	Section title changed from “Applicability” to “Applicability and General Requirements.”
Section I.(a)	Renumbered and revised for consistency with Federal requirements.
Section I.(b)	Renumbered.
Section I.(c)	Existing language deleted and new language added for consistency with Federal requirements. Paragraph renumbered.
Section I.(d)	Existing language deleted. Language from Section II.A. moved and renumbered.
Section I.(e)	Existing language deleted. New language added for consistency with Federal requirements. Paragraph renumbered.
Section I.(f) and (g)	New language added for consistency with Federal requirements.
Section II.	Title changed from “General” to “Definitions.”
Section II. A.	Existing language reworded and moved to Section I.(d).
Section II.B. through H.	Existing language in items B. through H. deleted.
Section II.(a) through (ii)	Definitions added that are specific to this Standard.
Section III.A. and B.	Existing language deleted.
Section III. (a) through (f)	Language and tables added that are consistent with Federal requirements for emissions limitations. Section renumbered.
Section IV.(a)	Renumbered and revised to reflect a decrease in the secondary chamber temperature retention time from two seconds to one second. This is a

38 PROPOSED REGULATIONS

	relaxation of the existing State regulation, but is consistent with requirements in other states.
Section IV.(b) through (i)	Renumbered and minor revisions made throughout.
Section V.A. though D. and F.	Existing State language for monitoring requirements deleted. Entire section renumbered.
Section V.(a)	New language added for consistency with Federal requirements.
Section V.(b)	New language added for consistency with Federal requirements for Small (Rural) facilities.
Section V.(c)	New language added for consistency with Federal requirements for Small (Urban), Medium, and Large HMIWI facilities.
Section V.(d)	New language added for consistency with Federal requirements for Large HMIWI facilities with capacity equal to or greater than 2,000 lb/hr and Table for operating parameters.
Section VI.	Title of Section VI changed from “Testing Requirements” to “Calibration and Quality Assurance of Monitoring Devices” which was previously Section VIII.
Section VI.(a)	Existing language from Section VIII.A. revised.
Section VI.B.	Existing language on specific monitoring devises is deleted.
Section VI.(b)	New language consistent with Federal requirements added to address initial calibration and quality assurance specifications for monitors.
Section VI.(c)	New language added for annual recalibration of monitors for CO, CO ₂ , O ₂ , and Opacity.
Section VII.	Title changed from “Recordkeeping and Reporting Requirements” to “Testing Requirements” which was previously Section VI. Section renumbered.
Section VII.(a)	Text revised for consistency with Federal requirements.
Section VII.B and C	Language on existing sources and new and modified sources deleted.
Section VII.(b)	Language added on testing requirements for existing sources consistent with Federal requirements. Section VII.(b)(5)(iii)(B) adds dioxin/furan to the list of pollutants for which compliance testing must be conducted. This additional testing requirement makes the regulation more stringent than the Federal rule.
Section VII.(c)	New language added on additional testing requirements for new, existing, and modified sources for consistency with Federal requirements. Section VII.(c)(2) consists of language on ash quality moved from Section XII of the existing State regulation.

Section VIII.	Section title changed from “Calibration and Quality Assurance of Monitoring Devices” to “Recordkeeping and Reporting Requirements” which was previously Section VII.
Section VIII.A. through F.	Existing State recordkeeping and reporting language deleted.
Section VIII.(a) through (k)	New language added to comply with Federal requirements for recordkeeping and reporting. Entire section renumbered.
Section IX.	Reserved section deleted and retitled as “Operator Training and Qualification Requirements” which was previously Section XI.
Section IX.(a) through (j)	Existing text deleted and replaced with new language consistent with Federal requirements for operator training and qualification requirements.
Section X.	Existing State Section X. title and language for “Ambient Impact Analysis” deleted. New Section title “Waste Management Plan” and new language added to comply with Federal requirements.
Section XI.	New Section title “Inspection Guidelines” and new language added for consistency with Federal inspection guideline requirements for small rural HMIWI facilities. The Department extended these requirements to apply to any size HMIWI facility. The extension of these requirements to any size incinerator makes the State rule more stringent than the Federal rule.
Section XII.	Existing State Section XII. Ash Quality revised and moved to Section VII.
Appendix A	Existing State Appendix A deleted and replaced with Appendix consistent with Federal requirements.
Appendix B	The heating value changed from 9,000 to 8,500 for consistency with Federal requirements. Steps 6 and 7 revised to incorporate a one-second secondary chamber temperature retention time.
Appendix C	Existing Appendix C deleted.

R.61-62.1, Definitions and General Requirements

Section I.	Twelve new definitions added for consistency with Federal regulations. Existing definitions 35, 39, 40, and 41 are deleted. The entire definitions section renumbered in alphanumeric order.
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Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public to attend a staff-conducted informational forum to be held on Tuesday, September 28, 1999, at 10:00 a.m. on the second floor of the Aycock Building in Room 2280 at the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. 29201.

Interested persons are also provided an opportunity to submit written comments to Heather Preston at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia,

40 PROPOSED REGULATIONS

S.C. 29201. Written comments must be received no later than 5:00 p.m. on Tuesday, September 28, 1999. Comments received by the deadline will be submitted to the Board in a Summary of Public Comments and Department Responses.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Heather Preston at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, Air Programs Section, 2600 Bull Street, Columbia, S.C. 29201, or by calling (803) 898-4287.

Notice of Board Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-111:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on November 4, 1999, to be held in Room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Heather Preston at South Carolina Department of Health and Environmental Control, Bureau of Air Quality, Air Programs Section, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on Tuesday, September 28, 1999. Comments received shall be considered by the staff in formulating the final proposed regulation for public hearing on November 4, 1999, as noticed above. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the proposed regulation for consideration at the public hearing on November 4, 1999, may be obtained by contacting Heather Preston at South Carolina Department of Health and Environmental Control, Bureau of Air Quality, Air Programs Section, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4287.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-62.5, Standard Number 3.1, *Medical Waste Incineration*; and R.61-62.1, *Definitions and General Requirements*.

Purpose: The purpose of this action is to amend Regulation 61-62.5, Standard Number 3.1, *Medical Waste Incineration* for compliance with the Federal mandate to adopt regulations and guidelines at least as stringent as the Federal rule promulgated on September 15, 1997 [60 FR 48350]. In addition, the Department will propose amendments to some of the existing provisions of the State Medical Waste Incineration Regulation which are not Federally mandated. The more stringent provisions are found in R.61-62.5, Standard Number 3.1 at Section VII.(b)(5)(iii)(B) and Section XI.(b). The regulation title will also be changed from *Medical Waste Incineration* to

Hospital/Medical/Infectious Waste Incinerators. Finally, revisions will be made to the definition section of R.61-62.1, *Definitions and General Requirements*.

Legal Authority: The legal authority for the R.61-62 is Section 48-1-30 through 48-1-60, S.C. Code of Laws.

Plan for Implementation: The proposed amendments will take effect upon approval by the South Carolina General Assembly and publication in the *State Register*. The proposed amendments will be implemented by providing the regulated community with copies of the regulation.

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

Title III of the Clean Air Act (CAA) Amendment of 1990 specifically enumerated 188 hazardous air pollutants (HAP) and instructed EPA and the States to protect public health by reducing emissions of these pollutants from the sources that release them. The EPA's standards are designed to bring all sources up to the level of emissions control achieved by those that are already well controlled. The CAA also requires that each State submit a State plan to EPA within one year of EPA's adoption of the Hospital/Medical/Infectious Waste Incineration guidelines. South Carolina has an existing Medical Waste Regulation that will be revised to incorporate the Federal regulation. In addition, the Department proposes to add two items to the regulation which are more stringent than the Federal rule. The two more stringent items are:

Section VII.(b)(5)(iii)(B). The Federal rule requires large HMIWI facilities to test for several pollutants for three consecutive years. If the test results indicate compliance with the emission limits for the particular pollutant, then the testing shall be conducted every three years. The Department added dioxin/furan to the list of pollutants to be tested and thus the State standard is more stringent than the Federal requirements. The Department believes the addition of dioxin/furan to this list is reasonable given the fact that dioxin/furan testing was already required at four-year intervals by the existing State standards. This change also makes the testing requirements consistent for all pollutants, thereby lessening the confusion surrounding different testing dates. In addition, the provision helps to further protect the public from the potential health dangers posed by dioxin/furan.

Section XI. Inspection Guidelines. The Federal rule requires small rural facilities to conduct annual inspections. The Department extended these provisions to apply to any size incinerator. The extension of these provisions to any size incinerator makes the State rule more stringent than the Federal requirements. The Department believes an annual inspection reflects good engineering practices and can benefit both the public and the facility particularly if an inspection reveals a problem that may otherwise go unnoticed.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased costs to the State or its political subdivisions as a result of these amendments. According to information contained in the Federal Register on September 15, 1997 [60 FR 48348], the EPA estimates that the total nationwide cost to the regulated community ranges from \$71 million to \$210 million per year depending on which alternative waste disposal option is selected.

As mentioned above, two new provisions have been added to the regulations making them more stringent than the Federal requirements. These two added provisions are the dioxin/furan testing and the extension of the annual inspection requirements to all facilities.

The Department estimates that the additional testing for dioxin/furan will range from \$8,000 to \$10,000 per test. This requirement will currently apply to only one facility. The Department believes that increasing the frequency of the testing provisions for dioxin/furan will protect the public health.

42 PROPOSED REGULATIONS

The Department estimates that the annual inspection requirement would take most of the affected facilities only a day or two to complete. Estimates indicate that such an inspection would cost approximately \$600 per day. As previously stated, the Department believes an annual inspection reflects good engineering practices and can benefit both the public and the facility particularly if an inspection reveals a problem that may otherwise go unnoticed.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to costs to the State or its political subdivisions. Refer to the above paragraph for cost estimates for the regulated community.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Section 129 of the Clean Air Act directs EPA to apply controls to various categories of solid waste incinerators, including hospital/medical/infectious waste incinerator(s) (HMIWI). Standards and guidelines are set forth as emission limits and will significantly reduce HMIWI emissions. Current methods of medical waste incineration cause the release of a wide array of air pollutants, including several pollutants of particular public health concern. Emissions from HMIWI contain organics (dioxins/furans), particulates (PM), metals (Cd, Pb, and Hg), and acid gases (HCl and SO₂, and NO_x). These pollutants can have adverse effects on both public health and welfare. Pollutants of principal concern to public health include dioxins/furans, PM, Pb, Cd, and Hg.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

If a State does not adopt regulations and guidelines and submit a State plan, the EPA will adopt and implement a Federal plan to regulate existing hospital/medical/infectious waste incinerators in South Carolina. A Federal plan would not be tailored to the specific needs of South Carolina.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: www.lpitr.state.sc.us. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

43 EMERGENCY REGULATIONS

Filed: July 21, 1999, 2:00 pm

Document No. 2446
DEPARTMENT OF LABOR, LICENSING AND REGULATION
CONTRACTORS' LICENSING BOARD
CHAPTER 29

Statutory Authority: 1976 Code Section 40-11-60; 40-11-260

Emergency Situation:

The General Assembly has determined that uniformity of owner-prepared financial statements permitted by law is necessary in order to allow for orderly licensing and renewal of licenses for contractors. Accordingly, a form is required to be established by regulation. It is, therefore, imperative that a form for such statements be specified by regulation and distributed immediately, so that contractors will be able to submit such forms in a timely manner, allowing them to provide professional services to the public without interruption.

Text:

29.11. Owner-Prepared Financial Statement.

The latest revision of a financial balance sheet form (FBS) issued by the Department must be completed by an owner filing an owner-prepared financial statement. The Department will furnish this form to all applicants for initial licensing or renewal of license in the applicable group limitations. The form must contain assets, liabilities and total net worth of the licensee, in addition to other pertinent information requested by the Department.

Statement of Need and Reasonableness: The need to immediately develop and distribute a form is imperative in order to aid in the licensing and renewal process without disrupting the provision of contractors' services to consumers.

DESCRIPTION OF REGULATION: Regulation 29-11 specifies the information to be captured on a form (FBS) to be used for owner-prepared financial statements. The regulation also addresses the distribution of the form.

Purpose: The proposed new regulation provides a uniform means for reporting financial information related to licensees who are not required to have their financial statements prepared by a public accountant or CPA.

Legal Authority: Statutory Authority: 1976 Code Title 40, Chapter 11, Section 60; and Title 40, Chapter 11, Section 260(A)(4)(b), (c), and (d).

Plan for Implementation: All applicants for initial licensure in certain group limitations, and renewing licensees in those group limitations will be mailed Form FBS with their application packages or renewal forms.

DETERMINATION OF NEED AND REASONABLENESS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The need to immediately develop and distribute a form is imperative in order to aid in the licensing and renewal process without disrupting the provision of contractors' services to consumers.

DETERMINATION OF COSTS AND BENEFITS: There will be no additional cost concerning this regulation. The expected benefit is less cost for the agency to process applications.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates concerning this regulation.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: This regulation will have no effect on the environment and public health of this State.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: This regulation will have no detrimental effect on the environment and public health of this State if the regulation is not implemented in this State.

Filed: August 2, 1999, 8:30 am

Document No. 2447

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
MANUFACTURED HOUSING BOARD
CHAPTER 19**

Statutory Authority: 1976 Code Section 40-1-50, 40-29-50 and 40-29-110

Emergency Situation:

The South Carolina Manufactured Housing Board has determined that the current fee charged for examination by the Board is not sufficient to cover the costs of the examinations provided by the vendor, Experior Assessments, Inc. Therefore, it is imperative that the fee be changed as soon as possible in order to continue to allow qualified applicants to be properly licensed so as to provide professional services to the public.

Text:

19-425.26. Fees.

C. When applicable, the examination fee is not to exceed fifty dollars (\$50.00).

Statement of Need and Reasonableness: The need to immediately change the examination fee is imperative in order to prevent disruption in providing reliable and valid examinations for manufactured housing candidates for licensure who must be determined minimally competent to properly perform their duties as licensees prior to working with the public.

DESCRIPTION OF REGULATION: Regulation 19-425.26. C. is revised by striking the reference to an application fee and changing the examination fee to reflect the actual cost for examining candidates using a testing vendor, rather than in-house testing.

Purpose: The proposed regulation will delete obsolete language and allow a reasonable fee for examinations.

Legal Authority: Statutory Authority: 1976 Code Title 40, Chapter 1, Section 50 (D); Title 40, Chapter 29, Section 50 (14); and Title 40, Chapter 29, Section 110 (D).

Plan for Implementation: All applicants in the process of applying for retaking a failed examination will be afforded the opportunity to be examined at the current fee in place at the time of issuance of a one-year letter of eligibility. All applicants for initial examination will be required to pay the new fee.

DETERMINATION OF NEED AND REASONABLENESS ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The need to immediately establish a new fee is imperative in order to prevent disruption in providing reliable and valid examinations for manufactured housing candidates for licensure who must be determined minimally competent to properly perform their duties as licensees prior to working with the public.

DETERMINATION OF COSTS AND BENEFITS: There will be no additional cost regarding this regulation. The expected benefit to the public is that licensees who are examined with valid and reliable instruments of measurement will better ensure that the public is dealing with competent licensees.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates concerning this regulation.

45 EMERGENCY REGULATIONS

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: This regulation will have no effect on the environment and public health of this State.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effect on the environment and public health if this regulation is not implemented in this State.

Filed: July 22, 1999, 3:00 pm

Document No. 2448
DEPARTMENT OF TRANSPORTATION
CHAPTER 63
Statutory Authority: 1976 Code Section 12-27-1320
Section 63-700

Emergency Situation:

Federal Regulations published at Section 49 Code of Federal Regulations, Parts 23 and 26 published February 2, 1999 require that South Carolina Department of Transportation, as a recipient of Federal Highway Funds, must revise its Disadvantaged Business Enterprise Program by August 31, 1999. This regulation adopts the federal requirements and provides for hearings on appeal of agency decisions related to the Disadvantaged Business Enterprise Program.

Text:

Amend R63-700 as follows:

A. The South Carolina Department of Transportation (hereinafter "Department") promulgates these regulations to carry out the disadvantaged business enterprises program mandated by Section 12-28-2930 of the Code of Laws (1976), as amended (hereinafter "State DBE Program") and to comply with the requirements of 49 CFR Part 26 regarding the disadvantaged business enterprises program required by federal law and regulations (hereinafter "Federal DBE Program").

B. (Same as current language)

C. (Same as current language)

D. The Department, as a recipient of federal-aid highway and federal transit funds, is required to implement a Federal DBE Program in accordance with 49 CFR Part 26. Therefore, the Department incorporates by reference the provisions of 49 CFR Part 26 and specifically provides that its Federal DBE Program shall be carried out in compliance therewith.

E. The hearings procedures provided for herein in Reg. 63-704 and 63-706 are applicable to firms desiring to participate in both the Federal DBE Program and the State DBE program.

Amend 23A S. C. Code Regs. 63-704 as follows:

I. Requests for Hearing. All requests for hearing shall be made in writing and shall be filed with the Department's Office of Compliance within fifteen (15) days of the receipt of the Notice of Denial and shall include:

(1) The name and address of the party making the request;

(2) A statement that the party is requesting a hearing before an Administrative Law Judge pursuant to S. C. Code Section 1-23-600;

(3) A reference to the Notice of Denial of the application

K. Hearings. All hearings requested shall be conducted by an Administrative Law Judge in accordance with S. C. Code Section 1-23-600 under contested case procedures.

(3) Amend 23A S. C. Code Regs. 63-706 as follows:

D. All requests for hearings shall be made in writing and filed with the Office of Compliance within fifteen (15) days of the receipt of the Notice of Decertification and/or Revocation. The request shall include:

(1) The name and address of the firm making the request:

(2) A statement that the firm is requesting a hearing before an Administrative Law Judge pursuant to S. C. Code Section 1-23-600;

(3) A reference to the Notice of Decertification and/or Revocation and the specific grounds upon which the proposed action is being challenged.

F. If the firm requests a hearing, the hearing shall be conducted by an Administrative Law Judge in accordance with S. C. Code Section 1-23-600 under contested case procedures.

DESCRIPTION OF REGULATION:

Purpose:

Federal Regulations published at 49 Code of Federal Regulations Parts 23 and 26 on February 2, 1999 require that South Carolina Department of Transportation, as a recipient of Federal Highway Funds, must revise its Disadvantaged Business Enterprise Program by August 31, 1999. This regulation adopts the Federal requirements and provides for hearings before the State Administrative Law Judge Division for appeals of certification agency decisions related to the Disadvantaged Business Enterprise Program.

Legal Authority:

South Carolina Department of Transportation's Disadvantaged Business Enterprise Program Regulations are promulgated pursuant to South Carolina Code of Laws, 1976, Section 12-28-2930 and to comply with the requirements of Federal Regulations found at 49 CFR Part 26.

Plan for Implementation:

South Carolina Department of Transportation is filing a Notice of Drafting Regulations in order to permanently promulgate this Emergency Regulation. In addition, South Carolina Department of Transportation is holding a series of public meetings with interested parties to develop details of the new Disadvantaged Business Enterprise Program required under these regulations. If necessary, additional regulations may be filed when that process is complete.

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

47 EMERGENCY REGULATIONS

These regulations are needed in order to comply with Federal requirements and to keep South Carolina eligible to continue to receive Federal Highway Funds.

DETERMINATION OF COSTS AND BENEFITS:

The Regulation is not expected to create an additional cost to the State.

UNCERTAINTIES OF ESTIMATES:

Not Applicable.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not Applicable.

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

Not Applicable.

48 FINAL REGULATIONS

Document No. 2436
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 13-7-40, as amended

R.61-63. Radioactive Materials (Title A)

Synopsis:

The Nuclear Regulatory Commission continually updates regulations, and state regulations are amended regularly to incorporate federal updates. The Department has adopted into regulation the Nuclear Regulatory Commission updates as an item of compatibility. Section 274 of the Atomic Energy Act of 1954, as amended, requires states to adopt federal regulations for compatibility. Requirements for Radiological Criteria for License Termination and Notices, Instructions, and Reports to Workers for radioactive material licensees are the major issues. These regulations will comply with Title 10 CFR Parts 19 and 20, Final Rules, published in the Federal Register on February 22, 1996 (61 FR 6762), December 10, 1996 (61 FR 65120), and July 21, 1997 (62 FR 39058). See Discussion below and Statement of Need and Reasonableness herein.

These regulations will be jointly administered by the Department's Division of Radioactive Waste Management and the Radiological Health Branch.

Discussion of Revisions:

SECTION	CHANGE
61-63.3.2.17	Added definition of "Constraint (dose constraint)" in alpha/numeric order. This definition is numbered 61-63.3.2.17 and remaining existing sections are renumbered.
61-63.3.4.4	Added requirements to incorporate the resolution of dual regulation (NRC and EPA) of airborne effluents of radioactive material.
61-63.3.42	Replaced existing text to specify the requirements for vacating premises of a radioactive material licensee.
61-63.3.46.1.2.6	Added requirement to incorporate the resolution of dual regulation (NRC and EPA) of airborne effluents of radioactive material.
61-63.3.46.2.4	Replaced to add ALARA (as low as reasonably achievable) constraints.
61-63.3.46.3	Replaced to delete the words "individual exposed" and replace with "occupationally overexposed individual."
61-63.3.57,	Added Appendix F to specify the radiological criteria for license Appendix F termination.
61-63.6.2	Added new 61-63.6.2 section for definitions. One definition for "worker" is added to this new section.
61-63.6.10 61-63.6.11	Added to incorporate regulation on discrimination.

Instructions: Amend R.61-63 pursuant to each individual instruction provided with the text of the amendment below.

Text of Amendment:

Replace definition for Background Radiation at existing 3.2.7 in entirety and renumber appropriately to read:

“Background radiation” means radiation from cosmic sources; naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation of the licensee. “Background radiation” does not include radiation from source, byproduct, or special nuclear materials regulated by the Department.

Add new definitions in alphabetical order to Section 3.2 and renumber section appropriately to read:

“Constraint (dose constraint)” means a value above which specified licensee actions are required.

“Critical Group” means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

“Decommission” means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits (1) release of the property for unrestricted use and termination of the license; or (2) release of the property under restricted conditions and termination of the license.

“Distinguishable from Background” means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

“Residual Radioactivity” means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee’s control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if those burials were made in accordance with this Regulation.

Add new section 3.4.4 to read:

3.4.4 To implement the ALARA requirements of RHA 3.4.2, and notwithstanding the requirements in RHA 3.13, a constraint on air emissions of radioactive material to the environment, excluding Radon-222 and its daughters, shall be established by licensees, such that the individual member of the public likely to receive the highest dose will not be expected to receive a total effective dose equivalent in excess of 10 mrem (0.1 mSv) per year from these emissions. If a licensee subject to this requirement exceeds this dose constraint, the licensee shall report the exceedance as provided in RHA 3.46 and promptly take appropriate corrective action to ensure against recurrence.

Replace 3.42 in its entirety to read:**RHA 3.42 VACATING PREMISES**

Before a licensee vacates any location which may have been contaminated by radioactive material as a result of the licensee’s activities the licensee shall, not less than 30 days prior to such vacating, notify the Department in writing of intent to vacate. The licensee shall decontaminate or have decontaminated the location to a degree consistent with subsequent use as an unrestricted area, in accordance with Appendix F, RHA 3.57.

Add new Section 3.46.1.2.6 to read:

3.46.1.2.6 The ALARA constraints for air emissions established under RHA 3.4.4; or

Replace 3.46.2.4 in its entirety to read:

3.46.2.4 Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, ALARA constraints, generally applicable environmental standards, and associated license conditions.

Replace 3.46.3 in its entirety to read:

50 FINAL REGULATIONS

3.46.3 Each report filed pursuant to paragraph RHA 3.46.1 of this section must include for each occupationally overexposed⁵ individual: the name, Social Security account number, and date of birth. The report must be prepared so that this information is stated in a separate and detachable part of the report.

Add new Section 3.57 to read:

Part III

APPENDIX F

RHA 3.57 RADIOLOGICAL CRITERIA FOR LICENSE TERMINATION

3.57.1 General Provisions and Scope

3.57.1.1 The criteria in this appendix apply to the decommissioning of facilities licensed under Regulation 61-63, Title A, as well as other facilities subject to the Department's jurisdiction under the Atomic Energy and Radiation Control Act, Section 13-7-10 of the 1976 S.C. Code, as amended. For low-level waste disposal facilities, the criteria apply only to ancillary surface facilities that support radioactive waste disposal activities. The criteria do not apply to uranium and thorium recovery facilities already subject to Appendix A to 10 CFR part 40 or to uranium solution extraction facilities.

3.57.1.2 The criteria in this appendix do not apply to sites which:

3.57.1.2.1 Have been decommissioned prior to the effective date of the rule in accordance with criteria identified in the Site Decommissioning Management Plan (SDMP) Action Plan;

3.57.1.2.2 Have previously submitted and received Department approval on a license termination plan (LTP) or decommissioning plan that is compatible with the SDMP Action Plan criteria; or

3.57.1.2.3 Submit a sufficient LTP or decommissioning plan before August 20, 1998 and such LTP or decommissioning plan is approved by the Department before August 20, 1999 and in accordance with the criteria identified in the SDMP Action Plan, except that if an EIS is required in the submittal, there will be a provision for day-to-day extension.

3.57.1.3 After a site has been decommissioned and the license terminated in accordance with the criteria in this appendix, the Department will require additional cleanup only if, based on new information, it determines that the criteria of this appendix were not met and residual radioactivity remaining at the site could result in significant threat to public health and safety.

3.57.1.4 When calculating TEDE to the average member of the critical group the licensee shall determine the peak annual TEDE dose expected within the first 1000 years after decommissioning.

3.57.2 Radiological Criteria for Unrestricted Use

A site will be considered acceptable for unrestricted use if the residual radioactivity that is distinguishable from background radiation results in a TEDE to an average member of the critical group that does not exceed 25 millirem (0.25 mSv) per year, including that from groundwater, and the residual radioactivity has been reduced to levels that are as low as reasonably achievable (ALARA). Determination of the levels which are ALARA must take into account consideration of any detriments, such as deaths from transportation accidents, expected to potentially result from decontamination and waste disposal.

3.57.3 Criteria for License Termination Under Restricted Conditions

A site will be considered acceptable for license termination under restricted conditions if:

3.57.3.1 The licensee can demonstrate that further reductions in residual radioactivity necessary to comply with the provisions of RHA 3.57.2 would result in net public or environmental harm or were not being made because the residual levels associated with restricted conditions are ALARA. Determination of the levels which are ALARA must take into

account consideration of any detriments, such as traffic accidents, expected to potentially result from decontamination and waste disposal;

3.57.3.2 The licensee has made provisions for legally enforceable institutional controls that provide reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 25 millirem (0.25mSv) per year;

3.57.3.3 The licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site. Acceptable financial assurance mechanisms are:

3.57.3.3.1 Funds placed into an account segregated from the licensee's assets and outside the licensee's administrative control as described in RHA 1.15.10.1;

3.57.3.3.2 Surety method, insurance, or other guarantee method as described in RHA 1.15.10.2;

3.57.3.3.3 A statement of intent in the case of Federal, State, or local Government licensees, as described in RHA 1.15.10.4; or

3.57.3.3.4 When a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such governmental entity.

3.57.3.4 The licensee has submitted a decommissioning plan or License Termination Plan (LTP) to the Department indicating the licensee's intent to decommission in accordance with RHA 2.11.4, and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and incorporated, as appropriate, following analysis of that advice.

3.57.3.4.1 Licensees proposing to decommission by restricting use of the site shall seek advice from such affected parties regarding the following matters concerning the proposed decommissioning:

3.57.3.4.1.1 Whether provisions for institutional controls proposed by the licensee;

3.57.3.4.1.1.1 Will provide reasonable assurance that the TEDE from residual radioactivity distinguishable from background to the average member of the critical group will not exceed 25 millirem (0.25mSv) TEDE per year;

3.57.3.4.1.1.2 Will be enforceable; and

3.57.3.4.1.1.3 Will not impose undue burdens on the local community or other affected parties.

3.57.3.4.1.2 Whether the licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site;

3.57.3.4.2 In seeking advice on the issues identified in RHA 3.57.3.4.1, the licensee shall provide for:

3.57.3.4.2.1 Participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

3.57.3.4.2.2 An opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

3.57.3.4.2.3 A publicly available summary of the results of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues; and

52 FINAL REGULATIONS

3.57.3.5 Residual radioactivity at the site has been reduced so that if the institutional controls were no longer in effect, there is reasonable assurance that the TEDE from residual radioactivity distinguishable background to the average member of the critical group is as low as reasonably achievable and would not exceed either:

3.57.3.5.1 100 millirem (1 mSv) per year; or

3.57.3.5.2 500 millirem (5 mSv) per year provided the licensee:

3.57.3.5.2.1 Demonstrates that further reductions in residual radioactivity necessary to comply with the 100 millirem/year (1 mSv/yr) value of RHA 3.57.3.5.1 are not technically achievable, would be prohibitively expensive, or would result in net public or environment harm;

3.57.3.5.2.2 Makes provisions for durable institutional controls;

3.57.3.5.2.3 Provides sufficient financial assurance to enable a responsible government entity or independent third party, including a governmental custodian of a site, both to carry out periodic rechecks of the site no less frequently than every 5 years to assure that the institutional controls remain in place as necessary to meet the criteria of RHA 3.57.3.2 and to assume and carry out responsibilities for any necessary control and maintenance of those controls. Acceptable financial assurance mechanisms are those in RHA 3.57.3.3.

3.57.4 Alternate Criteria for License Termination

3.57.4.1 The Department may terminate a licensee using alternate criteria greater than those criteria of RHA 3.57.2, 3.57.3.2, and 3.57.3.4.1.1.1, if the licensee:

3.57.4.1.1 Provides assurance that the public health and safety would continue to be protected, and it is unlikely that the dose from all man-made sources combined, other than medical, would be more than the 1 mSv/yr (100 mrem/yr) limit of RHA 3.13 and 3.14, by submitting an analysis of possible sources of exposure;

3.57.4.1.2 Has employed to the extent practical restrictions on site use according to the provisions of RHA 3.57.3 in minimizing exposures at the site; and

3.57.4.1.3 Reduces doses to ALARA levels, taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal.

3.57.4.1.4 Has submitted a decommissioning plan or License Termination Plan (LTP) to the Department indicating the licensee's intent to decommission in accordance with RHA 2.11.4, and specifying that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how the advice of individuals and institutions in the community who may be affected by the decommissioning has been sought and addressed, as appropriate, following analysis of that advice. In seeking such advice, the licensee shall provide for:

3.57.4.1.4.1 Participation by representatives of a broad cross section of community interests who may be affected by the decommissioning;

3.57.4.1.4.2 An opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

3.57.4.1.4.3 A publicly available summary of the result of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues.

3.57.4.2 The use of alternate criteria to terminate a license requires the approval of the Department after consideration of the Department staff's recommendations that will address any comments provided by the Environmental Protection Agency and any public comments submitted pursuant to RHA 3.57.5.

3.57.5 Public Notification and Public Participation

Upon the receipt of an LTP or decommissioning plan from the licensee, or a proposal by the licensee for release of a site pursuant to RHA 3.57.3 or 3.57.4, or whenever the Department deems such notice to be in the public interest, the Department shall:

3.57.5.1 Notify and solicit comments from:

3.57.5.1.1 Local and State governments in the vicinity of the site and any Indian nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and

3.57.5.1.2 The Environmental Protection Agency for cases where the licensee proposes to release a site pursuant to RHA 3.57.4.

3.57.5.2 Publish a notice in the Federal Register and in a forum, such as local newspapers, letters to State or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site, and solicit comments from affected parties.

3.57.6 Minimization of Contamination

Applicants for licenses, other than renewals, after August 20, 1999, shall describe in the application how facility design and procedures for operation will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.

Replace Section 6.2 in its entirety and renumber remaining sections appropriately:

RHA 6.2 DEFINITIONS

6.2.1 "Worker" means an individual engaged in activities licensed by the Department and controlled by a licensee, but does not include the licensee.

Replace Sections 6.3-6.9 in its entirety to read:

RHA 6.3 POSTING OF NOTICES TO WORKERS

6.3.1 Each licensee shall post current copies of the following documents: (1) the regulations in this Part and in Part III; (2) the license conditions or documents incorporated into the license by reference and amendments thereto; (3) the operating procedures applicable to licensed activities; (4) any notice of violation involving radiological working conditions, proposed imposition of civil penalty, or order issued pursuant to Part II and any response from the licensee.

6.3.2 If posting of a document specified in paragraph 6.2.1 (1), (2) or (3) of this section is not practicable, the licensee may post a notice which describes the document and states where it may be examined.

6.3.3 Department Form SC-RHA-20, "Notice to Employees" shall be prominently posted by each licensee wherever individuals work in or frequent any portion of a restricted area.

6.3.4 Documents, notices or forms posted pursuant to this section shall appear in a sufficient number of places to permit individuals engaged in licensed activities to observe them on the way to or from any particular licensed activity location to which the document applies, shall be conspicuous, and shall be replaced if defaced or altered.

6.3.5 Department documents posted pursuant to paragraph 6.2.1 (4) of this section shall be posted within 2 working days after receipt of the documents from the Department; the licensee's response, if any, shall be posted within 2 working days after dispatch from the licensee. Such documents shall remain posted for a minimum of 5 working days or until action correcting the violation has been completed, whichever is later.

RHA 6.4 INSTRUCTIONS TO WORKERS

6.4.1 All individuals who in the course of employment are likely to receive in a year an occupational dose in excess of 100 mrem (1 mSv) shall be:

6.4.1.1 Kept informed of the storage, transfer, or use of radiation and/or radioactive materials:

54 FINAL REGULATIONS

6.4.1.2 Instructed in the health protection problems associated with exposure to radiation and/or radioactive material, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;

6.4.1.3 Instructed in, and instructed to observe, to the extent within the worker's control, the applicable provisions of Department regulations and licenses for the protection of personnel to radiation and/or radioactive material;

6.4.1.4 Instructed of their responsibility to report promptly to the licensee any condition which may lead to or cause a violation of Department regulations and licenses or unnecessary exposure to radiation and/or radioactive material;

6.4.1.5 Instructed in the appropriate response to warnings made in the event of an unusual occurrence or malfunction that may involve exposure to radiation and/or radioactive material; and

6.4.1.6 Shall be advised as to the radiation exposure reports which workers may request pursuant to Section RHA 6.4.

6.4.2 In determining those individuals subject to the requirements of 6.3.1, licensees must take into consideration assigned activities during normal and abnormal situations involving exposure to radiation and/or radioactive material which can reasonably be expected to occur during the life of a licensed facility. The extent of these instructions must be commensurate with potential radiological health protection problems present in the work place.

RHA 6.5 NOTIFICATION AND REPORTS TO INDIVIDUALS

6.5.1 Radiation exposure data for an individual, and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual, shall be reported to the individual as specified in this section. The information reported shall include data and results obtained pursuant to Department regulations, orders, or license conditions, as shown in records maintained by the licensee pursuant to Department regulations. Each notification and report shall: be in writing, include appropriate identifying data such as the name of the licensee, the name of the individual, the individual's social security number; include the individual's exposure information; and contain the following statement: "This report is furnished to you under the provisions of the South Carolina Department of Health and Environmental Control's 'Radiation Control Regulations.' You should preserve this report for future reference."

6.5.2 Each licensee shall advise each worker annually of the worker's dose as shown in records maintained by the licensee pursuant to paragraphs 3.36.2 and 3.39.

6.5.3.1 At the request of a worker formerly engaged in licensed activities controlled by the licensee, each licensee shall furnish to the worker a report of the worker's exposure to radiation and/or radioactive material:

6.5.3.1.1 As shown in records maintained by the licensee pursuant to RHA 3.39 for each year the worker was required to be monitored under the provisions of RHA 3.17; and

6.5.3.1.2 For each year the worker was required to be monitored under the monitoring requirements in effect prior to January 1, 1994.

6.5.3.2 This report must be furnished within 30 days from the time the request is made, or within 30 days after the exposure of the individual has been determined by the licensee, whichever is later. This report must cover the period of time that the worker's activities involved exposure to radiation from radioactive materials licensed by the Department and must include the dates and locations of licensed activities in which the worker participated during this period.

6.5.4 When a licensee is required pursuant to RHA 3.45, 3.46, 3.47, and 3.49 to report to the Department any exposure of an individual to radiation or radioactive material, the licensee shall also provide the individual a report on his or her exposure data included therein. This report shall be transmitted at a time not later than the transmittal to the Department.

6.5.5 At the request of a worker who is terminating employment with the licensee that involved exposure to radiation or radioactive materials, during the calendar quarter or the current year, each licensee shall provide at termination to each worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of

the licensee during the current year or fraction thereof. If the most recent individual monitoring results are not available at that time, a written estimate of the dose must be provided together with a clear indication that this is an estimate.

RHA 6.6 PRESENCE OF REPRESENTATIVES OF LICENSEES AND WORKERS DURING INSPECTIONS

6.6.1 Each licensee shall afford to the Department at all reasonable times opportunity to inspect materials, activities, facilities, premises, and records pursuant to these regulations.

6.6.2 During an inspection, Department inspectors may consult privately with workers as specified in RHA 6.5. The licensee or licensee's representative may accompany Department inspectors during other phases of an inspection.

6.6.3 If, at any time of inspection, an individual has been authorized by the workers to represent them during Department inspections, the licensee shall notify the inspectors of such authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

6.6.4 Each workers' representative shall be routinely engaged in licensed activities under control of the licensee and shall have received instructions as specified in Section RHA 6.4.

6.6.5 Different representatives of licensees and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time may accompany the inspector.

6.6.6 With the approval of the licensee and the workers' representative, an individual who is not routinely engaged in licensed activities under control of the licensee, for example, a consultant to the licensee or to the workers' representative, shall be afforded the opportunity to accompany Department inspectors during the inspection of physical working conditions.

6.6.7 Notwithstanding the other provisions of this section, Department inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to areas containing proprietary information, the workers' representative for that area shall be an individual previously authorized by the licensee to enter that area.

RHA 6.7 CONSULTATION WITH WORKERS DURING INSPECTIONS

6.7.1 Department inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of Department regulations and licenses to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

6.7.2 During the course of an inspection any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which he has reason to believe may have contributed to or caused any violation of the Act, these regulations, or license condition, or any unnecessary exposure of an individual to radiation from licensed radioactive material under the licensee's control. Any such notice in writing shall comply with the requirements of paragraph 6.8.1.

6.7.3 The provisions of paragraph 6.7.2 of this section shall not be interpreted as authorization to disregard instructions pursuant to Section RHA 6.4.

RHA 6.8 REQUESTS BY WORKERS FOR INSPECTIONS

6.8.1 Any worker or representative of workers who believes that a violation of the Act, these regulations, or license conditions exists or has occurred in license activities with regard to radiological working conditions in which the worker is engaged, may request an inspection by giving notice of the alleged violation to the Department. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of workers. A copy shall be provided to the licensee by the Department no later than at the time of inspection except that, upon the request of the worker giving such notice, his name and the name of individuals referred to therein shall not appear in such copy or on any record published, released, or made available by the Department, except for good cause shown.

6.8.2 If, upon receipt of such notice, the Department determines that the complaint meets the requirements set forth in paragraph 6.8.1 of this section, and that there are reasonable grounds to believe that the alleged violation exists or has

56 FINAL REGULATIONS

occurred, he shall cause an inspection to be made as soon as practicable, to determine if such alleged violation exists or has occurred. Inspections pursuant to this Section need not be limited to matters referred to in the complaint.

RHA 6.9 INSPECTIONS NOT WARRANTED; INFORMAL REVIEW

6.9.1 If the Department determines, with respect to a complaint under RHA 6.8, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, he shall notify the complainant in writing of such determination. The complainant may obtain review of such determination by submitting a written statement of position with the Commissioner for the South Carolina Department of Health & Environmental Control who will provide the licensee with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee may submit an opposing written statement of position with the Department who will provide the complainant with a copy of such statement by certified mail. Upon the request of the complainant, the Department may hold an informal conference in which the complainant and the licensee may orally present their views. An informal conference may also be held at the request of the licensee, but disclosure of the identity of the complainant will be made only following receipt of written authorization from the complainant. After considering all written and oral views presented, the Commissioner for the South Carolina Department of Health & Environmental Control shall affirm, modify, or reverse the determination of the Department and furnish the complainant and the licensee a written notification of his decision and the reason therefor.

6.9.2 If the Department determines that an inspection is not warranted because the requirements of Section 6.8.1 have not been met, he shall notify the complainant in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of Section 6.8.1.

Add new Sections 6.10 & 6.11 to read:

RHA 6.10 EMPLOYEE PROTECTION

Employment discrimination by a licensee (or a holder of a certificate of compliance) or a contractor or subcontractor of a licensee (or a holder of a certificate of compliance) against an employee for engaging in protected activities under this Regulation is prohibited.

RHA 6.11 DISCRIMINATION PROHIBITED

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity licensed by this Department. This provision will be enforced through Department provisions and rules similar to those already established, with respect to racial and other discrimination, under Title 1, Chapter 13 of the South Carolina Code. This remedy is not exclusive, however, and will not prejudice or cut off any other legal remedies available to a discriminatee.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined based on staff analyses pursuant to S.C. Code Section 1-23-115(c)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: R.61-63. Radioactive Materials (Title A)

Purpose: R.61-63 has been amended in accordance with changes to Federal Regulation 10 CFR Parts 19 and 20, Final Rules, published in the Federal Register on February 22, 1996 (61 FR 6762), December 10, 1996 (61 FR 65120), and July 21, 1997 (62 FR 39058). See Preamble above.

Legal Authority: This change to State law is authorized by S.C. Code Section 13-7-40 and required by Section 274 of the Atomic Energy Act of 1954, as amended.

Plan for Implementation: Existing staff of the Division of Radioactive Waste Management will implement these changes. The additional requirements are expected to require 30 man days of effort. Impact on other program areas will be slight. The regulation will be implemented upon promulgation by the Board of Health and Environmental Control and publication thereafter in the State Register.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AND EXPECTED BENEFIT: This regulatory amendment is exempt from the requirements of a Preliminary Fiscal Impact Statement and Preliminary Assessment Report because each change is necessary to maintain compatibility with Federal regulations. In amending the Federal regulations, the U.S. Nuclear Regulatory Commission found the following:

Amending the regulation will establish a constraint of 10 mrem per TEDE for dose to members of the public from air emissions of radionuclides from nuclear material licensees. This action is necessary to provide assurance to the EPA that future emissions from nuclear material licensees will not exceed dose levels that EPA has determined will provide an ample margin of safety and to provide EPA a basis upon which to rescind its Clean Air Act regulations for nuclear material licensees, thereby relieving these licensees from unnecessary dual regulations. (61 FR 65120, Published December 10, 1996).

Amending the regulation will provide specific radiological criteria for the decommissioning of lands and structures. It is intended to provide a clear and consistent regulatory basis for determining the extent to which lands and structures can be considered to be decommissioned. It will result in more efficient and consistent licensing actions related to the numerous and complex site decommissioning activities anticipated in the future. (62 FR 39058, Published July 21, 1997).

Amending the regulation will implement the use of an updated Department Form SC-RHA-20 and clarify the applicability of employment discrimination policies. (61 FR 6762, Published February 22, 1996)

DETERMINATION OF COSTS AND BENEFITS: There will be no increased costs to the State, its political subdivisions, or to the regulated community as a result of the changes to this regulation. The major benefit will be to relieve licensees of unnecessary dual regulation from the State and EPA (Environmental Protection Agency). It will also result in more efficient and consistent licensing actions related to the numerous and complex site decommissioning activities anticipated in the future.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: It is necessary to update existing regulations as changes occur at the federal level in order to maintain compatibility with the federal government and other Agreement states. This will ensure an effective regulatory program for radioactive material users under state jurisdiction, and protection of the public and workers from unnecessary exposure to ionizing radiation. These changes will ensure that regulatory requirements for air emissions from nuclear material licensees are in place to eliminate dual regulation. These revisions will also provide the regulatory criteria for license termination allowing for consistency in this process.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: None. Federal requirements will apply to all affected users. The amendments eliminate possible duplicative or redundant requirements.

58 FINAL REGULATIONS

Document No. 2445
DEPARTMENT OF LABOR, LICENSING AND REGULATION
CHAPTER 71
Statutory Authority: 1976 Code Section 41-15-210
Article I, Subarticle 6
Occupational Safety and Health Standards

The South Carolina Department of Labor, Licensing and Regulation, Division of Labor, Office of Occupational Safety and Health, hereby promulgates the following changes to South Carolina Regulations:

In Subarticle 6 (General Industry):

Minimum standard for Dipping and Coating Operations shall be new sections 1910.121 through 1910.126 with related revisions to 1910.6, 1910.94, and 1910.108, as amended in FEDERAL REGISTER, Volume 64, Number 55, pages 13908 through 13912, dated March 23, 1999.

Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the Office of Public Information at (803) 896-4380.