

Legislative Oversight Committee
South Carolina House of Representatives
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Notification of the Economic Development, Transportation, and Natural Resources Subcommittee Study

of the Department of Agriculture

Friday, August 4, 2017

In accordance with Standard Practice 12.5, notice is hereby provided that the Economic Development, Transportation, and Natural Resources Subcommittee oversight study of the Department of Agriculture is available for consideration by the full committee.

The Honorable Laurie Slade Funderburk
First Vice-Chair, House Legislative Oversight Committee

cc: The Honorable Neal A. Collins
The Honorable Mandy Powers Norrell
The Honorable Robert L. Ridgeway III

Legislative Oversight Committee

Study of the Department of Agriculture *August 3, 2017*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

CONTENTS

Agency Snapshot	6
<i>Figure 1. Snapshot of agency's history, daily operations programs, successes, and challenges.</i>	<i>6</i>
Executive Summary	7
Purpose of Oversight Study	7
Study Process.....	7
<i>Figure 2. Summary of key dates and actions of the study process.....</i>	<i>8</i>
Recommendations.....	8
<i>Table 1. Summary of recommendations arising from the study process.</i>	<i>8</i>
Internal Changes Implemented by Agency Related to Study Process.....	9
Additional Information of Interest	9
Agency Overview	10
History	10
<i>Table 2. Commissioners of Agriculture, 1880 to present.....</i>	<i>10</i>
Major Divisions or Programs	11
<i>Table 3. Agency's daily operations programs.</i>	<i>11</i>
Organizational Chart.....	14
<i>Figure 3. Organizational chart, current as of August 1, 2016.</i>	<i>14</i>
Products/Services	15
<i>Table 4. Some of the products and services the agency provides.</i>	<i>15</i>
Other Agencies Serving Similar Customers/Products/Services	15
Strategic Resources and Allocation	15
<i>Table 5. Resources allocated toward the agency's goals in fiscal year 2016-17.....</i>	<i>16</i>
<i>Table 6. Goal 1: Improve agency operational readiness and workforce development: agency's fiscal year 2016-17 strategic plan and resource allocation.....</i>	<i>17</i>
<i>Table 6.1. Performance measures associated with goal 1.</i>	<i>18</i>
<i>Table 7. Goal 2: Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities: agency's fiscal year 2016-17 strategic plan and resource allocation.</i>	<i>19</i>
<i>Table 7.1. Performance measures associated with goal 2.</i>	<i>21</i>
<i>Table 8. Goal 3: Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products: agency's fiscal year 2016-17 strategic plan and resources allocation.</i>	<i>22</i>
<i>Table 8.1. Performance measures associated with goal 3.</i>	<i>24</i>

<i>Table 9. Goal 4: Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders: agency's fiscal year 2016-17 strategic plan and resource allocation.</i>	25
<i>Table 9.1. Performance measures associated with goal 4.</i>	26
Performance	27
Study Process	28
Agency Selection	28
Subcommittee Membership	28
Agency Reports to Legislative Oversight Committee	28
Information from the Public	29
Public Survey	29
Public Input via Committee Website	30
Public Input via In-Person Testimony	30
Meetings Regarding the Agency	30
Study Process Completion	33
Recommendations	33
General Information	33
Curtail (i.e. Revise)	34
<i>Table 10. Summary of recommendation to modernize law relating to the Commissioner of Agriculture (bond).</i>	34
<i>Table 11. Summary of recommendation to modernize law relating to the Agriculture Commission (service in a hold-over capacity).</i>	35
<i>Table 12. Agriculture Commission current members.</i>	36
<i>Table 13. Summary of recommendation to modernize law relating to the Agriculture Commission (powers).</i>	37
<i>Table 14. Summary of recommendation to improve consumer services (model feed law).</i>	37
<i>Table 15. Summary of recommendation to improve consumer services (registration verification certificate).</i>	38
<i>Table 16. Summary of recommendations to improve consumer services (petroleum).</i>	39
<i>Table 17. Summary of recommendation to reduce restrictions on businesses (home-based food operations).</i>	40
<i>Table 18. Summary of recommendation to reduce restrictions on businesses (cotton warehouse receipts).</i>	42
<i>Table 19. Summary of recommendation to reduce restrictions on businesses (eggs).</i>	42
Internal Changes Implemented By Agency Related to Study Process	46
Additional Information of Interest	47

Selected Agency Information	47
Appendices	48
Appendix A. Notification Letter to Agency	49
Appendix B. Public Survey Information	52
Appendix C. January 28, 2016 Meeting Information	149
Appendix D. April 28, 2016 Meeting Information	177
Appendix E. July 6, 2016 Meeting Information	254
Appendix F. October 31, 2016 Meeting Information	312
Appendix G. January 26, 2017 Meeting Information	352
Appendix H. February 16, 2017 Meeting Information	379
Appendix I. May 2, 2017 Meeting Information	397
Appendix J. June 15, 2017 Meeting Information	485
Appendix K. June 22, 2017 Meeting Information	550
Appendix L. July 10, 2017 Meeting Information	676
Appendix M. Recommendation 4. Model Feed Law - Revisions to SC Code of Laws 36-25-210 and 40-7-1	731
Contact information	732
Endnotes	732

AGENCY SNAPSHOT

Department of Agriculture

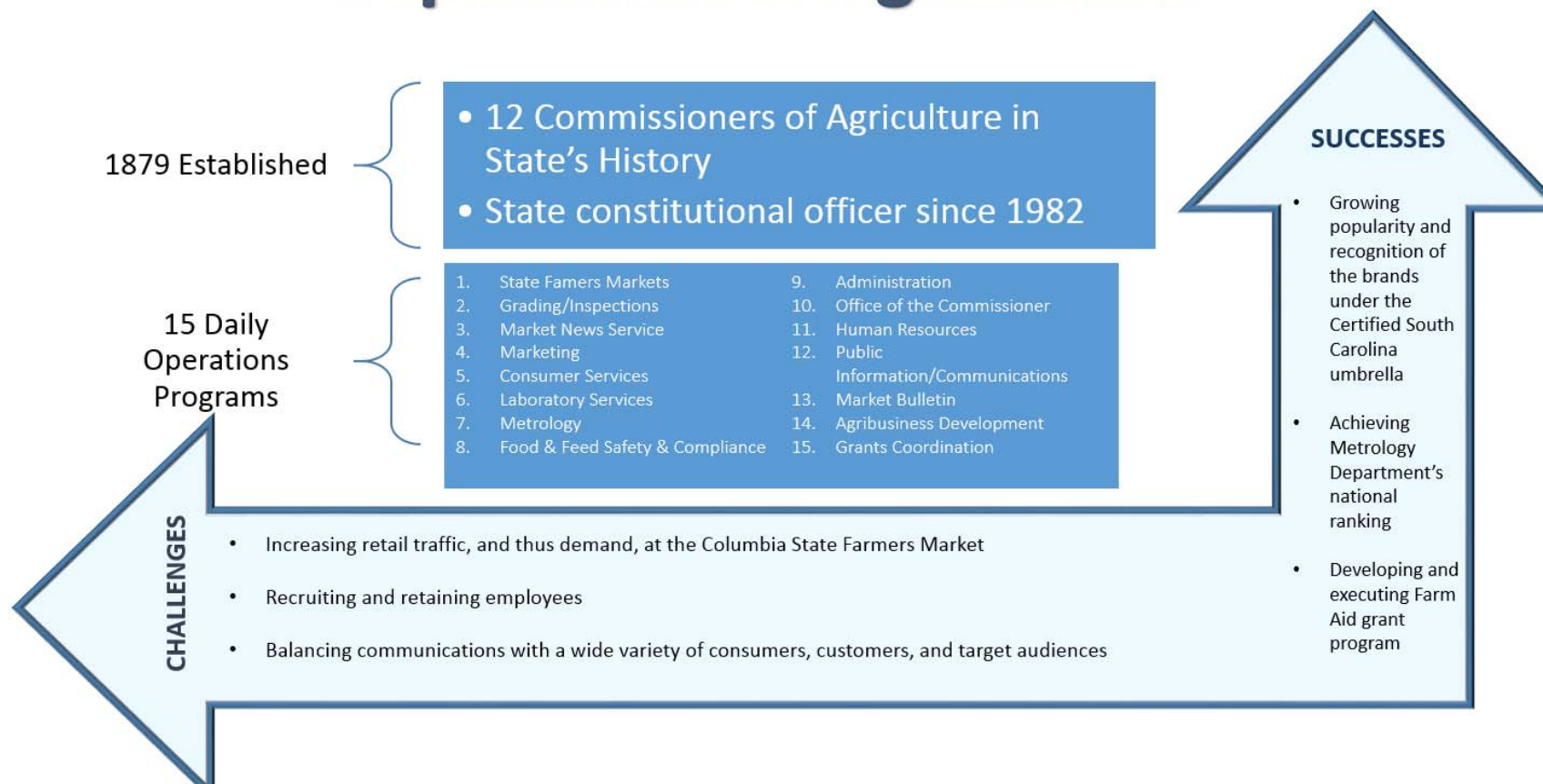


Figure 1. Snapshot of agency's history, daily operations programs, successes, and challenges.¹

EXECUTIVE SUMMARY

Purpose of Oversight Study

SC Code of Laws § 2-2-20(B) states that “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee:

(1) **are being implemented** and carried out **in accordance with the intent of the General Assembly; and**
 (2) **should be continued, curtailed, or eliminated.”** In making these determinations, the **Committee** evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.²

Study Process

The House Legislative Oversight Committee’s (Committee) process includes actions by the Committee; Economic Development, Transportation, and Natural Resources Subcommittee (Subcommittee);³ the Department of Agriculture (agency); and the public. A summary of key dates and actions of the study process are listed in Figure 2.

House Legislative Oversight Committee’s Actions

- January 28, 2016 - Prioritizes the agency for study
- February 4, 2016 - Provides the agency with notice about the oversight process

Economic Development, Transportation, and Natural Resources Subcommittee’s Actions

- April 28, 2016 - Holds **Meeting #1**, an entry meeting, to discuss procedures and to receive an overview of the agency’s operations
- July 6, 2016 - Holds **Meeting #2** to offer an opportunity for public testimony and to receive information on the agency’s history, mission, and key partners
- October 31, 2016 - Holds **Meeting #3** to discuss the impact of Hurricane Matthew to the agency and agriculture in the state; commodity boards; and the Agriculture Commission
- January 26, 2017 - Holds **Meeting #4**, a work session, to discuss the status of the study from the prior General Assembly
- February 16, 2017 - Holds **Meeting #5** to discuss the agency’s program structure and strategic plan
- May 2, 2017 - Holds **Meeting #6** to discuss the agency’s successes; challenges; emerging issues; strategic plan objectives; implementation of Legislative Audit Council’s recommendations relating to the State Farmers Market; and its “50 by 20” ten-year goal for agriculture in South Carolina
- June 15, 2017 - Holds **Meeting #7** to discuss the agency’s recommendations
- June 22, 2017 - Holds **Meeting #8**, a work session, to further discuss recommendations

- July 10, 2017 - Holds **Meeting #9**, a work session, to further discuss recommendations

Department of Agriculture's Actions

- March 21, 2015 - Submits its **Restructuring and Seven-Year Plan Report**
- January 11, 2016 - Submits its **Annual Restructuring Report**
- August 24, 2016 - Submits its **Program Evaluation Report**, which serves as the base document for the study
- September 15, 2016 - Submits its **Fiscal Year 2015-16 Accountability Report**, which serves as its **2017 Annual Restructuring Report**
- December 30, 2016 - Submits updates to its Program Evaluation Report

Public's Actions

- May 1-31, 2016 - Provides input about the agency in the form of an **online public survey**
- July 6, 2016 - Opportunity to provide testimony about the agency
- Ongoing - Opportunity for public to submit written comments on the House Oversight Committee's webpage on the General Assembly's website (www.scstatehouse.gov)

Figure 2. Summary of key dates and actions of the study process.

Recommendations

The Subcommittee has **eleven recommendations** arising from its study of the agency. These recommendations address four issues: (1) modernize law relating to the Commissioner of Agriculture; (2) modernize and revise laws relating to the Agriculture Commission of South Carolina; (3) improve consumer services; and (4) reduce restrictions for businesses. These recommendations are summarized in Table 1.

There are **no specific recommendations** with regards to continuance of agency programs or elimination of agency programs.

Table 1. Summary of recommendations arising from the study process.

RECOMMENDATIONS	
Modernize Law Relating to the Commissioner of Agriculture	
1.	Remove the bond (\$50,000) requirement of the Commissioner of Agriculture.
Modernize and Revise Laws Relating to the Agriculture Commission of South Carolina	
2.	Limit service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months.
3.	Remove statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer.

Improve Consumer Services	
4.	Adopt the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.
5.	Authorize an application fee (\$25) and tiered annual fee for a registration verification certificate, which is required for “those persons or firms wishing to manufacture, prepare, repack or sell foods to the public.” ⁴
6.	Require businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.
7.	Authorize a registration fee per dispenser (\$5) for businesses dispensing petroleum products.
8.	Enforce a tiered monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers.
Reduce Restrictions for Businesses	
9.	Remove statutory reference to the agency’s involvement with the “cottage law,” which is regulated by the Department of Health and Environmental Control (i.e., remove an exemption registration burden from small home-based food producers that distribute non-potentially hazardous baked-goods and candy to the end consumer).
10.	Modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number).
11.	Revise state egg law (i.e., exempt United States Department of Agriculture graded facilities from state licensing; remove licensure requirements for small producers; authorize the licensure of quail eggs; and authorize a fee for registration).

Internal Changes Implemented by Agency Related to Study Process

During the study process, the agency implements one internal change directly related to its participation in the study process. Notably, review of responses to the public survey helps inform the agency with its decision to align laboratory employee work hours with the time the agency is open to the public.⁵

Additional Information of Interest

The Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest include: (1) April 28, 2016, Attorney General Opinion that commodity boards are not subject to the State Procurement Code, and (2) agency’s draft language for modernizing salvage food (e.g., dented cans) regulations.⁶ Both documents are available online.

AGENCY OVERVIEW

History

The **General Assembly establishes the South Carolina Department of Agriculture in 1879** and tasks it with a broad scope of responsibilities: fertilizer regulation; soil improvement and analysis; distribution of seeds; sheep husbandry; geology; labor; and more.⁷ The General Assembly initially appropriates a one-time sum of approximately \$168,759 (inflation adjusted); the agency is supported by the funds collected from fines, forfeitures, and fees for land registration.⁸ In 1880, the agency concludes its first year of operations with a balance of approximately \$565,567 (inflation adjusted).⁹

The first Commissioner of Agriculture is A.P. Butler.¹⁰ More than a century later, in **1982, the Commissioner of Agriculture becomes an elected statewide constitutional officer** directly accountable to the public.¹¹ There are 12 Commissioners of Agriculture in the state's history, which are listed below in Table 2.¹² The current Commissioner of Agriculture is Hugh E. Weathers (Commissioner).

Table 2. Commissioners of Agriculture, 1880 to present.

COMMISSIONER	TERM OF OFFICE
A.P. Butler	1880-1890
Mr. Moore	1890-1891
Ebbie J. Watson	1904-1917
A. C. Summers	1917-1919
Bonneau Harris	1919-1925
James W. Shealy	1926-1932
J. Roy Jones	1932-1956
William L. Harrelson	1956-1976
G. Bryan Patrick, Jr	1976-1982
*D. Leslie Tindal	1982-2002
*Charles R. Sharpe	2002-2005
*Hugh E. Weathers	2005-present

*Table Note: Commissioners with an *beside their names either have served or serve as a constitutional officer.*

In the early part of the twentieth century, **at least a dozen state agencies are created with responsibilities originally housed at the Department of Agriculture.**¹³ The agency's name evolves to reflect its responsibilities.¹⁴ In 1904, the Department of Agriculture is renamed the "State Department of Agriculture, Commerce and Immigration."¹⁵ The Commissioner of Agriculture, Commerce and Immigration is appointed by the Governor, with the consent of the Senate.¹⁶ In 1909, the State Department of Agriculture, Commerce and Immigration is renamed the "Department of Agriculture, Commerce and Industries," and the Commissioner of Agriculture, Commerce and Industries gains the authority to collect labor statistics.¹⁷ In 1936, the General Assembly establishes the Department of Labor and vests it with collection of labor statistics.¹⁸ Accordingly, the State Department of Agriculture, Commerce and Industries is renamed the "Department of Agriculture and Commerce."¹⁹ In 1941, the Department of Agriculture and Commerce is renamed the "Department of Agriculture."²⁰

In 1960, the **General Assembly authorizes the Department of Agriculture to execute all laws regarding agriculture** unless the laws designate execution by another entity.²¹

In 1968, the **General Assembly creates the Agriculture Commission** and, among other things, authorizes it to create and oversee commodity boards and administer marketing orders.²²

In 1974, the state acquires the **Columbia Farmers Market** and places it under the supervision of the Department of Agriculture.²³ The agency assumes operations of the Greenville Farmers Market in 1980, and the Pee Dee State Farmers Market opens in 1989.²⁴

The **“Certified SC”** campaign launches in 2007, which now has over 1,800 members.

In 2009, the agency launches its **“50 by 20 – A Ten Year Goal for South Carolina Agriculture” initiative**.²⁵ The agency’s goal is for agriculture to be a \$50 billion industry by the year 2020; the agency is seeking to achieve this goal through increases in market access, partnerships, recruitment, and diversification.²⁶

In 2010, the **“Fresh on the Menu”** restaurant program is established, with over 300 restaurants now participating.²⁷

In 2011, the agency partners with the Department of Commerce for an agribusiness project manager, and in January 2014, the **agritourism program** is created.²⁸ In 2013, agribusiness has a total economic impact of \$41.7 billion, representing 10.5% of the state’s workforce (i.e., 212,530 jobs).²⁹ **South Carolina produces \$3 billion each year from its top agricultural products:** chickens, turkeys, greenhouse nurseries, cotton, corn, cattle, soybeans, peanuts, eggs, and wheat.³⁰

Major Divisions or Programs

An agency’s major divisions or programs are the way the agency is operationally segmented. The **Department of Agriculture has 15 daily operations programs**.³¹

Table 3. Agency’s daily operations programs.

PROGRAM	PURPOSE OF PROGRAM
State Farmers Markets	<ul style="list-style-type: none"> Owns and manages three regional (Columbia, Florence, and Greenville) state farmers markets, which provide consumers with a variety of locally grown produce and specialty products.
Grading/Inspections	<ul style="list-style-type: none"> Provides fruit, vegetable, poultry, egg, and commodity grading and inspection services, including Good Agricultural Practices training, under a cooperative agreement with the United States Department of Agriculture (USDA).
Market News Services	<ul style="list-style-type: none"> Analyzes and distributes price, volume, and other market information to all segments of the produce, grain, and livestock industries, and to consumers, pursuant to an agency contract with the USDA.
Marketing	<ul style="list-style-type: none"> Maintains and develops broad-based marketing programs that increase consumer awareness and product demand for quality South Carolina agricultural products at local, national, and international levels.

Consumer Services	<ul style="list-style-type: none"> Ensures the net content statements on packages and weighing or measuring devices are correct and that agricultural products are measured accurately for commerce to protect consumers.
Laboratory Services	<ul style="list-style-type: none"> Assures that goods meet acceptable standards of quality. Issues registrations, licenses, and permits to certain businesses (e.g., food laboratory, feed laboratory, seed laboratory, chemical residue laboratory, and petroleum products laboratory) to protect consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale.
Metrology	<ul style="list-style-type: none"> Provides National Institute of Standards and Technology traceable calibrations for mass and volume standards. Calibrates equipment for state inspectors and private scale and pump service companies for the enforcement of weights and measures regulations.
Food & Feed Safety and Compliance	<ul style="list-style-type: none"> Conducts routine surveillance inspections to ensure foods and feeds are manufactured under safe, sanitary conditions.
Administration	<ul style="list-style-type: none"> Provides agency support services, including: procurement, supply, fleet management, accounting and financial services, information technology, facilities management, and other administrative services.
Office of the Commissioner	<ul style="list-style-type: none"> Provides executive leadership, constituent services, special projects, events briefings, scheduling, and strategic planning.
Human Resources	<ul style="list-style-type: none"> Manages personnel matters, including benefits administration, state classification plan, payroll, leave accounting, and staff development. Ensures agency personnel practices are compliant with state and federal regulations.
Public Information / Communications	<ul style="list-style-type: none"> Communicates the agency's mission and the importance of South Carolina agriculture and agribusiness through traditional and social media, websites, and the Market Bulletin. Informs industry members and the general public of pertinent agricultural issues. Responds to various media inquiries.
Market Bulletin	<ul style="list-style-type: none"> Issues publication (print and electronic) twice a month as a marketplace for agricultural goods and services. Provides consumer interest articles.

Agribusiness Development	<ul style="list-style-type: none"> • Works to continually promote agribusiness in South Carolina through research and recruitment of prospective agribusinesses that may have an interest in locating or growing their agribusiness in the state via the production of South Carolina grown products or value-added services/processing. • Works with elected officials and business/state leaders at all levels to facilitate sound public policy and serve as an unbiased source of information.
Grants Coordination	<ul style="list-style-type: none"> • Cooperates with the federal government to implement the Specialty Crop Block Grant, Farm to School Grant, and Manufactured Food and Regulatory Program Standards. • Pursues and secures other grants to benefit the agriculture industry and agency.

An organizational chart, inclusive of the Agriculture Commission of South Carolina, is provided in Figure 3 on the next page.

Organizational Chart

Agency FTE Total: 120.8
2 TG
7 TL

S.C. Department of Agriculture

August 1, 2016

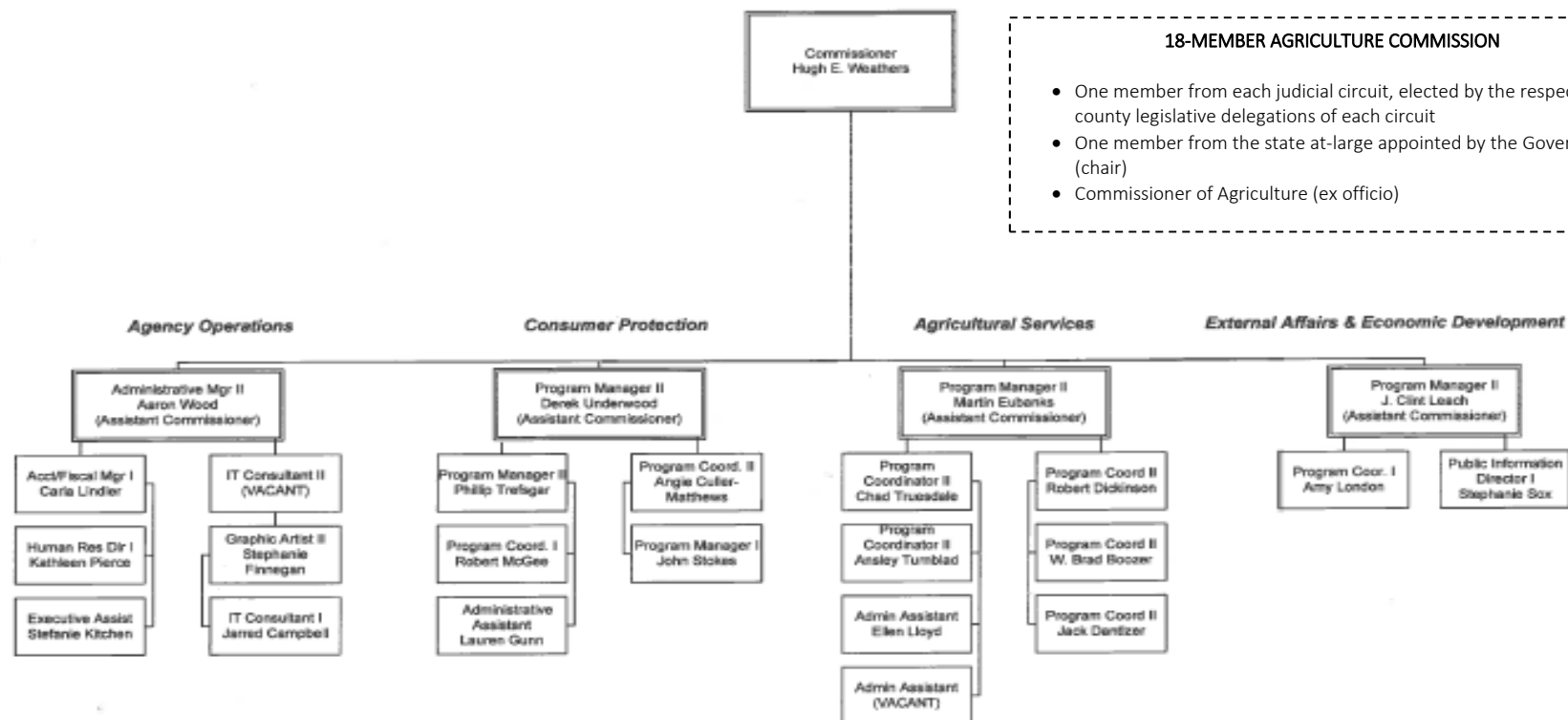


Figure 3. Organizational chart, current as of August 1, 2016.

Products/Services

The **Department of Agriculture** is tasked with executing laws in South Carolina pertaining to agriculture. The combined Accountability Report and Annual Restructuring Report for fiscal year 2015-16 requests information on the services and products an agency provides.³² Table 4 lists some of the products and services the agency provides relating to agriculture.

Table 4. Some of the products and services the agency provides.³³

<p>Ensures that foods and feeds are manufactured under safe and sanitary conditions via routine:</p> <ul style="list-style-type: none"> • Sampling and analysis; and • Chemical and microscopic analyses of feed products.
<p>Protects consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale and ensures goods meet acceptable standards of quality via:</p> <ul style="list-style-type: none"> • Fruit and vegetable residue testing; • Gasoline and diesel fuel products inspections and analysis; and • Germination and purity testing.
<p>Protects consumers by ensuring the net content statements on packages and weighing or measuring devices are correct; and that agricultural products are measured accurately for commerce via:</p> <ul style="list-style-type: none"> • Weighing and measuring devices inspections; • Public weigh masters; • Bonded dealers and handlers licenses; and • Licensing and bonding of warehouses.
<p>Communicates state agriculture, agribusiness, pertinent agricultural issues and marketplace information for agricultural goods and services via:</p> <ul style="list-style-type: none"> • Traditional media relations; • Social media; • Market bulletin publication; and • Regional state farmers markets; and • Agribusiness recruitment.

Other Agencies Serving Similar Customers/Products/Services

During the study of an agency, the **Committee asks what other agencies serve customers, products, or services similar to the agency under study.**³⁴ While the majority of products and services the Department of Agriculture provides are unique, the agency networks with other agencies in the economic development, transportation, natural resources, and regulatory arena to exchange operational ideas and information.³⁵

Strategic Resources and Allocation

During the study of an agency, the **Committee asks an agency how it allocates its human and financial resources to accomplish its goals** (i.e., broad expression of a long-term priority) **and objectives** (i.e., specific, measurable and achievable description of an effort the agency is implementing to achieve a goal) in the agency's strategic plan.³⁶

The following tables include an overview of the agency's strategic plan and resources allocated to its goals and objectives.³⁷ Table 5 lists employees and funding allocated to each goal in fiscal year 2016-17. Tables 6 through 9.1 include additional details, including resource allocation and associated performance measures, for each of these goals.

Table 5. Resources allocated toward the agency's goals in fiscal year 2016-17.

Strategic Plan Element	Description	Number of physical FTES and (FTE equivalents) planned ³⁸	Total budgeted (% of funds available) ³⁹
Goal 1	Improve agency operational readiness and workforce development	23 (15)	\$1,220,810 (5.46%)
Goal 2	Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities	59 (55)	\$4,198,306 (18.78%)
Goal 3	Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products	56 (49.15)	\$11,702,662 (52.35%)
Goal 4	Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders	17 (8.5)	\$147,643 (0.66%)
Balance remaining	Amount unspent		\$5,085,840 (22.75%)

In regards to carryforward, the agency states the amounts are necessary to support associated programs year-round.⁴⁰ Many of the agency's funding sources do not receive a steady stream of revenue throughout the year, rather, the revenue may be received only over a two-to-three month period (e.g., seed licenses, feed registrations, and commodity board assessments). If the agency does not carry forward appropriate revenue, the agency may be unable to meet operating expenses for portions of the year. Additionally, commodity board assessments are based on annual crop output. If there is a year in which weather affects crops (i.e., soybean, peanuts, watermelon, cotton, and tobacco) negatively, the boards may not receive crop assessments sufficient to meet the next year's operating expenses. The agency acts as a fiduciary agent for commodity board assessments, but the agency does not control the amount of remittances or expenditures. Also, built into the carryforward for 2014, 2015, and 2016 are amounts for non-recurring funds received through provisos which will not be available after this fiscal year.⁴¹

Table 6. Goal 1: Improve agency operational readiness and workforce development: agency's fiscal year 2016-17 strategic plan and resource allocation.

Strategic Plan Element	Description	# of FTEs (physical / equivalents) ⁴²	Total budgeted (% of funds available) ⁴³
Goal 1	Improve agency operational readiness and workforce development	23 (15)	\$1,220,810 (5.46%)
Strategy 1.1	<i>Prioritize and deploy Information Technology (IT) products and services</i>	5 (3.25)	
Objective 1.1.1	Inventory and establish a replacement schedule for all agency IT equipment	1 (1)	
Objective 1.1.2	Achieve that 100% of appropriate staff complete an annual information security awareness training	1 (0.5)	
Objective 1.1.3	Triage and acknowledge helpdesk tickets within 24 hours; provide desktop support to all agency users	2 (1.25)	
Objective 1.1.4	Work with Division of Information Security to develop and implement INFOSEC (i.e., information security) policies	1 (0.5)	
Strategy 1.2	<i>Recruit and retain highly qualified and motivated employees</i>	7 (4)	
Objective 1.2.1	Perform all actions related to personnel (e.g.: E-Verify, South Carolina Enterprise Information System, NeoGov [job portals], Employee Performance Management System, insurance, retirement, and documentation) within required timeframes (3 -30 days) as outlined in procedures and laws	3 (2.75)	
Objective 1.2.2	Complete required Equal Employment Opportunity Commission reporting and focus on potential areas of improvement	1 (0.25)	
Objective 1.2.3	Complete planning stage documents by 1 March each year for all existing employees and within 1 month of new hires	1 (0.25)	
Objective 1.2.4	Offer an annual health screening for all employees and purchase Personal Protective Equipment for all field personnel	1 (0.25)	
Objective 1.2.5	Coach supervisors through introductory and advanced training, writing personal development plans for subordinates, and implementation of progressive discipline policy	1 (0.5)	
Strategy 1.3	<i>Improve financial reporting and business procedures</i>	6 (4.5)	
Objective 1.3.1	Provide monthly financial reports to division directors and program staff	1 (0.5)	
Objective 1.3.2	Ensure compliance with procurement code, enhance procedural knowledge, and diversify vendor pool	1 (0.75)	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) ⁴²	Total budgeted (% of funds available) ⁴³
Objective 1.3.3	Update fleet vehicle and equipment inventory and complete reports monthly; assess needs and establish an annual replacement plan	1 (1)	
Objective 1.3.4	Set up purchase orders, post payments received, and process invoices within two weeks of receipt	3 (2.25)	
Strategy 1.4	<i>Set, execute and monitor a strategic plan towards accomplishing the agency mission</i>	5 (3.25)	
Objective 1.4.1	Facilitate communication up and down the chain of command through staff meetings, notifications, event attendance, and leading the communications committee	1 (0.5)	
Objective 1.4.2	Complete Farm Aid application processing, review and disbursements by 1 October 2016	2 (1.25)	
Objective 1.4.3	Respond to constituent contacts within 3 business days of receipt	1 (0.5)	
Objective 1.4.4	Brief Commissioner daily regarding his schedule, pertinent industry issues, employee news, and constituent contacts; represent Commissioner at meetings, seminars, and events	1(1)	

Table 6.1. Performance measures associated with goal 1.

<u>Performance Measures associated with Goal 1⁴⁴:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Percent of planning staging documents completed within two months of the calendar year for existing employees and within one month of hiring new employees	100%	94%	100%	July 1-June 30	HR records	Number of completed planning staging documents/ total number of employees required to have an employee performance evaluation	1.2.3
Percent of supervisors receiving supervisory skills training/personal development plan	100%	100%	100%	July 1-June 30	HR records	Number of employees receiving supervisory training/total number of employees eligible for supervisory training	1.2.3, 1.2.5
Percent of computer-using staff that complete annual information security awareness training	new	n/a	100%	July 1-June 30	IT records	Number of completions/total number of required staff	1.1.1

Table 7. Goal 2: Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities: agency's fiscal year 2016-17 strategic plan and resource allocation.

Strategic Plan Element	Description	# of FTEs (physical / equivalents) ⁴⁵	Total budgeted (% of funds available) ⁴⁶
Goal 2	Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities	59 (55)	\$4,198,306 (18.78%)
Strategy 2.1	<i>Provide food/feed safety oversight of South Carolina food manufactures, processors, and food distribution facilities through routine, risk-based, compliance inspections</i>	4 (3.5)	
Objective 2.1.1	Lead implementation plans for federal regulatory mandates such as Food Safety Modernization Act (FSMA), Manufactured Food Regulatory Program Standards, Animal Feed Regulatory Program Standards, and Country of Origin Labeling	1 (0.5)	
Objective 2.1.2	Hire and train a Plan Reviewer to provide assistance to new food entrepreneurs wishing to begin wholesale food businesses	1 (1)	
Objective 2.1.3	Participate in regional and national food safety events by way of membership, attendance, work groups and forums	1 (1)	
Objective 2.1.4	Create and maintain a new department within the Consumer Protection Division dedicated to educating about, and enforcement of, the United States Food and Drug Administrations' (FDA) FSMA Produce Safety Rule	1 (1)	
Strategy 2.2	<i>Maintain the accuracy of the state's mass and volume measurement system by providing high quality calibration services to public and private sector customers</i>	8 (7)	
Objective 2.2.1	Enhance the Metrology Laboratory's credibility by becoming accredited by the national Voluntary Laboratory Accreditation Program	1 (0.75)	
Objective 2.2.2	Establish a new Quality Manager Position to provide ongoing quality assurance auditing and documentation of the quality assurance program	1 (0.25)	
Objective 2.2.3	Build a new metrology laboratory to meet the National Institute of Standards and Technology requirements for Echelon I metrology laboratory environments	2 (2)	
Objective 2.2.4	Perform calibrations within one month of a work order	4 (4)	
Strategy 2.3	<i>Ensure commodities offered for sale are the correct quantity and quality through inspections of petroleum dispensers, retail scales, and storage facilities</i>	21 (20)	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) ⁴⁵	Total budgeted (% of funds available) ⁴⁶
Objective 2.3.1	Procure and deploy new large mass vehicles to provide service to large scale firms	1 (0.5)	
Objective 2.3.2	Perform routine inspections, consistent with policy, of 100% of firms annually under agency regulatory oversight	18 (18)	
Objective 2.3.3	Provide follow-up communication on 100% of consumer complaints	2 (1.5)	
Strategy 2.4	<i>Provide public safety assurance that commodities purchased are safe, wholesome, and adhere to standards, through chemical and physical analytical analysis of food, animal feed, seed, and petroleum products</i>	26 (24.5)	
Objective 2.4.1	Collaborate and ensure open communication with other agencies (e.g., Clemson, Department of Transportation, Department of Health and Environmental Control, Department of Revenue, Animal and Plant Health Inspection Service, Food Emergency Response Network [FERN], FDA, and United States Department of Agriculture) to perform routine and emergency testing	1 (0.5)	
Objective 2.4.2	Develop and install a new Laboratory Information Management System to enhance reporting and interface with FERN and FDA compliant databases	2 (1.5)	
Objective 2.4.3	Develop standard operating procedures and protocols to enhance laboratory capabilities through regulatory accreditation programs, such as ISO/IEC 17025	1 (1)	
Objective 2.4.4	Have 100% staff attendance at all technical trainings and safety meetings	21 (20.5)	
Objective 2.4.5	Analyze official and submitted samples and communicate results within five business days	1 (1)	

Table 7.1. Performance measures associated with goal 2.

<u>Performance Measures associated with Goal 2⁴⁷:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Number of seed inspections performed for Clemson University	new	n/a	350	July 1-June 30	Seed Lab records	Total number of seed inspections performed for Clemson	2.4.1, 2.4.3
Percent of consumer protection requests and complaints with same-day follow-up communication	100%	100%	100%	July 1-June 30	Inspection records	Number of consumer requests with same-day follow-up/total number of requests	2.3.3
Number of firms provided metrology laboratory services	new	381	400	July 1-June 30	Metrology Laboratory Report	Total number of firms provided laboratory services	2.2.1, 2.2.2, 2.2.3, 2.2.4
Percent of time action is taken on inferior petroleum samples	new	n/a	100%	July 1-June 30	Petroleum Lab records	Number of corrective actions taken/total number of fuel deemed inferior or contaminated	2.3.2, 2.3.3
Percent of time action is taken on mislabeled food products	new	n/a	100%	July 1-June 30	Food Safety Records	Number of corrective actions taken/Total number of food label submissions	2.1.1, 2.1.2, 2.1.3,
Percent of producers educated about produce safety rule under Food Safety Modernization Act (FSMA)	new	n/a	80%	July 1-June 30	Records and log from newly created agency FSMA department and Clemson University	Number of producers reached/total inventory of targeted producers	2.1.1, 2.1.4

Table 8. Goal 3: Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products: agency's fiscal year 2016-17 strategic plan and resources allocation.

Strategic Plan Element	Description	# of FTEs (physical / equivalents) ⁴⁸	Total budgeted (% of funds available) ⁴⁹
Goal 3	Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products	56 (49.15)	\$11,702,662 (52.35%)
Strategy 3.1	<i>Expand Certified South Carolina branding and marketing efforts</i>	7 (5.5)	
Objective 3.1.1	Increase program membership by 5%	2 (2.5)	
Objective 3.1.2	Actively use social media to engage the public with at least two posts per day	1 (0.75)	
Objective 3.1.3	Grow agritourism operator participation in South Carolina programming by 5% and consumer traffic at those venues by 10%	3 (1.5)	
Objective 3.1.4	Conduct participant evaluation at all events to determine effectiveness and utilization	1 (0.75)	
Strategy 3.2	<i>Maximize Return on Investment of producer-led commodity boards through research, promotion and education</i>	4 (2)	
Objective 3.2.1	Use merchandising and commodity-specific promotions to increase sales of South Carolina products by 5% in retail food outlets and food service venues	1 (0.5)	
Objective 3.2.2	Fund research of new technologies, science and best management practices for production, packaging and processing	1 (0.5)	
Objective 3.2.3	Place more resources into export market analysis, access, and development	1 (0.5)	
Objective 3.2.4	Use cross-promotion of, and between, commodities to increase demand by 5%	1 (0.5)	
Strategy 3.3	<i>Expand direct sales opportunities through the State Farmers Market system, community based markets, roadside markets, Farm-to-School, and niche markets</i>	20 (17.9)	
Objective 3.3.1	Identify and prioritize critical upgrades at all three State Farmers Market to ensure producers and consumers have safe and clean facilities	15 (14.5)	
Objective 3.3.2	Provide four training meetings for producers and community based markets to expand Supplemental Nutrition Assistant Program/Women, Infants Children usage of this program	1 (0.75)	
Objective 3.3.3	In conjunction with Clemson University Extension, update producer Good Agricultural Practice training and outreach efforts to increase certification by 5%	2 (1.75)	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) ⁴⁸	Total budgeted (% of funds available) ⁴⁹
Objective 3.3.4	Provide technical assistance and funding to nine new schools and pre-schools	1 (0.5)	
Objective 3.3.5	Leverage earned media to reach consumers two weeks prior to major events like Flower Festivals and Family Fun Day	1 (0.4)	
Strategy 3.4	<i>Provide daily market news reports and United States Department of Agriculture (USDA) quality grading and inspections for fruits, vegetables, peanuts, and other commodities</i>	25 (23.75)	
Objective 3.4.1	Make weekly visits to six livestock auctions and daily visits to produce wholesalers to record price, volume and other market information	4 (3.25)	
Objective 3.4.2	Produce and publish information daily and weekly through Internet reports, printed reports, telephone recording devices, daily radio programs, as well as newspapers	2 (1.5)	
Objective 3.4.3	Perform grading and inspection at all statewide peanut buying points and contracted grain and commodity buying points	17 (17)	
Objective 3.4.4	Increase the diversity of USDA commodity certifications that agency inspectors can issue upon request	2 (2)	

Table 8.1. Performance measures associated with goal 3.

Performance Measures associated with Goal 3⁵⁰:	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Number of Certified South Carolina members	1950	1870	1900	July 1- June 30	Member database; Updated monthly	Total of all Certified South Carolina members, including Certified South Carolina seafood	3.1.1
Number of attendees at Certified South Carolina events	235,400	181,132	190,000	July 1- June 30	Car counts, Ticket sales	Totaling number of attendees at agency events via car counts (2.2 PP per car as standard) and ticket sales for paid events	3.1.4
Certified South Carolina brand recognition	66%	n/a	66%	time in between periodic surveys	Statewide consumer survey	Total positive responses on consumer survey of target group sample	3.1.1
Percent of inspection staff able to provide full service to customers without restrictions	new	43%	100%	July 1- June 30	Inspection staff certifications	Number of full certified inspection staff/total number of inspection staff	3.4.4

Table 9. Goal 4: Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders: agency's fiscal year 2016-17 strategic plan and resource allocation.

Strategic Plan Element	Description	# of FTEs (physical / equivalents) ⁵¹	Total budgeted (% of funds available) ⁵²
Goal 4	Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders	17 (8.5)	\$147,643 (0.66%)
Strategy 4.1	<i>Grow existing industry by increasing agribusiness recruitment efforts and value-added opportunities</i>	5 (2.65)	
Objective 4.1.1	Meet with ten current companies annually to encourage them to use more South Carolina agricultural products in their business processes	1 (0.65)	
Objective 4.1.2	Create collaborations between in-state farmers and food processors to determine supply-chain opportunities	1 (0.25)	
Objective 4.1.3	Meet with state, locals and regional alliance officials quarterly about agribusiness opportunities	1 (0.5)	
Objective 4.1.4	Participate in at least seven business events and/or trade shows per year to meet with prospective companies	1 (1)	
Objective 4.1.5	Perform an annual inventory analysis on agribusiness companies who are primed for expansion in South Carolina or the Southeastern United States	1 (0.25)	
Strategy 4.2	<i>Research and advocate for responsible agricultural policies which encourage growth and resource stewardship</i>	3 (1)	
Objective 4.2.1	Assess all industry policies before each legislative session by gathering input from a cross section of at least ten different producers	1 (0.4)	
Objective 4.2.2	Be an industry voice in communicating factual information to elected officials at the appropriate time	1 (0.2)	
Objective 4.2.3	Work with agency program staff to review current laws, regulations, and policies to balance consumer safety and a business friendly environment	1 (0.4)	
Strategy 4.3	<i>Provide credible and timely information to South Carolinians to increase awareness of agriculture</i>	3 (1.1)	
Objective 4.3.1	Update agency plan for crisis management and/or regulatory enforcement events	1 (0.1)	
Objective 4.3.2	Respond to 100 percent of website information requests within two business days	1 (0.25)	

Strategic Plan Element	Description	# of FTEs (physical / equivalents) ⁵¹	Total budgeted (% of funds available) ⁵²
Objective 4.3.3	Develop relationships with media statewide to pitch positive agricultural news, events, stories as they occur	1 (0.75)	
Strategy 4.4	<i>Continue to foster external and internal communications as educational resources and enhanced customer service tools</i>	6 (3.75)	
Objective 4.4.1	Maintain a Market Bulletin subscription of 15,000	3 (2.5)	
Objective 4.4.2	Public Information staff should conduct visits with different program staff at least monthly	1 (0.25)	
Objective 4.4.3	Establish an accurate position on key issues and create consistent messaging across the agency	1 (0.5)	
Objective 4.4.4	Leverage paid media to get a higher return on investment	1 (0.5)	

Table 9.1. Performance measures associated with goal 4.

<u>Performance Measures associated with Goal 4⁵³:</u>	2015-16 Target Value	2015-16 Actual Value	2016-17 Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)
Percent of website Public Information Requests answered within 2 days	99%	100%	100%	July 1- June 30	Estimate based on PI request records	Number of phone, email, and social media requests answered within 2 days/total number of requests	4.3.2
Market Bulletin subscription reach	16,000	15,894	15,600	July 1- June 30	Kelly Registration Systems	Total number of Market Bulletin subscribers	4.4.1
Number of agribusiness identified for prospective expansion or projects in South Carolina	6	87	75	July 1- June 30	Recruitment log; updated monthly	Totaling monthly number of contacts	4.1.1, 4.1.3, 4.1.4, 4.1.5
Earned media	new	479	500	July 1- June 30	Media tracking records; daily	Total number of all agency media mentions	4.3.3, 4.4.2, 4.4.3, 4.4.4

Performance

Information on individual performance measures are listed in the previous section in Tables 6.1; 7.1; 8.1; and 9.1 for ease of comparison with the agency's goals.

Additionally, the **Program Evaluation Report requests information about the entities the agency views as top in performance areas similar to the agency.**⁵⁴ Based on the agency's mission and strategic plan, there are three other entities, the agency considers the best in the country: (1) New Jersey Department of Agriculture (branding state agriculture products); (2) Florida Department of Agriculture & Consumer Services (branding state agriculture products and seafood regulation); and (3) North Carolina Department of Agriculture and Consumer Services (food safety program).

STUDY PROCESS

Agency Selection

The Department of Agriculture is an agency subject to legislative oversight.⁵⁵ During the 121st General Assembly,⁵⁶ the **Committee prioritizes the agency for study** by the Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee on January 28, 2016.⁵⁷ When the Committee reorganizes for the 122nd General Assembly, the Subcommittee is renamed the Economic Development Transportation, and Natural Resources Subcommittee.⁵⁸

The **Committee notifies the agency** about the study on February 4, 2016.⁵⁹ The notification letter is in Appendix A on page 49. As the Committee encourages **collaboration in its legislative oversight process**, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor are notified about the agency study.⁶⁰

Subcommittee Membership

The **Economic Development, Transportation, and Natural Resources Subcommittee of the House Oversight Committee is studying the agency**.⁶¹ The study begins during the 121st General Assembly and continues during the 122nd General Assembly. During the 121st General Assembly, the Honorable Phyllis J. Henderson serves as chair, and during the 122nd General Assembly, the Honorable Ralph W. Norman serves as chair until he resigns from the General Assembly on February 16, 2017.⁶² The Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presides at the remainder of the Subcommittee meetings with the agency. Members participating in the study of the agency are listed below:

- The Honorable Neal A. Collins (122nd General Assembly);
- The Honorable Laurie Slade Funderburk (122nd General Assembly);
- The Honorable Phyllis J. Henderson (121st General Assembly);
- The Honorable Ralph W. Norman (121st and 122nd General Assembly);
- The Honorable Mandy Powers Norrell (122nd General Assembly);
- The Honorable Robert L. Ridgeway, III (121st and 122nd General Assembly); and
- The Honorable Samuel Rivers, Jr. (121st General Assembly).

Agency Reports to Legislative Oversight Committee

During the legislative oversight process, the **Committee asks the agency to conduct a self-analysis** by requiring it to complete and submit a Seven-Year Plan for cost savings and increased efficiencies; annual Restructuring Reports, and a Program Evaluation Report. These reports are available to the public on the Committee's website.

Seven-Year Plan for Cost Savings and Increased Efficiencies

S.C. Code of Laws § 1-30-10 requires agencies to submit “a seven year plan that provides initiatives and/or planned actions that implement cost savings and increased efficiencies of services and responsibilities within the projected seven-year period.”⁶³ The agency submits its plan on March 11, 2015.⁶⁴

Restructuring Report

The Annual Restructuring Report fulfills the requirement in SC Code of Laws § 1-30-10(G)(1) that annually each agency report to the General Assembly “detailed and comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs, or personnel within each department to provide a more efficient administration of government services.”⁶⁵ The **agency submits Annual Restructuring Reports** on March 11, 2015, January 12, 2016, and September 15, 2016.⁶⁶ The agency’s 2015-2016 Annual Accountability Report to the Governor and General Assembly serves as its 2017 Restructuring Report.⁶⁷

Program Evaluation Report

When an agency is selected for study, the Committee may acquire evidence or information by any lawful means, including, but not limited to, “requiring the agency to prepare and submit to the investigating committee a Program Evaluation Report by a date specified by the investigating committee.”⁶⁸ SC Code of Laws § 2-2-60 outlines what an investigating committee’s request for a program evaluation report (PER) must contain. It also provides a list of information an investigating committee may request. The agency’s PER includes information in the following areas: history, structure, strategic plan, programs, strategic allocation of resources, performance measures, comparisons to other agencies, and recommendations.

The **PER serves as the base document for the Subcommittee’s study of the agency.** The Committee sends guidelines for the agency’s PER on May 16, 2016.⁶⁹ The agency submits the report on August 24, 2016 and updates the report on December 30, 2016.⁷⁰

Information from the Public

Public input is a cornerstone of the House Legislative Oversight Committee’s process.⁷¹ Members of the public are provided an opportunity to participate anonymously in a public survey, provide comments anonymously via a link on the Committee website, and appear in person before the Subcommittee.⁷²

Public Survey

From May 1, 2016, to May 31, 2016, the Committee posts an **online survey to solicit comments from the public about the Department of Agriculture** and four other agencies.⁷³ Members of the public are able to participate anonymously in a public survey about the agency. In an effort to communicate this public input opportunity widely, a statewide media release is issued about the public survey on April 29, 2016.⁷⁴ House Members are provided copies of this media release and are encouraged to share notice of this public input opportunity with their constituents.⁷⁵

There are 1,025 responses to the survey, with at least one response coming from 41 of South Carolina's 46 counties.⁷⁶ These comments are not considered testimony.⁷⁷ As noted in the survey, "input and observations from those citizens who [choose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."⁷⁸ Documents related to the public survey are in Appendix B on page 52. The **public is informed of a continuous opportunity to submit written comments about agencies online** even after the public survey closes.⁷⁹

Of those that respond to questions related to the Department of Agriculture, 72% have a positive or very positive opinion of the department.⁸⁰ Over 68% of respondents form their opinions via personal or business experience with the agency or from media coverage.⁸¹

Written comments about the agency are provided by 23 survey participants; often, these comments address more than one topic. Many of the written comments address the agency's customer service and the farmers market.⁸² Responses to online surveys are posted on the Committee's webpage verbatim as they are received by the Committee. They are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.

Public Input via Committee Website

Throughout the course of the study, the public is able to submit comments anonymously on the Committee website. No public input is received through this communication method with the Committee.

Public Input via In-Person Testimony

The Committee offers the public an opportunity to appear and provide sworn testimony. A meeting dedicated to public input is held on July 6, 2016.⁸³ A press release announcing this opportunity is sent to media outlets statewide on June 28, 2016.⁸⁴ No public testimony is received about the agency during the meeting. Additionally, the chair of either the Committee or Subcommittee has the discretion to allow the testimony about the agency during meetings.

Meetings Regarding the Agency

The full Committee meets once about the agency, and the Subcommittee meets either with or about the agency on nine occasions. A timeline of meetings is in Figure 2 on page 8. Meeting minutes and archived videos of meetings are available online.⁸⁵

121st General Assembly (2015-2016)

January 2016

On January 28, 2016, the Committee **meets and prioritizes the Department of Agriculture** for study.⁸⁶ Appendix C includes the meeting packet on page 149.

April 2016

On April 28, 2016, the Subcommittee holds **Meeting #1**, an entry meeting, to discuss **procedural issues and receive a brief overview of the agency's operations** from the Commissioner of Agriculture.⁸⁷ Appendix D includes the meeting packet on page 177.

July 2016

On July 6, 2016, the Subcommittee holds **Meeting #2** to offer an **opportunity for the public to provide testimony about the agency**.⁸⁸ No testimony is received. The Commissioner of Agriculture provides information on the **agency's history, mission, and its key partners**. Following the meeting, the Subcommittee requests information on the following: (1) overview of relationships with South Carolina State University Public Service Activities; (2) information about pivot irrigation systems; (3) copies of studies mentioned during the meeting; and (4) recommendations the agency may have for revisions to laws for consideration as part of the study.⁸⁹ The agency responds to these requests on September 2, 2016.⁹⁰ Appendix E includes the meeting packet on page 254.

October 2016

On October 31, 2016, the Subcommittee holds **Meeting #3** with the agency. The Commissioner of Agriculture provides information on the following topics: **(1) impact of Hurricane Matthew to the agency and agriculture in the state; (2) structure, funding, staffing, and procurement for commodity boards; and (3) the structure and history of the Agriculture Commission**.⁹¹ Subcommittee members question the Commissioner about the following topics: (1) Agriculture Commission appointment process; and (2) commodity board staffing and fee assessments.⁹² The Commissioner responds to these questions. Appendix F includes the meeting packet on page 312.

122nd General Assembly (2017-2018)

January 2017

On January 26, 2017, the Subcommittee holds **Meeting #4**, a work session, to discuss the status of the study from the prior General Assembly.⁹³ Appendix G includes the meeting packet on page 352.

February 2017

On February 16, 2017, the Subcommittee holds **Meeting #5** with the agency. The Commissioner of Agriculture provides information on the following topics: **(1) the agency's program structure, and (2) the agency's strategic plan**.⁹⁴ Subcommittee members question the Commissioner about the following topics: (1) state aid package to assist farmers, meeting certain criteria, affected by the October 2015 historic flood; (2) agency's budget requests; and (3) the relationship between the state's agricultural production and consumption. The Commissioner responds to these questions. Appendix H includes the meeting packet on page 379.

May 2017

On May 2, 2017, the Subcommittee holds **Meeting #6** with the agency, with the Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presiding.⁹⁵ The Commissioner of Agriculture provides information about the following topics: **(1) successes; (2) challenges; (3) emerging issues; (3) strategic plan objectives; (4) implementation of Legislative Audit Council's recommendations relating to the State Farmers Market; and (5) the "50 by 20" ten-year goal for South Carolina agriculture [i.e., agribusiness industry flow \$50 billion in the state's economy by 2020].** Subcommittee members question the Commissioner about the following topics: (1) federal Food Safety Modernization Act; (2) farming profession; (3) surface water withdrawal; (4) farmers market; (5) commodity boards and the procurement code; and (6) marketing and economic development. The Commissioner of Agriculture responds to these questions. Following the meeting, the Subcommittee requests information on the following: (1) the federal Food Safety Modernization Act; and (2) commodity boards and procurement.⁹⁶ The agency responds to the Subcommittee's request on June 6, 2017.⁹⁷ Additionally, the agency and the Department of Health and Environmental Control provide the Subcommittee with information relating to the agency's recommendations for statutory changes.⁹⁸ Appendix I includes the meeting packet on page 397.

June 2017

On June 15, 2017, the Subcommittee holds **Meeting #7** with the agency, with the Honorable Laurie Slade Funderburk, Committee First Vice-Chair, presiding.⁹⁹ The Commissioner of Agriculture provides information about the **agency's recommendations** for revisions to laws relating to the agency. Subcommittee members question the Commissioner about the following topics: (1) Agriculture Commission; (2) model feed law proposed by the American Association of Feed Control Officials; (3) laboratory analysis performed by the agency; (4) agency's regulation of petroleum dispensers; (5) food inspection; (6) salvaged food; (7) electronic warehouse receipts for cotton; and (8) licensure requirements to sell eggs. The Commissioner of Agriculture, Assistant Commissioner for Consumer Protection, and Assistant Commissioner for Agency Operations respond. Following the meeting, the Subcommittee requests information about the agency's recommendations.¹⁰⁰ Appendix J includes the meeting packet on page 485.

On June 22, 2017, the Subcommittee holds **Meeting #8, a work session to further discuss the agency's recommendations**, with the Honorable Laurie Slade Funderburk, Committee First-Vice Chair, presiding.¹⁰¹ Following the meeting, the Subcommittee sends a letter to the agency requesting information relating to its recommendations.¹⁰² Appendix K includes the meeting packet on page 550.

July 2017

On July 10, 2017, the Subcommittee holds **Meeting #9, a work session to further discuss the agency's recommendations**, with the Honorable Laurie Slade Funderburk, Committee First-Vice Chair, presiding.¹⁰³ Subcommittee members question agency representatives about the agency's recommendations. The Assistant Commissioner for Consumer Protection and Assistant Commissioner for Agency Operations respond. Following the meeting, the Subcommittee sends a letter to the agency.¹⁰⁴ Appendix L includes the meeting packet on page 676.

Study Process Completion

Pursuant to Committee Standard Practice 12.4, **Subcommittee members may provide a separate written statement for inclusion with the Subcommittee's Study.** After receipt of any written statements from Subcommittee members, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee chair, the Committee chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full committee meeting. During a full Committee meeting at which the Subcommittee Study is discussed, the Committee may vote, pursuant to Committee Standard Practice 13.2, to (1) refer the study and investigation back to the Subcommittee or an ad hoc committee for further evaluation; (2) approve the Subcommittee's study; or (3) further evaluate the agency as a full Committee, utilizing any of the resources of legislative oversight available.

When the Committee approves a study, **any member of the Committee may provide a written statement for inclusion with the study.** The study, and written statements, are published online and the agency, as well as all House Standing Committees, receive a copy. The Committee shall offer at least one briefing to members of the House about the contents of the final oversight study approved by the Committee.¹⁰⁵ The Committee Chair may provide briefings to the public about the final oversight study.¹⁰⁶

To support the Committee's ongoing oversight by maintaining current information about the Department of Agriculture, the agency receives an annual Request for Information.

RECOMMENDATIONS

General Information

The following **recommendations include areas identified for potential improvement by the Subcommittee.** The Subcommittee recognizes **these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency.** These recommendations are based on the agency's self-analysis requested by the full Committee, discussion with the agency during multiple Subcommittee meetings, and analysis of the information obtained by the Subcommittee. This information, including, but not limited to the Program Evaluation Report, Accountability Report, Restructuring Report and videos of meetings with the agency can all be found on the Committee's website.

Continue

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs.

Curtail (i.e. Revise)

The Subcommittee has **eleven recommendations** arising from its study of the agency. These recommendations address four issues: (1) modernize law relating to the Commissioner of Agriculture; (2) modernize and revise laws relating to the Agriculture Commission of South Carolina; (3) improve consumer services; and (4) reduce restrictions for businesses. These recommendations are summarized in Table 1 on page 8.

Recommendation to Modernize Law Relating to the Commissioner of Agriculture

1. The Subcommittee recommends the General Assembly consider removing the bond (\$50,000) requirement of the Commissioner of Agriculture. The chief executive officer of the agency is the Commissioner of Agriculture, an elected state constitutional officer.¹⁰⁷ If a vacancy occurs in the office, the Governor appoints a successor to fill the unexpired term.¹⁰⁸ State statutes provide general qualifications for the office and outline specific duties for the Commissioner. The general qualifications include “a competent knowledge of agriculture, manufacturing and general industries, commerce, chemistry, and publicity.”¹⁰⁹ A variety of other duties of the Commissioner are referenced in statute, and one of those duties includes the posting of a bond.¹¹⁰

The bond requirement has not been updated in more than 60 years.¹¹¹ During the study process, the Commissioner of Agriculture testifies this provision in law is no longer necessary as other statutes address liability and property insurance for the agency (e.g., S.C. Code of Laws, section 1-11-140 relating to the Insurance Reserve Fund, a Division of the State Fiscal Accountability Authority and S.C. Code of Laws, section 46-40-10 et seq. relating to the South Carolina Grain Dealers Guaranty Fund).¹¹² A summary of the recommendation is in Table 10.

Table 10. Summary of recommendation to modernize law relating to the Commissioner of Agriculture (bond).

Statute or Regulation	SECTION 46-3-50. Bond
Explanation of Revision	1. Remove the bond (\$50,000) requirement of the Commissioner of Agriculture.
Recommended Language	<p>SECTION 46-3-50. Bond.</p> <p>The bond of the Commissioner shall be in the sum of fifty thousand dollars, and his liability thereon shall not extend to losses incurred in bonded warehouses, except in case of tort or neglect of duty on his part.</p> <p>HISTORY: 1962 Code Section 3-3-1; 1954 (48) 1566.</p>

Recommendations to Modernize Laws Relating to the Agriculture Commission

2. The Subcommittee recommends the General Assembly consider limiting service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months. The Agriculture Commission is composed of one member from each judicial circuit and one member from the state at large appointed by the Governor who serves as chair; the Commissioner of Agriculture serves ex officio.¹¹³ According to information from the South Carolina Secretary of State’s Office, **one judicial circuit has a vacancy on the**

Agriculture Commission; half of the sixteen judicial circuits have members on the commission who are serving in a hold-over capacity with expired terms, including one that expired a quarter of a century ago.¹¹⁴ A summary of the recommendation is in Table 11.

Table 11. Summary of recommendation to modernize law relating to the Agriculture Commission (service in a hold-over capacity).

Statute or Regulation	SECTION 46-5-10. Commission created; membership; terms; officers; election of members; vacancies; meetings.
Explanation of Revision	2. Limit service in a hold-over capacity on the Agriculture Commission to a period not to exceed six months.
Recommended Language	<p>SECTION 46-5-10. Commission created; membership; terms; officers; election of members; vacancies; meetings.</p> <p>There is created the Agriculture Commission of South Carolina, to be composed of one member from each judicial circuit and one member from the State at large who shall be designated chairman. The Commissioner of Agriculture shall be a member, ex officio, but without the power to vote. All terms shall be for four years, except that of the chairman, who shall be appointed by the Governor and whose term shall be coterminous with the office of the Governor appointing. <u>Commissioners shall continue to serve until their successors are elected and qualify, provided that a commissioner may only serve until their successors are elected and qualify, and provided that a commissioner may only serve in a hold-over capacity for a period not to exceed six months.</u> The chairman shall be an agricultural producer or grower of agricultural products. The member representing a judicial circuit shall be elected by the legislative delegations representing the circuit. Representation on the Commission shall be rotated among the counties of the circuit except by unanimous consent of all members of the legislative delegation representing the circuit. The Commissioner of Agriculture shall serve as secretary to the Commission. No one shall be appointed or elected who should attain the mandatory retirement age prior to the expiration of his term.</p> <p>The legislative delegations representing the counties of each judicial circuit shall meet upon written call of a majority of the members of the delegations of each judicial circuit at a time and place to be designated in such call for the purpose of electing a member of the Commission to represent such circuit. A majority present, either in person or by written proxy, of the members of the county legislative delegations from a given circuit shall constitute a quorum for the purpose of electing a member, but no person shall be declared elected who shall fail to receive a majority vote of all the members of the county legislative delegations from the circuit. The joint county legislative delegations of each circuit shall be organized by the election of a chairman and a secretary and such joint legislative delegations shall, subject to the provisions herein, adopt such rules as they deem proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and secretary of the joint county legislative delegations of each circuit shall immediately transmit the name of the person elected to the Secretary of State who shall forthwith issue to such person, after he has taken the usual oath of office, a certificate of election as a member of the Agriculture Commission of South Carolina. The Governor shall thereupon issue a commission to such person and pending such issuance the certificate of election shall be a sufficient warrant to such person to perform all of the duties and functions of his office.</p> <p>Any vacancy shall be filled in the manner as prescribed herein by election by the legislative delegations of the judicial circuit for the unexpired portion of the term.</p> <p>The Commission shall meet on the call of the chairman or a majority of the members.</p>

A list of the current members on the Agriculture Commission is in Table 12.

Table 12. Agriculture Commission current members.

Position	Current Members	Appointed Date	Expiration Date
1st Judicial Circuit	Shirer, Michael Perry	2/4/2015	12/31/2018
2nd Judicial Circuit	McElmurray, Thomas W.	10/21/1987	10/21/1991
3rd Judicial Circuit	VACANT		
4th Judicial Circuit	Robeson, Robert Barton	5/7/2015	12/31/2019
5th Judicial Circuit	Lanham, J. Thomas	9/16/2013	9/16/2017
6th Judicial Circuit	Barfield, Douglas A. Jr.	2/14/1997	2/14/2001
7th Judicial Circuit	Gramling, Ben M. II	3/1/2007	3/1/2011
8th Judicial Circuit	Abercrombie, Billy Ray	1/13/2015	1/13/2019
9th Judicial Circuit	West, Steven Carlyle	12/2/2014	12/31/2018
10th Judicial Circuit	Harris, John Robert	1/23/2013	1/23/2017
11th Judicial Circuit	Carr, Chalmers	5/2/2001	5/2/2005
12th Judicial Circuit	Gibson, Michael	3/28/2008	3/28/2012
13th Judicial Circuit	Looper, Franklin	6/30/1995	6/30/1999
14th Judicial Circuit	Sanders, Ross "Mac" Jr.	2/3/2004	2/3/2005
15th Judicial Circuit	Andrew, J. Benjie	2/8/2011	2/8/2015
16th Judicial Circuit	Hicks, Lewis W.	1/30/1994	1/30/1998
At Large	Price, Frances	3/10/2011	
Ex Officio	Commissioner of Agriculture		

Table Note: Judicial circuits with either a vacancy or members with expired terms are in bold print.

3. The Subcommittee recommends the General Assembly consider removing statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer. Various Attorney General Opinions over the years have examined the relationship between the Commission and the Department of Agriculture and have opined that the Commissioner of Agriculture is the governing entity of the Department of Agriculture.¹¹⁵

On October 31, 2016, the Commissioner of Agriculture testifies the current responsibilities of the Agriculture Commission include: overseeing the administration of the South Carolina Agricultural Commodities Marketing Act; issuing, amending, or terminating marketing agreements or orders to produce the intended effects; and maintaining the required records, issuing notices, conducting hearings, and ensuring growers have the opportunity to participate in referendums.¹¹⁶ A summary of the recommendation is in Table 13.

Table 13. Summary of recommendation to modernize law relating to the Agriculture Commission (powers).

Statute or Regulation	SECTION 46-5-10. Powers.
Explanation of Revision	3. Remove statutory references to the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget as the Commissioner of Agriculture is a state constitutional officer.
Recommended Language	<p>The Commission shall have the power to:</p> <p>(1) Adopt policies, rules and regulations of the Department of Agriculture for its own government not inconsistent with the laws of the State.</p> <p>(2) Annually approve budget requests for the institutions, agencies and service under the control of the Department of Agriculture as prepared by the Commissioner of Agriculture prior to being submitted to the Governor and to the General Assembly.</p> <p>(3) (1) Appoint such committees and such members of committees as may be required or as may be desirable to carry out the orderly function of the Commission.</p> <p>(4) (2) Cooperate fully with the Commissioner of Agriculture at all times to the end that the State's agricultural economy may constantly be improved.</p> <p>(5) (3) Assume such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it by law.</p>

Recommendations to Improve Customer Service

4. The Subcommittee recommends the General Assembly consider adopting the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.¹¹⁷ During the study process, the Commissioner of Agriculture testifies the current feed law has been in place for half a century and places consumers and feed mills at a disadvantage.¹¹⁸ Among other things, agency representatives testify this proposal: requires registration of facilities with the agency to facilitate recalls and pre-emptive measures to address food borne outbreaks, animal welfare and other potential issues prior to an event occurring.¹¹⁹ Assistant Commissioner for Consumer Protection testifies adoption of this model law increases efficiencies for the agency more efficient and industry.¹²⁰ A summary of the recommendation is in Table 14.

Table 14. Summary of recommendation to improve consumer services (model feed law).

Statute or Regulation	S.C. Code of Laws 36-25-210 and 40-7-1
Explanation of Revision	4. Adopt the model feed law proposed by the American Association of Feed Control Officials, which approximately 25 other states have already adopted.
Recommended Language	The full text of the proposed language is 160 pages long and is available online for review and in Appendix M on page 731.

5. The Subcommittee recommends the General Assembly consider authorizing an application fee (\$25) and tiered annual fee for a registration verification certificate, which is required for "those persons or firms wishing to manufacture, prepare, repack or sell foods to the public."¹²¹ An average of 200 new businesses apply yearly for a registration verification certificate.¹²² The process for issuing a registration verification certificate to a business includes a review of business plans, certifications, training, and labels by the Department of Agriculture, and the agency conducts product analysis as part of this process.¹²³ Currently, there is no fee to offset the cost of administration for issuing a registration verification certificate. The

agency estimates the proposal for an application fee (\$25) generates approximately \$5,000 annually and estimates the tiered annual revenue (i.e., fee based on risk/length of inspection and size of firm) generates \$157,400.¹²⁴ With these proposed revenue streams, the agency may hire three to four additional inspectors at entry level salaries (including fringe).¹²⁵ A summary of the recommendation is in Table 15.

Table 15. Summary of recommendation to improve consumer services (registration verification certificate).

Statute or Regulation	SECTION 39-25-210. Persons subject to inspection pursuant to this chapter; registration requirements; exceptions; annual renewal; civil and criminal penalties.
Explanation of Revision	5. Authorize an application fee (\$25) and tiered annual fee for a registration verification certificate, which is required for “those persons or firms wishing to manufacture, prepare, repack or sell foods to the public.” ¹²⁶
Recommended Language	<p>(A) A person subject to inspection pursuant to this chapter may not engage in the business of manufacturing, processing, warehousing, or packaging food in any manner without first registering with the department. This section shall not apply to facilities inspected and regulated by the United States Department of Agriculture (USDA) or the Clemson Livestock-Poultry Health Meat Inspection Division. Registration is required beginning January 1, 2011, and must be renewed annually thereafter on or before the first day of January on forms provided by the department.</p> <p>(B) A person who willfully violates the provisions of this section is subject to a civil penalty of up to one thousand dollars for each violation as determined by the department. Any person violating this section is also guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than thirty days.</p> <p><u>(C) Ability to Operate under Registration Verification Certificate (RVC)</u></p> <p><u>(1)- Prerequisite for operation. A person may not operate a food establishment without a valid Registration Verification Certificate (RVC) issued by the Department</u></p> <p><u>(2)- Form of Submission. A person desiring to engage in a food business regulated by the department shall submit to the Department a written application for a RVC on a form provided by the Department. Fee for this application is \$25.</u></p> <p><u>(D) The Commissioner shall charge annually the following fees for the RVC issued pursuant to the establishment and product type. The fee structure shall be based on the level of risk, employee size, procedural effort and inspection time needed for each food manufacturer establishment. Tier 1 - \$100.00 Tier 2 \$200.00 Tier 3- \$300.00. The RVC shall be renewed annually on July 1. Registration Fees shall be increased by 50 percent for the renewal of a license not renewed by September 1.</u></p>

6. The Subcommittee recommends the General Assembly consider requiring businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.

7. The Subcommittee recommends the General Assembly consider authorizing a registration fee per dispenser (\$5) for businesses dispensing petroleum products.

8. The Subcommittee recommends the General Assembly consider enforcing a scalable monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers.

While the Department of Agriculture regulates the dispensing of petroleum products (e.g., liquid petroleum gas; natural gas; diesel; kerosene; aviation fuel; and home heating oil), under existing law there is no statutory requirement or enforcement mechanism for a business dispensing petroleum products to register with the agency. Registration is voluntary. The Assistant Commissioner for Consumer Protection testifies registration allows the agency to verify the accuracy of pumps and dispensers prior to a business selling products to the public.¹²⁷ The agency estimates a registration fee of \$5 per dispenser (66,000) generates \$330,000 for more inspectors; more testing equipment; and better response time for complaints and accountability.¹²⁸ The agency requests authorization to administer a tiered monetary penalty for

repeat violators and habitual offenders that inaccurately advertise cash/ credit prices and/or have repeat dispenser issues (i.e., shorting the consumer). A summary of the recommendations are in Table 16.

Table 16. Summary of recommendations to improve consumer services (petroleum).

Statute or Regulation	<p>SECTION 39-41-10. “Petroleum” and “petroleum product” defined.</p> <p>SECTION 39-41-150. Issuance of rules and regulations.</p>
Explanation of Revision	<p>6. Require businesses dispensing petroleum products to notify the agency within 30 days of operating dispensers.</p> <p>7. Authorize a registration fee per dispenser (\$5) for businesses dispensing petroleum products.</p> <p>8. Enforce a scalable monetary penalty for habitual and willful offenders of petroleum law that take advantage of consumers</p>
Recommended Language	<p>SECTION 39-41-10. “Petroleum” and “petroleum product” defined.</p> <p>“Petroleum” or “petroleum product” as used in this article means gasoline, gasohol, kerosene, diesel fuels, jet fuels, fuel oil no. 1 through 4, or a similar product of petroleum or a product which may be acceptable for use as a petroleum product or oxygenated compound blends of the products but does not include compressed natural gas or propane when dispensed or sold as a motor vehicle fuel.</p> <p>A. <u>Every retail fuel business must notify the South Carolina Department of Agriculture Consumer Protection Division in writing when a petroleum dispensers has been installed for use, within 30 days of beginning operation. Failure to provide proper notification will result in a penalty assessment in the amount of \$500.</u></p> <p>B. <u>One dispenser registration permit shall be issued to each location for all liquid measuring devices at that location based on the total number of devices at that location. The permit shall expire one year following the date of issuance and must be renewed annually. The annual permit renewal fee shall be five dollars per dispenser, regardless of the number of products or hoses on that dispenser.</u></p> <p>SECTION 39-41-150. Issuance of rules and regulations.</p> <p>The Commissioner of Agriculture may issue such rules and regulations as may be necessary for carrying out the provisions of this article and such rules and regulations shall have the effect of law.</p> <p><u>(A) Any person or motor fuel retailer that knowingly or willfully violates the petroleum law or a habitual offender of the petroleum law will be subject to a penalty. First Offense -\$50, Second Offense \$200, Third and each subsequent Offenses will be subject to a penalty of \$500. Penalties will be determined, assessed, and made payable to the SC Department of Agriculture.</u></p>

Recommendations to Reduce Restrictions on Businesses

9. The Subcommittee recommends the General Assembly consider removing reference in statute to the agency’s involvement with the “cottage law,” which is regulated by the Department of Health and Environmental Control - (i.e., remove the exemption registration burden from small home-based food producers distributing non-potentially hazardous baked-goods and candy to the end consumer). A cottage food operation is a home-based food operation in an individual’s dwelling that prepares, packages, stores and distributes non-potentially hazardous baked foods and candy to the end consumer.¹²⁹ The Department of Agriculture does not regulate retail food sales to the end consumer in South Carolina as this is under the

authority of the Department of Health and Environmental Control's (DHEC) Food Protection Division.¹³⁰ DHEC supports this revision.¹³¹ A summary of the recommendation is in Table 17.

Table 17. Summary of recommendation to reduce restrictions on businesses (home-based food operations).

Statute or Regulation	SECTION 44-1-143. Requirements for home-based food production operations.
Explanation of Revision	9. Remove reference in statute to the agency's involvement with the "cottage law," which is regulated by the Department of Health and Environmental Control - (i.e., remove the exemption registration burden from small home-based food producers distributing non-potentially hazardous baked-goods and candy to the end consumer).
Recommended Language	<p>(A) For the purposes of this section:</p> <p>(1) "Home-based food production operation" means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person.</p> <p>(2) "Nonpotentially hazardous foods" are candy and baked goods that are not potentially hazardous foods.</p> <p>(3) "Person" means an individual consumer.</p> <p>(4) "Potentially hazardous foods" includes:</p> <p>(a) an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts; cut melons; cut leafy greens; cut tomatoes or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation; garlic-in-oil mixtures not modified to prevent microorganism growth or toxin formation;</p> <p>(b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged:</p> <p>Aw values pH values 4.6 or less > 4.6-5.6 > 5.6 (1) < 0.92 non-PHF non-PHF non-PHF (2) > 0.92-0.95 non-PHF non-PHF PHF (3) > 0.95 non-PHF PHF PHF</p> <p>Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.</p> <p>(B) The operator of the home-based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items, including, but not limited to:</p> <p>(1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;</p> <p>(2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home-based food production operation is located while food items are being prepared, processed, or packaged and prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;</p> <p>(3) prohibiting all domestic activities in the kitchen while the home-based food production operation is processing, preparing, packaging, or handling food intended for sale;</p> <p>(4) prohibiting any person who is infected with a communicable disease that can be transmitted by food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by</p>

food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home-based food production operation; and

(5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home-based food production operation are knowledgeable of and follow safe food handling practices.

(C) Each home-based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:

- (1) department-approved water supply;
- (2) a separate storage place for ingredients used in foods intended for sale;
- (3) a properly functioning refrigeration unit;
- (4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;
- (5) adequate facilities for the storage of utensils and equipment;
- (6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;
- (7) a properly functioning toilet facility;
- (8) no evidence of insect or rodent activity; and
- (9) department-approved sewage disposal, either onsite treatment or publicly provided.

(D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:

- (1) the name and address of the home-based food production operation;
- (2) the name of the product being sold;
- (3) the ingredients used to make the product in descending order of predominance by weight; and
- (4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: "NOT FOR RESALE-PROCESSED AND PREPARED BY A HOME-BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS."

(E) Home-based food operations only may sell, or offer to sell, food items directly to a person for his own use and not for resale. A home-based food operation may not sell, or offer to sell, food items at wholesale. Food produced from a home-based food production operation must not be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61.25.

(F) A home-based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61.25.

(G) The provisions of this section do not apply to an operation with net earnings of less than five hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).

~~(H) A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture under Section 39-25-10, et seq., if its annual sales are less than fifteen thousand dollars. Exemption forms must be provided by the South Carolina Department of Agriculture.~~

HISTORY: 2012 Act No. 190, Section 1, eff June 7, 2012.

10. The Subcommittee recommends the General Assembly consider modernizing the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number). According to the agency, the 2012 census of Agriculture notes 300,036 acres of cotton (587,589 bales) in the state. S.C. Code of Laws Section 39-22-110 requires identification tags placed on cotton bales accepted for storage in a warehouse operated under the state warehouse system. New tags are placed on the bale as it goes to a new gin, even though there are electronic receipts which reflect the location of the cotton bale.¹³² A summary of the recommendation is in Table 18.

Table 18. Summary of recommendation to reduce restrictions on businesses (cotton warehouse receipts).

Statute or Regulation	SECTION 39-22-110. Required identification tags on bales.
Explanation of Revision	10. Modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number)
Recommended Language	Each bale of cotton accepted for storage in a warehouse operated under the state warehouse system must be identified by a numbered tag affixed to the bale. The tag must be designed so that the brand "South Carolina" may be unmistakably visible. The palmetto tree, with a bale of cotton lying at the roots, and the shield of the State must be printed on the tag. The county of origin may appear on the tag. <u>The warehouse may utilize the Permanent Bale Identification (PBI) number and tag of another gin if that tag meets above requirements. If PBI tag does not meet the above listed tag requirements, the warehouseman may affix a sticker to the PBI tag or to bale of cotton adjacent to the PBI tag that meets requirements as list above.</u>

11. The Subcommittee recommends the General Assembly consider revising state egg law (i.e., exempt United States Department of Agriculture (USDA) graded facilities from state licensing; authorize the licensure of quail eggs; remove licensure requirements for small producers; and authorize a fee for registration). It is unlawful to sell unlabeled and ungraded eggs at a location other than a farm.¹³³ For other locations, the sale of eggs requires licensure by the Department of Agriculture, and, currently, there is no fee to offset the cost of administration for licensure.¹³⁴ As state law does not authorize licensure of quail eggs, local producers must obtain quail eggs outside of South Carolina.¹³⁵ According to the agency, this recommendation reduces restrictions on businesses (1) by exempting USDA-graded facilities from obtaining a state license, and (2) authorizing producers to sell up to 30 dozen eggs per week to the end consumer away from the farm without licensure.¹³⁶ Notably, the recommendation includes authorization for a fee not to exceed ten dollars for licensure.¹³⁷ A summary of the recommendation is in Table 19.

Table 19. Summary of recommendation to reduce restrictions on businesses (eggs).

Statute or Regulation	Title 39 (Trade and Commerce), Chapter 39 (Eggs and Baby Chicks)
Explanation of Revision	11. Revise state egg law (i.e., exempt United States Department of Agriculture graded facilities from state licensing; authorize the licensure of quail eggs; remove licensure requirements for small producers; and authorize a fee for registration).

Recommended
Language**Section 39-39-110.** Definitions.

As used in this chapter:

- (1) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs.
- (2) "Candle" means to determine the interior quality of eggs based on the use of a candling light as defined in the federal standards.
- (3) "Consumer" means a person using eggs for food and includes restaurants, hotels, cafeterias, hospitals, state institutions, and other establishments serving food to be consumed or produced on the premises but does not include the armed forces or other federal agency or institution.
- (4) "Eggs" means the shell eggs of a domesticated chicken, turkey, duck, quail, goose, or guinea hen.
- (5) "Label" means the display of any printed, graphic, or other method of identification on the shipping container or on the immediate container including, but not limited to, an individual consumer package of eggs.
- (6) "South Carolina eggs" means eggs produced in this State.
- (7) "Producer" means a person engaged in the business of producing and marketing eggs laid on his farm.
- (8) "Retailer" means a person, firm, or corporation selling or offering for sale eggs to ~~consumers in this State, or who engages in repacking, relabeling or handling loose eggs in this State.~~
- (9) "Distributor" means a person offering for sale or distributing eggs in this State to a retailer, cafe, restaurant, or other establishment serving eggs to the public or to an institutional user. It includes a person distributing eggs to his own retail outlet but does not include a person engaged to haul or transport eggs nor a producer.
- (10) "Wholesaler" means a person engaged in the business of buying or receiving eggs from producers or other persons on his own account and selling or transferring eggs to other wholesalers, processors, retailers, or other persons and consumers. A wholesaler further means a person engaged in producing eggs from his own flock and disposing of a portion of this production on a graded basis.
- (11) "Person" means any individual, partnership, association, business trust, corporation, or organized group of persons, whether incorporated or not.
- (12) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.
- (New) "License" means the certificate issued by the department.
- (New) "Egg-Grading Manual" refers to the United States Department of Agriculture Handbook 75.
- (New) "Qualified End User" means the consumer of the food (where the term consumer does not include a business).

HISTORY: 1962 Code Section 66-621; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-120. Egg seller licenses; information to be included on application.

All wholesalers, distributors, commission merchants, producers, brokers, and dealers who desire to sell or offer eggs for sale in this State shall first file for a license with the Commissioner of Agriculture, upon forms furnished by the commissioner, stating the name of the firm or person desiring to offer eggs for sale either by themselves or by their agent, together with the address of the firm or person and the type or kind of eggs to be offered for sale. ~~The license must be issued at no cost and in a form prescribed by regulations promulgated by the department.~~ The egg license may involve an administrative fee collected by the department for administrative purposes and shall be renewed annually. The licensing fee shall not exceed \$10 annually.

HISTORY: 1962 Code Section 66-622; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-121. Wholesaler and distributor licenses; grounds for suspension or revocation; transfer; exception.

(A) A person may not engage in business as a wholesaler or as a distributor without first obtaining a license from the commissioner. A license issued pursuant to this article must not be suspended or revoked except for health and sanitation reasons or for violations of this article and until the affected licensee is provided with reasonable notice and an opportunity for hearing, pursuant to the South Carolina Administrative Procedures Act. Licenses issued pursuant to this article are valid until suspended or revoked and are not transferable with respect to persons or location. ~~There is no fee for this license.~~

(B) Shell egg handlers registered under the United States Department of Agriculture Egg Surveillance Inspection Program are exempt from the provisions of subsection (A) of this section.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-135. Refrigeration.

(A) Shell egg producers shall refrigerate eggs upon gathering the eggs. Eggs must be washed, sanitized, sized, graded and packed within a reasonable period of time from gathering as defined in the USDA Egg Grading Manual.

(B) After washing, processing, and packaging, eggs must be transported, stored, and displayed at ambient temperatures not to exceed forty-five degrees Fahrenheit until sold at retail or used by a commercial establishment or public institution.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-140. Labeling requirements; conformity to U.S. Department of Agriculture standards; classification to be included in advertising.

(A) In order to protect the producer, the distributor, and the consumer, all eggs sold in this State must be labeled so as to designate their quality, size, and weight class.

(B) The department shall establish standards for the grading, classification, and marking of shell eggs bought and sold by a person in this State.

(C) The standards, on the date of the sale to the consumer, must conform to the minimum standards promulgated by the United States Department of Agriculture as defined in the "United States Standards, Grades and Weight Classes for Shell Eggs", authorized pursuant to 7 U.S.C. Section 1624.

(D) The standards of quality of the United States Department of Agriculture are adopted as the standards of quality for the enforcement of this article. An egg described by the United States Department of Agriculture as being inedible is considered inedible pursuant to the provisions of this article.

(E) At the time of packing and candling of each case of eggs, the producer or dealer shall affix a label in compliance with the Fair Labeling and Packaging Act ~~not less than two inches by four inches or not less than eight square inches on one end of each case~~. On this label must be printed or stamped, legibly in letters ~~not less than one-fourth of an inch in size~~, the date when the eggs were packed and candled or the expiration date, which may not exceed forty-five days from the date packed, the size and grade of the eggs, and either the name and address of the packer ~~or~~ and the USDA assigned plant number or a state approved plant identification code. ~~The name of the state of origin may be given.~~ If eggs are sold in cartons, the cartons must show the date packed or the expiration date, which may not exceed forty-five days from the date packed, and the grade and size, together with either the name and address of the packer ~~or~~ and the USDA assigned plant number or a state approved plant identification code. ~~The state of origin also may be given.~~

(F) Abbreviations of words in the classification or in designating the grade and size are prohibited. The information pertaining to the grade and size must be shown in legible letters not less than one-fourth of an inch in size. The information pertaining to the name and address of the packer or the USDA assigned plant number or a state approved plant identification code and the date packed or expiration date must be given legibly. All wording on egg cases and egg cartons must be in English and must be approved by the Department of Agriculture before using.

(G) Words or phrases tending to obscure or nullify the proper classification of eggs are prohibited. Each word of the classification, including the name of the state of origin, must appear in the same size type

and color in a printed advertisement. Abbreviations of a word in the classification or in designating the size and grade to which eggs belong are prohibited. A person advertising eggs for sale, at retail or wholesale, in newspapers, by window displays, or otherwise shall set forth in the advertisement the classification as to size and grade of the eggs offered for sale. The classification must be set forth in letters equal in size to those advertising the eggs for sale.

HISTORY: 1962 Code Section 66-624; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-141. Bulk retail sales; display of placards and information thereon; exceptions as to eggs in cartons; placards in restaurants.

(A) All eggs offered for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers must be classified properly in accordance with this subsection. A heavy cardboard or placard, ~~not less than eight by eleven inches~~, must be displayed conspicuously at all times on or over each receptacle containing eggs offered for sale, setting forth in letters ~~not less than one inch in height~~, plainly and legibly, the classification as to the quality, size, weight, and the expiration date or packed on date.

(B) The name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. ~~The name of the state of origin of eggs may appear on the placard.~~

(C) The placard is not required if eggs are packed in properly labeled cartons. The eggs are required to meet the standard as noted on the placard.

(D) Restaurants, hotels, or other eating places shall ~~display conspicuously a placard at all times on or over each receptacle containing eggs to be used in food preparation~~ provide to SC Department of Health and Environmental Control proof of department's licensed source.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-150. Unlawful acts.

(1) (a) offer eggs for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers and fail to display conspicuously on the case, box, or other container a plainly written designation showing the correct grade and weight class to which the eggs conform. The designation must be of the kind and in the manner required by regulations of the Department of Agriculture;

(b) offer eggs without proper labeling 39-39-140 to include size, grade, producer's address, packed on or expiration by date and department's license information or USDA assigned plant number.

(2) use the word "nulaid", "country", "hennery", "day-old", "select", "selected", ~~"certified"~~, "best", "nearby", "fresh-laid", or a similar descriptive term which the Commissioner of Agriculture, by regulation, prohibits in connection with the advertising or selling of eggs;

(3) use the words "South Carolina" in connection with the advertisement and sale of eggs not produced in this State;

(4) use the word "fresh" in connection with the advertisement and sale of eggs not produced in this State unless those eggs meet or exceed the quality standard designated "Grade A";

(5) offer eggs for sale that are not stored properly in a refrigerated state or at the temperature specified in Section 39-39-135.

HISTORY: 1962 Code Section 66-626; 1955 (49) 316; 1972 (57) 2820; 1977 Act No. 128 Sections 1, 2; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-170. Exemptions.

The following are exempt from this chapter:

- (1) persons who buy or sell eggs to be used exclusively for hatching purposes;
- (2) shipments of eggs in interstate commerce;

- (3) producer who sell eggs at a roadside stand near the farm on which the eggs were produced.
- (4) producer selling eggs from their farms directly to end consumers of their production offsite when egg sales do not exceed 30 dozen per week.
- (5) retailers, wholesalers, distributors who do not repack or relabel but only engage in purchasing from USDA shielded/SCDA licensed egg producers.
- (6) A farm/ producer eligible for an exemption under this section may complete forms made available by the department. The department shall issue the farm an exemption certificate as an official acknowledgement of the farm's exemption status.

HISTORY: 1962 Code Section 66-628; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-180. Penalties.

(A) A civil action may be brought by the Commissioner of Agriculture in a court of competent jurisdiction to recover a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(B) The commissioner or his designee may conduct an administrative hearing and, upon notice and an opportunity to be heard, may assess a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(C) A person found willfully violating this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than ninety days, or both, in the discretion of the court.

HISTORY: 1962 Code Section 66-629; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

INTERNAL CHANGES IMPLEMENTED BY AGENCY RELATED TO STUDY PROCESS

During the study process, the agency implements one internal change directly related to its participation in the study process. Notably, review of responses to the public survey helps inform the agency with its decision to align laboratory employee work hours with the time the agency is open to the public.¹³⁸

ADDITIONAL INFORMATION OF INTEREST

During the study process, the Subcommittee receives materials of interest to the agency. These materials include: (1) April 28, 2016, Attorney General Opinion¹³⁹ that commodity boards are not subject to the State Procurement Code, and (2) agency's draft language for modernizing salvage food¹⁴⁰ (e.g., dented cans) regulations. Both documents are available online.

SELECTED AGENCY INFORMATION

Department of Agriculture. "Program Evaluation Report, 2016."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Agency%20PER%20-%20August%2024,%202016.pdf> (accessed May 25, 2017).

Department of Agriculture. "Restructuring and Seven-Year Plan Report, 2015."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Agriculture.pdf> (accessed May 25, 2017).

Department of Agriculture. "Annual Restructuring Report, 2016."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Agriculture.PDF> (accessed May 25, 2017).

Department of Agriculture. "Agency Accountability Report, 2015-2016."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed May 25, 2017).

SC House of Representatives, Legislative Oversight Committee. "May 2016 Survey Results."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20RSIC.PDF> (accessed May 25, 2017).

APPENDICES

Appendix A. Notification Letter to Agency

Appendix Includes:

- Letter from Oversight Committee to Department of Agriculture (February 4, 2016)
 - Notifies agency it is under study.

*First Vice-Chair:
Laurie Slade Funderburk*

Legislative Oversight Committee

*Nathan Ballentine
Gary E. Clary
Kirkman Finlay III
Joseph H. Jefferson Jr.
Walton J. McLeod
Joshua Putnam
Samuel Rivers Jr.
Tommy M. Stringer
Bill Taylor*



South Carolina House of Representatives

*William K. (Bill) Bowers
Raye Felder
Phyllis J. Henderson
Mia S. McLeod
Ralph W. Norman
Robert L. Ridgeway III
James E. Smith Jr.
Edward R. Tallon Sr.
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*Charles L. Appleby IV
Legal Counsel*

*Carmen J. McCutcheon
Research Analyst*

February 4, 2016

Commissioner Hugh E. Weathers
South Carolina Department of Agriculture
Post Office Box 11280
Columbia, South Carolina 29211

RE: Legislative Oversight Study of the South Carolina Department of Agriculture

Dear Commissioner Weathers:

In conducting these Studies, it is the Legislative Oversight Committee's goal to partner with the agency to help it identify areas in which it can continue to improve upon the positive results it has generated for the people of South Carolina.

In the near future, the Economic Development, Transportation, Natural Resources and Subcommittee will schedule a meeting with your agency to discuss preliminary matters relating to the Study of the South Carolina Department of Agriculture. During this preliminary meeting, Representative Phyllis J. Henderson will explain the Committee's expectations. In addition, the agency will have an opportunity provide a brief overview of its programs and ask questions.

The Committee wants to ensure the agency has as much information as possible and ample opportunity to review materials prior to the meeting. Therefore, enclosed is a flow chart with an overview of the process the Committee intends to follow, copy of the Committee's Rules and copy of the Committee's Standard Practices (please note these may be modified). Also, below is a brief summary of the expectations.

The Committee expects an agency to inform its staff that the agency is undergoing the legislative oversight study process as well as the purpose of the study. The Committee expects an agency to appoint a liaison to assist the Committee with all activities. The Committee expects an agency to respond to its requests in a concise, complete and timely manner. The Committee expects an agency to be candid with it and to promptly discuss with the

Page Two
Commissioner Weathers

Committee any concerns or questions the agency may have related to the legislative oversight study process, including any concerns the agency may have that the Committee has drawn an incorrect conclusion.

I hope the information above and enclosed is helpful to you and your agency in understanding the process the Committee intends to following in conducting the Study. Please do not hesitate to contact me, Representative Henderson, or Committee staff, if you have any questions or concerns about the Study.

Sincerely,

Signature Redacted

Wm. Weston J. Newton
Chairman, House Legislative Oversight Committee

Enclosures

cc: Representative Phyllis J. Henderson

Appendix B. Public Survey Information

Appendix Includes:

- Press release announcing public survey (April 29, 2016)
- Results of survey of Department of Agriculture; Department of Health and Environmental Control; Law Enforcement Training Council and Criminal Justice Academy; Department of Archives and History; and Retirement System Investment Commission (May 1 - 31, 2016)

Chairman Wm. Weston J. Newton

First Vice-Chair:
Laurie Slade Funderburk

Legislative Oversight Committee



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MEDIA RELEASE

April 29, 2016
For Immediate Release

Contact: Chairman Weston Newton
Email: WestonNewton@schouse.gov

S.C. HOUSE LEGISLATIVE OVERSIGHT COMMITTEE ANNOUNCES AN ONLINE SURVEY SEEKING CITIZENS' INPUT ON NEXT FIVE AGENCIES UNDER STUDY BY THE COMMITTEE

*Department of Agriculture, Department of Health and Environmental Control, Law Enforcement Training
Council and Criminal Justice Academy, Department of Archives and History, and Retirement Investment Commission*

Columbia, SC - Speaker Jay Lucas and the South Carolina House of Representatives' Legislative Oversight Committee are pleased to announce an online survey seeking citizens' input on the next five agencies under study by the Committee. The next five agencies under study by this House Committee are the Department of Agriculture, Department of Health and Environmental Control, Law Enforcement Training Council and Criminal Justice Academy, Department of Archives and History, and Retirement Investment Commission. Citizens are encouraged to take the survey, which provides an opportunity to share with the Committee any comments, concerns or suggestions citizens may have about these five agencies. To take the survey, go to www.statehouse.gov, click on the "Citizens' Interest" tab on the top row, then click on the "House Legislative Oversight" link. While the survey will only be available until May 31, 2016, citizens may contact the Committee anytime to share comments, concerns or suggestions about state agencies. There were over 1000 responses to a survey conducted during last September's survey on the State Transportation Infrastructure Bank, School for the Deaf and the Blind, Commission for the Blind, Department of Public Safety, and the Treasurer's Office), with responses coming from 41 out of 46 counties (89%).

Input and observations from those citizens who choose to provide responses are important to the Members of the House Legislative Oversight Committee because they may help direct the Committee to potential areas for improvement with these agencies. The Committee's vision is for South Carolina agencies to become, and continuously remain, the most effective state agencies in the country through processes which eliminate waste and efficiently deploy resources thereby creating greater confidence in state government.

The specific task of the House Legislative Oversight Committee is to conduct legislative oversight studies on agencies at least once every seven years. The purpose of a legislative oversight study is to determine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether or not they should be continued, curtailed or even eliminated. Also, the Committee recognizes that a legislative oversight study of an agency serves the purpose of informing the public about an agency. Any legislator may file legislation, which will go through the normal legislative process, to implement recommendations this Committee may have relating to the agencies being studied.

What: Online survey seeking citizen's input
When: May 1 until May 31
Where: Online; from home, school or public library
The link to take the survey is <https://www.research.net/r/May2016LOC>
Who: Entire public and agency personnel are encourage to take the survey

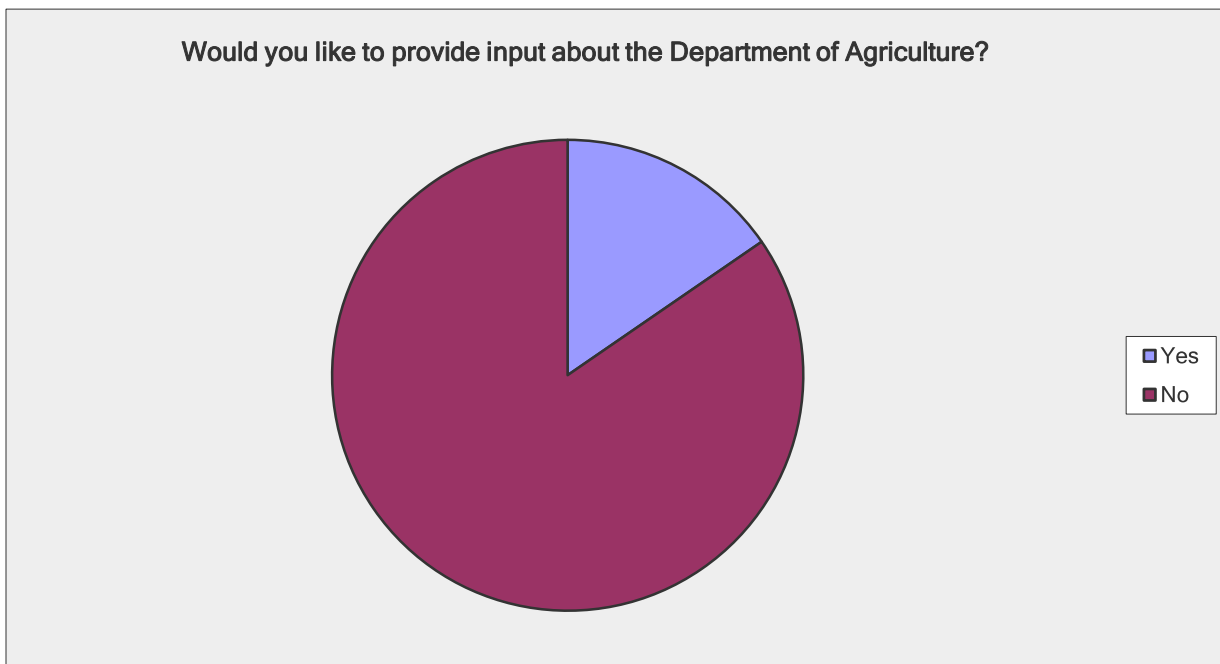
Suggestions for additional ways to inform the public about this survey and the House Legislative Oversight Committee's process are welcomed.

###

May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

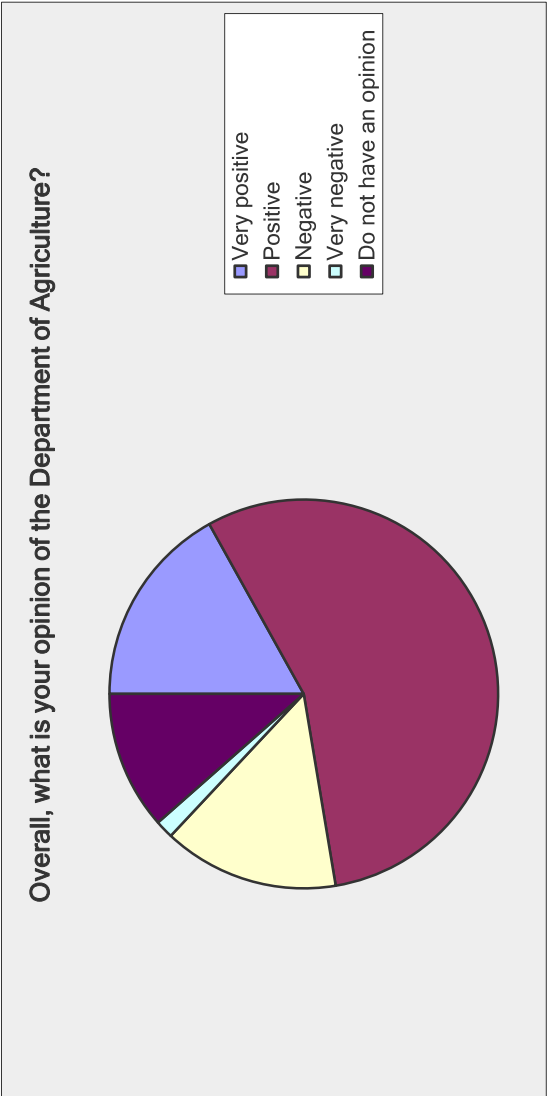
Would you like to provide input about the Department of Agriculture?

Answer Options	Response Percent	Response Count
Yes	15.4%	156
No	84.6%	858
<i>answered question</i>		1014
<i>skipped question</i>		11



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Overall, what is your opinion of the Department of Agriculture?			
Answer Options	Response Percent	Response Count	
Very positive	16.9%	22	
Positive	55.4%	72	
Negative	14.6%	19	
Very negative	1.5%	2	
Do not have an opinion	11.5%	15	
			<i>answered question</i>
			130
			<i>skipped question</i>
			895

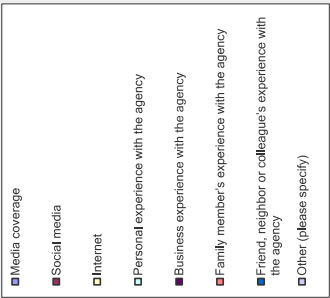


May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Which of the following has most influenced your opinion of the Department of Agriculture?			
Answer Options	Response Percent	Response Count	
Media coverage	26.2%	32	
Social media	4.1%	5	
Internet	3.3%	4	
Personal experience with the agency	27.0%	33	
Business experience with the agency	14.8%	18	
Family member's experience with the agency	11.5%	14	
Friend, neighbor or colleague's experience with the agency	10.7%	13	
Other (please specify)	2.5%	3	
	<i>answered question</i>	122	
	<i>skipped question</i>	903	

Number	Response Date	Eastern Standard Time	Other (please specify)
1	May 18, 2016 12:41 PM	May 18, 2016 8:41 AM	Guidelines from USDA that affect WIC Program
2	May 16, 2016 1:18 PM	May 16, 2016 9:18 AM	WIC
3	May 16, 2016 12:27 PM	May 16, 2016 8:27 AM	No interaction

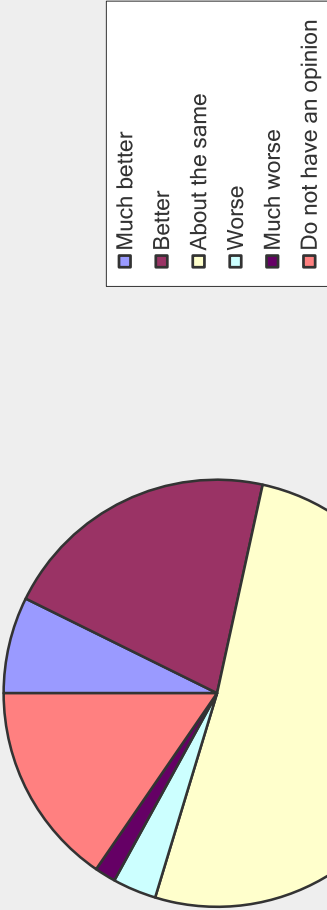
Which of the following has most influenced your opinion of the Department of Agriculture?



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

How do you think the Department of Agriculture functions on an overall basis in comparison to other state agencies in South Carolina?			
Answer Options	Response Percent	Response Count	
Much better	7.3%	9	
Better	21.1%	26	
About the same	51.2%	63	
Worse	3.3%	4	
Much worse	1.6%	2	
Do not have an opinion	15.4%	19	
			<i>answered question</i>
			123
			<i>skipped question</i>
			902

How do you think the Department of Agriculture functions on an overall basis in comparison to other state agencies in South Carolina?



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Department of Agriculture. Your response will be quoted verbatim and published online.

Answer Options	Response Count
	23
<i>answered question</i>	23
<i>skipped question</i>	1002

Number	Response Date	Eastern Standard Time	Response Text
1	May 27, 2016 12:45 PM	May 27, 2016 8:45 AM	local staff are helpful
2	May 26, 2016 1:37 PM	May 26, 2016 9:37 AM	Please publish online the ethanol free gas stations and octane The environmental impacts of industrial farming are growing. Most farming operations are exempt from DHEC rules and the Dept of Agriculture relies on the Natural Resource Conservation Service to help farmers reduce their environmental impact. Is this system adequate for the future or is more oversight needed?
3	May 23, 2016 2:24 PM	May 23, 2016 10:24 AM	The farmers market in West Columbia is a huge disappointment. There are very few vendors selling fresh fruits and vegetables. A lot of wasted space and not very convenient as to location.
4	May 22, 2016 5:25 PM	May 22, 2016 1:25 PM	Why does the Department of Agriculture waste money on parties?
5	May 19, 2016 7:37 PM	May 19, 2016 3:37 PM	

6	May 18, 2016 2:18 PM	May 18, 2016 10:18 AM	The Food and Safety Compliance office has excellent, well trained personnel
7	May 17, 2016 6:58 AM	May 17, 2016 2:58 AM	Unnecessary State (and Federal) subsidies are a concern.
8	May 16, 2016 7:23 PM	May 16, 2016 3:23 PM	Slow to respond, if at all.
9	May 16, 2016 5:44 PM	May 16, 2016 1:44 PM	The new Farmers Market is a joke. People pass it by to travel to the Western orth Carolinas Market in Ashville. There is a lot of red tape for farmers to get approved to receive funding and assistance in having fresh fruits and vegetables into the hands of South Carolinian's.
10	May 16, 2016 1:59 PM	May 16, 2016 9:59 AM	Out dated methods of training for farmers.
11	May 16, 2016 1:55 PM	May 16, 2016 9:55 AM	Improve relationships with small home garden residents
12	May 16, 2016 1:52 PM	May 16, 2016 9:52 AM	what do they do concerning their roles for the public? Need to have less qualifications for WIC participants to make it user friendly and to increase participation rates up
13	May 16, 2016 1:18 PM	May 16, 2016 9:18 AM	The actual responsibilities and assistance available to the non-average farmer (individual or organization who may seek assistance on a limited basis) is not clear.
14	May 16, 2016 1:09 PM	May 16, 2016 9:09 AM	The "SC Grown Certified" campaign seems to be very helpful for SC farmers. Keep up the good work.
15	May 16, 2016 12:07 PM	May 16, 2016 8:07 AM	

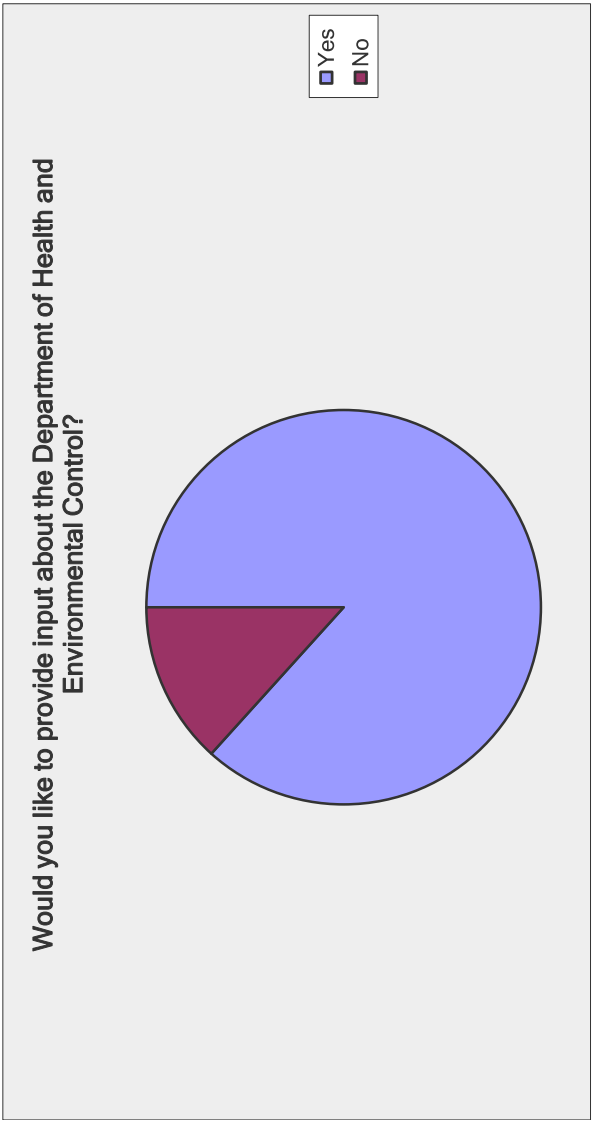
16	May 15, 2016 7:24 PM	May 15, 2016 3:24 PM	<p>I find it appalling that when I call I get the run around. No one in the agency seems versed on what they actually do. The answer is always DHEC or Clemson does that. Well what does the department do besides collect state tax dollars and pesticides? Where do they find the money to repeatedly by PFG shirts for the events they attend? I was at the fair, both flower shows, and that BBQ festival. All employees had different PFGs at all events. Also who is in charge of these "events" at the farmers market? After attending several BBQ fests it seems there are 3 or 4 employees standing around drinking during working hours. I find that appalling that A. They are allowed to not work and B that they were drinking. The farmers market is a great place for events, shaded, parking, and easily located. Seems like more "events" should happen there. Also who designed that ridiculous sign and how much money was earmarked for that? It looks like the state fair sign.</p> <p>It is nice to see SC brand of fruits and vegetables and massive amount of advertisement for it. Has there been a cost-benefit studied of this campaign by an external entity?</p>
17	May 14, 2016 10:13 PM	May 14, 2016 6:13 PM	

18	May 14, 2016 6:03 PM	May 14, 2016 2:03 PM	<p>I have had several products tested by the Lab for my farm. I have stopped by to talk with those running the test or Phil (lab manager) to be told their hours are 7-3:30. Also on Friday the only people who ever seem to be there after 3 are the girl at the front desk and maybe one or two others. Why have your hours be from 8:30-5 if the majority of the employees arent there from that time? I havent had dealings with other agencies so i am not sure how they gair, but this agency seems to allow certian personnel to work when they want and force others to cover their laziness. Never hear about them. They do a good job.</p>
19	May 13, 2016 8:44 PM	May 13, 2016 4:44 PM	
20	May 13, 2016 8:42 PM	May 13, 2016 4:42 PM	

21	May 13, 2016 1:07 PM	May 13, 2016 9:07 AM	It has come to my attention that an individual that was hired for a "certified" position is actually not certified in his area. This makes me very concerned about the efficacy and legality of the work being done by the Dept of Ag. Second, I have also come to find out that hard-working individuals that have been performing duties outside of their area (as preparation for a new title) are being passed over after they have already completed the extra work with no compensation. This is a very poor choice for management and also a huge problem for the employees' commitment and morale, not to mention ethically wrong.
	May 9, 2016 2:57 AM	May 8, 2016 10:57 PM	Great Job - Agribusiness is very important to SC. Keep up the great work! SCDA touches more citizens in South Carolina daily more than most other agencies. SCDA not only inspects the fruits and vegetables we eat, but also ensures consumer protection in multiple ways. I wish SCDA would spend as much time informing citizens about their Consumer Protection Division and SCDA's many inspection services as they do about Certified SC and the farmers markets.
	May 4, 2016 12:25 PM	May 4, 2016 8:25 AM	

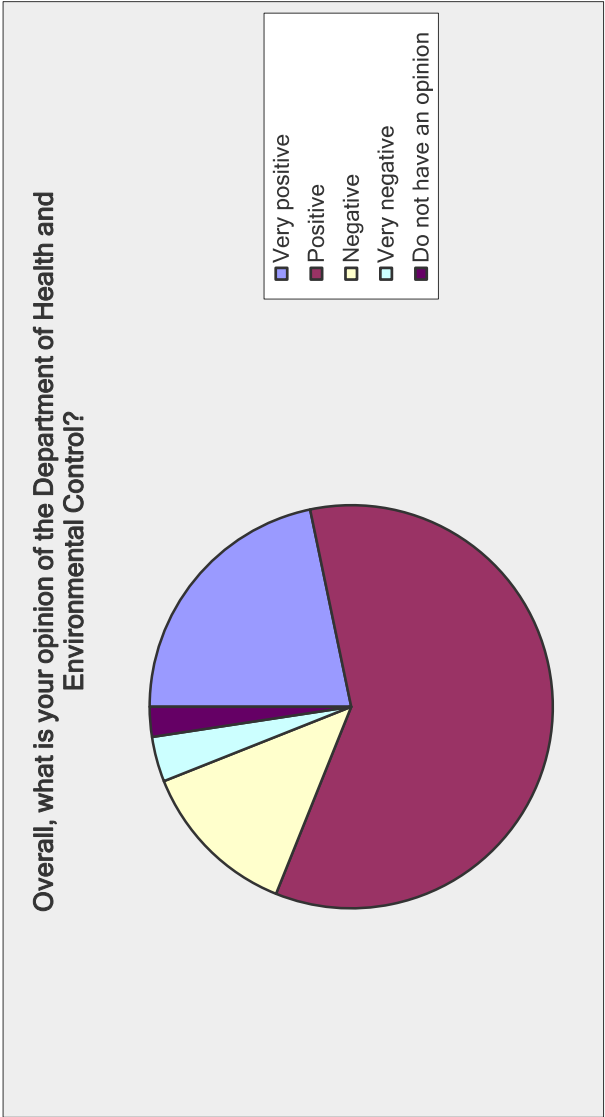
May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Would you like to provide input about the Department of Health and Environmental Control?			
Answer Options	Response Percent	Response Count	
Yes	86.7%	848	
No	13.3%	130	
		<i>answered question</i>	978
		<i>skipped question</i>	47



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Overall, what is your opinion of the Department of Health and Environmental Control?			
Answer Options	Response Percent	Response Count	
Very positive	21.7%	155	
Positive	59.3%	423	
Negative	12.9%	92	
Very negative	3.6%	26	
Do not have an opinion	2.4%	17	
			answered question
			713
			skipped question
			312



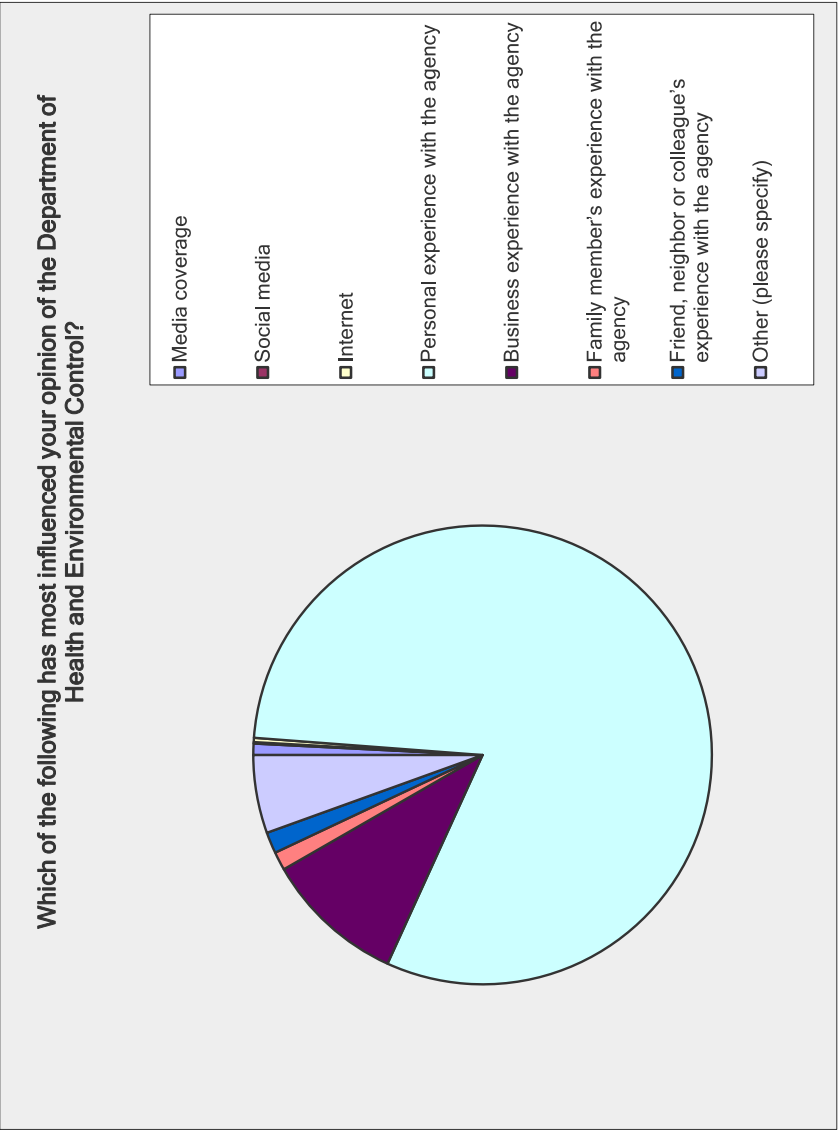
May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Which of the following has most influenced your opinion of the Department of Health and Environmental Control?			
Answer Options	Response Percent	Response Count	
Media coverage	0.8%	6	
Social media	0.1%	1	
Internet	0.3%	2	
Personal experience with the agency	80.6%	572	
Business experience with the agency	9.9%	70	
Family member's experience with the agency	1.3%	9	
Friend, neighbor or colleague's experience with the	1.5%	11	
Other (please specify)	5.5%	39	
<i>answered question</i>			710
<i>skipped question</i>			315

Number	Response Date	Eastern Standard Time	Other (please specify)
1	May 25, 2016 12:54 PM	May 25, 2016 8:54 AM	Employee with
2	May 25, 2016 12:26 PM	May 25, 2016 8:26 AM	Department
3	May 20, 2016 8:12 PM	May 20, 2016 4:12 PM	Employee
4	May 20, 2016 4:43 PM	May 20, 2016 12:43 PM	Employment
5	May 19, 2016 9:39 PM	May 19, 2016 5:39 PM	with the agency.
6	May 18, 2016 7:53 PM	May 18, 2016 3:53 PM	Division of WIC
7	May 18, 2016 1:13 PM	May 18, 2016 9:13 AM	Services
8	May 18, 2016 1:11 PM	May 18, 2016 9:11 AM	working with
9	May 17, 2016 3:04 PM	May 17, 2016 11:04 AM	DHEC
10	May 17, 2016 2:06 PM	May 17, 2016 10:06 AM	I am employed
11	May 17, 2016 1:27 PM	May 17, 2016 9:27 AM	here.
12	May 17, 2016 12:09 PM	May 17, 2016 8:09 AM	Employee
13	May 17, 2016 2:16 AM	May 16, 2016 10:16 PM	employee
14	May 16, 2016 8:12 PM	May 16, 2016 4:12 PM	Employee for
			47 years.
			Employee
			Employee of
			agency
			employment
			employee
			employee

15	May 16, 2016 5:26 PM	May 16, 2016 1:26 PM	employee employment duties
16	May 16, 2016 4:18 PM	May 16, 2016 12:18 PM	I work for DHEC
17	May 16, 2016 3:51 PM	May 16, 2016 11:51 AM	employment
18	May 16, 2016 3:50 PM	May 16, 2016 11:50 AM	work their
19	May 16, 2016 1:55 PM	May 16, 2016 9:55 AM	Working here, having a small part in all of the good the Agency does employee Work
20	May 16, 2016 1:52 PM	May 16, 2016 9:52 AM	experience Agency
21	May 16, 2016 1:36 PM	May 16, 2016 9:36 AM	Employee Working for the agency
22	May 16, 2016 1:32 PM	May 16, 2016 9:32 AM	20 years of working at the Agency
23	May 16, 2016 1:03 PM	May 16, 2016 9:03 AM	Work for SCDHEC
24	May 16, 2016 12:43 PM	May 16, 2016 8:43 AM	Employee's opinion about the work environment
25	May 16, 2016 12:29 PM	May 16, 2016 8:29 AM	Current employee as a part time employee I am an
26	May 16, 2016 12:27 PM	May 16, 2016 8:27 AM	employee. Employment with the agency
27	May 16, 2016 12:27 PM	May 16, 2016 8:27 AM	
28	May 16, 2016 12:22 PM	May 16, 2016 8:22 AM	
29	May 16, 2016 11:43 AM	May 16, 2016 7:43 AM	
30	May 16, 2016 11:39 AM	May 16, 2016 7:39 AM	
31	May 14, 2016 1:01 AM	May 13, 2016 9:01 PM	

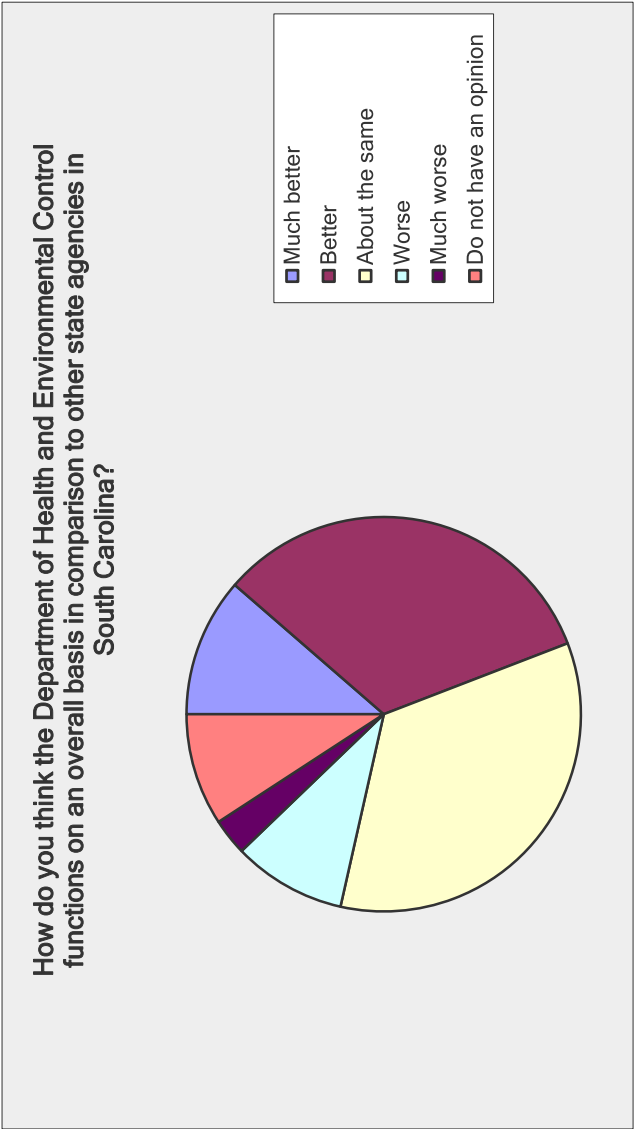
32	May 13, 2016 10:09 PM	May 13, 2016 6:09 PM	Personal experience, based on the Preventative Health side of the Agency. Everything that is done form this agency is very important to the state of South Carolina. I have been able to work with every program area in DHEC and find that it's one agency that really needs to stay on the cutting edge of technology to keep all of her Employee Employment with the agency Employee employee Mission to protect public health and environment All Choices above
33	May 13, 2016 9:07 PM	May 13, 2016 5:07 PM	
34	May 13, 2016 9:02 PM	May 13, 2016 5:02 PM	
35	May 13, 2016 8:54 PM	May 13, 2016 4:54 PM	
36	May 13, 2016 8:45 PM	May 13, 2016 4:45 PM	
37	May 13, 2016 8:44 PM	May 13, 2016 4:44 PM	
38	May 13, 2016 8:42 PM	May 13, 2016 4:42 PM	
39	May 2, 2016 5:12 PM	May 2, 2016 1:12 PM	



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

How do you think the Department of Health and Environmental Control functions on an overall basis in comparison to other state agencies in South Carolina?

Answer Options	Response Percent	Response Count
Much better	11.4%	81
Better	32.8%	233
About the same	34.4%	244
Worse	9.3%	66
Much worse	3.0%	21
Do not have an opinion	9.2%	65
<i>answered question</i>		710
<i>skipped question</i>		315



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Department of Health and Environmental Control. Your response will be quoted verbatim and published online.

Answer Options

	Response Count
<i>answered question</i>	257
<i>skipped question</i>	257
	768

Number	Response Date	Eastern Standard Time	Response Text
1	May 31, 2016 7:03 PM	May 31, 2016 3:03 PM	Most of the interview panels at the Bureau of Laboratories are not diverse.
2	May 31, 2016 5:57 PM	May 31, 2016 1:57 PM	The agency seems to recruit and hire persons with little or no training and skills for the job in which they are assigned. opressive management style at the regional management level has a negative impact on client services to South Carolina residents
3	May 29, 2016 6:30 PM	May 29, 2016 2:30 PM	What is offered to employees to retain them, such as competitive pay, incentives, and appreciation.
4	May 27, 2016 7:09 PM	May 27, 2016 3:09 PM	knowledgeable and efficient staff; pleasant experience
5	May 27, 2016 12:47 PM	May 27, 2016 8:47 AM	Employees' hands are tied up in the process that it takes a long time to get anything accomplished.
6	May 26, 2016 6:57 PM	May 26, 2016 2:57 PM	Increasing workload; not organized/prepared with changes
7	May 26, 2016 2:38 PM	May 26, 2016 10:38 AM	unfair to employees and pay stinks to put up with such crap from upper management
8	May 26, 2016 2:13 PM	May 26, 2016 10:13 AM	I wish the new Director would do something about the "good ol'e boy" system.
9	May 26, 2016 1:39 PM	May 26, 2016 9:39 AM	BOL management is disinterested at best and incompetent at worst. Management is slow to make decisions and uses incomplete and incorrect information. There is a serious lack of communication. DHEC upper management would do well to talk with employees below the division director level and find out the obstacles we face daily just trying to do our jobs. Employees should be able to give input into management evaluations. I have been with BOL over 20 years and morale and confidence in management is the worst I have even experienced. Cookouts and other "morale boosting activities" are not a substitute for competent, involved management. On a positive note, Ms. Heigel seems to be better than Ms. Templeton and it appears she has hired upper management that is actually qualified for their jobs. Thank you for this opportunity, though I do not expect anything to come of this survey and nothing will be done to address employee concerns.
10	May 26, 2016 12:14 PM	May 26, 2016 8:14 AM	

11	May 25, 2016 7:09 PM	May 25, 2016 3:09 PM	<p>2600 Bull Street building needs work - dirty especially in the stair wells and restrooms. Pay equity (not on par with other agencies, and some parts of the agency are paid more than others).</p> <p>The new Director is an asset to the agency unlike the previous. Main concern is the revolving door of employees. In my area alone we have 18 engineers compared to 30 to 40 8 years ago and have lost over 20 in 8 years and 2 last week. Lack of support from the legislature to improve employee retention.</p> <p>Maintaining an experienced Staff. We have gone from 30 to 40 engineers to 20 and now 18 since 2 left lat Friday. The Department is on a much better path than it was 3 years ago. The department should be allowed to do their job without intervention from the outside and should have the support from the legislature to improve the department.</p> <p>Agency appears to have become "top heavy" while clinics/service areas are shorthanded - especially administrative staff.</p> <p>DHEC needs to update equipment, especially computer systems. Some buildings, those over 20 years old, need to be evaluated for safety and security. Employee salaries need to be competitive with other like services.</p> <p>Turn over is high and positions are difficult to fill due to extremely low salaries as compared to private industry, non-profits, other states, and other agencies within South Carolina.</p> <p>DHEC has so many environmental programs and regulations. Often times the programs overlap resulting in unjustified burdens on the regulated community. The DHEC staff has to be extremely knowledgeable of all programs so that the right hand knows what the other hand is doing, not only to prevent over regulation, but also the instances where no action is taken with the assumption that another program will intercede. While it only takes days to learn a regulation, it takes years to develop the technical expertise and understanding to be multi-media (air, land, and water) savvy. The DHEC employees that have multi-media experience need to be paid more for the knowledge that helps the agency be more efficient and can be applied with many more sectors of industry.</p> <p>Answer to # 5 is based on we all have constraints due to budget, short staffed and underpaid. All goes back to the budget. As far as serving the public, The current employees working for all agencies are doing the best job we can with as little as we can. I know for sure the DHEC staff do an awesome job with the public!!!</p>
12	May 25, 2016 12:54 PM	May 25, 2016 8:54 AM	
13	May 25, 2016 12:26 PM	May 25, 2016 8:26 AM	
14	May 25, 2016 12:15 PM	May 25, 2016 8:15 AM	
15	May 23, 2016 8:11 PM	May 23, 2016 4:11 PM	
16	May 23, 2016 4:35 PM	May 23, 2016 12:35 PM	
17	May 23, 2016 2:52 PM	May 23, 2016 10:52 AM	
18	May 23, 2016 2:38 PM	May 23, 2016 10:38 AM	

19	May 23, 2016 2:21 PM	May 23, 2016 10:21 AM	DHEC employees should know what records they have and don't have...they repeatedly refer customers to other agencies to obtain records that these other agencies (i.e. SCDAH) don't have or that they (DHEC) can provide I feel the agency is no longer concerned with client care, but with the numbers. Productivity and percentages, fewer staff means shorter time with clients and its all about how many of them can you see in a day? And the employees on the front lines are less important each day. Over worked and way underpaid.
20	May 23, 2016 1:19 PM	May 23, 2016 9:19 AM	1. Communication within the agency is poor at best. 2. Turnover within the water lab at the Hayne Building is frequent. New employees come in to get trained and then leave for better paying jobs or to work in a better environment. Increasing chemist pay may help retain employees.
21	May 23, 2016 12:47 PM	May 23, 2016 8:47 AM	Professional staff, particularly nurses, are very dedicated. The state office of vital records is severely understaffed and poorly supervised. The frustration that causes customers creates an unsettled environment. There are eight customer service windows with only 3 or 4 workers to wait on a room full of people.
22	May 23, 2016 11:49 AM	May 23, 2016 7:49 AM	DHEC has a lot of opportunities to mobilize the community to live healthier lives!
23	May 23, 2016 1:37 AM	May 22, 2016 9:37 PM	Overall, DHEC is a great organization. My only concern is that at times I am not sure as to whom I need to answer to in my department because my immediate supervisor has three assistants and I feel the need to answer to all four of them. I do think having so many people in leadership roles in one department is unnecessary and may cost the agency too much money.
24	May 20, 2016 9:01 PM	May 20, 2016 5:01 PM	There is little to no local DHEC representation in most counties since offices were consolidated under the previous director. In order to apply for permits, request inspections, report dog bites, etc., we now have to make long distance phone calls or travel 50-100 miles to the "central" office. This is both expensive and time consuming. Even then it may take several days after "scheduling" for results. The Beaufort office is a joke, upper management appears arrogant, hateful and spiteful with little regard for the public or the employees there. Hopefully this is not indicative of all "central offices". DHEC should seriously consider putting offices back in the individual counties. We the public deserve more for our tax dollars than an out of date bloated bureaucracy.
25	May 20, 2016 7:56 PM	May 20, 2016 3:56 PM	
26	May 20, 2016 7:22 PM	May 20, 2016 3:22 PM	

27	May 20, 2016 4:43 PM	May 20, 2016 12:43 PM	I enjoy reading the DHEC Dashboard, the agency's employee information portal. The Dashboard is designed to make it easier to stay connected to the latest updates from the DHEC blog, news releases, events, employee spotlights, worksite wellness programs. Keeping South Carolina up-to-date with Healthy Living and the Control of our Environment. The front line staff has always worked diligently to provide services to the citizens. The leadership (from the top to regional management) is recent years has made it difficult as the front line staff has felt abused. The treatment and attitude toward the worker bees of the agency has greatly improved with Director Catherine Heigel. The Department will change their decision if you get your legislatures involved. The decision should not be political - it should be based on laws and regulations We are working to improve how we do business but not there yet DHEC protects our food and our environment. Great agency doing great work for the citizens of SC!! reward and retain the folks who actually do the work, not the self serving incompetent management that is only concerned with justifying their position state employees need comparable pay to other states. DHEC needs to consider the reasons there is such high turnover among staff throughout the agency. Inexperience managers and leaderships expecting individuals to do more with less will drive away the good people needed to run the agency. Salary disparities between African Americans and Caucasians It is concerning that the agency has moved so far away from serving as a safety-net provider, and from developing or working in partnership with other organizations to provide public health programs. As the state's public health agency, DHEC has lost its focus on public health and that puts us all at jeopardy. I am honored to be a DHEC employee and privileged to work for an agency that protects our individual citizens and the environment. It's programs should be better funded, especially the nursing and health departments. This agency should not have to constantly beg for adequate funding. The new regions are too large geographically Really feel that there should be electronic records in the clinic areas.
28	May 20, 2016 4:42 PM	May 20, 2016 12:42 PM	
29	May 20, 2016 3:57 PM	May 20, 2016 11:57 AM	
30	May 20, 2016 3:46 PM	May 20, 2016 11:46 AM	
31	May 19, 2016 9:04 PM	May 19, 2016 5:04 PM	
32	May 19, 2016 8:41 PM	May 19, 2016 4:41 PM	
33	May 19, 2016 8:30 PM	May 19, 2016 4:30 PM	
34	May 19, 2016 8:27 PM	May 19, 2016 4:27 PM	
35	May 19, 2016 7:02 PM	May 19, 2016 3:02 PM	
36	May 19, 2016 5:43 PM	May 19, 2016 1:43 PM	
37	May 19, 2016 5:18 PM	May 19, 2016 1:18 PM	
38	May 19, 2016 3:11 PM	May 19, 2016 11:11 AM	
39	May 19, 2016 2:40 PM	May 19, 2016 10:40 AM	
40	May 19, 2016 4:00 AM	May 19, 2016 12:00 AM	
41	May 18, 2016 7:43 PM	May 18, 2016 3:43 PM	

42	May 18, 2016 5:43 PM	May 18, 2016 1:43 PM	<p>the agency have very low moral for their employees, agency do not value their employees refuse to fight to make sure employees receive yearly raises, would not match our retirement plan, the insurance premiums are very high versus private companies, the agency in Columbia have better pay than the surrounding agencies within DHeC, management need to be more concerning about employees and have some type of experience for their position, very high employment turn overs, there's no compensation for employees 20 plus years, have to wear many hats for your programs with getting better pay.</p> <p>1. DHeC does not value the employees, NO raises , NO incentives new people are hired instead of the loyal ones promoted, New people are brought into the agency making the salary the old ones make You show no seniority between the two . The young people are leaving because the salary can't even pay there student loans. The state of SC DHeC pays less than other agencies and our supervisor, seem not to be able to give us a raise. I feel the agency has some very loyal employees and should recognize them because they are the keepers</p> <p>I have concerns about the public's perception of DHeC employees. DHeC employees are hard working and dedicated people.</p> <p>The Agency's buildings are in need of maintenance: cleaning the out side of the buildings of dirt, wasp nests, etc. The roofs of some of the buildings are leaking, with possible mold present. Laboratory staff salaries are lower and not competitive with other states or private laboratories. Suggest increasing the laboratory staff salaries to better recruit and maintain staff.</p> <p>To provide the best customer service, the department is lacking a full staff.</p> <p>The staff at DHeC cares about the duties that they perform to protect public health and the environment, they educate industry and the public as well as enforcing regulations. Employees are underpaid for the responsibilities in the jobs they do.</p> <p>Staff are concerned about the public's well-being overall; but must operate within regulatory boundaries.</p> <p>Excellent leadership produces excellent customer service! need better ways to compensate hard working employees I think its employees should have more training raises/ promotions based on experience and education; need to promote greater employee incentives and reward to recruit/ retain quality staff; needs to promote wellness programs, work-from-home opportunities, and training/ educational development to compete with corporate employers</p>
43	May 18, 2016 5:15 PM	May 18, 2016 1:15 PM	
44	May 18, 2016 5:12 PM	May 18, 2016 1:12 PM	
45	May 18, 2016 4:18 PM	May 18, 2016 12:18 PM	
46	May 18, 2016 2:55 PM	May 18, 2016 10:55 AM	
47	May 18, 2016 2:22 PM	May 18, 2016 10:22 AM	
48	May 18, 2016 2:18 PM	May 18, 2016 10:18 AM	
49	May 18, 2016 1:36 PM	May 18, 2016 9:36 AM	
50	May 18, 2016 1:13 PM	May 18, 2016 9:13 AM	
51	May 18, 2016 1:11 PM	May 18, 2016 9:11 AM	
52	May 18, 2016 12:44 PM	May 18, 2016 8:44 AM	
53	May 17, 2016 9:56 PM	May 17, 2016 5:56 PM	

54	May 17, 2016 9:48 PM	May 17, 2016 5:48 PM	Need inspectors in every county like it used to be Needs neater, more professional offices- does not promote a good image; needs more public outreach/ promotion of DHEC services; needs greater frequency of restaurant inspections As always we work hard for very little pay 26.5 yrs ,pay does not reflect my yrs. of service. matter what program they work for. The "Hierarchy" of this agency does not seem to recognize this. When someone can be hired in at the same salary or higher as someone who has been working here for many many years in that same position with a wealth of experience, something is wrong with that. No matter how much we voice our opinions about that and other concerns it seems as though no one is listening or even concerned. We are always short staffed because of a constant high turn over with staff and that's anyone from Nurses to Admin and everybody in between. Is anyone up there concerned? It seems as though "Public Health Services" is a thing of the past. I suggest we get back to the business of serving clients with a lot less paper, electronic records, and incentives for deserving employees. DHEC has improved in its customer service. They seem to not care about there lower level employees. They do not get raises and there complaints seem to fall on death ears. Employees seem to be overworked due to lack of staff because staff are leaving because of moral. Valuable resource for our state. DHEC helps protect the citizens of South Carolina. New employees that you train makes a larger salary than you.
55	May 17, 2016 9:44 PM	May 17, 2016 5:44 PM	
56	May 17, 2016 9:00 PM	May 17, 2016 5:00 PM	
57	May 17, 2016 8:34 PM	May 17, 2016 4:34 PM	
58	May 17, 2016 7:54 PM	May 17, 2016 3:54 PM	
59	May 17, 2016 7:53 PM	May 17, 2016 3:53 PM	
60	May 17, 2016 6:30 PM	May 17, 2016 2:30 PM	
61	May 17, 2016 5:03 PM	May 17, 2016 1:03 PM	1. As a citizen, I am concerned about the Certificate of Need process. What do other states do? 2. I am an hourly employee, and wondered whether a small raise is in my future, since I have been at the same rate for at least 10 years. I believe that hourly employees are very cost effective for the state, since we receive no benefits. 3. I am a WIC employee, and I believe that the WIC department is very well run, and that we are continuously improving the service that we are giving our clients.
62	May 17, 2016 4:44 PM	May 17, 2016 12:44 PM	

63 64	May 17, 2016 3:04 PM	May 17, 2016 11:04 AM	The agency was functioning well, both internally and externally, before Catherine Templeton took over the agency. Templeton basically destroyed the morale of the agency by her firings, her stern leadership, no one could speak against her and basically no communication from her office. During Templeton's tenure, the Information Technology Department basically took on the same manage style, causing people to leave and "NO" communication. Thank goodness, for Catherine Heigel. She had/has a tremendous job of rebuilding the agency, internally again. She's doing a great job. Communicating, filling vacancies with knowledgeable staff, showing a strong concern about the employees. Now, we don't find out about what's happening in the agency thru the news media, like we did with Templeton. The agency is becoming strong again.
	May 17, 2016 2:06 PM	May 17, 2016 10:06 AM	
65 66	May 17, 2016 2:01 PM	May 17, 2016 10:01 AM	n/a Morale has been low for years. Employee performance evaluations are not completed by managers yearly so you never know how you perform in your job. No pay raises; which is possibly has a correlation to receiving no evaluation. Managers receive pay raises consistently. Little to no opportunities for advancement. Approval processes are not consistent and are changed on the fly; takes extremely long time for decisions to be made. Would like to see more diversity in the agency especially in management roles. Is truly community focused. previous director. She is trying to improve service delivery & support ideas to improve employee morale. However, internal communication remains a challenge at all levels within DHEC. I feel that I am often not included in decisions made that directly impact my staff/direct reports. It creates a level of frustration and a feeling that your opinion does not matter or that your voice is not important. Staff report feeling as if they are being dictated to rather than being given an opportunity to participate in the decision making process. I would love to see more opportunity for employee participation in decision making at all levels.
	May 17, 2016 1:38 PM	May 17, 2016 9:38 AM	
67 68	May 17, 2016 1:27 PM	May 17, 2016 9:27 AM	Be firm and stern about being "One DHEC"
	May 17, 2016 1:19 PM	May 17, 2016 9:19 AM	

69	May 17, 2016 1:19 PM	May 17, 2016 9:19 AM	<p>Like the new director. Seems to really care about staff and fixing the agency. Morale is much better/less fear.</p> <p>Employees getting more info on what's going on at the agency from leadership with new director/better communication to employees. Not learning about things going on at work for the first time in the newspaper/TV anymore. Like most of the changes that have been made, especially the dashboard and employee appreciation efforts. Only suggestion is need to focus more on fixing IT because it has gotten really slow. Takes a long time to get a new computer/repairs done, internet is slow and tech support seems overwhelmed.</p> <p>I don't think the public is totally aware of the many different aspects of the Department of Health and Environmental Control, and it's impact on the general public. The staff are very caring people who are genuinely concerned about the health and well-being of the citizens of South Carolina. Many times the employees are not compensated, or recognized for their work or efforts, and are taken for granted.</p>
70	May 17, 2016 12:48 PM	May 17, 2016 8:48 AM	<p>DHEC has been plague with numerous problems across the board. The unfair hiring practices, management and staffing problems are just a few issues that have been noticed internal and externally. Perhaps, by fixing its internal problems to build a strong foundation can have a positive impact on the community's image of the agency. Public awareness to educate communities about the services they can expect from DHEC.</p>
71	May 17, 2016 12:15 PM	May 17, 2016 8:15 AM	<p>DHEC IS AN AGENCY THAT REACTS TO PROBLEMS RATHER THAN USES SOUND PROACTIVE STEPS TO AVOID THINGS HAPPENING IN THE FIRST PLACE.</p>
72	May 17, 2016 12:09 PM	May 17, 2016 8:09 AM	<p>MANAGEMENT MAKES DECISIONS WITHOUT INVOLVING STAFF THAT IT AFFECTS---ASK FOR INPUT FROM THE PEOPLE THAT ACTUALLY DO THE WORK!!!! STOP GIVING RAISES BASED ON CLICKS RATHER THAN PERFORMANCE. ONE OF THE BIGGEST MOTIVATORS, FOR MOST PEOPLE, IS MORE MONEY NOT A MUFFIN!!!! DHEC STOP WASTING TAXPAYERS MONEY BY ELIMINATING PROGRAMS THAT BLEED MONEY EVERY YEAR. LAST BUT NOT LEAST, START LETTING EMPLOYEES EVALUATE OR CRITIQUE THEIR SUPERIORS AND USE THAT AS A TOOL TO ADD TO THEIR EVALUATION EVERY YEAR----THEY EVALUATE US WHY CAN'T WE EVALUATE THEM!!!!</p>
73	May 17, 2016 8:55 AM	May 17, 2016 4:55 AM	<p>Sound management structure lacking.</p>
74	May 17, 2016 6:58 AM	May 17, 2016 2:58 AM	<p>An agency of dedicated public servants who work extremely hard (very little pay) to protect all of our communities across the state.</p>
75	May 17, 2016 2:16 AM	May 16, 2016 10:16 PM	

76	May 16, 2016 9:32 PM	May 16, 2016 5:32 PM	DHEC has one responsibility: to protect the health of South Carolinians. The mission cannot be accomplished by separating the agency. The new leadership needs to be given the opportunity and resources to improve the agency. Need more professional and clean, presentable, uniform facilities to promote a positive image; Need more public outreach and promotion of DHEC services and goals; Need more staff to ensure adequate inspections of food facilities (at least once per year)
77	May 16, 2016 8:46 PM	May 16, 2016 4:46 PM	In my opinion, all the traveling for training, and covering for other sites..... that if we did training on line or by live tv and had extra people from closer sites to cover that we could save a lot of money.
78	May 16, 2016 8:12 PM	May 16, 2016 4:12 PM	Great employees, they are hard working and take their work seriously. They show concern about the health of the people of South Carolina and the Environment for our state. They are ALL under paid for what they do for us.State employees in this Agency deserve better pay. I feel with the new administration our voices are being heard and changes are being implemented.
79	May 16, 2016 8:03 PM	May 16, 2016 4:03 PM	They have forgotten their mission statement.
80	May 16, 2016 7:54 PM	May 16, 2016 3:54 PM	Comments: Better salary adjustments reflective of staff with secondary degree(s), credentials and experience.
81	May 16, 2016 7:24 PM	May 16, 2016 3:24 PM	needs more from enforcement
82	May 16, 2016 7:09 PM	May 16, 2016 3:09 PM	The air quality in the SC DHEC buildings is unsafe to its employees and others. This should be corrected in the current buildings or other, safer work areas should be made available asap. Also, there should be additional amenities provided to the public in the lobby area of the first floor (such as a snack machine and water fountain) so that members of the public are not allowed unattended in areas where ID cards are necessary for entry (any place beyond the lobby and the Vital Records office).
84	May 16, 2016 6:52 PM	May 16, 2016 2:52 PM	The air quality in the SC DHEC buildings is unsafe to its employees.
85	May 16, 2016 6:47 PM	May 16, 2016 2:47 PM	Ms Temleton managed to take an agency that, while not perfect, strove to protect public health and assist the citizens of South Carolina and turn it into a beauricratic black hole most people expect government agencies to be.
86	May 16, 2016 6:36 PM	May 16, 2016 2:36 PM	Ms Temleton managed to take an agency that, while not perfect, strove to protect public health and assist the citizens of South Carolina and turn it into a beauricratic black hole most people expect government agencies to be.
87	May 16, 2016 6:35 PM	May 16, 2016 2:35 PM	Technical staff should be appreciated for the expertise they bring to the table and compensated appropriately.
88	May 16, 2016 6:30 PM	May 16, 2016 2:30 PM	

89	May 16, 2016 6:25 PM	May 16, 2016 2:25 PM	At the Bureau of Labs some of the departments are working with out-dated instruments and have been told there is no money to upgrade. If we could get better equipment, I believe it would save the Agency money in the long run. We waste money on equipment that we have bought and have done the validation on and it sits because no one checks the results to get the instruments up and running. We are also wasting money on Specimen Gate, which is a new computer program for Newborn Screening. We have been paying money on it for a couple of years and are still not up and running. The demand for more advanced technology is well over due.
	May 16, 2016 6:16 PM	May 16, 2016 2:16 PM	
91	May 16, 2016 5:56 PM	May 16, 2016 1:56 PM	Offer more ways to advance in career paths and then compensate appropriately. Also, support maternity leave without having to use all/some of one's annual/sick leave. Try to retain employees versus a constant revolving door of new employees. DHEC is effective as it is now and should not be broken apart or placed under the control of another agency. Although I believe good customer service provided to our clients is a great thing, I think though it would be better if the internal clients ie we the employees were treated with more incentive to work better and serve our clients better. People are doing a lot of good with very little. I feel that the agency has become to large to be handled under one umbrella. I feel the Dept of Health and the Dept of Environmental need to be two separate agencies so that all needs and concerns can be met. The needs of certain parts of the agency are not being met because there always seems to be other more pressing issues to be dealt with. Employee compensation is very low in comparison to other state governments. Some employees are required to work on weekends, holidays, and in inclement conditions with any additional compensation. Equipment is very old and when new equipment arrives it sits for years because management takes forever to complete clearance for its usage. Employee morale is low and a lot of quality employees are being lost because they no longer have the patience to wait out their concerns dealt with. The housecleaning that has happened in the last few years has gotten rid of a lot of dead wood but having a new administration every year has done nothing to fix serious problems with recruiting and retaining a good workforce. Treatment of employees, managers who cannot solve problems or are unwilling to solve problems. Leadership above frontline does not support employees and do not care about quality care of clients.
	May 16, 2016 5:53 PM	May 16, 2016 1:53 PM	
93	May 16, 2016 5:52 PM	May 16, 2016 1:52 PM	
94	May 16, 2016 5:49 PM	May 16, 2016 1:49 PM	
95	May 16, 2016 5:49 PM	May 16, 2016 1:49 PM	
96	May 16, 2016 5:48 PM	May 16, 2016 1:48 PM	
97	May 16, 2016 5:47 PM	May 16, 2016 1:47 PM	

98	May 16, 2016 5:46 PM	May 16, 2016 1:46 PM	I think that if we had better wages we would have more loyal employees willing to stay longer.
99	May 16, 2016 5:37 PM	May 16, 2016 1:37 PM	none
100	May 16, 2016 5:33 PM	May 16, 2016 1:33 PM	Everyone in Supervisory positions always make changes and not realize how this effects everyone. A professional Agency of qualified employees that strives to achieve consistency and proper scientific evaluations for the the citizens and business community in SC.given the enacted regulations buy the legislature. No pay raises when requested (10 years), many turnovers, and no morale
101	May 16, 2016 5:26 PM	May 16, 2016 1:26 PM	The epitome of a bureaucracy-driven "top-down" governance, which is commendably effective at inhibiting agency efficiency and deterring employee initiative. too many chiefs not enough indians
102	May 16, 2016 5:25 PM	May 16, 2016 1:25 PM	In the 3 years I have been employed with the agency, great changes were highly noticeable once the new Director of the Agency was appointed. She came in and immediately began addressing issues and concerns employees had. Our new Director has shed a positive light on the Agency, which helped boost a once diminishing morale. She not only cares about the concerns of employees, but also the concerns of the citizens and stakeholders.
103	May 16, 2016 5:14 PM	May 16, 2016 1:14 PM	DHEC should begin to be more creative with their employment opportunities for staff with regards to creating part time positions to keep young professionals and more veteran, skilled employees longer when they can't work full time.
104	May 16, 2016 5:00 PM	May 16, 2016 1:00 PM	most of the interiors for DHEC look like rats and roaches live there. is a great leader and has a very good executive management team. Good leadership makes all the difference when it comes to managing and leading employees. Employees are now allowed to perform their job duties with ease and accountability. Everyone will not always be satisfied, but the agency is moving in a good direction.
105	May 16, 2016 4:43 PM	May 16, 2016 12:43 PM	I think the patients best interest has been forgotten and the agencies budget/ management whoas have taken priority. If it were not for the public, we would not be needed as an agency.
106	May 16, 2016 4:18 PM	May 16, 2016 12:18 PM	I tried to write some comments here but it kept saying invalid format.
107	May 16, 2016 4:11 PM	May 16, 2016 12:11 PM	DHEC is trying to move forward as an agency in pioneering the best solutions for protecting public health and the environment in a modern world
108	May 16, 2016 4:06 PM	May 16, 2016 12:06 PM	Poor Leadership and "Good Ole' Boy" Network still in full effect.
109	May 16, 2016 4:00 PM	May 16, 2016 12:00 PM	
110	May 16, 2016 3:56 PM	May 16, 2016 11:56 AM	
111	May 16, 2016 3:46 PM	May 16, 2016 11:46 AM	
112	May 16, 2016 3:18 PM	May 16, 2016 11:18 AM	

113	May 16, 2016 3:16 PM	May 16, 2016 11:16 AM	sc employees are not paid salaries that are comparable to georgia and north carolina At the DHEC BOL, I have witnessed favoritism and conflicts of interest during the hiring and promoting process. In upper management, there is little if no diversity. People who are in certain "groups" and positions will determine the extent of someone else's promotion, pay raise or career depending on their personal feelings. Because of these actions, very good, highly qualified techs are held back or even quit. There are great techs here, but the moral is very low because the of the current situation and because the future here looks bleak. DHEC is moving in the right direction. The leadership is implementing great plans to advance the agency and its employees.
114	May 16, 2016 3:14 PM	May 16, 2016 11:14 AM	
115	May 16, 2016 3:03 PM	May 16, 2016 11:03 AM	No agency in state government has the potential to impact the lives of the citizens of SC more than DHEC. Despite the wide array of services provided, DHEC is an efficiently run agency. The linkage between the health of our environment and our citizens is inseparable. DHEC staff are dedicated, highly qualified professionals who care about the people they serve. DHEC needs better management that really know how the clinics operate and who are willing to help clinic staff give better customer service to our clients. Staff seem to lack desire to excel DHEC and most other state agencies would be vastly improved by providing them funding to be able pay for enhancements and improvements to methodology, staff morale, and helping the public know exactly what is happening inside said agencies.
116	May 16, 2016 2:51 PM	May 16, 2016 10:51 AM	I am extremely proud to be an employee of the Department of health and Environmental Control, We work very hard to sure the safety of our environment. We work as a team to achieve our goals.
117	May 16, 2016 2:49 PM	May 16, 2016 10:49 AM	Often, DHEC is the target of negative media attention, but in my experience, DHEC has dedicated and knowledgeable staff. The environmental part of the agency really struggles with a lack of funding and adequate staff to perform necessary duties. Outdated technology exacerbates the problem of slow turnaround and poor communication.
118	May 16, 2016 2:38 PM	May 16, 2016 10:38 AM	Improve customer service
119	May 16, 2016 2:32 PM	May 16, 2016 10:32 AM	
120	May 16, 2016 2:30 PM	May 16, 2016 10:30 AM	
121	May 16, 2016 2:12 PM	May 16, 2016 10:12 AM	
122	May 16, 2016 2:05 PM	May 16, 2016 10:05 AM	

123	May 16, 2016 2:02 PM	May 16, 2016 10:02 AM	<p>Management on the regional level could be better as they still operate on the premise of friends helping friends and not about education and experience. Employees who are friends of management, have received promotions that were not other wise posted for others to apply and received raises when no one else received a raise which makes it difficult for moral around the agency. Turn over in employees is high and no changes are being done to address this. It is still who you know. Management establishes guidelines with out input from front line workers, which causes some RNs to not have lunch due to the over scheduled pts.</p> <p>The programs that they offer need to be promoted more so that the community knows what great programs they have to offer.</p> <p>There are a great deal of resources-both financial and employee talent-misused and ultimately lost due to lack of leadership in supervisory and managerial positions. While the new strategic goals for this agency are well-defined, they are not making it "down the ladder" to support employees on the "front lines" be more effective in their service to the state. Our facilities, technologies, and policy procedures are grossly outdated, making it nearly impossible to stay competitive and effective in the services we provide.</p> <p>The state is wasting alot of time and money not holding webinar trainings for the employees</p> <p>All health departments need to have extended hours a couple days a week.</p> <p>There's lack of morale in the workplace and recognition of staff.</p> <p>SCDHEC is a great place to work because the Agency supports so many different programs, there is always something new to learn.</p> <p>Better compensation and work environment with proper up to date equipment.</p> <p>Lack of communication between CO and Regional Staff is a serious issue. Staff who actually perform the work on a daily basis are not given the opportunity to share their ideas/input. There is not a cohesive "team" feel but an "us vs. them" mentality. Salaries are inferior to the private sector as well as other state agencies, particularly for seasoned staff. Morale is low/turn-over is high.</p> <p>State employee wages are lower than national and regional averages.</p> <p>Little to no leadership for over 2 years.</p>
124	May 16, 2016 2:01 PM	May 16, 2016 10:01 AM	
125	May 16, 2016 2:01 PM	May 16, 2016 10:01 AM	
126	May 16, 2016 2:00 PM	May 16, 2016 10:00 AM	
127	May 16, 2016 1:54 PM	May 16, 2016 9:54 AM	
128	May 16, 2016 1:54 PM	May 16, 2016 9:54 AM	
129	May 16, 2016 1:52 PM	May 16, 2016 9:52 AM	
130	May 16, 2016 1:39 PM	May 16, 2016 9:39 AM	
131	May 16, 2016 1:29 PM	May 16, 2016 9:29 AM	
132	May 16, 2016 1:28 PM	May 16, 2016 9:28 AM	
133	May 16, 2016 1:27 PM	May 16, 2016 9:27 AM	

134	May 16, 2016 1:25 PM	May 16, 2016 9:25 AM	Public, legislature, other agencies,... don't understand DHEC's legal authorities. They assume DHEC can do anything that relates to their perception of their health or their environment. The employees work hard and try to do their jobs. They are not appreciated by the governor, legislature and much of the public. Appointing someone like Templeton, who thought any one with a DHEC badge could perform any task that DHEC had to, shows the ignorance or the lack of respect of our leadership. Need to have more tech savvy (ie: electronic medical records) Pay grade is not what it should be for employees I think the DHEC has established a standard of care throughout the community and state. I feel that this dept, needs to become more visible to the communities, and lead the way in promoting excellent healthcare for all SC communities. DHEC should definitely promote its services to citizens. Some services are well known (ie: WIC, Food Inspections (thanks to TV)) other services not as much. There are a lot of individuals that are knowledgeable, but not in the positions that suit their knowledge. I wish more people were put in positions that showed their full capabilities. I suggest that the agency will reconsider doing TB skin testing again. We stopped about 5-6 years ago and to this day we get numerous calls from he public wanting to come for a test. It would generate funds for the agency and would certainly make it less complicated for the public to have access to this service.I know change takes place from time to time but something that has been instrumental for long time is not there anymore takes a bit getting use to. Management little understands the mission and inner workings of the agency. Employees are underappreciated and underpaid. Promotions are seldom based upon experience and/or ability, but upon who has connections/friendships. Very disappointed in the lack of any pay raise based on experience
135	May 16, 2016 1:24 PM	May 16, 2016 9:24 AM	
136	May 16, 2016 1:20 PM	May 16, 2016 9:20 AM	
137	May 16, 2016 1:18 PM	May 16, 2016 9:18 AM	
138	May 16, 2016 1:18 PM	May 16, 2016 9:18 AM	
139	May 16, 2016 1:17 PM	May 16, 2016 9:17 AM	
140	May 16, 2016 1:12 PM	May 16, 2016 9:12 AM	
141	May 16, 2016 1:07 PM	May 16, 2016 9:07 AM	
142	May 16, 2016 1:06 PM	May 16, 2016 9:06 AM	
143	May 16, 2016 1:05 PM	May 16, 2016 9:05 AM	
144	May 16, 2016 1:00 PM	May 16, 2016 9:00 AM	The overall moral of this agency is mediocre at best because of the lack of integrity of the upper management, lack of trust of upper management by the average worker, and a severely low disconnect of upper managements value of individual employees concerning: salaries, diversity, & representation in management and upper-management levels. Upper management (in the bureau I'm employed in has basically taken the "If you don't like it, leave, but we appreciate you, not" approach.
145	May 16, 2016 1:00 PM	May 16, 2016 9:00 AM	

146	May 16, 2016 12:59 PM	May 16, 2016 8:59 AM	The agency in charge of protecting the air we breathe and the water we drink should not be on the bottom of the list of state employee salaries. It is bad enough that SC state employees are in the bottom 25% of the southeast salaries, but this agency should not be in the bottom 25% of the SC salaries.
147	May 16, 2016 12:57 PM	May 16, 2016 8:57 AM	
148	May 16, 2016 12:57 PM	May 16, 2016 8:57 AM	Increase salaries Too many people have a title of Supervisor that is not necessary. There are many upper management positions in the WIC program that could really be consolidated. The public is not served well because there is no representation from the agency in most counties since they were all centralized to 6 locations. The citizens of this state should not have to drive in some cases 50 miles to talk to a DHEC person face to face.
149	May 16, 2016 12:54 PM	May 16, 2016 8:54 AM	The Department of Health and Environmental Control regulates so much that people in SC are not even aware of. They do a great job of performing inspections, investigating complaints, and providing good customer service towards the public. No agency is perfect. However, DHEC has a lot of employees with heart who are passionate about what they do and they desire to serve the public well.
150	May 16, 2016 12:53 PM	May 16, 2016 8:53 AM	Employees are open, friendly and easy to work with. DHEC has done a terrible job of retaining experienced professionals. The comparative low pay for employees even against other state agencies is a deterrent to career minded staff.
151	May 16, 2016 12:51 PM	May 16, 2016 8:51 AM	central office management's decisions in relation to the preventive health clinics. Management seems more interested in self-promotion and making a name for themselves than valuing other staff. Customer service and teamwork are preached, however, front line staff are usually the last to be consulted and the first to be reprimanded. The turn-over of staff statewide should be an alarming wake up call that the agency is run by fools. I believe Director Heigel wants to make DHEC a better place, and given the time and resources she could accomplish that.
153	May 16, 2016 12:51 PM	May 16, 2016 8:51 AM	Run down facilities - disconnect between the health and environmental side, as far as research and science initiatives
154	May 16, 2016 12:50 PM	May 16, 2016 8:50 AM	It would be nice if DHEC management included some medical doctors.
155	May 16, 2016 12:50 PM	May 16, 2016 8:50 AM	

156	May 16, 2016 12:50 PM	May 16, 2016 8:50 AM	DHEC is a great organization; filled great people who work very hard and try there best everyday to make South Carolina a better place. The only draw back I see is that often times they seem to lack some of the resources they may need to most effectively perform their wonderful jobs. But overall amazing interpersonal relationships between dhcc and the public is a normal sight in this agency. Great Agency full of Great People, only draw back is an overall lack of resources (and probably compensation) for these outstanding individuals. I enjoy working at DHEC and feel like we provide an important contribution to the welfare of the state. The department of health needs more front line staff admin Understaffed, no back up on analysis', underpaid, no room for advancement New Administration is not much different then Templeton administration. Our HR dept continues to be weak. Jobs continue to be created to support those above who cannot do their job. Please take a toll at the leadership at the state lab as well as other Divisions There has been a massive departure of experience and knowledge from the agency in the past several years. Pay increases based on merit should be provided to retain current technical staff. Way too many "assistant" management positions. More emphasis should be placed on maintaining an adequate level of technical staff. I think DHEC is a great state agency to work for, we have our faults like all other state agencies but it still enjoy coming to work everyday. However, I would like to see information and directives from upper management be communicated better to all staff and follow up if necessary. It has gotten extremely better but there still seems to be a disconnect. The Department is understaffed. In my experience as far as dealing with any agency in the state the Department of Health and Environmental Control has been the best experience by far. Very professional and caring overall. I really wish that we were still doing TB testing because for such a long time we were the staple for testing and then it was taken out of the health dept but we get 100's of calls from the public wanting to come and get a TB skin test and I have to tell them we no longer have that service, it would certainly generate revenue for the agency if were still doing them.
157	May 16, 2016 12:48 PM	May 16, 2016 8:48 AM	
158	May 16, 2016 12:47 PM	May 16, 2016 8:47 AM	
159	May 16, 2016 12:46 PM	May 16, 2016 8:46 AM	
160	May 16, 2016 12:39 PM	May 16, 2016 8:39 AM	
161	May 16, 2016 12:39 PM	May 16, 2016 8:39 AM	
162	May 16, 2016 12:38 PM	May 16, 2016 8:38 AM	
163	May 16, 2016 12:37 PM	May 16, 2016 8:37 AM	
164	May 16, 2016 12:34 PM	May 16, 2016 8:34 AM	
165	May 16, 2016 12:34 PM	May 16, 2016 8:34 AM	

166	May 16, 2016 12:34 PM	May 16, 2016 8:34 AM	Money has always been an issue for resources. The availability of resources(vehicles, equipment, etc.) were better 5-10 year ago then they are now. When EQC was placed with the Health Department, resources for EQC have been merged with Environmental Health and due to the lack of understanding of the Environmental side, it does not get priority as it once did. Also, the IT resources are lacking since Footprints came about and EQC no longer has it's own IT personnel.
167	May 16, 2016 12:33 PM	May 16, 2016 8:33 AM	Why does DHEC pay it's front line staff so little as compared to other agencies?
168	May 16, 2016 12:33 PM	May 16, 2016 8:33 AM	Some African American managers and employees show preference to other African Americans Excessive red-taping; I believe the agency and the public are disconnected; The lack of pay increases is also an issue. You can work for this agency for many years and because there is very little to no increases you have new hires that make the same or even more than someone who has been here with 3 or more years, prior experience, and master and/or PhD degrees. Leadership and their subordinates are disconnected. This agency can be great; however, more than surface changes need to take place. We are under-paid, no tuition assistance, no loan repayment, no pay raises, over-worked at times; some of us have several jobs pinned on us due to high turnover. I hope there is some revamping quick before we lose more great people. DHEC is vital in serving the diversified population in our communities. Clients are seen in the Health Dept. when they can't afford patient care from a private source. DHEC's staff are here to help the people of SC. The legislature needs to provide the resources for a well trained and educated staff Not enough staffing, frequent staff turnover, poor staff retention, low salary for employees; all of which affect employees being able to provide excellent service to the public. I feel like this agency plays a vital role in the health of our state, the environment, and it's citizens. More resources should be allocated to it's cause. DHEC need to show their employee's they are cared about by providing a less stressful work environment. There should also be pay increases biased on fair employee work ethic. Surveillance and clinical need to be able to communicate openly. There needs to be more control at each individual site. We need a raise.
169	May 16, 2016 12:33 PM	May 16, 2016 8:33 AM	
170	May 16, 2016 12:30 PM	May 16, 2016 8:30 AM	
171	May 16, 2016 12:29 PM	May 16, 2016 8:29 AM	
172	May 16, 2016 12:29 PM	May 16, 2016 8:29 AM	
173	May 16, 2016 12:28 PM	May 16, 2016 8:28 AM	
174	May 16, 2016 12:27 PM	May 16, 2016 8:27 AM	
175	May 16, 2016 12:26 PM	May 16, 2016 8:26 AM	

176	May 16, 2016 12:22 PM	May 16, 2016 8:22 AM	DHEC needs to place a greater emphasis on developing, funding, and staffing a comprehensive groundwater/surface water management program. DHEC has been through many changes over the last few years. I can honestly say the morale continues to improve each day among staff, and that we have the right leadership in place to improve public perception. Provide adequate funding for the agency. I appreciate the new hierarchy trying to help improve the situation at the Agency. The agency needs updates in its IT infrastructure. More funding should be provided for server capacity and functionality of DHEC applications and programs. I think it is a very good agency that does not get credit where credit is due. Overall I absolutely love my job. I have very good management to work with. Would like to see more done on employee retention and salaries. Every citizen has contact with Environmental Health from Birth to Death. When you are born they handle birth cert., turn water on the morning, DHEC makes sure it is safe, sewer is controlled by DHEC, the food you buy to cook or already prepared is inspected by DHEC, when you die, your death cert. is handled. Without DHEC SC would not be a great place to live. In the Bureau that I work, many current employees are reaching retirement age. I am concerned that their knowledge will not be adequately passed onto the next workforce in place. I am especially concerned that efforts to retain current employees, mostly due to insufficient pay compensation, will seriously hamper this agencies ability to conduct superior work.
177	May 16, 2016 12:21 PM	May 16, 2016 8:21 AM	The DHEC Director has been a wonderful addition to our TEAM. Catherine has address concerns and made all feel employees feel like a valued TEAM member. I love coming to work every day because the people that work at DEHEC are my extended family. Employees are paid less than other agencies missed opportunity for positive public health actions As an employee of DHEC, I see first hand that we are in a constant state of interviewing, hiring and training of personnel. I think with the pay scale and lack of merit based pay raises individuals accept a job with DHEC but then move on to a better paying job when they have the opportunity. Too much time and too much money is invested in hiring and training people only to have them leave after a short while. DHEC needs to continue with the ongoing efforts of internal and external communications.
178	May 16, 2016 12:16 PM	May 16, 2016 8:16 AM	
179	May 16, 2016 12:14 PM	May 16, 2016 8:14 AM	
180	May 16, 2016 12:09 PM	May 16, 2016 8:09 AM	The DHEC Director has been a wonderful addition to our TEAM. Catherine has address concerns and made all feel employees feel like a valued TEAM member. I love coming to work every day because the people that work at DEHEC are my extended family. Employees are paid less than other agencies missed opportunity for positive public health actions As an employee of DHEC, I see first hand that we are in a constant state of interviewing, hiring and training of personnel. I think with the pay scale and lack of merit based pay raises individuals accept a job with DHEC but then move on to a better paying job when they have the opportunity. Too much time and too much money is invested in hiring and training people only to have them leave after a short while. DHEC needs to continue with the ongoing efforts of internal and external communications.
181	May 16, 2016 12:08 PM	May 16, 2016 8:08 AM	
182	May 16, 2016 12:08 PM	May 16, 2016 8:08 AM	
183	May 16, 2016 12:07 PM	May 16, 2016 8:07 AM	The DHEC Director has been a wonderful addition to our TEAM. Catherine has address concerns and made all feel employees feel like a valued TEAM member. I love coming to work every day because the people that work at DEHEC are my extended family. Employees are paid less than other agencies missed opportunity for positive public health actions As an employee of DHEC, I see first hand that we are in a constant state of interviewing, hiring and training of personnel. I think with the pay scale and lack of merit based pay raises individuals accept a job with DHEC but then move on to a better paying job when they have the opportunity. Too much time and too much money is invested in hiring and training people only to have them leave after a short while. DHEC needs to continue with the ongoing efforts of internal and external communications.
184	May 16, 2016 12:02 PM	May 16, 2016 8:02 AM	
185	May 16, 2016 11:47 AM	May 16, 2016 7:47 AM	
186	May 16, 2016 11:46 AM	May 16, 2016 7:46 AM	The DHEC Director has been a wonderful addition to our TEAM. Catherine has address concerns and made all feel employees feel like a valued TEAM member. I love coming to work every day because the people that work at DEHEC are my extended family. Employees are paid less than other agencies missed opportunity for positive public health actions As an employee of DHEC, I see first hand that we are in a constant state of interviewing, hiring and training of personnel. I think with the pay scale and lack of merit based pay raises individuals accept a job with DHEC but then move on to a better paying job when they have the opportunity. Too much time and too much money is invested in hiring and training people only to have them leave after a short while. DHEC needs to continue with the ongoing efforts of internal and external communications.
187	May 16, 2016 11:43 AM	May 16, 2016 7:43 AM	
188	May 16, 2016 11:39 AM	May 16, 2016 7:39 AM	The DHEC Director has been a wonderful addition to our TEAM. Catherine has address concerns and made all feel employees feel like a valued TEAM member. I love coming to work every day because the people that work at DEHEC are my extended family. Employees are paid less than other agencies missed opportunity for positive public health actions As an employee of DHEC, I see first hand that we are in a constant state of interviewing, hiring and training of personnel. I think with the pay scale and lack of merit based pay raises individuals accept a job with DHEC but then move on to a better paying job when they have the opportunity. Too much time and too much money is invested in hiring and training people only to have them leave after a short while. DHEC needs to continue with the ongoing efforts of internal and external communications.
189	May 16, 2016 11:38 AM	May 16, 2016 7:38 AM	

190	May 16, 2016 11:38 AM	May 16, 2016 7:38 AM	From my experience of working with another state Department of Health, the SC HIV/STD division is more in tune with the training needs of grantees and offer an array of trainings. I would have former coworkers from another state come to the trainings offered by the SC HIV/STD Division.
191	May 16, 2016 11:18 AM	May 16, 2016 7:18 AM	It is hard to keep good employees within DHEC because the pay is not acceptable for highly productive individuals. Furthermore, the agency keeps employees who do not move the agency forward through their poor work ethic. The salary for the average employee is very low. Only certain employees have get raises and have a good income.
192	May 16, 2016 11:08 AM	May 16, 2016 7:08 AM	Very good agency to work for.
193	May 16, 2016 10:59 AM	May 16, 2016 6:59 AM	Environmental Affairs side has no accountability for supervisors and managers, causing good employees to leave
194	May 16, 2016 10:29 AM	May 16, 2016 6:29 AM	The current Agency administration is very professional and dedicated to the mission of the Agency.
195	May 16, 2016 10:21 AM	May 16, 2016 6:21 AM	It is difficult to staff this agency adequately when the salaries paid are not competitive, especially with administrative staff.
196	May 16, 2016 2:46 PM	May 15, 2016 10:46 PM	Cannot get service in my county. Must go to another county for service.
197	May 16, 2016 1:18 AM	May 15, 2016 9:18 PM	Pay raises for admins.
198	May 15, 2016 10:06 PM	May 15, 2016 6:06 PM	Does anyone know who does what at DHEC?
199	May 15, 2016 7:24 PM	May 15, 2016 3:24 PM	high employee turnover rate
200	May 15, 2016 4:50 PM	May 15, 2016 12:50 PM	SI effort to heal the wounds created by the past administration: public opinion of staff intelligence, dedication and commitment. when an agency would like SC government, in general to start being more proactive. It not only saves money in the long run but it will increase the efficiency of operations and the Government's image to the public. DHEC has become increasingly better since the new Director has taken position. However, there are still areas that need improvement, specifically investing in employees - training and involvement in decision making for standard operating procedures, etc., increased salary to attract and keep higher quality employees, IT capabilities - reduction in redundancy, etc.. I would also like to see more outreach and community involvement from all departments within DHEC - workshops, information sessions, etc. for the public, industry, etc.
201	May 15, 2016 4:30 PM	May 15, 2016 12:30 PM	Treats employees poorly, poor management
202	May 14, 2016 11:27 PM	May 14, 2016 7:27 PM	So much money has been spent in the STI area yet our state's ranking has worsen year after year, particularly among African American population. Why?
203	May 14, 2016 11:12 PM	May 14, 2016 7:12 PM	The bosses get all the raises and bonuses. What about the front line employees?
204	May 14, 2016 10:28 PM	May 14, 2016 6:28 PM	
205	May 14, 2016 8:47 PM	May 14, 2016 4:47 PM	

206	May 14, 2016 6:05 PM	It seems that DHEC never knows what thwy actually do or who in their department actually does it. Thw website is horrible and information is hard to find.
207	May 14, 2016 4:03 PM	More so than any other agency I've dealt with, their customer service is leaps and bounds better than I've experienced elsewhere.
208	May 14, 2016 2:29 PM	It appears that DHEC doesn't mind overworking their employees. Add more work without extra pay and when positions are vacated they are not filled. Also if they are filled, they are filled by individuals that do not have the experience or knowledge to lead.
209	May 14, 2016 12:44 PM	Since Catherine Heigel became director of the agency there has been a marked change in the work place atmosphere. She was an excellent choice to lead the agency.
210	May 14, 2016 11:47 AM	Loss of experienced knowledgeable staff to retirement and during restructuring has left some areas dependent on new hires in key positions. Currently, it appears that the agency will continue to have difficulty retaining these new hires for the long term.
211	May 14, 2016 11:31 AM	They do not take care of their employees only the employees in higher positions they forget about taking care of the lower paid employees
212	May 14, 2016 7:15 AM	Too much nepotism and too much hiring of buddies. No one has a chance to grow.
213	May 14, 2016 7:13 AM	Too much nepotism and too much hiring of buddies. No one has a chance to grow.
214	May 14, 2016 2:01 AM	leave policy allows for advantage to be taken of the system. Large amounts of unscheduled leave is a major contributor of the agency struggling to meet community demands in the health departments. Please consider changing the policy to more closely mirror hospital absentee policies.
215	May 14, 2016 1:01 AM	DHEC functions well as a hybrid organization with environmental and health "sides" collaborating on issues such as response to children with elevated blood lead levels. Such collaboration would be much more difficult between separated health and environmental agencies.
216	May 14, 2016 12:21 AM	DHEC is responsible for too many programs.
217	May 13, 2016 10:09 PM	It is so difficult to hire and retain good employees as the pay is so low in comparison to the private sector. Training for new hires in Preventative Health needs great improvement as well.
218	May 13, 2016 9:37 PM	The restructure and previous leadership of DHEC has caused much damage and trauma to the agency. It has affected staff morale, services and public perception of this agency
219	May 13, 2016 9:30 PM	They have a long history of customer service.

220	May 13, 2016 9:29 PM	They do not value their staff. Promotions are not given equitably.
221	May 13, 2016 9:26 PM	There is a serious pay disparity between agency employees and private business employees with similar education, experience and backgrounds. DHEC has the responsibility of surveying nursing homes. The surveyors are not being done timely. The department lacks professionalism or common respect for the facilities. Staff morale is at an all time low due to poor management. Worst of all racism is tolerated.
222	May 13, 2016 9:24 PM	spot trouble managers. Do a serious evaluation of salaries for the talent DHEC employ form the doctors and nurse practitioners to the scientist biologist and computer scientist.
223	May 13, 2016 9:07 PM	The agency's new leadership, strategic plan, and focus on its people is having a profound impact on the agency's performance for the public. Heading in the right direction! Adm. Support Staff should have privilege of AWS
224	May 13, 2016 9:06 PM	I think managers should be reviewed by their staff. I think management should be flattened, with more rights and responsibilities given to front-line managers.
225	May 13, 2016 9:03 PM	I know that most people think state employees are overpaid. For the vast majority of cases, it's just not true. Please look into pay equity between state employees and private industry, state employees across state agencies, and job classifications within DHEC. Some of our most technical and difficult to train people are not compensated appropriately.
226	May 13, 2016 9:03 PM	Programs do not appear to communicate with each other. Staff who work in all program areas are sometimes caught in the middle because the processes passed down to staff contradicts
227	May 13, 2016 9:03 PM	The employees are passionate, hardworking, educated but aren't appreciated in regards to the pay they receive.
228	May 13, 2016 9:02 PM	It should be two separate agency's. One for Health and one for Environment. Almost all other states have two agency's.
229	May 13, 2016 9:01 PM	We should pick and choose the best practices and systems from those states to copy.
230	May 13, 2016 8:59 PM	POOR CUSTOMER SERVICE BECAUSE OF SHORT STAFF
231	May 13, 2016 8:57 PM	It is so many hats under DHEC. The pay is different in each one. Some make more than others. It would be great to just do a time card instead of PCAS.
232	May 13, 2016 8:54 PM	This Agency is not concerned about the welfare of its employees. We are placed in buildings with poor infrastructure, bad air quality, mold and unsafe conditions.
233	May 13, 2016 8:54 PM	The Agency's new strategic vision provides ample opportunity for significant improvements.
234	May 13, 2016 8:54 PM	

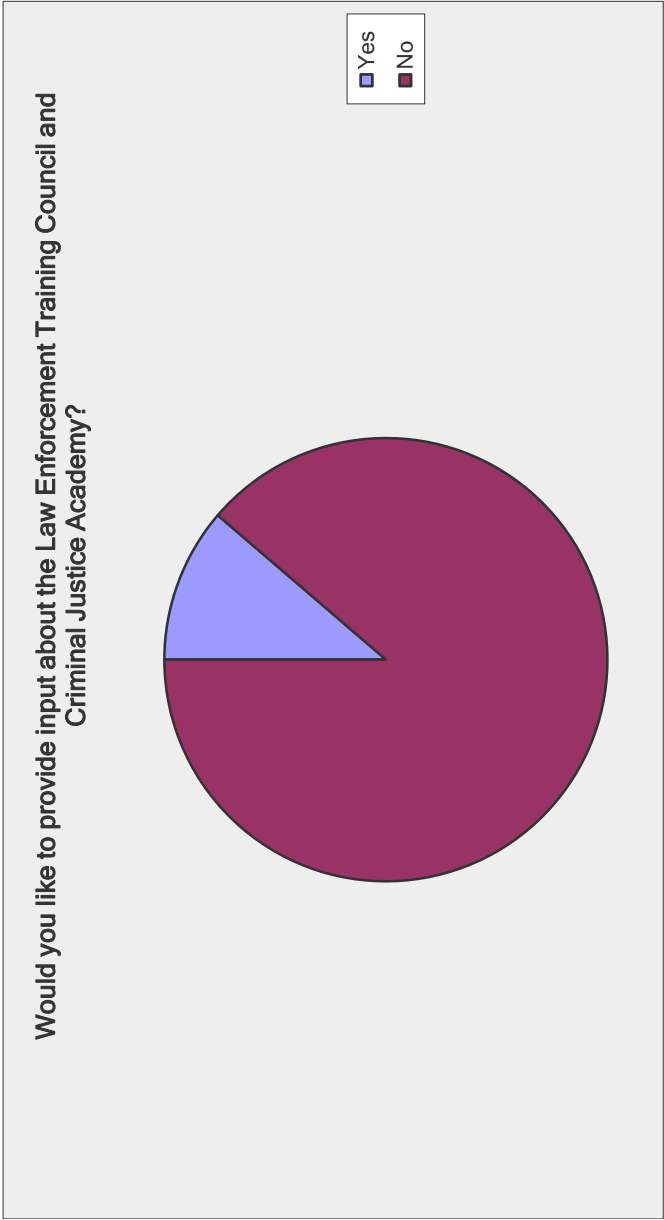
235	May 13, 2016 8:53 PM	I find it exceedingly difficult to do my job with regulations littered with more loopholes than words. I am proud of my job and our mission at DHEC but to be honest I feel many times that I am left short of being able to complete important tasks because the regulations are lacking. There is so much turnover that it is concerning the agency has employees who know and can adequately perform the technical nature of their jobs
236	May 13, 2016 8:50 PM	Employee Retention and Salaries need to be evaluated
237	May 13, 2016 8:49 PM	The Department of Health and Environmental Control serves a vital function to the state of South Carolina. Employees are competent and care about what they do in providing quality services to residents of South Carolina. It may serve the public better for the agent to be split. One agency focusing on Health. One agency focusing on Environmental. As is the standard for 48 other states. DHEC plays an active role in promoting and protecting the health of the community. It is impressive that they answer the call of duty in environmental emergencies and during disease outbreaks. While salaries don't need to be on par with those in the regulated community, they should at least be competitive if we are to maintain a competent workforce. I think that we provide excellent customer service and care to the public.
240	May 13, 2016 8:46 PM	We have a great captain at the helm. State Agencies. Staff members in the Public Health Division haven't had merit pay increases for over eight years, which is NOT the case in other state agencies. We have tremendous, dedicated staff who work tirelessly to serve the public health, and it is unfair that they don't have the same salaries or merit pay incentives as their counterparts in other DHEC divisions or sister state agencies.
241	May 13, 2016 8:46 PM	The agency has always had a laudable mission and vision, and day-to-day functions benefit a huge number of people living in SC. The agency has wanted for strong leadership for a long time, and it looks like the tide might finally be turning with Catherine Heigel at the helm.
242	May 13, 2016 8:46 PM	consistently understaffed
243	May 13, 2016 8:45 PM	Human Resources needs a complete overhaul
244	May 13, 2016 8:45 PM	N/A
245	May 13, 2016 8:44 PM	Need to limit amount of educational materials printed. Staff would benefit via merit raises. Travel system needs updating.
246	May 13, 2016 8:43 PM	
247	May 13, 2016 8:43 PM	
248	May 13, 2016 8:42 PM	
249	May 13, 2016 8:42 PM	
250	May 13, 2016 8:42 PM	Micromanaged and underpaid
251	May 13, 2016 8:42 PM	Highly professional and well intertwined organization albeit strapped for resources
252	May 13, 2016 8:42 PM	They do a very good job.

253	May 10, 2016 9:31 PM	I retired from DHEC six years ago this month. what concerns me most is how an abundance of valuable experience was lost during Mrs. Templeton's tenure.
254	May 10, 2016 4:54 PM	Inspectors that are out to make a name for themselves at the expense of public utilities
255	May 3, 2016 12:56 AM	There is great need for more training for those who work with the public.
256	May 2, 2016 3:34 PM	Too top heavy, not enough worker bees to enforce regulations
257	May 2, 2016 2:52 PM	Employees should be able to express suggestions without feeling they will be retaliated against.

May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Would you like to provide input about the Law Enforcement Training Council and Criminal Justice Academy?

Answer Options	Response Percent	Response Count
Yes	11.3%	92
No	88.7%	719
<i>answered question</i>		811
<i>skipped question</i>		214

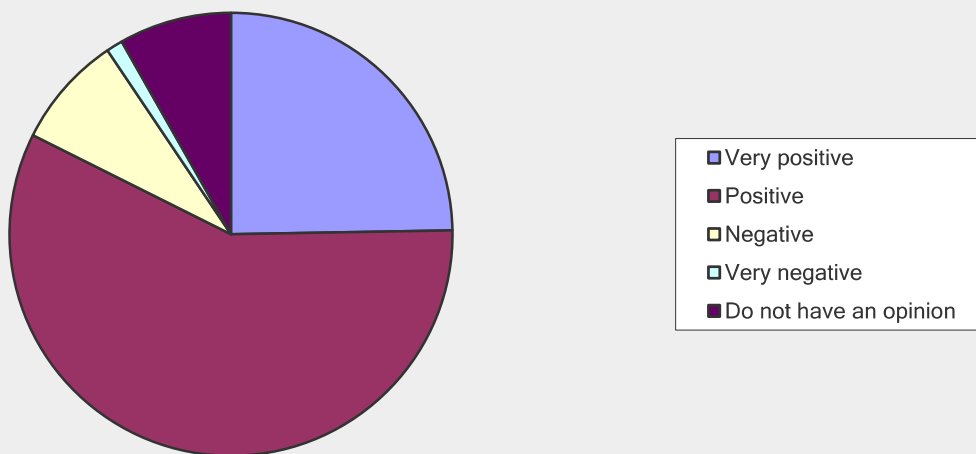


May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Overall, what is your opinion of the Law Enforcement Training Council and Criminal Justice Academy?

Answer Options	Response Percent	Response Count
Very positive	24.7%	21
Positive	57.6%	49
Negative	8.2%	7
Very negative	1.2%	1
Do not have an opinion	8.2%	7
<i>answered question</i>		85
<i>skipped question</i>		940

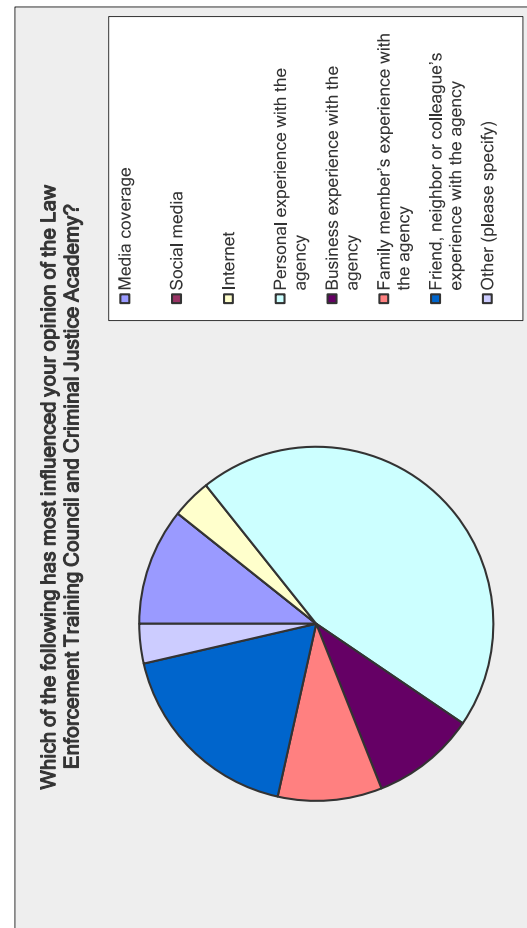
Overall, what is your opinion of the Law Enforcement Training Council and Criminal Justice Academy?



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Which of the following has most influenced your opinion of the Law Enforcement Training Council and Criminal Justice Academy?			
Answer Options	Response Percent	Response Count	
Media coverage	10.7%	9	
Social media	0.0%	0	
Internet	3.6%	3	
Personal experience with the agency	45.2%	38	
Business experience with the agency	9.5%	8	
Family member's experience with the agency	9.5%	8	
Friend, neighbor or colleague's experience with the agency	17.9%	15	
Other (please specify)	3.6%	3	
<i>answered question</i>			84
<i>skipped question</i>			941

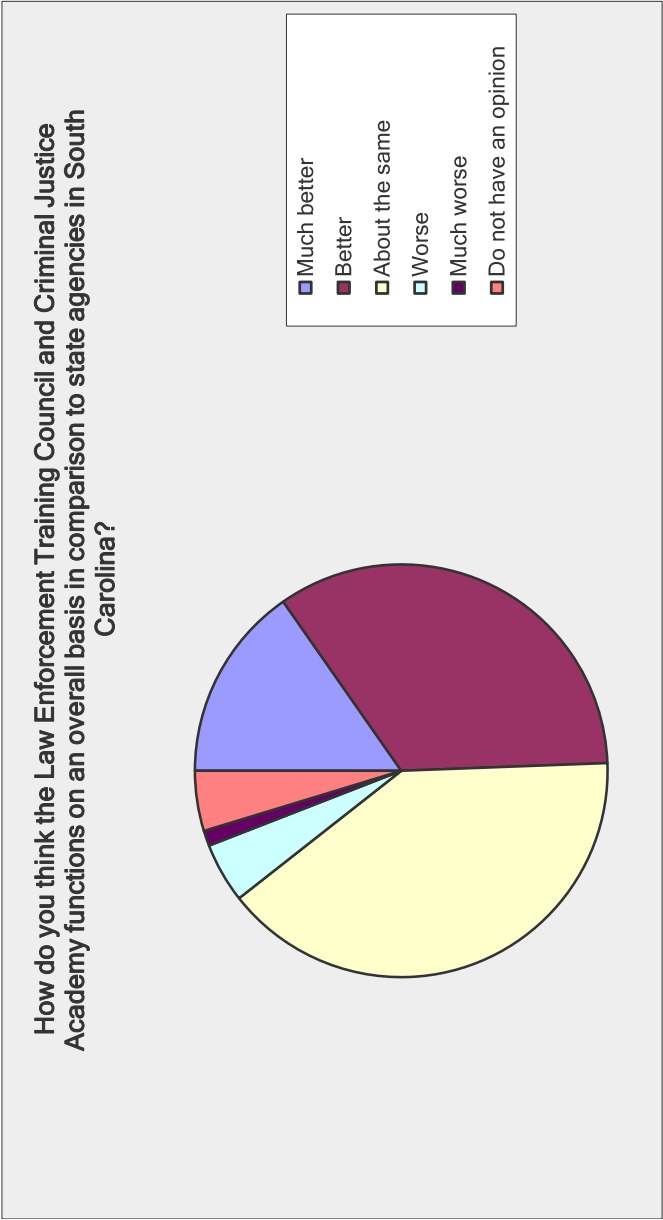
Number	Response Date	Eastern Standard	Other (please specify)
1	May 19, 2016 2:43 PM	May 19, 2016 10:43 AM	family member with no experience
2	May 18, 2016 2:47 PM	May 18, 2016 10:47 AM	Employed at the agency
3	May 16, 2016 1:42 PM	May 16, 2016 9:42 AM	No opinion.



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

How do you think the Law Enforcement Training Council and Criminal Justice Academy functions on an overall basis in comparison to state agencies in South Carolina?

Answer Options	Response Percent	Response Count
Much better	15.3%	13
Better	34.1%	29
About the same	40.0%	34
Worse	4.7%	4
Much worse	1.2%	1
Do not have an opinion	4.7%	4
<i>answered question</i>		85
<i>skipped question</i>		940



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Law Enforcement Training Council and Criminal Justice Academy. Your response will be quoted verbatim and published online.

Answer Options	Response Count
<i>answered question</i>	21
<i>skipped question</i>	21
	1004

Number	Response Date	Eastern Standard	Response Text
1	May 31, 2016 6:40 PM	May 31, 2016 2:40 PM	Agency should establish a pay step increase program based on years of service. The Criminal Justice Academy needs to be able to fund more competitive salaries for instructors. Currently, starting pay for an instructor is equal to or slightly better than entry level pay for police officers at local agencies. The Academy should be recruiting the best officers from around the state to instruct our state's officers, but the average instructor-candidate with 6-10 years experience would probably not be able to afford the reduction in pay that comes with working at the Academy. Very important agency concerning the past, present and future of our State. The agency is underfunded. It cannot compete for qualified instructors or administrative staff. It is difficult to qualify for grants because the State has not declared it a State Law Enforcement Agency. Personnel are in fact over worked and underpaid. Given the circumstances the agency enjoys a much improved relationship with the Law Enforcement Community as well as the media and the legislature. The staff is hardworking and dedicated but woefully underpaid.
2	May 23, 2016 8:37 PM	May 23, 2016 4:37 PM	
3	May 18, 2016 2:47 PM	May 18, 2016 10:47 AM	
4	May 18, 2016 1:01 PM	May 18, 2016 9:01 AM	

5	May 16, 2016 12:35 PM	May 16, 2016 8:35 AM	<p>The more training we can have for law enforcement officers the better for everyone involved: officers and community.</p> <p>If someone doesn't pass a portion of the academy, the turnaround time is not standard for them to go back to pass the course. Some people from some agencies are quickly enrolled back in to pass portion of class failed while others may have to wait months. I believe the process should be standardized for all agencies.</p> <p>It's a bad sign when law enforcement shot unarmed citizens who are running away from them and claim they fear for their life.</p> <p>They do a very good job.</p> <p>For the last eight years, the SCCJA has excelled in all areas, making great strides in law enforcement training. When you consider the minuscule budget afforded the Academy, the results achieved are truly amazing. The present Director is the best that the Academy has ever had...a man of vision and leadership.</p> <p>SC police are the best. As a civilian, I can tell they have received top training.</p> <p>The Training Council does not fully consider all aspects of an officer's career or the circumstances involved for a certification hearing. They did use proxy hearing officers to hear cases by non-council members and pretty much rubber stamped their recommendations. This proxy hearing officer procedure was found to be unlawful.</p> <p>Employees, especially instructors, consistently leave work early on Fridays and do not take annual leave. This is costing the state thousands of dollars.</p>
6	May 16, 2016 11:43 AM	May 16, 2016 7:43 AM	
7	May 13, 2016 9:26 PM	May 13, 2016 5:26 PM	
8	May 13, 2016 8:43 PM	May 13, 2016 4:43 PM	
9	May 12, 2016 10:46 AM	May 12, 2016 6:46 AM	
10	May 9, 2016 2:59 AM	May 8, 2016 10:59 PM	
11	May 7, 2016 4:16 PM	May 7, 2016 12:16 PM	
12	May 5, 2016 11:36 PM	May 5, 2016 7:36 PM	

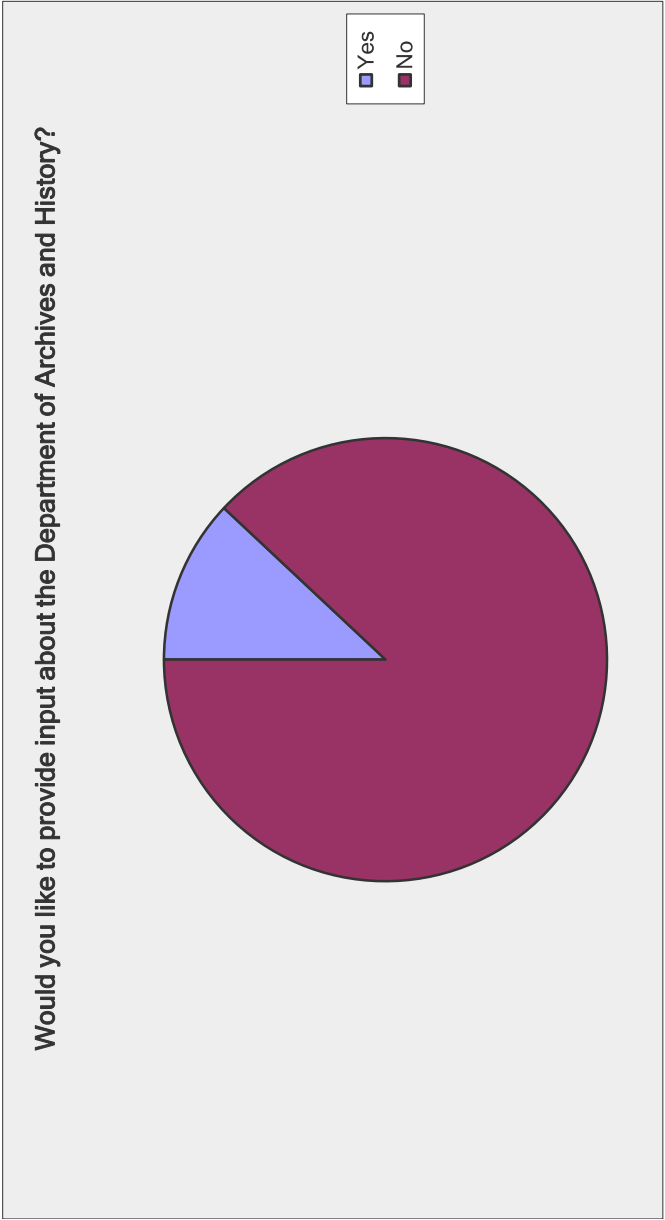
	13	May 5, 2016 8:27 PM	May 5, 2016 4:27 PM	<p>I am proud to be part of The Academy staff and make a difference towards our goal of training the law enforcement officers of the state and making sure they are equipped to protect the citizens. The staff here take their job serious and do their best to train the officers to be prepared. One of the main problems I see is that we do not have the funding to be able to pay highly qualified staff for specialized instructional programs and even to hire a highly experience IT Consultant. We are working within our budget to find the best employees we can to perform the job, but feel like we are not competitive with other Agencies and Law Enforcement Agencies in attracting highly trained staff.</p> <p>They do a great job, When i was a student and heard that several of the staff and Teacher had two jobs. This told me the state doesnt pay them enough. They train us cops and the state should pay them more.</p> <p>The academy does a great job, though they have to function with an unreasonable budget, and their employess are way under paid for what they do.</p>
	14	May 5, 2016 1:18 PM	May 5, 2016 9:18 AM	
	15	May 5, 2016 1:14 PM	May 5, 2016 9:14 AM	

16	May 3, 2016 2:44 PM	May 3, 2016 10:44 AM	<p>The Academy is governed by the LETC, governed by SC Agency Heads, and SC Chiefs and Sheriffs. It has been felt by many that this group is biased when it comes to the Academy's primary responsibility of certification and decertification. These LEO's know each other and are often intimidated by a council member. There must be a change in the structure of the LETC to allow laymen to participate, not solely law enforcement. The LETC also has say who should take over when a Director resigns office. This can be heavily swayed by internal friendships on staff and not necessarily the best of the best. A more stringent and filtering process needs to be implements in the selection of an Interim Director, appointed Director, and Deputy Director. History shows that LEO's don't make good managers, nor do attorneys. The SCCJA needs to have a manager with a past of fixing agencies and weeding out the problems.</p> <p>The decrease in funding must be addressed in order to keep providing excellent training to the law enforcement community.</p>
17	May 3, 2016 1:11 PM	May 3, 2016 9:11 AM	<p>I suggest that the Law Enforcement Training Council be comprised of law persons. Having the Council comprised of Directors, Sheriffs, Chiefs result in an entity that is too political, and not a Council answerable to the concerns of the citizens of S.C. Police training and certification is a concern of all citizens.</p>
18	May 3, 2016 1:39 AM	May 2, 2016 9:39 PM	

19	May 2, 2016 9:59 PM	May 2, 2016 5:59 PM	<p>Pay increases are used to pad the upper echelons retirement accounts at the expense of people who go 15 to 20 years without a pay raise. Law Enforcement personnel are favored over non-law enforcement personnel. Cronyism is rampant. Ethical behavior is a rarity not a norm. The entire executive staff needs to be replaced. There is a complete lack of understanding that the Academy is a school/training facility not a police department. Frequently, when employees are called in for counseling they are treated like criminals with law enforcement interrogation tactics. Many employees have been driven to nervous breakdowns. When employees are not being paid fairly it creates a climate of distrust and hostility that tears the place apart. The Academy needs to be funded to support the classes it teaches. Demanding instructors put together programs and not funding the staff and supplies needed to do the job is an everyday occurrence.</p> <p>CJA operates about the same as other state agencies in that with government no one can use common sense. When suggestions are made, they are not considered. An open mind would be better in all state agencies.</p> <p>The Criminal Justice Academy has some of the most dedicated employees that have a true passion for the work they do. Training law enforcement throughout the state to serve and protect the citizens of this state as well as keeping themselves safe. It doesnt matter if it is the cafeteria staff, facility management, admin staff, instructors, or command staff, everyone has a stake in the students that come through.</p>
20	May 2, 2016 5:14 PM	May 2, 2016 1:14 PM	
21	May 2, 2016 2:06 PM	May 2, 2016 10:06 AM	

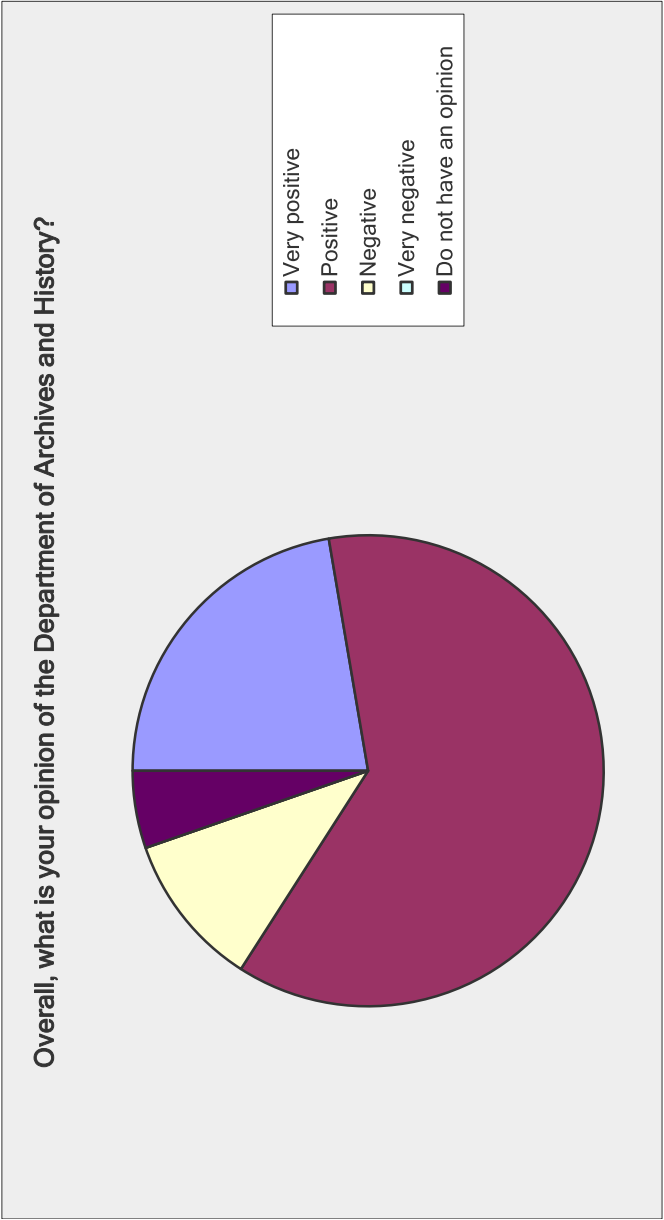
May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Would you like to provide input about the Department of Archives and History?			
Answer Options	Response Percent	Response Count	
Yes	12.0%	96	
No	88.0%	704	
		<i>answered question</i>	800
		<i>skipped question</i>	225



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Overall, what is your opinion of the Department of Archives and History?		
Answer Options	Response Percent	Response Count
Very positive	22.3%	21
Positive	61.7%	58
Negative	10.6%	10
Very negative	0.0%	0
Do not have an opinion	5.3%	5
		<i>answered question</i> 94
		<i>skipped question</i> 931



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Which of the following has most influenced your opinion of the Department of Archives and History?			
Answer Options	Response Percent	Response Count	
Media coverage	7.4%	7	
Social media	3.2%	3	
Internet	6.4%	6	
Personal experience with the agency	53.2%	50	
Business experience with the agency	19.1%	18	
Family member's experience with the agency	2.1%	2	
Friend, neighbor or colleague's experience with the	4.3%	4	
Other (please specify)	4.3%	4	
<i>answered question</i>			94
<i>skipped question</i>			931

Number	Response Date	Eastern Standard	Other (please specify)
1	May 20, 2016 1:25 PM	May 20, 2016 9:25 AM	Never heard of this agency Negative. We have been housing an abundance of archived records at our already crowded sites because this Department has not been able to make space to store them. Emails are not returned when inquiries are made as well.
2	May 13, 2016 10:12 PM	May 13, 2016 6:12 PM	

3	May 13, 2016 8:47 PM		May 13, 2016 4:47 PM	Employee at Sandel Elementary Career Day
				Don't hear much about them
4	May 2, 2016 3:35 PM		May 2, 2016 11:35 AM	

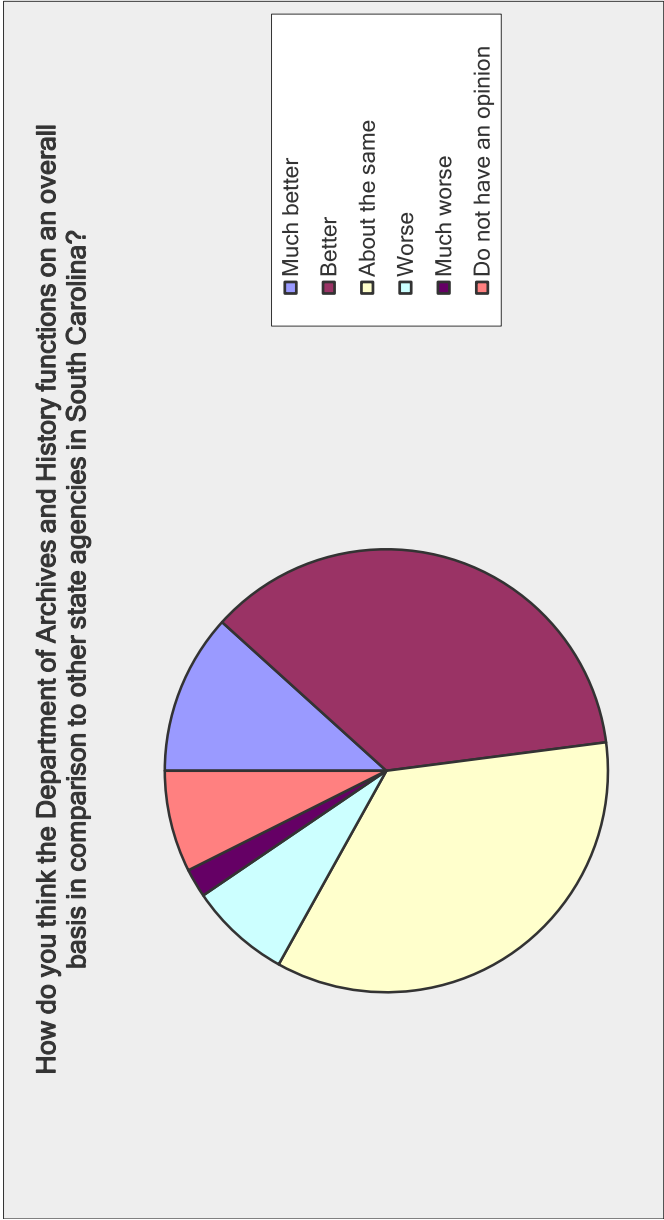
Which of the following has most influenced your opinion of the Department of Archives and History?



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

How do you think the Department of Archives and History functions on an overall basis in comparison to other state agencies in South Carolina?

Answer Options	Response Percent	Response Count
Much better	11.7%	11
Better	36.2%	34
About the same	35.1%	33
Worse	7.4%	7
Much worse	2.1%	2
Do not have an opinion	7.4%	7
<i>answered question</i>		94
<i>skipped question</i>		931



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Department of Archives and History. Your response will be quoted verbatim and published online.

Answer Options		Response Count	
		26	26
<i>answered question</i>			999
<i>skipped question</i>			

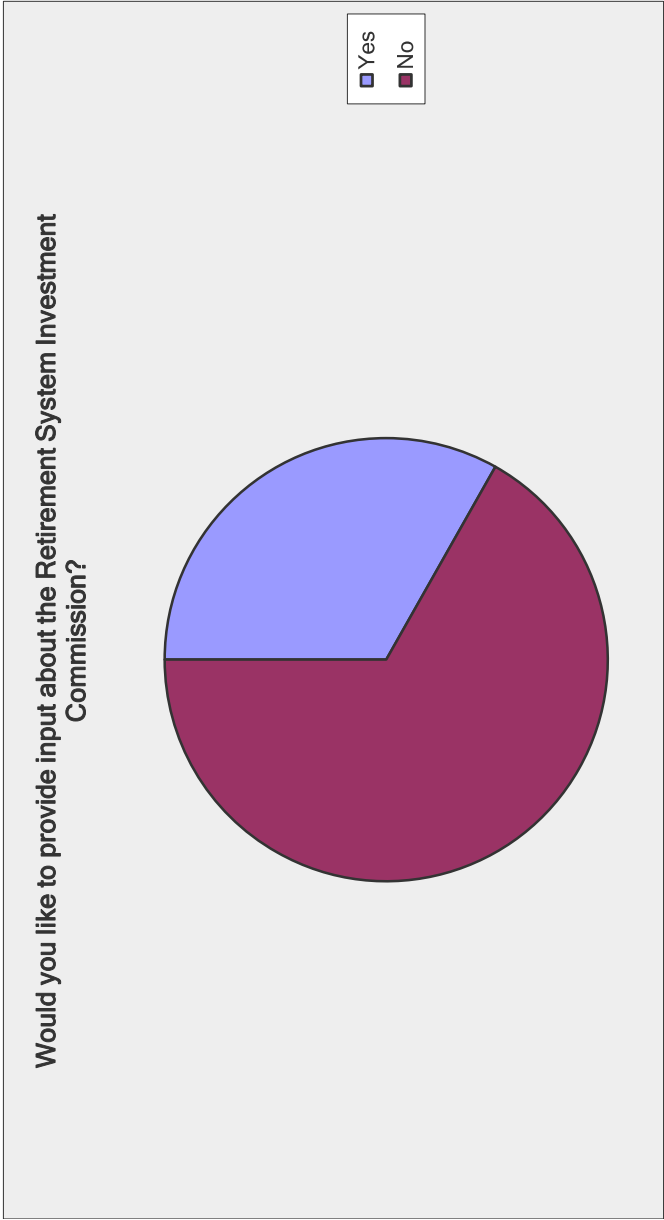
Number	Response Date	Eastern Standard	Response Text
1	May 27, 2016 12:48 PM	May 27, 2016 8:48 AM	seem to do a great job with limited resources Would like them to work together with other agencies to ensure a smooth transitions to electronic records from other formats. The website for searching the electronic records they currently have, though records they currently have, though few, could be improved.
2	May 25, 2016 6:31 PM	May 25, 2016 2:31 PM	Sounds like a waste of money Why is it so difficult to get archives and history to schedule a date to receive documents from state agencies? It can take months and months during which agencies are required to secure documents while waiting for a response. Perhaps they don't have adequate resources to receive documents in a timely manner. This creates an undue burden on agencies who are trying to comply with archiving regulations. Needs to work closely with other state agencies in its initiative to receive electronic records. The Archives provides a great service to the people of SC. The staff is very helpful and knowledgeable, they provide a service in protecting our heritage. Needs more employees to provide services to our citizens and other state agencies.
3	May 20, 2016 1:25 PM	May 20, 2016 9:25 AM	
4	May 20, 2016 2:21 AM	May 19, 2016 10:21 PM	
5	May 19, 2016 1:15 PM	May 19, 2016 9:15 AM	
6	May 19, 2016 1:03 AM	May 18, 2016 9:03 PM	
7	May 18, 2016 2:23 PM	May 18, 2016 10:23 AM	
8	May 17, 2016 6:32 PM	May 17, 2016 2:32 PM	

9	May 17, 2016 12:18 PM	May 17, 2016 8:18 AM	My experience with the agency has always been positive. My only concern has been with the limited after five and week-end hours that limits the working 9-5 individuals access to do research. I was not sure of the function of this agency until we entered the debate of the confederate flag location. It would be helpful to know what the agency is tasked with doing. They are very behind in picking up archived materials due to lack of resources.
10	May 17, 2016 12:11 PM	May 17, 2016 8:11 AM	papers and other items that are to be archived which contain PHI are piling up in DHEC with no space to store them
11	May 16, 2016 6:18 PM	May 16, 2016 2:18 PM	Better access
12	May 16, 2016 5:04 PM	May 16, 2016 1:04 PM	Can't really say because I do not know the schedule of the other agencies.
13	May 16, 2016 2:06 PM	May 16, 2016 10:06 AM	Again I feel like many of our agencies do good work and yet remain under funded and under staffed.
14	May 16, 2016 1:08 PM	May 16, 2016 9:08 AM	Great resource. Need to continue adding records for online research. The information is readily available
15	May 16, 2016 12:29 PM	May 16, 2016 8:29 AM	The Department of Archives and History does and excellent job in preserving the history of the state of SC. The value of this agency to the state has not been fully recognized by the legislature. The agency should receive more funding to do its work.
16	May 16, 2016 11:50 AM	May 16, 2016 7:50 AM	Records management website information is outdated.
17	May 16, 2016 12:49 AM	May 15, 2016 8:49 PM	up archived records in health departments on a consistent basis now for 3 years. Build up of boxes with records needing to be archived has been extremely challenging.
18	May 16, 2016 12:03 AM	May 15, 2016 8:03 PM	
19	May 15, 2016 7:48 PM	May 15, 2016 3:48 PM	
20	May 14, 2016 2:07 AM	May 13, 2016 10:07 PM	

21	May 13, 2016 8:57 PM	May 13, 2016 4:57 PM	At present not enough room for archive charts. These charts have to be pulled according to patient's last visit. They have no room so that means certain departments cannot pull per policy and have no space to store. documents available for free online.
22	May 13, 2016 8:50 PM	May 13, 2016 4:50 PM	They do a very do job. extraordinary job of preserving the state's valuable public records and making them available to the public. I have used them frequently for my research as a doctoral candidate and now as a professor of history, and have found the staff unfailingly knowledgeable, professional, and helpful. While in the reading room, I have also had the opportunity to observe their interactions with other patrons, and see the valuable services they provide to a diverse population of South Carolinians. As an institution, too, I have found the SCDAH extremely collegial in my interactions with them through the South Carolina Historical Association.
23	May 13, 2016 8:44 PM	May 13, 2016 4:44 PM	
24	May 4, 2016 9:09 PM	May 4, 2016 5:09 PM	There is a real need to improve the agency funding. The search room hours were cut around 2002 and should be restored. The budget for book purchases should be restored.
25	May 3, 2016 1:04 AM	May 2, 2016 9:04 PM	I think the Historic Preservation Office is understaffed and could use more reviewers to speed up the 106 review process
26	May 2, 2016 1:23 PM	May 2, 2016 9:23 AM	

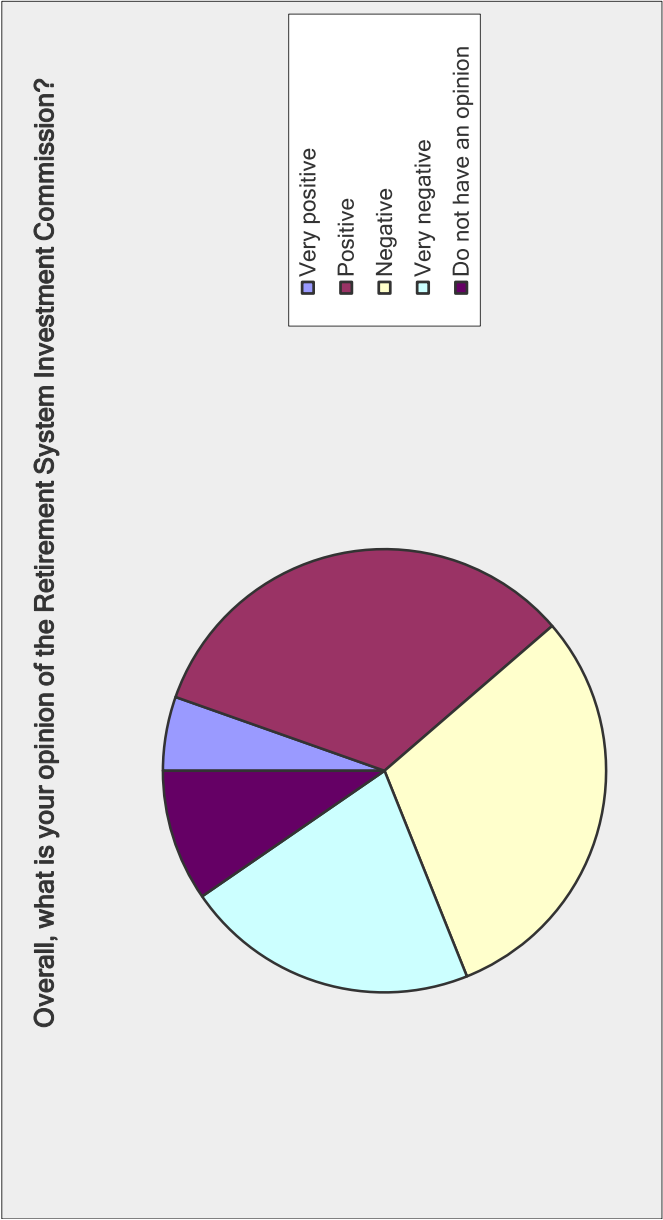
May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Would you like to provide input about the Retirement System Investment Commission?			
Answer Options	Response Percent	Response Count	
Yes	33.2%	262	
No	66.8%	527	
		<i>answered question</i>	789
		<i>skipped question</i>	236



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

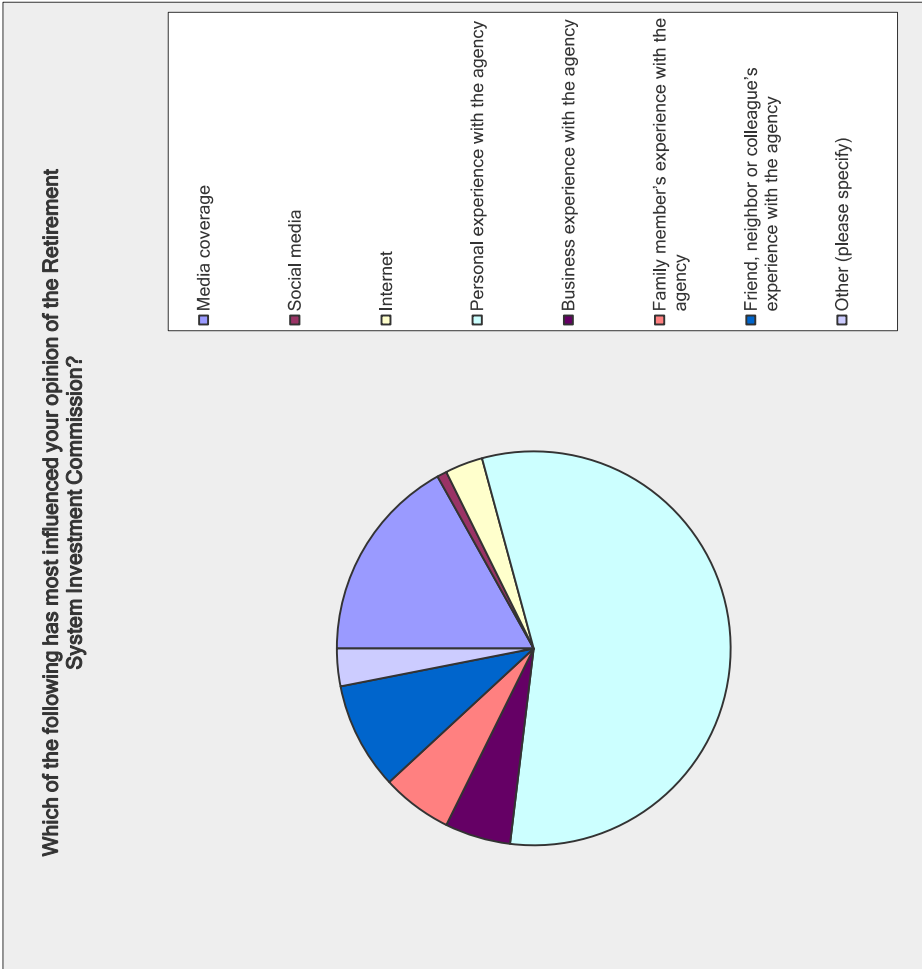
Overall, what is your opinion of the Retirement System Investment Commission?			
Answer Options	Response Percent	Response Count	
Very positive	5.4%	14	
Positive	33.3%	87	
Negative	30.3%	79	
Very negative	21.5%	56	
Do not have an opinion	9.6%	25	
			<i>answered question</i>
			261
			<i>skipped question</i>
			764



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Which of the following has most influenced your opinion of the Retirement System Investment Commission?		
Answer Options	Response Percent	Response Count
Media coverage	16.9%	44
Social media	0.8%	2
Internet	3.1%	8
Personal experience with the agency	56.2%	146
Business experience with the agency	5.4%	14
Family member's experience with the agency	5.8%	15
Friend, neighbor or colleague's experience with the	8.8%	23
Other (please specify)	3.1%	8
	answered question	260
	skipped question	765

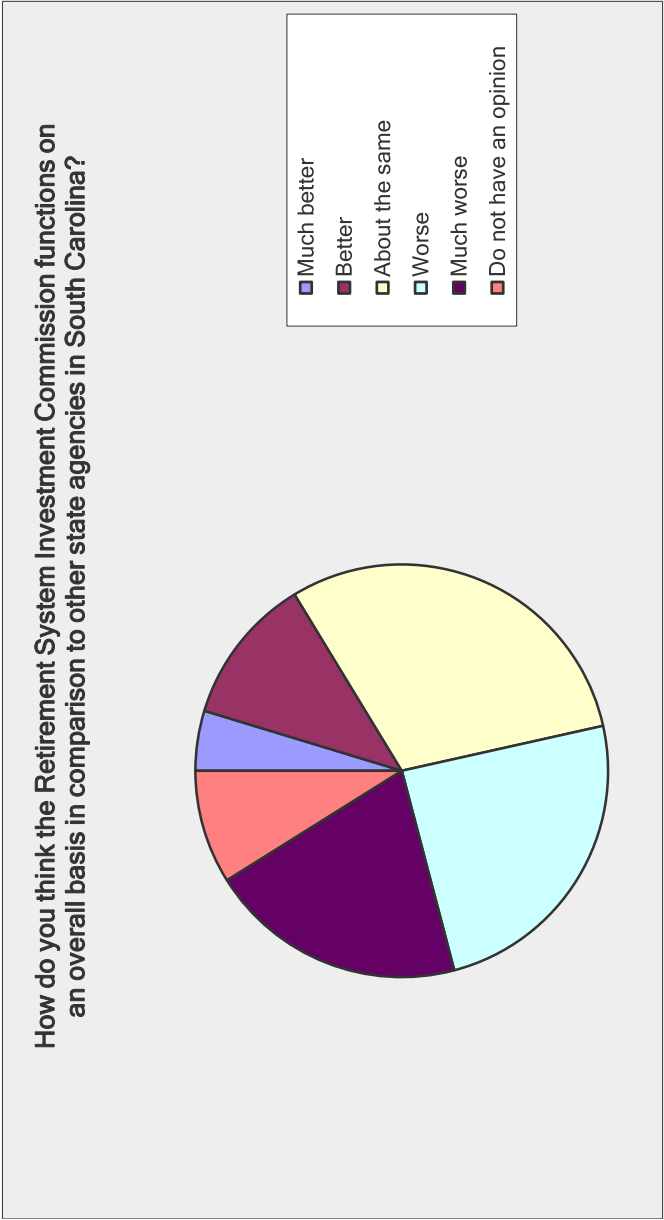
Number	Response Date	Eastern Standard	Other (please specify)
1	May 25, 2016 7:11 PM		News reports about underperforming investments and extremely high fees paid, especially to NY firms.
2	May 25, 2016 12:59 PM		I am a state employee
3	May 17, 2016 7:13 PM		Senate Journal
			They made bad investments in the past and now the employees are having to pay for them.
4	May 16, 2016 6:27 PM		employee
5	May 16, 2016 2:16 PM		None.
6	May 16, 2016 1:13 PM		Personal research
7	May 16, 2016 12:41 PM		State employee
8	May 16, 2016 12:18 PM		



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

How do you think the Retirement System Investment Commission functions on an overall basis in comparison to other state agencies in South Carolina?

Answer Options	Response Percent	Response Count
Much better	4.7%	12
Better	11.6%	30
About the same	30.2%	78
Worse	24.4%	63
Much worse	20.2%	52
Do not have an opinion	8.9%	23
<i>answered question</i>		258
<i>skipped question</i>		767



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Retirement System Investment Commission. Your response will be quoted verbatim and published online.

Answer Options	Response Count
<i>answered question</i>	101
<i>skipped question</i>	101
	924

Number	Response Date	Eastern Standard	Response Text
1	May 27, 2016 6:08 PM	May 27, 2016 2:08 PM	Reynolds Williams has created an agency that has lost the state billions of dollars yet he still remains on the job. How much money would he have to lose to be kicked off the system? The retirement system is not being invested properly.
2	May 26, 2016 2:08 PM	May 26, 2016 10:08 AM	In-state investment firm with low fees and proven record should be handling investments, not political friends in NY.
3	May 25, 2016 7:11 PM	May 25, 2016 3:11 PM	The leaders of the agency need to be accountable for their decisions. A long term fix should be developed and stop sapping state employees to fix the problem. The governors fix of 11% would actually mean I will have less take home money than I did 8 years ago.
4	May 25, 2016 12:59 PM	May 25, 2016 8:59 AM	

			<p>The Commission's leadership is grossly overpaid in relation to their investment performance. The "CEO" (how can the director of a state agency be called a CEO--this is a sign of pure arrogance) lacks any real experience and is purley a political appointee, who focuses too much on Machiavellian political maneuvers than effectively running an agency. The agency has not undertaken a meaningful search for a permanant CIO. Given the poor performance of the investment returns (as compared to other states), it does not seem logical to keep the current leadership in place.</p>
	5	May 24, 2016 12:38 PM	May 24, 2016 8:38 AM

6	May 24, 2016 2:11 AM	May 23, 2016 10:11 PM	<p>It is troubling that the director of this agency refers to himself as the "CEO". Upper management is vastly under-qualified in relevant areas and are grossly over-compensated based on their experience. It is also troubling that returns are abysmal compared to other similarly-situated funds, yet upper management is not held accountable for their poor performance. Leadership seems too focused on playing politics than protecting our retirement. While I think there are hard working individuals at the Commission, they are overshadowed by the egos of upper management. I don't understand how South Carolina's return on investment is so low compared to similar programs in other states yet the cost for this commission is relatively high. Concerned in regards to the past investment strategy (loss of funds) which seemed to be a result of a public vote for stock investment (instead of preference of employed persons paying into the retirement system). The fees paid are exorbitant for the returns realized</p>
	May 23, 2016 4:37 PM	May 23, 2016 12:37 PM	
	May 23, 2016 1:03 PM	May 23, 2016 9:03 AM	
8	May 23, 2016 12:14 PM	May 23, 2016 8:14 AM	
9			

10	May 20, 2016 2:18 AM	May 19, 2016 10:18 PM	<p>Please take a close look at fees associated with the Investment Commission and risk levels associated with investments. Returns are lowest in the country but state employees have the highest employee contribution rate in the southeast. Staff at this agency make huge salaries and receive performance bonuses (but call them something else so testify that they don't pay bonuses). How is it ok that the proposed solution to their poor and suspicious management of retirement funds is to penalize state employees and retirees by increasing employee contribution rates and decreasing or eliminating retiree cost of living increases. Please put accountability where it belongs... With the Investment Commission. Highest fees and lowest returns equals incompetence and threatens the long term solvency of the system. Replace the whole commission.</p>
11	May 19, 2016 8:32 PM	May 19, 2016 4:32 PM	

12	May 19, 2016 8:14 PM	May 19, 2016 4:14 PM	<p>The Investment Commission does a very poor job on informing retirees of specific reasons that the investment returns are the worse return of all states reviewed; yet it pays the highest fees and salaries compared to other states. In addition, the relationship between the Commission and the Retirees' Association is suspect. Any information the association provides to retirees looks like it was written for them by a staff member of the Commission. They normally blame someone else for any shortfalls in investments and fail to look at what they are doing or accepting constructive advice from outside sources.</p>
13	May 19, 2016 7:55 PM	May 19, 2016 3:55 PM	<p>According to news reports the Investment Commission has lost millions of retiree funds in poor investments, paying high fees to investment firms, and paying exuberant bonuses to selected employees. The Oversight Committee needs to get a complete explanation of the relationship of Commission members and investment firms/individuals that the Commission invest with.</p>

14	May 19, 2016 7:51 PM	May 19, 2016 3:51 PM	<p>Charles Appleby was a lawyer working for Collins and Lacy. Reynolds Williams (a commissioner on the SC Retirement Investment Commission), hired Collins and Lacy. Charles Appleby is a Legislative Oversight committee staffer on the subcommittee for the Investment Commission. This is a direct conflict of interest.</p> <p>What has happened with the Investment Commission that they have not told the truth to the public why so much money was lost in investing retiree funds? It appears that the Commission has not properly invested funds. Representative Newton's wife has an immediate family member who is a law partner with Reynolds Williams (a commissioner of the SC Retirement Investment Commission. Representative Newton is on the subcommittee reviewing the Investment Commission. This is a direct conflict of interest. Why is the Oversight Committee wasting time on issues that have long been resolved? Why are they being so neglectful and not focusing to resolve the problems of our roads - highways and the damage caused by the flood</p>
15	May 19, 2016 7:48 PM	May 19, 2016 3:48 PM	
16	May 19, 2016 7:46 PM	May 19, 2016 3:46 PM	
17	May 19, 2016 7:41 PM	May 19, 2016 3:41 PM	

18	May 19, 2016 7:40 PM	May 19, 2016 3:40 PM	Why haven't Mike Hitchcock and Geoff Burg been fired for loosing so much of Retirees and tax payers hard earned money? Not sure state employees are getting the best deal from investment decisions. ridiculous amounts of fees paid and bonuses paid employees in the presence of terrible performance and returns on investments..... no other agency doles out such high bonuses and no other agency is allowed continued terrible performance results
19	May 19, 2016 5:20 PM	May 19, 2016 1:20 PM	Investment strategy is not sound for the overall longterm health of the retirement system
20	May 19, 2016 1:27 PM	May 19, 2016 9:27 AM	The Investment Commission does a very poor job in investing retiree funds. It pays the highest fees for questionable investments and receives the lowest returns in the country.
21	May 19, 2016 12:43 PM	May 19, 2016 8:43 AM	Concerned about significant cost for fund management compared to return performance.
22	May 19, 2016 1:12 AM	May 18, 2016 9:12 PM	
23	May 18, 2016 5:59 PM	May 18, 2016 1:59 PM	

24	May 18, 2016 5:50 PM	May 18, 2016 1:50 PM	The Investment Commission does not provide sufficient and honest information to retirees. It only provides information that is convenient for them to publish. They refuse to have open third party audits. Any reviews that are held, the Investment Commission blames the reviewers or the State Treasury for the finding.
25	May 18, 2016 5:45 PM	May 18, 2016 1:45 PM	need to match our retirement funds The retirement system should match every dollar we put in I am concerned that the commission places the retirement funds into investments that are too high a risk.
26	May 18, 2016 5:17 PM	May 18, 2016 1:17 PM	there is something wrong when the retirement system continues to loose money. do not reward investors with bonus when their investment choices continually reveal a loss.
27	May 18, 2016 4:21 PM	May 18, 2016 12:21 PM	
28	May 18, 2016 2:50 PM	May 18, 2016 10:50 AM	

29	May 18, 2016 2:36 PM	May 18, 2016 10:36 AM	Aside from the miserable investment strategy the so called "financial experts" at the RSIC have haphazardly managed, The option for new employees to opt out of the standard pension plan was a grave error on the part of the legislature and RSIC. While the number of current state employees that have opted out of the pension program for a 401k style plan is not available, the fact that fewer personnel are contributing to the plan is a serious issue that is never discussed. Given the absurdly poor performance of the pension plan, one would assume that this would sway future employees to opt for an alternative plan thereby exacerbating the problems the pension system currently faces.
30	May 18, 2016 2:22 PM	May 18, 2016 10:22 AM	Concerned retirement coverage will be I am concerned with the fee system and what is paid to manage retirement accounts.
31	May 18, 2016 1:40 PM	May 18, 2016 9:40 AM	Media indicates that system is performing poorly with investments
32	May 18, 2016 1:14 PM	May 18, 2016 9:14 AM	

33	May 17, 2016 6:34 PM	May 17, 2016 2:34 PM	<p>Need to invest our money more wisely. Our retirement contributions keep going up on what the employee pays. The rate of return is not as successful as other states in the South and other states do not pay as much into that state's retirement system. The group is not competent to manage funds. At a time when the overall market has been trending higher, this group put our money into questionable investments with high fees that lost money. Our money could have been invested in ordinary no-load index funds and made a profit. In addition, the managers were awarded bonuses. Kick them out and get someone capable of doing the job. This group is terrible. Terri program need to continue</p> <p>Question whether monies are invested in a responsible, nonpartisan way.</p> <p>I understand there have been numerous debates about the retirement system being underfunded. As a state employee this poses a serious concern. I am willing to contribute more to my state retirement to ensure I will be able to receive benefits.</p>
34	May 17, 2016 5:26 PM	May 17, 2016 1:26 PM	
35	May 17, 2016 5:05 PM	May 17, 2016 1:05 PM	
36	May 17, 2016 3:42 PM	May 17, 2016 11:42 AM	
37	May 17, 2016 12:14 PM	May 17, 2016 8:14 AM	

38			Investment structuring
39	May 17, 2016 6:59 AM May 16, 2016 7:26 PM	May 17, 2016 2:59 AM May 16, 2016 3:26 PM	questionable contributing to increasing system liabilities. Friendly, compassionate I would appreciate an overall review of the RSIC relative to the Teri Plan and the options available to new Do away with it; they cost the state retirement system too much money.
40	May 16, 2016 7:13 PM	May 16, 2016 3:13 PM	South Carolina employees earn the least but pay a higher percentage of their income into the retirement system compared to other states in the southeast. The investors in charge of funds have been making very risky investments and losing lots of money over the last few years. Its very frustrating to be underpaid and paying such a high percentage of your income into a system that squanders it away. I feel that actual experienced investors need to be brought in to handle employee
42	May 16, 2016 5:50 PM	May 16, 2016 1:50 PM	The person over the retirement makes a very large salary. The retirement of those already retired is more lucrative than those that are still working. This causes our deduction to be more than the retired ever contributed.
43	May 16, 2016 4:15 PM	May 16, 2016 12:15 PM	Need more accountability for fund management
44	May 16, 2016 3:36 PM	May 16, 2016 11:36 AM	As a state employee, I have concerns over the agency's investment strategies.
45	May 16, 2016 3:04 PM	May 16, 2016 11:04 AM	

46	May 16, 2016 2:07 PM	May 16, 2016 10:07 AM	Payment to groups managing funds way to high
47	May 16, 2016 1:57 PM	May 16, 2016 9:57 AM	The person I had, made my experience comfortable. Those idiots are way overpaid even if it was \$1. There is no excuse for the constant under performing and over paying. Someone should be in jail!!!
48	May 16, 2016 1:46 PM	May 16, 2016 9:46 AM	The Investment Commission should be more "visible" and interactive with State Employees.
49	May 16, 2016 1:39 PM	May 16, 2016 9:39 AM	What are they doing for state employees?
50	May 16, 2016 1:13 PM	May 16, 2016 9:13 AM	The Reirement System Investment Commission should be eliminated; they have grossly underperformed, and it appears that investments have been made based upon commissions paid and kick-backs rather than investment return. A simple investment strategy that invests 50% in a S&P 500 fund and 50% in government bonds would have been far more productive and would not have needed the
51	May 16, 2016 1:08 PM	May 16, 2016 9:08 AM	

52	May 16, 2016 1:02 PM	May 16, 2016 9:02 AM	<p>I don't believe that the taxpaying employees of the state should have to increasingly have to pay for the POOR investments and mismanagement of funds we contribute to make up for their mistakes. We need to live on what we make NOW, not what we may or may not receive in the future.</p> <p>We who are paying in to the system should not have to have our contribution rates increased because the investors are morons. Get people who know what they are doing before you fleece the current employees for more money. Our rates have already been raised once this year and that was supposed to solve the problem. Now we are hearing that we may have to have our rate increased AGAIN in the same calendar year! The problem is not the payouts to those who worked, the problem is the people who invested the money don't know crap from crab apples. Change the board or whatever is necessary to rectify the problem.</p> <p>The Commission's poor decisions in relation to the investments should not be corrected on the backs of the underpaid state employees.</p>
53	May 16, 2016 1:00 PM	May 16, 2016 9:00 AM	
54	May 16, 2016 12:59 PM	May 16, 2016 8:59 AM	

55	May 16, 2016 12:51 PM	May 16, 2016 8:51 AM	<p>I appreciate the Retirement System Investment Commission's work investing to plan for state employee's pensions. I would like to see more transparency from this state agency, I don't understand why the mandatory rates continue to rise, it really hurts the low income state employees the most.</p> <p>The investment of assets looks like it could be managed better. These funds should not be borrowed or otherwise removed by the general assembly. That money is not there's to take.</p> <p>Save millions by reducing staff and investing strictly in index funds. Index funds consistently beat actively managed funds and are much cheaper in terms of fees. Hedge funds should not be a vehicle for retirement investments.</p> <p>Has the state ever considered using a fixed investment rate as opposed to mutual funds and the TERI program needs to go away.</p>
56	May 16, 2016 12:43 PM	May 16, 2016 8:43 AM	
57	May 16, 2016 12:43 PM	May 16, 2016 8:43 AM	
58	May 16, 2016 12:41 PM	May 16, 2016 8:41 AM	
59	May 16, 2016 12:36 PM	May 16, 2016 8:36 AM	

60	May 16, 2016 12:18 PM	May 16, 2016 8:18 AM	I am horrified about the unfunded debt issue. It to me indicates a lack of management, which goes all the way to the Governor. Basically the suggestion to have employees pay 11-12% of their pay is outrageous, and would result in a major payout. Also, other surrounding states are able to run their retirement system with less contribution than our current level - why can't we? Stop investing in the market. It was a bad idea to start doing that.
61	May 16, 2016 12:17 PM	May 16, 2016 8:17 AM	As a state employee who participates in the SCRS, I am very concerned about the ability of this Commission to make sound investments. The pension system (SCRS) should not be underfunded. It seems that this will cause future debt issues for the state. Need to find a better way to invest
62	May 16, 2016 12:13 PM	May 16, 2016 8:13 AM	SC state employees pay higher rate for retirement than other states. There needs to be a retirement/investing training for employees once they are in state government on the importance of retirement planning early vs later in life.
63	May 16, 2016 12:10 PM	May 16, 2016 8:10 AM	
64	May 16, 2016 11:48 AM	May 16, 2016 7:48 AM	

<p>State Employees are being robbed by this group. They are puppets for NY bankers and investors. SC is a laughing stock as a result of this groups inability to make wise choices.</p>	<p>May 14, 2016 11:14 PM</p>	<p>May 14, 2016 7:14 PM</p> <p>This 10-year experiment should come to an end. In the words of Trump to Mr. Hitchcock and Mr. Berg: "You're Fired!" Time to empower PEBA and STO and clean out the Executive and C-Level overcompensated bureaucrats. RSIC had an opportunity to course correct with a compensation study. The study only yield results for the worse producers and best connected. Unfortunately, this is the new standard of SC state government.</p>
<p>65</p>	<p>May 14, 2016 10:13 PM</p>	<p>May 14, 2016 6:13 PM</p>
<p>66</p>		

67	May 14, 2016 4:44 PM	<p>Nepotism - The practice among those with power or influence of favoring relatives or friends, especially by giving them jobs. Executive management, with the keen oversight of human resources, often hires the children of politicians and other politicians as overcompensated interns in an attempt to further their careers. Here's some to name a few: The son of Gerald Malloy, the son of Eddie Fogler (Old USC basketball coach), and the son of a female staffer on SC Budget and Control Board.</p>	May 14, 2016 12:44 PM
68	May 14, 2016 2:23 PM	<p>All day, every day, the CEO is on a PERSONAL cell phone texting legislators. This happens blatantly during every meeting and in front of staffers. 1) This is not work commensurate of a \$250,000-\$300,000 salary; and 2) If you disagree and consider this "work", I would argue that your PERSONAL phone text messages, call log, and personal email is now FOIA-able. The House should FOIA this device, along with that sharp looking Apple watch.</p>	May 14, 2016 10:23 AM

69	May 14, 2016 2:16 PM	May 14, 2016 10:16 AM	<p>Danny Varat is paid a six figure salary to pretend to be an elitist. This guy is seen more often at the Palmetto Club and running mid-day than at the office. Mr Varat, you may have senate ties, but I believe the House, the establishment closer to The People, does not support your government subsidized life of leisure. Bills started in both the Senate and House have not been successful and this year's budget issue in the House is hopefully just the beginning. Where is the value add to positions like this? I feel like Michael Hitchcock and Mr. Varat serve a redundant role as overpaid ceremonial heads of nonsense.</p> <p>Wow - I hope what ever staffer has been covering GTAA for the past three years steps down or is terminated that is awful performance. On second thought, I hope the staff covering global equities and mixed credit considers a career change. Peeler is right, "the eTrade baby could do a better job" than these jokers.</p> <p>State employees should not be punished because they chose a wrong investment and managed it poorly it is the state's responsibility not the employees to correct it</p>
70	May 14, 2016 1:55 PM	May 14, 2016 9:55 AM	
71	May 14, 2016 11:32 AM	May 14, 2016 7:32 AM	

72	May 14, 2016 7:19 AM	May 14, 2016 3:19 AM	<p>Compared to other states, it is very different and not doing enough to inform the employees of their benefits. More classes on the retirement system is needed for state employees. Several members of the House Oversight Committee that I have great respect for and believe are true leaders of South Carolina were informed of the Commission's shortcomings and the poor state of the pension plan. Now, you have the stage, you have the attention, and you should have the courage to make the necessary management changes to get the Commission on better footing.</p> <p>This place is basically a cross between the Fourth Reich and cult. Drink the Kool-Aid and say "Yes Sir" and will make more money than you are worth.</p> <p>Poor management like other state agencies. Top level people getting high salaries for doing a poor job.</p>
73	May 13, 2016 11:58 PM	May 13, 2016 7:58 PM	
74	May 13, 2016 9:49 PM	May 13, 2016 5:49 PM	
75	May 13, 2016 9:28 PM	May 13, 2016 5:28 PM	

76	May 13, 2016 9:03 PM	May 13, 2016 5:03 PM	Commission investors should be paid according to gains made on investments. Paying them exorbitant salaries to fail provides no incentive for them to work toward improving the retirement system's ability to fund retirees. These investors walk out with fat pockets while retirement system considers doubling the contributions of current state employees to continue funding retirees. So not fair! Help employees better understand the state retirement system and send quarterly statements out. Media coverage paints the picture agency is not managing money well. They do not do a good job. Being paid too much for the return in investments. The leader of the organization emails/texts his administrator to prepare and bring drinks in front of his entire staff during meetings. It is a strange and lazy sight to see. This is not a private company. This is a state agency and people should not be treated like servants or overpaid to perform degrading, meaningless tasks that do not drive the performance on the pension fund.
77	May 13, 2016 8:49 PM	May 13, 2016 4:49 PM	
78	May 13, 2016 8:47 PM	May 13, 2016 4:47 PM	
79	May 13, 2016 8:44 PM	May 13, 2016 4:44 PM	
80	May 13, 2016 8:43 PM	May 13, 2016 4:43 PM	
81	May 13, 2016 12:33 AM	May 12, 2016 8:33 PM	

82	May 13, 2016 12:27 AM	May 12, 2016 8:27 PM	<p>Michael Hitchcock, bless his heart, at least he got the opportunity to be the Executive Director / CEO for two years. It is time to ask for his resignation and get leader at the helm of the ship. He should be proud that he got an opportunity, but realize that he has not contributed in any value added way. His recent salary increase along with the CIO's recent salary increase is just wrong. There has been ZERO value added during his tenure. There is a caste system that exists even at the Commission. There have been and will continue to be departures of key personnel who have institutionalized the Commission over the years. The Commission will be left with over paid bureaucrats. The first CIO was not the best and over diversified, but the Acting CIO and CEO are untested business leaders and the cracks are showing.</p>
83	May 12, 2016 2:53 PM	May 12, 2016 10:53 AM	

84	the agency responsible for state employees retirements has mismanaged the funds that they were put in charge of. S.C. employees already pay more for their pensions than in any other Southeastern state and more than many private-sector employees. The burden of righting the retirement fund gap should not be put on the backs of state employees. plus the LOC needs to look at adjusting the bonus system for RSIC - the RSIC employees have been getting bonuses for managing an underperforming system. At one point in my work life I withdraw funds from the retirement system. Later I was able to put it back with interest, with money I had already paid taxes on. I was told that it would only give me a small discount due to federal law. This is South Carolina not the US government. So now I am paying taxes on that money again. This is not right. Also my last year at the medical university I had to pay retirement and got nothing in return for it and that is just stealing. Can you do anything about any of this? Overpaid, wasteful, out of touch, and disingenuous	
	May 11, 2016 7:40 PM	May 11, 2016 3:40 PM
85	May 10, 2016 5:59 PM	May 10, 2016 1:59 PM
86	May 10, 2016 2:38 AM	May 9, 2016 10:38 PM

There is a 30 year old, a 30 year old, that makes \$163,000 a year! That just is not right. Someone should FOIA his value added track record, because unless this guy invested the cure to cancer this seems very stupid. Did this guy solve the Da Vinci code or something? This is not Wall Street...the is Main Street.			
The performance since inception does not justify the agency's existence. Simplify the asset allocation and reduce staff just like a private business. It is time for cost cuts starting the C-Level executives.			

89	May 8, 2016 10:43 AM	May 8, 2016 6:43 AM	<p>There has been a lot of coverage over the years regarding some of the negative aspects of "RSIC". As a tax payer, I am worried that "RSIC" still does not have the right leadership. Bob Borden looks like a genius compared to Michael Hitchcock. Why does a hand selected bureaucrat command such a hefty salary? Does he have the right qualifications? It is my understanding that he is simply a lawyer. I would rather have someone with some business experience, experience in a leadership role, and/or some kind of investment background. Would you let a business person litigate? No, you would hire a lawyer. Mr. Hitchcock has not added value from what I have read online. This guy looks like he is in over his head. I just do not understand why there are so many "Directors". The organizational charts looks like an upside down pyramid. If one looks at LinkedIn profiles of Staffers, it is odd that there are so many Directors with vastly different levels of experience and credentials. Seems shady to me.</p>
90	May 8, 2016 2:07 AM	May 7, 2016 10:07 PM	

91	May 7, 2016 12:25 AM	May 6, 2016 8:25 PM	<p>A guy with 15 years experience as a Senate lawyer does not qualify to be an Executive Director, I mean CEO. The current CEO barely qualifies for Mr. Varat's Senate Liaison gig. This position should be filled with someone with experience not a Senate "yes man". South Carolina deserves to have someone with a business degree or MBA at the helm of its \$25 billion plan that affects 550,000 beneficiaries. I vote</p> <p>Darla Moore!</p> <p>Poor Human Resources Practices - This is the only state agency, hopefully, where an administrative assistant (secretary) earned \$76,000 per year. Per the state's salary database, the Human Resource Director went from making \$90,000 to \$135,000 per year in approximately three years. Tax payers and beneficiaries should feel absolutely insulted.</p> <p>Executive and Senior management needs to be terminated and PEBA/STO need to play a larger role. The SC House should FOIA every salary increase and promotion since inception of the Plan and cross reference such decisions with actual investments and their respective performance by each employee</p>
92	May 7, 2016 12:17 AM	May 6, 2016 8:17 PM	
93	May 5, 2016 4:30 PM	May 5, 2016 12:30 PM	

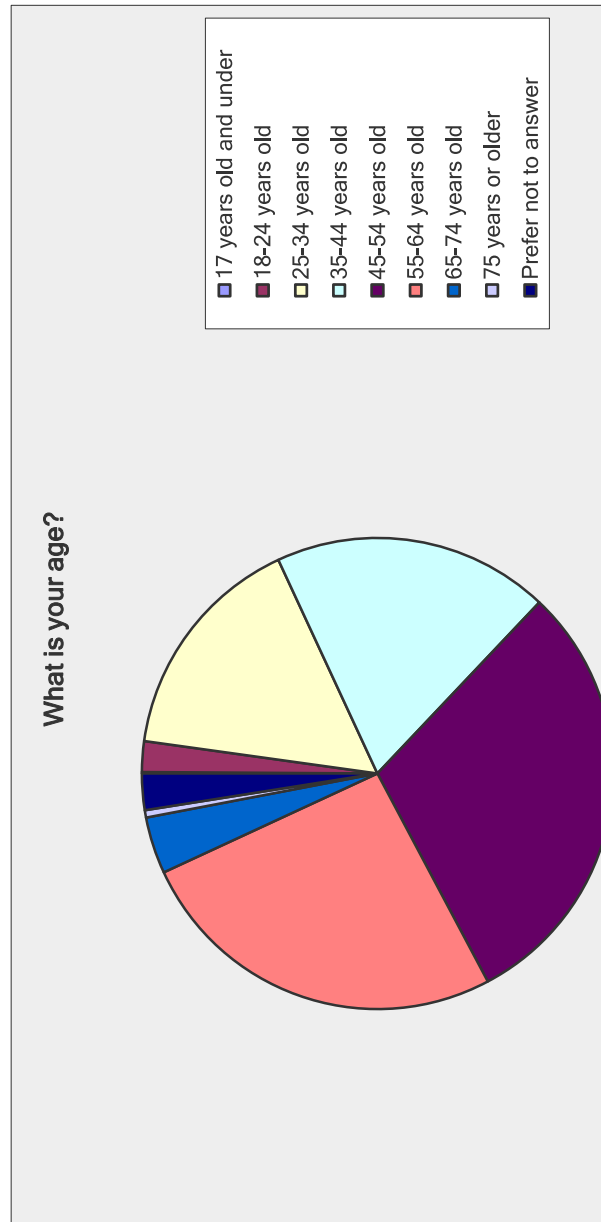
94	May 5, 2016 4:27 PM	May 5, 2016 12:27 PM	<p>Poor Executive and Senior Leadership with No Management Experience, Poor Asset Allocation with such Decision Makers Still Employed, Weak Compensation and Human Resources Capabilities</p> <p>It is very frustrating know family members who work for the state who are constantly being asked to pay more and more into a fund that is not being invested wisely.</p>
95	May 4, 2016 12:26 PM	May 4, 2016 8:26 AM	<p>Being retired I don't see why working retirees, with fixed retirement still pay into the system and yet get no benefit. As for the investment aspect, I've been told by knowledgeable people in upper banking positions that we have the worst options available to state employees allotted to us for investment options. Their words, "they stink."</p> <p>Are these people interested in the welfare of state employees? If given better investment options, you'd probably see retirees leaving sooner, opening the ranks for the younger generations to have jobs. It would be a win-win situation. This Commission needs to be re-evaluated.</p>
96	May 3, 2016 3:09 PM	May 3, 2016 11:09 AM	

97	<p>The stock market is up almost 4,000 points from its low in 2008. Why is the pension system losing money, when individual investors are making money?</p> <p>As a South Carolinian working in NYC as an investment analyst, I am disappointed in the lack of returns, portfolio structure and lack of attention to detail. The Investment commission needs new leadership or it will continue to fail. Commissioners like Reynolds Williams have proven to be failures and are incapable of creating an organization that can earn the money needed to secure the benefits promised. I have many friends and family members in SC and they deserve and plan that is not run by cronies and flimflam artist.</p>	<p>May 3, 2016 1:43 AM</p>	<p>May 2, 2016 9:43 PM</p>
98		<p>May 2, 2016 4:25 PM</p>	<p>May 2, 2016 12:25 PM</p>

99	May 2, 2016 4:11 PM	May 2, 2016 12:11 PM	<p>How much money must be stolen from the taxpayers before SLED investigates this criminal enterprise. They have failed to make enough money to pay benefits without dipping into the retirement fund, they have given themselves lavish bonuses and made their friends and family wealthy. As a state employee I need and want my retirement checks and if these clowns are permitted to continue I want get a I am a retiree and have watched this agency perform baby for years. I cannot believe that men like Reynolds Williams are not in jail. There negligence has cost this state a fortune and they should be punished. If not, they poor performance will continue.</p> <p>Bonuses, etc. should not be allowed when dealing with employees' contributions, especially when they are not performing well and we are losing money.</p>
100	May 2, 2016 4:03 PM	May 2, 2016 12:03 PM	
101	May 2, 2016 2:54 PM	May 2, 2016 10:54 AM	

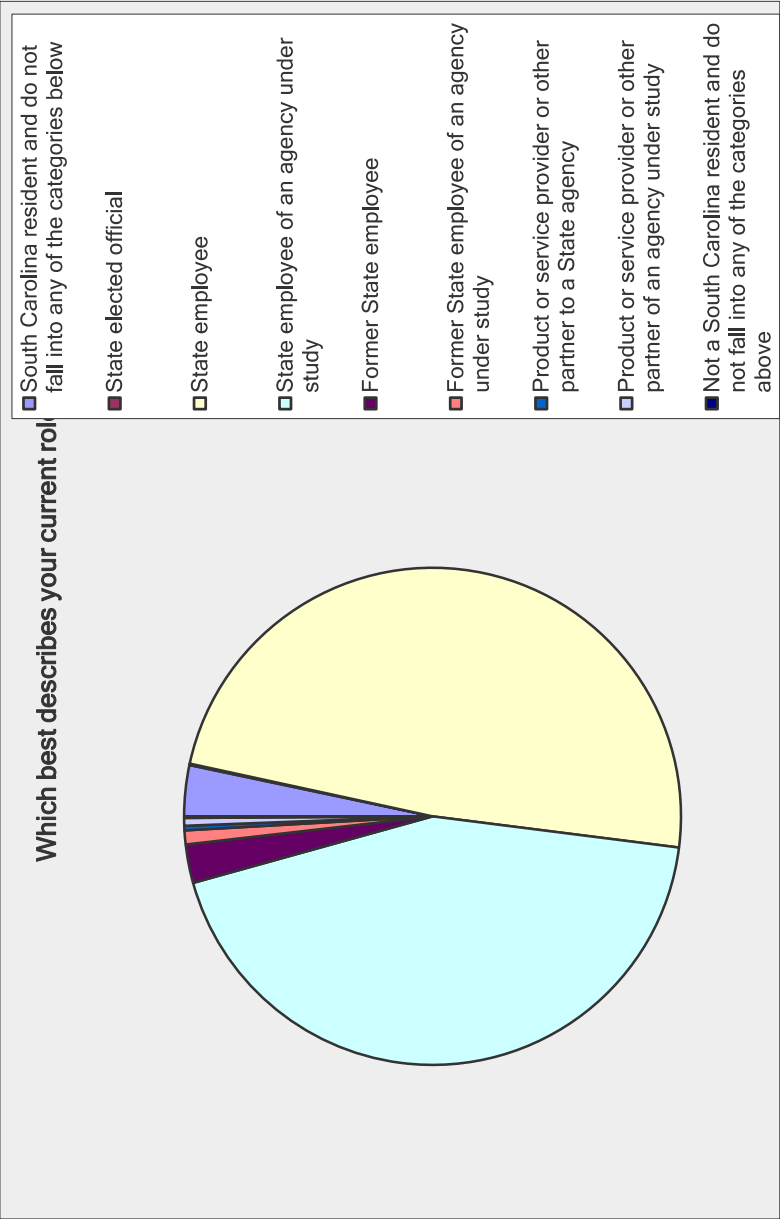
May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

What is your age?		
Answer Options	Response Percent	Response Count
17 years old and under	0.1%	1
18-24 years old	2.1%	16
25-34 years old	15.9%	122
35-44 years old	19.0%	146
45-54 years old	30.2%	232
55-64 years old	25.9%	199
65-74 years old	3.9%	30
75 years or older	0.5%	4
Prefer not to answer	2.5%	19
	answered question	769
	skipped question	256



May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

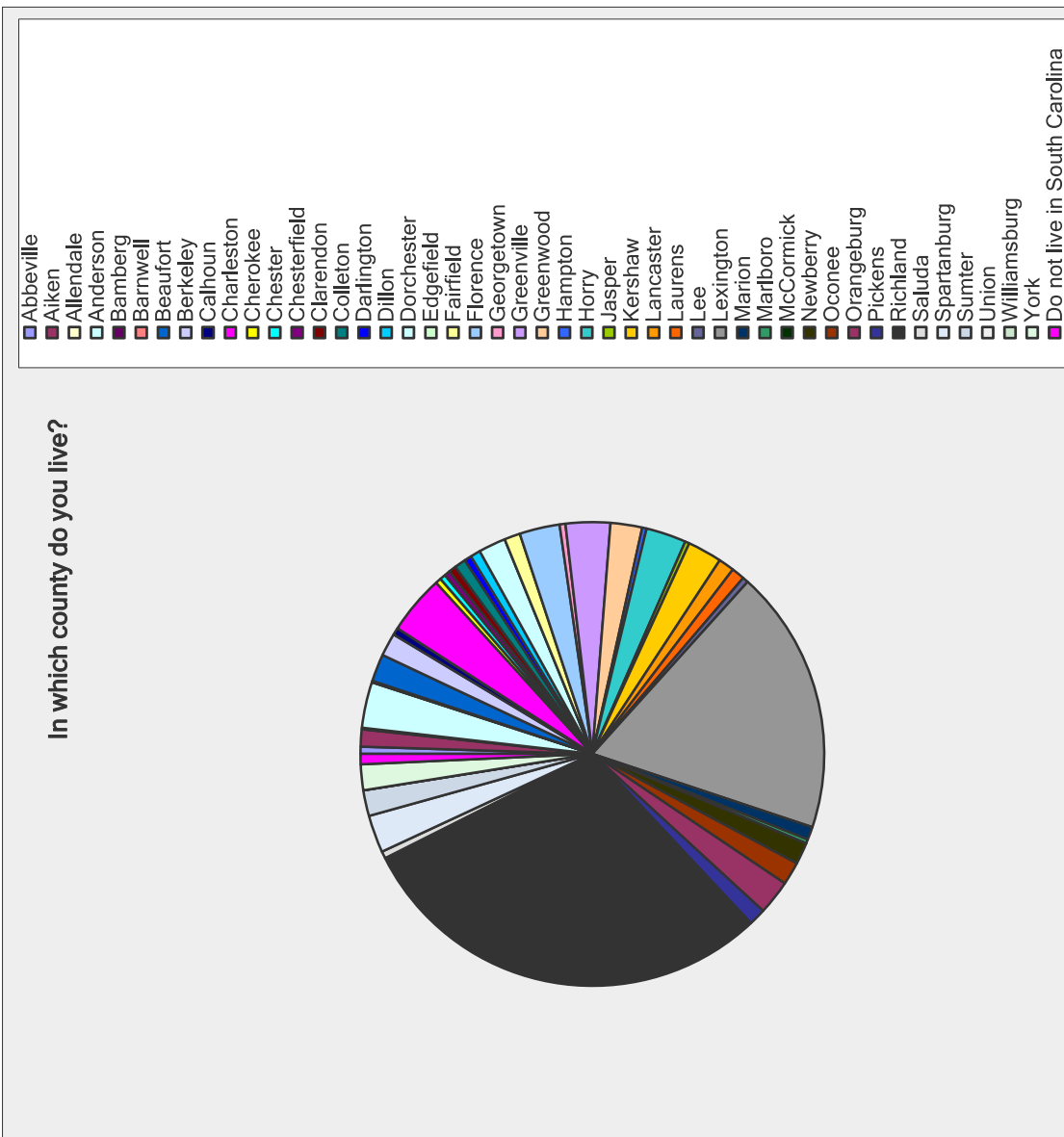
Which best describes your current role?		
Answer Options	Response Percent	Response Count
South Carolina resident and do not fall into any of the	3.3%	25
State elected official	0.1%	1
State employee	48.5%	365
State employee of an agency under study	43.6%	328
Former State employee	2.5%	19
Former State employee of an agency under study	0.9%	7
Product or service provider or other partner to a State	0.3%	2
Product or service provider or other partner of an agency	0.5%	4
Not a South Carolina resident and do not fall into any of	0.1%	1
	answered question	752
	skipped question	273



**May 2016 - Provide Input to the South Carolina House of Representatives'
Legislative Oversight Committee**

In which county do you live?		
Answer Options	Response Percent	Response Count
Abbeville	0.5%	4
Aiken	1.2%	9
Allendale	0.1%	1
Anderson	3.2%	24
Bamberg	0.0%	0
Barnwell	0.1%	1
Beaufort	1.9%	14
Berkeley	1.6%	12
Calhoun	0.5%	4
Charleston	4.1%	30
Cherokee	0.4%	3
Chester	0.4%	3
Chesterfield	0.4%	3
Clarendon	0.5%	4
Colleton	0.8%	6
Darlington	0.5%	4
Dillon	0.7%	5
Dorchester	1.9%	14
Edgefield	0.0%	0
Fairfield	1.1%	8
Florence	2.8%	21
Georgetown	0.4%	3
Greenville	3.1%	23
Greenwood	2.2%	16
Hampton	0.3%	2
Horry	2.8%	21
Jasper	0.3%	2
Kershaw	2.4%	18
Lancaster	1.1%	8
Laurens	0.9%	7

Lee	0.4%	3
Lexington	18.4%	136
Marion	0.9%	7
Marlboro	0.3%	2
McCormick	0.0%	0
Newberry	1.5%	11
Oconee	1.6%	12
Orangeburg	2.4%	18
Pickens	1.2%	9
Richland	29.5%	218
Saluda	0.5%	4
Spartanburg	2.6%	19
Sumter	1.8%	13
Union	0.0%	0
Williamsburg	0.0%	0
York	1.8%	13
Do not live in South Carolina	0.7%	5
<i>answered question</i>		740
<i>skipped question</i>		285



Appendix C. January 28, 2016 Meeting Information

Appendix Includes:

- Meeting Packet
 - Agenda
 - December 15, 2015 - Meeting Minutes
 - Letters to Committee regarding agency study priority
 - 2015 Update - Online summary
 - Study steps
 - January 6, 2016 memorandum from State Inspector Patrick J. Maley regarding executive branch

**South Carolina
House of Representatives**



Legislative Oversight Committee

Thursday, January 28, 2016

Room - 521 Blatt Building (Ways and Means Committee Room)

9:00 a.m.

Pursuant to Committee Rule 4.9, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.

AGENDA

- I. Approval of minutes from December 15, 2015 meeting**
- II. Discussion of scheduled agency oversight studies, including, but not limited to, priority of agencies and an update on status of studies**
- III. Committee administrative matters**
- IV. Adjournment**

LEGISLATIVE OVERSIGHT COMMITTEE

MINUTES FROM DECEMBER 15, 2015 MEETING

First Vice-Chair:
Laurie Slade Funderburk

Legislative Oversight Committee



Nathan Ballentine
Gary E. Clary
Kirkman Finlay III
Joseph H. Jefferson Jr.
Walton J. McLeod
Joshua Putnam
Samuel Rivers Jr.
Tommy M. Stringer
Bill Taylor

William K. (Bill) Bowers
Raye Felder
Phyllis J. Henderson
Mia S. McLeod
Ralph W. Norman
Robert L. Ridgeway III
James E. Smith, Jr.
Edward R. Tallon Sr.
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Legal Counsel

Legislative Oversight Committee Meeting
December 15, 2015
10:00 a.m.
Room 516 - Blatt Building

ARCHIVED VIDEO

- I. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and click on "Committee Postings and Reports," then under House Standing Committees click on "Legislative Oversight". Lastly, click on "Video Archives" for a listing of archived videos for the Legislative Oversight Committee.

MINUTES

- II. House Rule 4.5 requires the standing committees of the House to prepare and make available for public inspection, in compliance with Section 30-4-90, the minutes of full committee meetings. House Rule 4.5 further provides that such minutes need not be verbatim accounts of such meetings.
- III. The House Legislative Oversight Committee (Committee) was called to order by Chairman Wm. Weston J. Newton on Tuesday, December 15, 2015, in Room 516 of the Blatt Building, Columbia, South Carolina.
- IV. Chairman Newton submitted proposed minutes from the Committee's previous meeting, November 9, 2015. Representative Ballentine moved to approve the minutes. A roll call vote was held.

Rep. Ballentine's Motion to Approve the Minutes from the Committee's Meeting on November 9, 2015:	Yea	Nay	Not Voting
Nathan Ballentine	✓		
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III	✓		
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam	✓		
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

- V. The next order of business was a discussion of scheduled agency oversight studies agencies, including but not limited to, an update on status of studies.

The following Chairpersons provided a procedural update on their respective subcommittees or ad hoc committee, and answered questions asked of them by other members of the Committee: the Representatives Phyllis Henderson, James Smith, Kirkman Finlay, and Nathan Ballentine.

Representative Henderson explained that the Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee had held six meetings with Department of Transportation, reviewed the operations of the Chief Internal Auditor, and reviewed the agency's use of "C Funds." She explained that the Subcommittee's review of the agency had been put "on hold" until the Legislative Audit Council completes its audit of the DOT, something Representative Henderson said that she expected to be completed in March of 2016. Representative Henderson expressed that the Subcommittee will begin its study of the State Transportation Infrastructure Bank in the early part of 2016. She noted that the Legislative Audit Council is also currently performing an audit of the STIB. Representative Henderson answered questions asked of her by other members of the Committee.

Representative Smith explained that the Education and Cultural Subcommittee had reviewed the spending of First Steps to School Readiness relative to the number of families or children served by the agency, and that the Subcommittee intended to continue to review the agency's finances and governance. The Subcommittee had started preliminary meetings with the School for the Deaf and the Blind, but was waiting to complete its study of First Steps before it got further into its study of the

School for the Deaf and Blind. Representative Smith also answered questions asked of him by other members of the Committee.

Representative Ballentine explained that the Healthcare Subcommittee had three meetings with the Department of Social Services and had already adopted recommendations from the agency that the Subcommittee planned to present to the Committee at a future date. He stated that the Subcommittee was awaiting further information from the agency. The Subcommittee had only had one meeting with the Commission for the Blind at that point. Representative Ballentine also answered questions asked of him by other members of the Committee.

Representative Finlay explained that the Law Enforcement and Criminal Justice Subcommittee had met with the Department of Juvenile Justice on three occasions. The last meeting revealed that the DJJ had not reported data in the way required by the Subcommittee; therefore, the Subcommittee was unable to draw informed conclusions about the agency and its performance. In the same meeting, it came to light that the DJJ had made arbitrary decisions relating to the how the agency categorized its spending. That meeting was adjourned in order for the Subcommittee and Committee staff to be able to draft more precise questions. The Subcommittee had held an introductory Department of Public Safety meeting. Representative Finlay explained that the Subcommittee intended to spend more time studying the DJJ in 2016. Representative Finlay also answered questions asked of him by other members of the Committee.

Representative Clary explained that the ad hoc Committee had met with several state agencies and intended to bring its study to a conclusion soon. Representative Clary also answered questions asked of him by other members of the Committee.

Representative Putnam explained that the Executive Subcommittee had met with the Comptroller General's Office on several occasions, and he laid out to the Committee the Subcommittee's recommendations relating to the agency. Representative Putnam also answered questions asked of him by other members of the Committee.

Chairman Newton answered questions asked of him related to the process by which the Committee could make recommendations to the General Assembly.

- VII. Chairman Newton moved that the Committee approve the Executive Subcommittee's study of the Comptroller General's Office. A roll call vote was held, and the motion was passed.

Rep. Newton's Motion to Approve the Executive Subcommittee's Study of the Comptroller General's Office:	Yea	Nay	Not Voting
Nathan Ballentine	✓		
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III	✓		
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam	✓		
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

- VIII. Chairman Newton presented a suggested list of five agencies for the Committee to begin to study in the coming year. The suggested list was as follows: the Office of the Secretary of State (Executive Subcommittee), the Commission on Higher Education (Education and Cultural Subcommittee), the Department of Health and Environmental Control (Healthcare Subcommittee), the Department of Agriculture (Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee), and the Law Enforcement Training Council (Law Enforcement and Criminal Justice Subcommittee).

Representative Funderburk moved that the Committee replace the Secretary of State's Office with the Retirement System Investment Commission in the Chairman's suggested list. The motion was later tabled, so a roll call vote was not held.

Representative Rivers moved that the Committee replace the Commission on Higher Education with the Department of Education in the Chairman's suggested list. The motion was later tabled, so a roll call vote was not held.

Representative Smith moved that the Committee replace the Commission on Higher Education with the Patriot's Point Authority in the Chairman's suggested list. The motion was later tabled, so a roll call vote was not held.

Representative Felder moved that the Committee adopt the recommended agencies, but without naming an agency for the Education and Cultural Subcommittee to study until such time as the Committee has an opportunity to discuss the matter with Representative Rita Allison. The motion was later tabled, so a roll call vote was not held.

Representative Finlay moved that the Law Enforcement and Criminal Justice Subcommittee not be assigned a recommended agency for study at that time. The motion was later tabled, so a roll call vote was not held.

Representative Henderson moved that the Committee include the Department on Employment and Workforce be added to the list in lieu of the Department of Education. The motion was later tabled, so a roll call vote was not held.

Representative Williams moved that the Commission on Human Affairs be added to the study list. The motion was later tabled, so a roll call vote was not held.

Representative Tallon moved that the Committee table all motions previously made. A roll call vote was held, and the motion was passed.

Rep. Tallon's Motion to Table all Previously Made Motions so that the Committee Could Vote on Agencies by Each Respective Subcommittees:	Yea	Nay	Not Voting
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

Representative Funderburk moved that the Executive Subcommittee study the Retirement System Investment Commission. A roll call vote was held, and the motion was passed.

Rep. Funderburk's Motion that the Executive Subcommittee Study the Retirement System Investment Commission:	Yea	Nay	Not Voting
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

Representative Walton McLeod moved that the Education and Cultural Subcommittee study the Patriot's Point Authority. A roll call vote was held, and the motion was passed.

Rep. Walton McLeod's Motion that the Education and Cultural Subcommittee Study the Patriot's Point Authority:	Yea	Nay	Not Voting
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder		✓	
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.		✓	
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

Representative Rivers moved to table Representative Walton McLeod's motion. A roll call vote was held, and the motion did not pass.

Rep. Rivers' Motion to Table Representative Walton McLeod's Motion:	Yea	Nay	Not Voting
Nathan Ballentine			✓
William K. "Bill" Bowers		✓	
Gary E. Clary		✓	
Raye Felder		✓	
Kirkman Finlay, III			✓
Laurie Slade Funderburk		✓	
Phyllis Henderson		✓	
Joseph H. Jefferson, Jr.		✓	
Mia S. McLeod			✓
Walton J. McLeod		✓	
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III		✓	
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon		✓	
Bill Taylor	✓		
Robert Q. Williams		✓	
Wm. Weston J. Newton		✓	

Representative Henderson moved that the Healthcare Subcommittee study the Department of Health and Environmental Control. A roll call vote was held, and the motion was passed.

Rep. Henderson's Motion that the Healthcare Subcommittee Study the Department of Health and Environmental Control:	Yea	Nay	Not Voting
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

Representative Henderson moved that the Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee study the Department of Employment and Workforce. A roll call vote was held, and the motion was passed.

Rep. Henderson's Motion that the Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee Study the Department of Employment and Workforce:	Yea	Nay	Not Voting
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton			✓

Representative Tallon moved that the Law Enforcement and Criminal Justice Subcommittee study the Law Enforcement Training Council. A roll call vote was held, and the motion was passed.

Rep. Tallon's Motion that the Law Enforcement and Criminal Justice Subcommittee Study the Law Enforcement Training Council:	Yea	Nay	Not Voting
Nathan Ballentine			✓
William K. "Bill" Bowers	✓		
Gary E. Clary	✓		
Raye Felder	✓		
Kirkman Finlay, III			✓
Laurie Slade Funderburk	✓		
Phyllis Henderson	✓		
Joseph H. Jefferson, Jr.	✓		
Mia S. McLeod	✓		
Walton J. McLeod	✓		
Ralph W. Norman			✓
Joshua A. Putnam			✓
Robert L. Ridgeway, III	✓		
Samuel Rivers, Jr.	✓		
James E. Smith, Jr.			✓
Tommy M. Stringer			✓
Edward R. "Eddie" Tallon	✓		
Bill Taylor	✓		
Robert Q. Williams	✓		
Wm. Weston J. Newton	✓		

IX. There being no further business, the meeting was adjourned.

LEGISLATIVE OVERSIGHT COMMITTEE

LETTERS TO COMMITTEE REGARDING AGENCY STUDY PRIORITY

Robert L. Ridgeway III
District No. 64 -- Clarendon &
Sumter Counties



422-A Blatt Building
Columbia, SC 29201

Tel. (803) 212-6929

RobertRidgeway@schouse.gov

Committee:

Medical, Military, Public
& Municipal Affairs
Legislative Oversight

House of Representatives
State of South Carolina

January 12, 2016

The Honorable Wm. Weston J. Newton
Chairman, Legislative Oversight Committee
228 Blatt Building
Columbia, SC 29201

Dear Chairman Newton:

I understand that the Legislative Oversight Subcommittee for Economic Development, Transportation, Natural Resources and Regulatory is scheduled to review the Department of Employment and Workforce.

I also understand there is a possibility that following this we will be reviewing the Department of Agriculture. I am asking consideration to place the State Accident Fund on the list for review soon thereafter; perhaps following the Department of Agriculture or if the committee decides not to review the Department of Agriculture soon, to consider the State Accident Fund ahead of it.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Ridgeway III". The signature is stylized with large, flowing loops.

Robert L. Ridgeway III

RLR/dkh/2016jan12-1

The House of Representatives

STATE OF SOUTH CAROLINA

STATE HOUSE

P.O. BOX 11867

Columbia 29211

(803) 734-2997



JAMES E. SMITH, JR.

DISTRICT 72

RICHLAND COUNTY

JUDICIARY COMMITTEE

1ST VICE CHAIR

LEGISLATIVE OVERSIGHT
COMMITTEE

EDUCATION AND CULTURAL
AFFAIRS SUBCOMMITTEE

CHAIRMAN

HOME ADDRESS

POST OFFICE BOX 50333

COLUMBIA, SC 29250

(803) 933-9800

James@JamesSmith.com

@RepJamesSmith

January 22, 2016

HAND DELIVERED

The Honorable Wm. Weston J. Newton, Chairman

House Legislative Oversight Committee

1105 Pendleton St.

Room 228

Columbia, South Carolina 29201

Dear Chairman Newton:

I would like to request that the full committee consider adjusting the 2016 study schedule to review the South Carolina Department of Archives and History, instead of the Patriots Point Development Authority.

Sincerely,

A handwritten signature in blue ink, appearing to read "James E. Smith, Jr.", with a stylized flourish at the end.

James E. Smith, Jr.

Education and Cultural Subcommittee Chair

LEGISLATIVE OVERSIGHT COMMITTEE

2015 UPDATE - ONLINE SUMMARY

Online Resources

GENERAL INFORMATION

- Mission and Vision of the Committee
- Brochure & Video about the Committee's process

MEETINGS

- Notification, opportunity to request for committee meetings with agencies
- Live Stream of current meetings & Videos of past meetings
- Minutes and Handouts from past meetings

AGENCY INFORMATION

- Public Input, opportunity to provide on 65 agencies in an anonymous format
- Reports, including Restructuring and Seven-Year Plan report for 65 agencies and Inspector General reports relevant to agencies under study
- Details, on individual agency pages including, but not limited to, agency history, employees, past audits or reviews, programs, budgets, etc. (currently building)

Oversight Process

Step 1

- (A) Full LOC - Determines Priority of an Agency Study and Investigation; Sets a Time Frame for Completion; Written Notification Provided to Agency
- (B) Subcommittee or Ad Hoc Committee Assigned to Study - May schedule a meeting with the Agency to discuss preliminary matters

Step 2

- (A) Subcommittee or Ad Hoc Committee - May continue to have meetings with the agency to obtain information
- (B) Staff - Reviews and summarizes agency submissions (Restructuring Report; Program Evaluation Report; etc.) and information learned during meetings

- (C) Staff - Drafts Staff Study; Agency has 10 days to respond; after 10 days Staff Study is provided to Subcommittee or Ad Hoc Committee and all House Standing Committees

Step 3

- (A) Subcommittee or Ad Hoc Committee - Reviews Staff Study and any agency response, then determine other tools of legislative oversight, if any, to utilize, which include: (i) Requesting LAC Involvement (Study of Program Evaluation Study or Perform its Own Audit); (ii) Deposing Witnesses; (iii) Issuing Subpoenas; (iv) Holding a Public Hearing
- (B) Subcommittee or Ad Hoc Committee - Draft and approve a Subcommittee Study for consideration by the full LOC

Step 4

- (A) Full LOC - Receives subcommittee study and takes one of three options: (a) refers study and investigation back to Subcommittee or Ad Hoc Committee; (b) approves Subcommittee or Ad Hoc Committee Study as the final LOC study; (c) performs further investigation itself, then approves a final LOC study.
- (B) Full LOC - Once final LOC study is approved, a briefing is provided to the Members of the House, then the public
- (C) Any House Member - May file legislation to implement any recommendations in LOC study

Identified Agencies and Other Studies

Scheduled Studies - 217 Potential Agencies to Study: (A) 10 under study; (B) 55 confirmed to study; (C) 152 may review (Committee's interpretation of whether entity meets statutory definition of agency pending).

Other Studies - 1 Other Study currently under way on agencies relationship with, funding of and other activities related to Planned Parenthood and other abortion providers in S.C.

Agency Study Schedule

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Comptroller General's Office (Step 4) - Rep. Joshua Putnam, Chair 2. Department of Transportation (Step 3) - Rep. Phyllis J. Henderson, Chair 3. First Steps to School Readiness (Step 3) - Rep. James E. Smith Jr., Chair 4. Department of Social Services (Step 3) - Rep. Nathan Ballantine, Chair 5. Department of Juvenile Justice (Step 3) - Rep. Kirkman Finlay III, Chair | <ol style="list-style-type: none"> 6. State Transportation Infrastructure Bank (Step 2) - Rep. Phyllis J. Henderson, Chair 7. School for the Deaf and Blind (Step 2) - Rep. James E. Smith Jr., Chair 8. Commission for the Blind (Step 2) - Rep. Nathan Ballantine, Chair 9. Department of Public Safety (Step 2) - Rep. Kirkman Finlay III, Chair 10. Treasurer's Office (Step 2) - Rep. Joshua Putnam, Chair |
|---|--|

STATUS OF STUDIES

PUBLIC INVOLVEMENT

65 agencies confirmed to study every 7 years
5 agencies in Step 2 of the oversight process
4 agencies in Step 3 of the oversight process
1 agency in Step 4 of the oversight process

- 2 surveys to provide public input on agencies
- 1 webinar explaining oversight process
- 1 brochure explaining oversight process

2014	2015
<p>October</p> <p>30: House Rules & Procedures Ad Hoc Committee adopts proposal to establish a new Legislative Oversight Committee</p>	<p>December</p> <p>2: Adoption of House Rules creating House Legislative Oversight Committee</p>
<p>January</p> <p>7: Full committee meeting to adopt rules and discuss review schedule</p>	<p>January</p> <p>7: Full committee meeting to hear from some of the entities that may assist the Committee with legislative oversight: Initial approval of Standard Practices</p>
<p>February</p> <p>5: Full committee meeting to hear from some of the entities that may assist the Committee with legislative oversight: Initial approval of Standard Practices</p>	<p>February</p> <p>5: Full committee meeting to hear from some of the entities that may assist the Committee with legislative oversight: Initial approval of Standard Practices</p>
<p>March</p> <p>24: Subcommittee entry meeting with Comptroller General's Office; Subcommittee entry meeting with First Steps</p>	<p>March</p> <p>2: Restructuring and Seven-Year Plan Report guidelines provided to agencies</p>
<p>April</p> <p>17: Subcommittee entry meeting with DSS</p>	<p>April</p> <p>1: Statewide Media release about webinar and email to House Members seeking collaboration in legislative oversight process</p>
<p>May</p> <p>31: Deadline for agency submission of Restructuring and Seven-Year Plan Reports, unless extension granted</p>	<p>May</p> <p>14: Full committee meeting - five agencies added to begin to study in 2015; Amendment of Standard Practices to further provide for agency submission of reports</p>
<p>June</p> <p>10: Notification Letter sent to first five agencies under study</p>	<p>June</p> <p>10: Notification letters sent to the five additional agencies added (i.e. second five agencies)</p>
<p>July</p> <p>17: Subcommittee entry meeting with DOT and Letter to Governor Seeking Input on legislative oversight</p>	<p>July</p> <p>16: Webinar with Speaker to inform the public about the committee's process for legislative oversight and ways for the public to participate</p>
<p>August</p> <p>10: Subcommittee entry meeting with First Steps</p>	<p>August</p> <p>10: Subcommittee entry meeting with First Steps</p>
<p>September</p> <p>10: Subcommittee entry meeting with First Steps</p>	<p>September</p> <p>10: Subcommittee entry meeting with First Steps</p>
<p>October</p> <p>10: Subcommittee entry meeting with First Steps</p>	<p>October</p> <p>10: Subcommittee entry meeting with First Steps</p>
<p>November</p> <p>10: Subcommittee entry meeting with First Steps</p>	<p>November</p> <p>10: Subcommittee entry meeting with First Steps</p>
<p>December</p> <p>10: Subcommittee entry meeting with First Steps</p>	<p>December</p> <p>10: Subcommittee entry meeting with First Steps</p>

2015 Continued

2016

	May	June	July	August	September	October	November	December
1: House Members notified about online survey available during month setting constraints' input on first five agencies under study	Blind and discussion of scope of First Steps study	2: Subcommittee tour of the Treasurer's Office; Subcommittee meeting with DOT to discuss its budget	Development of staff study template	4: Staff Study provided to Comptroller General's Office	1: House Members notified about online survey available entire month setting constituents' input on second five agencies under study; Staff study provided to DOT and First Steps	Staff Review for newly created entities	4: Subcommittee meeting with DOT; DSS response to staff received	1: Ad hoc committee meeting
7: Subcommittee entry meeting with Treasurer's Office and discussion of scope of study with Comptroller General's Office; Subcommittee entry meeting with Commission for Blind and discussion of scope of study with DSS	22: Deadline for Program Evaluation Reports from first five agencies under study; unless granted an extension	27: Deadlines for Program Evaluation Reports from second five agencies under study; unless agency under Chief Internal Auditor, Act 114 of 2007 criteria, and the STIP	11: Subcommittee meeting with DOT to discuss the Office of the	25: House Members notified about staff study of Comptroller General's Office	15: DOT response to staff study received	30: 1,010 responses to the survey about the second five agencies	21: Staff Study provided to DSS	15: Full committee meeting; approval of Study of the Comptroller General's Office
12: Subcommittee entry meeting for Deaf and hearing members of each of the 46 counties	31: 1,788 responses received to the public survey about the first five agencies under study; with at least one response from each of the 46 counties	30: Subcommittee meeting with DOT to discuss the C Fund transportation committees, and agency employee information	18: Comptroller General's Office response to staff study received	26: Full committee meeting adopted motion for unscheduled study (other study #1)	10: Subcommittee meeting with Treasurer's Office and Comptroller General's Office	25: Draft staff study provided to DSS; House members notified about staff study of First Steps online	30: Staff Study provided to DJJ	11: Subcommittee meeting with First Steps
					11: House Members notified about other study #1	29: Ad hoc committee meeting		

Comptroller General's Office, Department of Transportation, First Steps to School Readiness, Department of Social Services, and Department of Juvenile Justice

State Transportation Infrastructure Bank; School for the Deaf and Blind; Commission for the Blind Department of Public Safety; and Treasurer's Office

LEGISLATIVE OVERSIGHT COMMITTEE

STUDY STEPS



Subcommittee Study Steps - Overview

Current as of January 7, 2015

Page 170 of 900



Purpose

The stated **purpose of legislative oversight** is to **determine if agency laws and programs** are being implemented and carried out in accordance with the intent of the South Carolina General Assembly and whether or not they **should be continued, curtailed, or eliminated**.

Vision

The committee's vision is "[f]or South Carolina agencies to become, and continuously remain, the **most effective state agencies in the country** through processes which eliminate waste and efficiently deploy resources thereby creating greater confidence in state government."

Required Considerations

State law requires the Subcommittees consider the following during oversight studies: (1) the application, administration, execution, and effectiveness of **laws and programs**; (2) the **organization and operation of agencies**; and (3) any conditions or circumstances that may indicate the **necessity or desirability of enacting new or additional legislation**.

Practical Considerations

- Performing uniform analysis of agencies promotes consistency, efficiency and effectiveness.
- Focusing on how an agency utilizes its current funding and employee authorizations (i.e. it's resources) may help ensure the agency is deploying its resources efficiently.

Complete Agency Oversight Process - Summary

Annual Update/Feedback

- **Purpose:** Information is collected from agencies through the Annual Restructuring Report (ARR) to obtain information from agencies not yet under study and through Requests for Information to agencies the Committee has already studied during the seven year cycle, to provide a feedback loop on recommendations made at the end of each study. **ALSO ADD PURPOSE FROM STATUTE RELATED TO THE ARR**
- **Manner of Obtaining Information:** Annual Restructuring Report and Requests for Information
- **Information Obtained:** Each agency provides the following to the Committee, General Assembly and public in the agency's ARR as a way to keep everyone updated on its strategic plan, spending and performance:
 - Updated list of laws applicable to the agency, strategic plan with explanation of how those laws are satisfied, who is responsible for accomplishing each goal and objective in the strategic plan and yearly results of performance measures related to each objective in the strategic plan, and how much the agency budgeted and spent toward each objective in the strategic plan.
- **Where Information is Published:** Online for the General Assembly, public and anyone to view.
- The public, agency employees, or others may submit comments to the Committee for the Committee to utilize during its in depth study of the agency once every seven years via a link on the Committee's website.

Seven Year Study (See Subcommittee Study Steps on next page)

- Performed on the agency once every seven years. A Subcommittee of the Committee takes the lead on each agency study.



Subcommittee Study Steps - Overview

Current as of January 7, 2015

Page 171 of 900



Subcommittee Study Steps - Summary

After receiving the Staff Study, and agency response to the Staff Study if one is provided, the Subcommittee may utilize the following steps to accomplish the legislative purpose of the Committee and work toward achieving the Committee's ultimate vision.

In conjunction with any of the meetings below, the Subcommittee may...

- vote on recommendations the Subcommittee has;
- utilize other investigation tools available such as depositions, Requests for Information, etc.; and
- discuss agency recommendations from the agency's ARR.

Purpose: The stated purpose of legislative oversight is to determine if agency laws and programs are being implemented and carried out in accordance with the intent of the South Carolina General Assembly and whether or not they should be continued, curtailed, or eliminated.

Step 1 - Agency Background

Purpose: Determine *if the intent of the General Assembly is being implemented* (to put into effect according to or by means of a definite plan or procedure) in the agency's mission, vision and strategic plan.

- Meeting 1 – **History, Legal Responsibilities and Strategic Plan**
- Meeting 2 – Analyze **relationships** with other entities which the Agency utilizes to accomplish the Objectives in its Strategic Plan; responses to public surveys, other input submitted online and **public comments** during the meeting. (This informs the Subcommittee of certain aspects in different objectives to be particularly mindful of)
- Meeting 3 – **Resources** available (Employees and Funds) and how the agency allocates the resources to accomplish the Objectives in its Strategic Plan

Step 2 - Agency Performance

Purpose: Determine *if the intent of the General Assembly is being carried out* (to effect or accomplish; complete) by the agency through its performance. Determine *if laws should be continued, curtailed or eliminated*.

- Meeting 4 – Agency **Performance** (Efficiency and Outcome Metrics) on each Objective and Programs utilized to accomplish the Objectives; **Agency Recommendations (Internal and Law changes)** to Improve Efficiency and Outcomes
 - After meeting 1, 2, and 3, the Subcommittee will know where to focus when looking at performance. At the end of this meeting Subcommittee will have list of programs to curtail or eliminate

Step 3 - Subcommittee Recommendations

Purpose: Determine *if programs should be continued, curtailed or eliminated*.

- Meeting 5 – **Program** analysis; voting on any new Subcommittee recommendations and approval of final contents that staff will draft into the Subcommittee Study that will be sent to the Full Committee
- (Optional) Meeting 6 - Continued discussion of Subcommittee Study Report, if requested by a Subcommittee member after receiving the drafted Subcommittee Study Report.

LEGISLATIVE OVERSIGHT COMMITTEE

**JAN. 6, 2016 MEMORANDUM FROM STATE
INSPECTOR PATRICK J. MALEY
REGARDING EXECUTIVE BRANCH**



State of South Carolina
Office of the Inspector General

Memorandum

Date: January 6, 2016

To: Honorable Nikki R. Haley, Governor
Honorable Hugh K. Leatherman, Senate Pro Tempore
Honorable James H. "Jay" Lucas, Speaker of the House of Representatives
Honorable Richard Eckstrom, Comptroller General
Honorable Curtis M. Loftis, State Treasurer

From: State Inspector General Patrick J. Maley

Re: The State Inspector General's Observations of the Executive Branch

Enclosed with this memo is a document titled, "The State Inspector General's (SIG) Observations of the Executive Branch (EB) of State Government."

After three years of looking "under the hood" in the EB starting with a staff of two investigators/auditors and increasing to five for the past two years, the SIG has a sufficient body of work and experience to discuss fraud, waste, and abuse in the EB. The enclosed document sets forth the SIG's observations of the EB's positive attributes and opportunities to improve.

The enclosed document contains State-wide issues that may be relevant to Executive and Legislative oversight for both consideration and context in carrying out their leadership roles over the complex EB of State Government. The enclosed document is a high level summary, which also contains an Internet link to a second more expansive document for those interested in a deeper level of detail. I would gladly provide, if interested, personal briefings using agency specific examples and investigative results to clarify and support the SIG's observations. For your information, SIG waste/effectiveness investigations and lessons learned are contained on its webpage (oig.sc.gov).

Thanks in advance for taking the time to review this data, which hopefully will stimulate discussion and potential ways forward to improve State Government. Again, I welcome the opportunity to meet with anyone or group with an interest in further dialogue about the SIG's observations of the EB.

cc: Chairman W. Brian White, House Ways & Means Committee
Chairman Wm. Weston J. Newton, House Oversight Committee

The SIG's Observations of the **Executive Branch** of State Government

After three years of looking “under the hood” in the Executive Branch (EB) starting with a staff of two investigators/auditors and increasing to five for the past two years, the SIG has a sufficient body of work and experience to discuss fraud, waste, and abuse in the EB. As a reminder of the SIG’s unique mission, it was well described by John Ward, the father of the first state Office of the Inspector General Office in Massachusetts (1981), “**The basic concept behind the IG is that any institution, corporation, university, let alone the institution of government, must build into itself a mechanism for self-criticism and self-correction...the IG covers the vast middle ground between the ability to review all state transactions to a limited degree without the power to investigate [i.e., the Auditor], and the power to investigate allegations of fraud on a case-by-case basis [i.e., the Attorney General].**”

Below identifies the EB’s positive attributes and opportunities to improve; a more robust explanation of below items can be found at link: <http://oig.sc.gov/Documents/ExpandedSIGObservations.pdf>.

Positive Attributes of the EB

1. EB employees conducting fraud/embezzlement against the state is a low risk with relatively a low loss in dollars.
2. The Statewide Procurement System (SPS) has a low risk of fraud.
3. The Statewide personnel system to address misconduct appears to be adequate.
4. EB corruption requires a bit more explanation in this summary given the public’s perception of government corruption, at all levels, and the public debate pertaining to the adequacy of State ethics laws.
 - EB **criminal** corruption risk is low, which may be contrary to a general public perception. Criminal corruption is essentially kickbacks, bribes, or the “old school” bag of cash involving a “quid pro quo” transaction.
 - Corrupting influence, also known as undue influence, in the EB is an entirely different issue, which, absent unusual circumstances, is essentially **non-criminal** due to a lack of a quid pro quo. Corrupting influence has no “meeting of the minds” of a “quid pro quo” transaction, but it is understood future reciprocating is not unimportant, which is often termed the “good old boy network” or the newer term of “gift economy.” In the EB, corrupting influence does not appear systemic. However, it is exceedingly difficult, if not impossible absent some unique evidence, to disentangle inappropriate “undue corrupt influence” from special interests or self-interest with appropriate influence from constituents, special interests, core beliefs, or other meritorious organizational criteria.
 - Addressing this difficult arena of corrupt influence starts with a clear understanding of the problem -- the days of “bags of cash” for a specific favor are essentially over -- wrongdoing government employees can monetize/benefit from this corrupt influence in a variety of other indirect methods, which, ironically, are also likely quite legal if separated from any connection to a quid pro quo transaction. The citizenry and the State’s best defense against corrupting influence is through increased ethical standards emphasizing boundaries and transparency [i.e., disclosure of real/apparent conflicts; no gifts; robust financial disclosures; and duty to report].

- Most important is establishing a clear demarcation where expected political and decision making input ends and the increased risk of undue influence begins. This requires formal disclosure or complete avoidance of issues having even the “appearance” of a conflict of interest or causing a reasonable member of the public to perceive a state employee as violating the public’s trust. In today’s era of the public’s diminishing trust in government, a rigorous “appearance” standard is required to improve public confidence in government. It protects from both perceived violations of the public’s trust which can do as much damage as actual violations, as well as shrinks the operating space where the risk of undue influence is heightened. Governor Haley’s recent model Code of Conduct adopted by her Cabinet agencies is a good start, but these standards need to be required by all EB agencies.

Opportunities to Improve

1. The State lacks an adequate agency Performance Management System to ensure agencies are operating using fundamental business practices using strategic objectives, tactical strategies, and results aligned with stated objectives, which creates a high risk of waste in state government. A renewed emphasis in a statewide agency Performance Management System represents the single best opportunity to address waste in State government.
2. The State lacks adequate requirements for agencies to conduct contract/grant monitoring, which has resulted in a high risk for waste in state government.
3. The State extensively uses the Commission form of oversight for state agencies which suffers from a lack of uniform expectations, which can result in some Commissions not assuming full ownership or possessing executive skills to carry out their fiduciary duty to ensure agency effectiveness. Citizens with subject matter expertise serving as Commissioners to provide oversight to government certainly has obvious and intuitive benefits, but it also increases the risk of potential conflicts of interest, both real and perceived, when subject matter expert Commissioners also have business interests potentially regulated or impacted by agency decisions.
4. State agency internal audit functions should shift focus away from traditional low risk compliance and financial audits and follow the private sector trend towards improving operational performance through improving risk management, control, and governance processes. Agency enterprise-wide risk assessments, a basic internal audit function, are not systematically conducted, which misses the opportunity to create internal and oversight visibility/accountability to address opportunities to improve.
5. The State has no systemic leadership development program, nor do agencies utilize standard leadership/climate surveys as a tool for feedback to assess opportunities to improve.

Potential EB Agency Trends Observed

- Preventative controls to prevent waste in State operated benefit programs have opportunities to improve.
- Regulatory controls have a tendency in both protocols and management inclination to under-address non-compliance in a serious and time-sensitive manner.

- EB agencies are inordinately risk adverse to any form of “bad news.” This is normal for any organization, but it seems State agencies just have a higher propensity to strive for a no waves, “get along, go along” attitude which just adds to the gravity of the status quo.
- Potential opportunity exists to maximize procurement contracts through both the level of competition and the use of negotiations.
- Outsourcing through contracts or grants, often to non-profits, seems to be viewed as automatically preferential to adding State employees, which is not accurate given the State’s high risk in its ability to contract/grant manage. Agencies have a tendency to view their job is essentially complete upon approving a contract/grant, when in fact outsourcing requires heightened skills in contract/grant monitoring and engaged risk based oversight to ensure value received by the State.

Appendix D. April 28, 2016 Meeting Information

Appendix Includes:

- Meeting Packet
 - Agenda
 - April 14, 2016 - Meeting Minutes
 - Draft Subcommittee Study of the Department of Transportation
 - SC Transportation Infrastructure Bank
 - Relationships
 - Public survey
 - Department of Agriculture - 2016 Annual Restructuring Report
- Documents provided by agency during meeting
 - PowerPoint - Introduction to the agency (April 28, 2016)

**South Carolina
House of Representatives**



Legislative Oversight Committee

***ECONOMIC DEVELOPMENT, TRANSPORTATION, NATURAL RESOURCES AND
REGULATORY SUBCOMMITTEE***

***Chairman Phyllis J. Henderson
The Honorable Ralph W. Norman
The Honorable Robert L. Ridgeway III
The Honorable Samuel Rivers Jr.***

Thursday, April 28, 2016

1:00 p.m. or one hour after adjournment, whichever is later

Room 108 -Blatt Building

***Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming
whenever technologically feasible.***

AGENDA

- I. Approval of Minutes from the April 14, 2016 Subcommittee Meeting**
- II. Brief Entry meeting with the Department of Agriculture**
- III. Opportunity for Public Testimony about the South Carolina Transportation Infrastructure Bank**

Individuals can sign up to testify by calling the House Legislative Oversight Committee at 803-212-6810, emailing the Committee at hcommlegov@schouse.gov, or signing up in person a few minutes prior to the meeting. S.C. Code of Laws Section 2-2-70 provides that all testimony given to the investigating committee must be under oath.

An ongoing opportunity for public input is available on the Committee's website, which allows individuals to provide comments to the House Legislative Oversight Committee anonymously.

- III. Adjournment**

MINUTES FROM PREVIOUS MEETING

First Vice-Chair:
Laurie Slade Funderburk

Legislative Oversight Committee

Nathan Ballentine
Gary E. Clary
Kirkman Finlay III
Joseph H. Jefferson Jr.
Walton J. McLeod
Joshua Putnam
Samuel Rivers Jr.
Tommy M. Stringer
Bill Taylor



William K. (Bill) Bowers
Raye Felder
Phyllis J. Henderson
Mia S. McLeod
Ralph W. Norman
Robert L. Ridgeway III
James E. Smith, Jr.
Edward R. Tallon Sr.
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Room 228 Blatt Building

Charles L. Appleby IV
Legal Counsel

Carmen J. McCutcheon
Auditor/Research Analyst

Cathy A. Greer
Administration Coordinator

Economic Development, Transportation, Natural Resources and Regulatory Subcommittee Meeting

April 14, 2016

1:00 pm.

Room 409 - Blatt Building

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, S.C. ETV was allowed access for streaming the Subcommittee meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and click on "Committee Postings and Reports," then under House Standing Committees click on "Legislative Oversight". Lastly, click on "Video Archives" for a listing of archived videos for the Legislative Oversight Committee. **Please note due to technical difficulties, audio is unavailable for approximately the first fifteen minutes of the meeting.**

Attendance

- I. The Economic Development, Transportation, Natural Resource and Regulatory Subcommittee (Subcommittee) meeting was called to order by Subcommittee Chairwoman Phyllis J. Henderson on Thursday, April 14, 2016, in Room 409 of the Blatt Building, Columbia, South Carolina. The following Subcommittee Members were present for all or a portion of the meeting: Subcommittee Chair Henderson, Representative Robert L. Ridgeway III, and Representative Samuel Rivers, Jr.
- II. The following individuals were present from the General Assembly's Legislative Audit Council: Mr. K. Earl Powell, Director; Mr. E. Brad Hanley, Audit Manager; Mr. Eric Douglass, Senior Auditor; Mr. John C. Kresslein, Senior Auditor; Mr. Peter Adamowsky, Auditor; Ms. Julianna Nunnery, Auditor; Mr. Kevin Ryan, Auditor; and Ms. Kendra Wilkerson, Auditor.
- III. The following individuals were present from the Department of Transportation: Commissioner Mike Wooten, Chair; Commissioner John H. Hardee; Commissioner Woodrow "Woody" W. Willard, Jr.; Secretary of Transportation Christy A. Hall; Ms. Wendy Nicholas, Chief of Staff; Mr. Leland Colvin,

Acting Deputy Secretary for Engineering; Mr. Brian W. Keys, Deputy Secretary for Finance and Administration; and Mr. Ron K. Patton, Deputy Secretary for Intermodal Planning.

Minutes

- I. House Rule 4.5 requires the standing committees of the House to prepare and make available for public inspection, in compliance with Section 30-4-90, the minutes of full committee meetings. House Rule 4.5 further provides that such minutes need not be verbatim accounts of such meetings. It is the practice of the House Legislative Oversight Committee to provide minutes, which are not verbatim accounts of such meetings, for its subcommittee meetings.
- II. Representative Ridgeway moved to approve the minutes from the Subcommittee's previous meeting, which was held on March 10, 2016. A roll call vote was held, and the motion was passed.

Rep. Ridgeway's Motion to Approve the Minutes from March 10, 2016:	Yea	Nay	Not Voting
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

Further Discussion of the Study of the Department of Transportation

- I. Subcommittee Chair Henderson explained one of the purposes of the meeting was to receive information about the **audit of the Department of Transportation, which was released April 6, 2016.**

Subcommittee Chair Henderson recognized, Mr. E. Brad Hanley, Audit Manager with the General Assembly's Legislative Audit Council, to provide a presentation about the comprehensive audit of the agency. The audit, an executive summary of the audit, and a copy of the Legislative Audit Council's presentation are available online. The presentation touched on the following topics: deterioration of South Carolina roads; project prioritization; governance; internal audit issues; revenues; funding needs; revenue alternatives; data issues; contracting; follow-up on the 2010 MGT audit; and issues for further review.

Additionally, Mr. Hanley noted that the Legislative Audit Council is in the process of conducting an audit of the South Carolina Transportation Infrastructure Bank (SCTIB). Subcommittee Chair Henderson asked when the audit of SCTIB would be finished. Mr. K. Earle Powell, Director of the Legislative Audit Council, provided an update on the procedural status of the audit of SCTIB and indicated it may be approximately four more weeks until the completion of that particular audit.

Representative Rivers made a motion that the recommendations of the Legislative Audit Council be included as information in the study. A roll call vote was held, and the motion was passed.

Rep. Rivers' Motion that the study include the recommendation of the Legislative Audit Council as information in the study:	Yea	Nay	Not Voting
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

Next, Subcommittee Chair Henderson recognized the Department of Transportation to provide comments about the audit. The agency's response to the audit is an exhibit to the audit which is available online. A copy of the agency's presentation along with a list of the audit recommendations and the agency's response to each recommendation are available online. Subcommittee Chair Henderson reminded the Department of Transportation representatives that had been sworn in at a previous meeting, they were still under oath.

Secretary of Transportation Christy Hall provided testimony to the Subcommittee. Notably, Secretary Hall stated that DOT agrees with close to 85% of the recommendations provided by the Legislative Audit Council and that the agency intends to use this audit in its efforts towards continuous improvement. Secretary Hall stated the next step will be the publication of an implementation plan that includes target dates. Additionally, Secretary Hall stated the agency observed four major themes in the audit: no financial mismanagement was identified at the agency; the prioritization and ranking processes associated with Act 114 of 2007 are complex; agency is tasked with managing a transportation system in a state of disrepair with revenues that have not kept pace with rising construction costs; and unclear lines of authority and turnover have led to shifting or unstable priorities. Secretary Hall responded to various questions from Subcommittee Members.

Representative Rivers made a motion that the Subcommittee to follow up with the agency about its implementation of the recommendations from the audit by directing staff to send a request for information to the agency seeking an update on implementation at the end of the calendar year. A roll call vote was held, and the motion was passed.

Rep. Rivers' Motion to follow up with the agency about its implementation of the recommendations from the audit:	Yea	Nay	Not Voting
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

- II. Subcommittee Chair Henderson explained that another purpose of the meeting was to **address three recommendations by the agency for revisions to law that were previously carried over from the December 4, 2015, meeting and still under consideration by the Subcommittee.** These revisions pertain to the following: advertising on DOT facilities, penalties for obstructing right-of-ways, and producing hard copies of organizational charts.

Secretary Hall stated the agency would like to withdraw these three recommendations; Secretary Hall provided the Subcommittee with a formal letter to that effect and indicated the agency may seek to address some of these items at a future date. The April 14, 2016, letter from the agency requesting to withdraw these recommendations is available online. Representative Ridgeway made a motion to allow the agency to withdraw these three items. A roll call vote was held, and the motion was passed.

Rep. Ridgeway's Motion to allow the agency to withdraw the items from consideration:	Yea	Nay	Not Voting
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

Representative Rivers made a motion that Committee staff draft a Subcommittee study and provide a copy of it to the Subcommittee members as soon as it is drafted. A roll call vote was held, and the motion was passed.

Rep. Rivers' Motion that staff draft a study and provide a copy to Subcommittee members:	Yea	Nay	Not Voting
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

Secretary Hall asked a point of clarification if the agency's response to the audit would be included in the study as well. Subcommittee Chair Henderson noted that the agency's response is an exhibit to the audit but a motion on the issue would be in order. Representative Ridgeway made a motion that the study include the agency's response for information purposes. A roll call vote was held, and the motion was passed.

Rep. Ridgeway's Motion that the study include the agency's response for information purposes:	Yea	Nay	Not Voting
Rep. Phyllis Henderson	X		
Rep. Ralph Norman			X (Not Present)
Rep. Robert Ridgeway	X		
Rep. Samuel Rivers	X		

Subcommittee Chair Henderson thanked the agency representatives for cooperation in the legislative oversight process. Also, the work of the House Transportation Infrastructure & Management Ad-Hoc Committee was acknowledged.

Adjournment

- I. Subcommittee Chair Henderson announced that the subcommittee's next meeting is scheduled for Thursday, April 28, 2016.

There being no further business, the meeting was adjourned.

DRAFT STUDY OF DOT

Legislative Oversight Committee

Subcommittee Study of the Department of Transportation

April 28, 2016



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

CONTENTS

Contents

Executive Summary	5
Study Process	5
Purpose of Oversight Study	5
Recommendations.....	5
Additional Information of Interest.....	6
Study Process.....	7
House Legislative Oversight Committee's Actions.....	7
Subcommittee Studying the Agency.....	7
Meetings with the Agency.....	8
Information from the Public	8
Information from the Agency	8
Next Steps	9
Recommendations	10
Purpose	10
Recommendations.....	10
Additional Information of Interest.....	26
Follow up.....	26
Selected Agency Information Cited	27
Endnotes.....	27
Contact Information	29

Tables

Table 1. Key Dates and Actions of the Study Process, 2015-2016	4
Table 2. Summary of recommended revisions to laws relating to the agency	6
Table 3. Recommendations to Revisions to law relating to the agency - municipal approval of projects.....	10
Table 4. Recommendations for revisions of a law relating to the agency - collection of toll violations from out of state drivers	11
Table 5. Recommendations for revision to a law relating to the agency - state roads and rights of way subject to zoning ordinances.....	16
Table 6. Recommendations for revisions of a law relating to the agency - interest rate on condemnation cases.....	17
Table 7. Recommendations for revisions of a law relating to the agency - expediting inverse condemnation cases.....	18
Table 8. Recommendations for revisions of a law relating to the agency - expenditure limitation.....	19
Table 9. Recommendations for revisions of a law relating to the agency - special fund authorization and securing bonds and insurance.....	20
Table 10. Recommendations for revisions of a law relating to the agency - benefits	21
Table 11. Recommendations for revisions of a law relating to the agency - document fees	22
Table 12. Recommendations for revisions of a law relating to the agency - meals in emergency operations.....	22
Table 13. Recommendations for revisions of a law relating to the agency - rest area water rates.....	23
Table 14. Recommendations for revisions of a law relating to the agency - printed report requirements.....	23
Table 15. Recommendations for revisions of a law relating to the agency - welcome centers	24
Table 16. Recommendations for revisions of a law relating to the agency - non-federal aid restrictions.....	25

Table 1. Key Dates and Actions of the Study Process, 2015-2016.

House Legislative Oversight Committee's Actions

- January 7, 2015 - Approves seven-year study recommendations for the Speaker
- January 13, 2015 - Speaker approves seven-year study recommendations and recommendations are published in the House Journal
- February 5, 2015 - Approves the priority of the study of the agency
- February 10, 2015 - Provides agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor
- March 10, 2015 - Requests Legislative Audit Council perform a comprehensive audit of agency
- April 6, 2016 - Receives Legislative Audit Council's comprehensive audit of the agency

Economic Development, Transportation, Natural Resources and Regulatory Subcommittee's Actions

- February 17, 2015 - Holds introductory meeting with the agency and receives overview of the agency from the agency head
- April 28, 2015 - Holds meeting with the agency head to discuss the scope of the oversight study
- June 2, 2015 - Holds meeting with the agency to discuss its budget
- June 30, 2015 - Holds meeting with the agency to discuss the C-Fund Program, county transportation committees, and agency employee information
- August 11, 2015 - Hold meeting with the agency to discuss the Office of the Chief Internal Auditor, Act 114 of 2007 criteria, and the Statewide Transportation Improvement Plan (STIP)
- September 1, 2015 - Provides Staff Study to agency
- September 21, 2015 - Notifies House Members about availability of Staff Study online
- November 4, 2015 - Holds meeting with agency to discuss Staff Study and agency's recommendations for revisions to law from its Program Evaluation Report
- December 3, 2015 - Holds meeting with the agency to continue discussion of agency's recommendations for revisions to law from its Program Evaluation Report
- January 13, 2016 - Holds meeting to receive public input about the agency
- April 14, 2016 - Holds meeting receive information about the Legislative Audit Council's comprehensive audit of the agency

Department of Transportation's Actions

- March 31, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- May 22, 2015 - Submits its Program Evaluation Report to the Committee
- September 15, 2015 - Submits response to Staff Study
- April 14, 2016 - Publishes responses to Legislative Audit Council's recommendations online and requests to withdraw three recommendations for law revisions from the Subcommittee

Public's Actions

- May 1, 2015, - May 31, 2015 - Survey about agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - www.scstatehouse.gov)
- January 13, 2016 - Opportunity for public input at subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

EXECUTIVE SUMMARY

Study Process

The Economic Development, Transportation, Natural Resources and Regulatory Subcommittee ("Subcommittee") of the House Legislative Oversight Committee ("Committee") is studying the Department of Transportation ("agency" or "DOT"). The chair of the Subcommittee is the Honorable Phyllis J. Henderson; other members include: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.¹ The Subcommittee met with DOT nine times during the course of its study. Key dates and actions of the study process are listed in Table 1 on the previous page.

Purpose of Oversight Study

As stated in SC Code of Laws Section 2-2-20(B), "[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented and carried out in accordance with the intent of the General Assembly; and** (2) **should be continued, curtailed, or eliminated.**" In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency's laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.²

Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency. These recommendations are based on the agency's self-analysis requested by the full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency and the agency's response to this audit. This information, including, but not limited to the Staff Study, various agency reports to the Committee, and videos of meeting with the agency can all be found on the Committee's website.

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs or with regards to elimination of agency programs. The Subcommittee recommends revisions to laws relating to the agency. Specific recommendations for revised language for each are included as part of the full report on page 10. A summary of the recommendations for revisions of laws relating to the agency is listed in Table 2 on the next page.

Table 2. Summary of recommended revisions to laws relating to the agency.

Law	Topic
Section 57-5-820 Section 54-5-830	Municipal approval of projects
Section 57-5-1495	Collection of toll violations from out of state drivers
Section 6-29-770	State roads and rights of way subject to zoning ordinances
Section 28-2-420	Interest rate on condemnation cases
Section 28-11-30	Expediting inverse condemnation cases
Proviso 84.1 Fiscal Year 14-15 Appropriations Bill	Expenditure limitation
Proviso 84.2 Proviso 84.3 Fiscal Year 14-15 Appropriations Bill	Special fund authorization and securing bonds and insurance
Proviso 84.4 Fiscal Year 14-15 Appropriations Bill	Benefits
Proviso 84.5 Fiscal Year 14-15 Appropriations Bill	Document fees
Proviso 84.6 Fiscal Year 14-15 Appropriations Bill	Meals in emergency operations
Proviso 84.7 Fiscal Year 14-15 Appropriations Bill	Rest area water rates
Proviso 117.73 Fiscal Year 14-15 Appropriations Bill	Printed report requirements
Proviso 117.74 Fiscal Year 14-15 Appropriations Bill	Welcome centers
New Provision	Non-federal aid restrictions

On April 14, 2016, Secretary of Transportation Christy A. Hall testified that the agency agrees with close to 85% of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency released April 6, 2016, and that the agency intends to use this audit in its efforts toward continuous improvement.³ Secretary Hall further stated the next step will be the publication of an implementation plan that includes target dates.⁴ The Subcommittee recommends following up with the agency at the end of this year, via a Request for Information, to ascertain the status of the agency's stated plan for internal changes.

Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are all available online.⁵

General Assembly's Legislative Audit Council

Materials of interest from the General Assembly's Legislative Audit Council include the following:

- comprehensive audit of the agency released April 6, 2016;
- executive summary of the comprehensive audit; and
- presentations about the audit made by Legislative Audit Council staff.

Department of Transportation

Materials of interest from the agency pertaining to the audit released April 6, 2016, by the General Assembly's Legislative Audit Council include the following:

- agency's official response to the comprehensive audit released April 6, 2016;
- presentations about the audit made by Secretary of Transportation Christy Hall; and
- list of audit recommendations and the agency's response to each recommendation.

House Transportation Infrastructure & Management Ad-Hoc Committee

During its study of the agency, the work of the House Transportation Infrastructure & Management Ad-Hoc Committee was acknowledged. Notably, the following Legislative Oversight Committee members also serve on this ad-hoc committee: Subcommittee Chair Henderson, the Honorable Joseph H. Jefferson, Jr., and the Honorable Wm. Weston J. Newton.⁶

STUDY PROCESS

House Legislative Oversight Committee's Actions

On January 7, 2015, the House Legislative Oversight Committee approved a proposed seven-year study schedule for the Speaker of the House.⁷ The Speaker approved the Committee's recommendations, which were then published in the House Journal on January 13, 2015.⁸ The Department of Transportation is an agency subject to legislative oversight.⁹ **The Committee approved the Department of Transportation as the second agency to be studied on February 5, 2015.**¹⁰

The Committee notified the agency about the study on February 10, 2015. As the Committee encourages collaboration in its legislative oversight process, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor were also notified about the agency study.

On March 10, 2016, pursuant to Committee Rule 7.6 and S.C. Code of Laws Section 2-2-60(D), **a request was made for the Legislative Audit Council to perform a comprehensive audit of the agency;** additionally, other members of the General Assembly asked the Legislative Audit Council to conduct an audit of the agency. On April 6, 2016, the General Assembly received the comprehensive audit of the agency.¹¹

Subcommittee Studying the Agency

The Economic Development, Transportation, Natural Resources and Regulatory Subcommittee of the House Oversight Committee is studying the agency. The chair of the Subcommittee is the Honorable Phyllis J. Henderson; other members include: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.¹²

Meetings with the Agency

The Subcommittee met with the agency on nine occasions.

1. **February 17, 2015**, the Subcommittee held an introductory meeting with the agency, the purpose of which was to discuss the legislative oversight process and receive a general overview of the agency's actions.
2. **April 28, 2015**, the Subcommittee held a meeting and discussed the scope of the oversight study with the agency.
3. **June 2, 2015**, the Subcommittee held a meeting and received information about the agency's budget.
4. **June 30, 2015**, the Subcommittee held a meeting and discussed the C-Fund Program, county transportation committees, and agency employee information.
5. **August 11, 2015**, the Subcommittee held a meeting and discussed issues relating to the Office of the Chief Internal Auditor, Act 114 of 2007 criteria, and the Statewide Transportation Improvement Plan (STIP).
6. **November 4, 2015**, the Subcommittee held a meeting and discussed the staff study of the agency and the agency's recommendations for revisions to law.
7. **December 3, 2015**, the Subcommittee held a meeting and continued its discussion of the agency's recommendations for revisions to law.
8. **January 13, 2016**, the Subcommittee held a meeting, the purpose of which was to provide an opportunity for the public to provide input.
9. **April 14, 2016**, the Subcommittee held a meeting and received information about the comprehensive audit of the agency, and at this meeting the agency withdrew three of its recommendations for revisions to laws.

Information from the Public

From May 1, 2015, until May 31, 2015, the Committee posted an **online survey to solicit comments from the public about the Department of Transportation** and other agencies. Communication about this survey was sent to all House members to forward to their constituents. In an effort to communicate it throughout the state, it was also sent to media statewide via a press release. There were 1,788 responses to the survey, with at least one response coming from each of the 46 South Carolina counties.¹³ These comments are not considered testimony.¹⁴ As noted in the survey, "input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."¹⁵ **The public was informed they could continue to submit written comments about agencies online** after the public survey closed.¹⁶ All meetings were open to the public, streamed live online, and videos are archived when technologically feasible. **During the January 13, 2016, meeting the Committee invited the public to provide comments and recommendations about to the agency directly to the Subcommittee.** Thus, by the time the Subcommittee issued this Subcommittee Study, members of the public had an opportunity to participate anonymously in a public survey, provide comments anonymously after the public survey was over via a link on the Committee website, and appear in person before the Subcommittee.

Information from the Agency

The Committee asked the agency to conduct a self-analysis by requiring it to complete and submit a 2015 Restructuring Report, Seven-Year Plan for cost savings and increased efficiencies, 2016 Annual Restructuring Report, and a Program Evaluation Report. The agency submitted its 2015 Restructuring

Report and Seven-Year Plan, which were combined into a single report for 2015, on March 31, 2015.¹⁷ The agency reported spending 50 hours for two people (100 hours) to complete the process and 35 hours for two people (70 hours) to complete the combined report.¹⁸ The agency submitted its Program Evaluation Report on May 22, 2015.¹⁹ Pursuant to Committee Standard Practices, the agency asked for and received permission to amend its reports, which it did so on August 31, 2016.²⁰ Committee staff provided the agency the committee staff study on September 1, 2015.²¹ The agency had ten business days to provide a response, if it wanted to provide a response.²² The agency provided a response on September 15, 2015, and House Members were notified about the staff study with the agency response on September 21, 2015.²³ The agency submitted its 2016 Annual Restructuring Report on January 12, 2016.²⁴ All of these reports are available online.²⁵

Next Steps

Pursuant to Committee Standard Practice 12.4, **individual members of this Subcommittee have the opportunity to provide a separate written statement for inclusion with the Subcommittee's Study.** Once all individual members of the Subcommittee have provided their written statement, or indicated to the Subcommittee Chair that they will not provide a separate written statement, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the Full Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee Chair, the full committee chair shall, pursuant to Committee Standard Practice 13.1, **include the Subcommittee Study on the agenda for a full committee meeting.** During the full committee meeting at which the Subcommittee Study is discussed, the full Committee will vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available.

When the full committee approves a final study, any member of the Committee may provide a written statement for inclusion with the final study. The final study, and written statements, will be published online and the agency, as well as all House Standing Committees, will receive a copy.

Lastly, the Committee shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee. The Committee Chair may also provide briefings to the public about the final oversight study.

RECOMMENDATIONS

Purpose

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out in accordance with the intent of the General Assembly; and (2) **should be continued, curtailed, or eliminated.**” In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.²⁶

Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency. These recommendations are based on the agency’s self-analysis requested by the full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency and the agency’s response to this audit. This information, including, but not limited to the Staff Study, various agency reports submitted to the full Committee, and videos of meeting with the agency can all be found on the Committee’s website.

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs or with regards to elimination of agency programs.

The Subcommittee recommends **revisions to laws relating to the agency**. The laws, and specific revisions recommended, along with the basis for the recommendation provided by the agency, are listed below. The Subcommittee did not receive testimony from any other agency or entity related to these recommendations and notes that these recommendations have been published online during the study process. Discussion of these recommendations for revisions to laws relating to the agency spanned three meetings: November 4, 2015; December 3, 2015; and April 14, 2016.

Table 3. Recommendations for revision of laws relating to the agency - **municipal approval of projects**.

Code Sections	South Carolina Code § 57-5-820 South Carolina Code § 57-5-830
Basis	SCDOT is required to obtain municipal approval of plans and projects being constructed within municipal boundaries. This requirement can frequently delay projects, as municipalities may desire aesthetic improvements to plans at the last minute. SCDOT recommends that the statute be amended to require the municipalities to submit comments during the environmental process and to give approval prior to the project going into the STIP.
Suggested Language	SECTION 57-5-820. Consent of municipality to work on State highways; exception; definitions. As used in this section and Section 57-5-830:

	<p>"Structurally deficient" means not adequate to handle the vehicle weights authorized on roads leading to them.</p> <p>"Functionally obsolete" means narrow clearances or sharp roadway approach angles that make passage difficult or hazardous, or with too few lanes for existing traffic needs.</p> <p>All work to be performed by the Department on state highways within a municipality must be with the consent and approval of the proper municipal authorities, <u>approved by the municipality prior to a project's inclusion in the Statewide Transportation Improvement Program, and subject to the mutually agreed upon design features and typical section found in the final environmental document for the project,</u> except that work performed or to be performed on a bridge and its approaches, certified by the Department as functionally obsolete or structurally deficient, to remove, replace, or improve such bridge and its approaches shall not require prior consent and approval of a municipal authority if the bridge crosses the intracoastal waterway, <u>or the bridge qualifies for federal emergency bridge replacement funds.</u></p> <p>SECTION 57-5-830. Assent of municipality to plans; exception:</p> <p>In every case of a proposed permanent improvement, construction, reconstruction, or alteration by the Department of any highway or highway facility within a municipality, the municipality may review and approve the plans before the work is started; except that a municipality may not have the right to review and approve plans to remove, replace, or improve a bridge and its approaches within its limits where such bridge and its approaches have been certified by the Department to be functionally obsolete or structurally deficient and if the bridge crosses the intracoastal waterway.</p>
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Table 4. Recommendations for revisions of a law relating to the agency - collection of toll violations from out of state drivers.

Code Section	South Carolina Code § 57-5-1495
Basis	The statute governing toll collections does not provide a mechanism for collecting toll violations from out of state drivers. Also, SCDOT is required to go to Magistrate's Court to collect toll violations from in-state violators, which is expensive and time consuming. SCDOT recommends that the department be allowed to enter into reciprocity agreements with other states to collect from out of state violators. SCDOT also recommends that for in-state violators, that vehicle registrations be suspended when violations are over \$300, and that the Magistrate requirement be replaced with an in-house SCDOT appeals process.
Suggested Language	<p>SECTION 57-5-1495. Collection of tolls.</p> <p>(A) As used in this section:</p> <p>(1) "Electronic toll collection system" means a system of collecting tolls or charges which is capable of charging an account holder the appropriate toll or charge by transmission of information from an electronic device on a motor vehicle to the toll lane, which information is used to charge the account the appropriate toll or charge.</p>

(2) "Lessor" means any person, corporation, firm, partnership, agency, association, or organization renting or leasing vehicles to a lessee under a rental agreement, lease, or otherwise wherein the said lessee has the exclusive use of the vehicle for any period of time.

(3) "Lessee" means any person, corporation, firm, partnership, agency, association, or organization that rents, leases, or contracts for the use of one or more vehicles and has exclusive use of the vehicles for any period of time.

(4) "Owner" means a person or an entity who, at the time of a toll violation and with respect to the vehicle involved in the violation, is the registrant or co-registrant of the vehicle with the Department of Motor Vehicles of this State or another state, territory, district, province, nation, or jurisdiction.

(5) "Photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection facility which automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of a vehicle at the time it is used or operated in violation of toll collection regulations.

(6) "Toll violation" means the passage of a vehicle through a toll collection point without payment of the required toll.

(7) "Vehicle" means a device in, upon, or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

(B) Notwithstanding another provision of law, when a vehicle is driven through a turnpike facility without payment of the required toll, the owner and operator of the vehicle is jointly and severally liable to the Department of Transportation to pay the required toll, administrative fees, and civil penalty as provided in this section. The department or its authorized agent may enforce collection of the required toll as provided for in this section.

(C) A certificate, sworn to or affirmed by an agent of the department, or a facsimile of it, that a toll violation has occurred, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo-monitoring system, is prima facie evidence of the violation and is admissible in any proceeding charging a toll violation pursuant to this section. A photograph, microphotograph, videotape, or other recorded image evidencing a violation must be available for inspection by the party charged and is admissible into evidence in a proceeding to adjudicate liability for a violation.

(D) The department or its authorized agent may assess and collect administrative fees of:

(1) not more than ten dollars for the first toll violation within a period of one year;

(2) not more than twenty-five dollars for each subsequent toll violation within a period of one year.

~~(E) Upon failure to pay the required toll and administrative fees to the department within thirty days of the notice, the owner or operator may be cited for failure to pay a toll pursuant to this subsection and, upon an adjudication of liability, is subject to a civil penalty not to exceed fifty dollars for each violation as contained in subsection (F). Upon an adjudication of liability, a judgment must be entered against the owner or operator, and the court must mail a copy of the judgment to the owner or operator. Upon failure to satisfy the judgment within thirty days, the court shall notify the Department of Motor Vehicles and the authorized agent, and the department shall suspend the registration of the vehicle that was operated when the toll was not paid~~

~~and deny the vehicle's registration or reregistration pursuant to Section 56-3-1335. The suspension shall remain in effect until the judgment is satisfied and evidence of its satisfaction has been presented to the Department of Motor Vehicles and the authorized agent. An owner or operator who has been convicted of a violation of Section 57-5-1490 is not liable for the penalty imposed by this subsection.~~

~~(F) If a magistrate or municipal judge determines that the person or entity charged with liability under this section is liable, the magistrate or municipal judge shall collect the unpaid tolls and administrative fee and forward them to the department or its authorized agent. The magistrate or municipal judge also may impose a civil penalty of up to fifty dollars for each violation, plus court costs and attorney's fees. The civil penalty must be distributed in the same manner as other fines and penalties collected by the magistrate. Notwithstanding another provision of law:~~

~~— (1) adjudication of liability pursuant to this section must be made by the magistrate's court of the county in which the toll facility is located or the municipal court of the city in which the toll facility is located; and~~

~~— (2) an imposition of liability pursuant to this section must be based upon a preponderance of evidence submitted and is not a conviction as an operator pursuant to Section 57-5-1490.~~

~~(G)~~ (E) The department or its authorized agent shall send:

(1) a "First Notice to Pay Toll" to the owner or operator of a vehicle which, on one occasion in any twelve-month period, is identified as having been involved in a toll violation. The first notice must require payment to the department of the required toll, plus an administrative fee as provided for in subsection (D), within thirty days of the mailing of the notice;

(2) a "Second Notice to Pay Toll" to the owner or operator of a vehicle which is identified as having been involved in a second toll violation in a twelve-month period, or who has failed to respond to a "First Notice to Pay Toll" within the required time period. The second notice must require payment to the department of the required tolls, plus an administrative fee as provided for in subsection (D) for each violation within thirty days of the mailing of the notice;

(3) a "Failure to Pay a Toll" citation to the owner or operator of a vehicle which is identified as having been involved in a third toll violation in a twelve-month period, or who has failed to respond to the second notice within the required time period. The citation requires payment to the department of the unpaid tolls, plus an administrative fee of not more than twenty-five dollars for each violation, within thirty days, ~~or the recipient's appearance in magistrate's court of the county in which the violation occurred or the municipal court of the city in which the violation has occurred to contest the citation. A "Failure to Pay a Toll" citation constitutes the summons and complaint for an action to recover the toll and all applicable fees allowed pursuant to this section; and Once a recipient has accumulated at least \$300.00 in unpaid citations, the department or its authorized agent may notify the Department of Motor Vehicles to suspend the registration of the vehicle that was operated when the toll was not paid and deny the vehicle's registration or reregistration pursuant to Section 56-3-1335. The suspension shall remain in effect until the judgment is satisfied and evidence of its satisfaction has been presented to the Department of Motor Vehicles and the authorized agent.~~

(a) The department will offer the recipient a due process opportunity to contest responsibility for the toll violation, without appearing in person, including an

opportunity to present information in the recipient's favor and an opportunity for a record review by a hearing officer.

(4) notwithstanding another provision of law, the notices and citation required by subsection ~~(G)~~ (E) by first-class mail to the owner or operator of the vehicle identified as being involved in the toll violation. If a vehicle is registered in two or more names, the notices or citation must be mailed to the first name listed on the registration records. Notwithstanding another provision of law, personal delivery of the notices and citation is not required. A manual or automatic record of the mailing of the notices or citation prepared in the ordinary course of business is prima facie evidence of the mailing of the notices or citation;

(5) the notices and citation required by this subsection must contain the following information:

(a) the name and address of the person or entity alleged to be liable for a failure to pay a toll pursuant to this section;

(b) the registration number of the vehicle involved in the toll violation;

(c) the location where the toll violation took place;

(d) the date and time of the toll violation;

(e) the identification number of the photo-monitoring system which recorded the violation or other document locator number;

(f) information advising of the manner and time in which liability may be contested;

(g) warning advising that failure to contest liability in the manner and time provided in this section is an admission of liability; and

(h) information advising that failure to pay a toll may result in the suspension of vehicle registration.

(F) The department may enter into reciprocal collection arrangements with away agencies in accordance with this subsection. When an away agency certifies with supporting evidence that the operator of a motor vehicle registered in this State has failed to pay a toll, the department may collect the tolls and administrative fees properly imposed by the away agency as though those penalties and tolls were imposed by the authority if:

(1) The away agency has its own effective reciprocal procedures for collecting penalties and tolls imposed by the department and does, in fact, reciprocate in collecting administrative fees and tolls of the department by employing sanctions that include denial of a person's right to register or reregister a motor vehicle;

(2) The penalties, exclusive of tolls, claimed by the away agency against an owner of an automobile registered in this State do not exceed \$100 for a first violation or \$600 for all pending violations;

(3) The away agency provides due process and appeal protections to avoid the likelihood that a false, mistaken or unjustified claim will be pursued against an owner;

(4) An owner of an automobile registered in this State may present evidence to the away agency or to the department by mail, telephone, electronic means or other means to invoke rights of due process without having to appear personally in the jurisdiction where the violation occurred; and

(5) The reciprocal collection arrangement between the department and the away agency provides that each party may charge the other a fee sufficient to cover the costs of collection services, including costs incurred by an agency that registers motor vehicles.

~~(H)~~ (G) If a vehicle owner receives a notice or citation pursuant to this section for a period during which the vehicle involved in the toll violation was:

(1) reported to a law enforcement division as having been stolen, a valid defense to an allegation of liability for a failure to pay a toll is that the vehicle had been reported to a law enforcement division as stolen before the time the violation occurred and had not been recovered by the time of the violation. If an owner receives a notice or citation pursuant to this section for a violation which occurred during a time period in which the vehicle was stolen, but which had not been reported to a law enforcement division as having been stolen, a valid defense to an allegation of liability for a toll violation pursuant to this section is that the vehicle was reported as stolen within two hours after the discovery of the theft by the owner. For purposes of asserting the defense provided by this subitem, a certified copy of the police report on the stolen vehicle, sent by first-class mail to the department, its agent, or the magistrate's court or the municipal court having jurisdiction of the citation within thirty days after receipt of the notices or citation, is sufficient;

(2) leased to another person or entity, the lessor is not liable for the violation if the lessor sends to the department or to the court having jurisdiction over the citation a copy of the rental, lease, or another contract document covering the vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty days after receiving the notices or citation. Failure to send the information within the thirty-day period renders the lessor liable for the unpaid tolls and any administrative fees or penalties assessed pursuant to this section. If the lessor complies with the provisions of this subitem, the lessee of the vehicle on the date of the violation is subject to liability for the failure to pay the toll if the department or its agent mails a notice of liability to the lessee within thirty days after receipt of a copy of the rental, lease, or other contract document.

~~(H)~~ (H) If a person or entity receives a notice or citation pursuant to this section, it is a valid defense to liability that the person or entity that receives the notice was not the owner of the vehicle at the time of the toll violation.

~~(I)~~ (I) If an owner who pays the required tolls, fees, or penalties, or all of them pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

~~(K)~~ (J) An owner of a vehicle is not liable for a penalty imposed pursuant to this section if the operator of the vehicle has been convicted of a violation of Section 57-5-1490 for the same incident.

~~(L)~~ (K) On turnpike facilities where electronic toll collection systems are utilized:

(1) a person who wants to make payment of tolls electronically must apply to the department or its authorized agent to become an account holder. The department or its authorized agent, in its discretion, may deny the application of a person. A person whose application is accepted must execute an account holder's agreement. The terms of the account holder's agreement must be established by the department;

(2) the department shall ensure that adequate and timely notice is given to all electronic toll collection system account holders to inform them when their accounts are delinquent. The owner of a vehicle who is an account holder under the electronic toll collection system is not liable for a failure to pay a toll pursuant to the provisions of this section unless the department or its authorized agent has first sent a notice of delinquency to the account holder and the account holder was delinquent at the time of the violation;

	<p>(3) the department shall not sell, distribute, or make available the names and addresses of electronic toll collection system account holders, without the account holder's consent, to any entity that uses the information for commercial purposes. However, this restriction does not preclude the exchange of this information between entities with jurisdiction over or operating a toll highway bridge or tunnel;</p> <p>(4) information or data collected by the department or its authorized agent for the purpose of establishing and monitoring electronic toll collection accounts is not subject to disclosure under the Freedom of Information Act;</p> <p>(5) notwithstanding another provision of law, all information, data, photographs, microphotographs, videotape, or other recorded images prepared pursuant to this section must be for the exclusive use of the department or its authorized agent in the discharge of its duties under this section and must not be open to the public, subject to the disclosure under the Freedom of Information Act, nor used in a court in an action or a proceeding pending unless the action or proceeding relates to the imposition of or indemnification for liability pursuant to this section.</p> <p>(M) (L) Notwithstanding any other provision of law, school buses transporting school children for a school event, shall be exempt from the payment of any tolls.</p>
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Table 5. Recommendations for revision to a law relating to the agency - **state roads and rights of way subject to zoning ordinances.**

Code Section	South Carolina Code § 6-29-770
Basis	State agencies, including SCDOT, are subject to local zoning ordinances. This is reasonable for buildings and other types of structures. However, subjecting state roads and rights of way to zoning ordinances can affect safety and efficient operation of the state highway system. An example is that of local tree ordinances. A local zoning ordinance may restrict SCDOT from removing trees of a certain size from the right of way, even though these trees may constitute a safety hazard. SCDOT recommends exempting state roads and rights of way from local zoning ordinances.
Suggested Language	<p>SECTION 6-29-770. Governmental entities subject to zoning ordinances; exceptions.</p> <p>(A) Agencies, departments, and subdivisions of this State that use real property, as owner or tenant, in any county or municipality in this State are subject to the zoning ordinances, <u>except for state roads and the adjacent rights of way.</u></p> <p>(B) A county or agency, department or subdivision of it that uses any real property, as owner or tenant, within the limits of any municipality in this State is subject to the zoning ordinances of the municipality.</p> <p>(C) A municipality or agency, department or subdivision of it, that uses any real property, as owner or tenant, within the limits of any county in this State but not within the limits of the municipality is subject to the zoning ordinances of the county.</p> <p>(D) The provisions of this section do not require a state agency, department, or subdivision to move from facilities occupied on June 18, 1976, regardless of whether or not their location is in violation of municipal or county zoning ordinances.</p> <p>(E) The provisions of this section do not apply to a home serving nine or fewer</p>

	<p>mentally or physically handicapped persons provided the home provides care on a twenty-four hour basis and is approved or licensed by a state agency or department or under contract with the agency or department for that purpose. A home is construed to be a natural family or such similar term as may be utilized by any county or municipal zoning ordinance to refer to persons related by blood or marriage. Prior to locating the home for the handicapped persons, the appropriate state agency or department or the private entity operating the home under contract must first give prior notice to the local governing body administering the pertinent zoning laws, advising of the exact site of any proposed home. The notice must also identify the individual representing the agency, department, or private entity for site selection purposes. If the local governing body objects to the selected site, the governing body must notify the site selection representative of the entity seeking to establish the home within fifteen days of receiving notice and must appoint a representative to assist the entity in selection of a comparable alternate site or structure, or both. The site selection representative of the entity seeking to establish the home and the representative of the local governing body shall select a third mutually agreeable person. The three persons have forty-five days to make a final selection of the site by majority vote. This final selection is binding on the entity and the governing body. In the event no selection has been made by the end of the forty-five day period, the entity establishing the home shall select the site without further proceedings. An application for variance or special exception is not required. No person may intervene to prevent the establishment of a community residence without reasonable justification.</p> <p>(F) Prospective residents of these homes must be screened by the licensing agency to ensure that the placement is appropriate.</p> <p>(G) The licensing agency shall conduct reviews of these homes no less frequently than every six months for the purpose of promoting the rehabilitative purposes of the homes and their continued compatibility with their neighborhoods.</p> <p>(H) The governing body of a county or municipality whose zoning ordinances are violated by the provisions of this section may apply to a court of competent jurisdiction for injunctive and such other relief as the court may consider proper.</p>
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Table 6. Recommendations for revisions of a law relating to the agency - interest rate on condemnation cases.

Code Section	South Carolina Code § 28-2-420
Basis	Current law gives 8% interest on the judgment in condemnation cases while the case is contested, which is significantly higher than the current Federal Reserve interest rate.
Suggested Language	<p>SECTION 28-2-420. Interest on amount found to be just compensation; return of excess funds deposited with clerk of court.</p> <p>(A) A condemnor shall pay interest at the rate of eight percent a year <u>current federal reserve prime rate at the time of filing</u> upon sums found to be just compensation by the appraisal panel or judgment of a court to the condemnee. This interest shall</p>

	<p>accrue from the date of filing of the Condemnation Notice through the date of verdict or judgment by the court. Interest accruing on funds on deposit with the clerk of court must be offset against the interest computed pursuant to this section. Interest shall not accrue during the twenty-day period commencing upon the date of verdict or order of judgment. If the judgment is not paid within the twenty-day period, interest at the rate provided by law for interest on judgments must be added to the judgment. Thereafter, the entire judgment shall earn interest at the rate provided by law for interest on judgments.</p> <p>(B) In the event the court determines that just compensation is due the landowner in an amount less than the funds held by the clerk of court, the clerk of court shall refund to the condemnor the balance of the excess deposit with accrued interest.</p>
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Table 7. Recommendations for revisions of a law relating to the agency - **expediting inverse condemnation cases.**

Code Section	South Carolina Code § 28-11-30
Basis	Current law allows for standard condemnation cases, but not inverse condemnation cases, to take precedence over other cases on the civil roster for trial. Condemnation cases can greatly slow down the ability of SCDOT to advance a project to construction. It is therefore important that both types of condemnation cases be quickly resolved. SCDOT recommends that the statute be amended to allow for expediting inverse condemnation cases over other civil cases.
Suggested Language	<p>SECTION 28-11-30. Reimbursement of property owners for certain expenses.</p> <p>To the extent that Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646) makes certain requirements pertaining to the acquisition of real property by states prerequisites to federal aid to such states in programs or projects involving the acquisition of real property for public uses, state agencies and instrumentalities and political subdivisions and local government agencies and instrumentalities involved in these programs or projects may expend available public funds as provided in this section, whether or not the program or project is federally aided.</p> <p>(1) A person, agency, or other entity acquiring real property for public use in a project or program shall, as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner, to the extent the State deems fair and reasonable, for expenses he necessarily incurred for:</p> <p>(a) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the State;</p> <p>(b) penalty costs for prepayment for preexisting recorded mortgage entered into in good faith encumbering such real property; and</p> <p>(c) the pro rata portion of real property taxes paid which are allocable to a period</p>

	<p>subsequent to the date of vesting title in the agency concerned, or the effective date of possession of such real property by such agency, whichever is the earlier.</p> <p>(2) Where a condemnation proceeding is instituted by the agency to acquire real property for such use and:</p> <p>(a) the final judgment is that the real property cannot be acquired by condemnation; or</p> <p>(b) the proceeding is abandoned, the owner of any right, title, or interest in such real property shall be paid such sum as will, in the opinion of the agency, reimburse such owner for his reasonable attorney, appraisal, and engineering fees actually incurred because of the condemnation proceedings. The award of these sums will be paid by the person, agency, or other entity which sought to condemn the property.</p> <p>(3) Where an inverse condemnation proceeding is instituted by the owner of a right, title, or interest in real property because of use of his property in a program or project, the court, rendering a judgment for the plaintiff in the proceeding and awarding compensation for the taking of property, or the attorney effecting a settlement of a proceeding, shall determine and award or allow to the plaintiff, as a part of the judgment or settlement, a sum that will, in the opinion of the court or the agency's attorney, reimburse the plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the proceeding.</p> <p>(4) Reestablishment expenses related to the moving of a small business, farm, or nonprofit organization payable for transportation projects pursuant to federal guidelines and regulations may be paid in an amount up to fifty thousand dollars, notwithstanding a lower limitation imposed by federal regulations.</p> <p><u>(5) If either party to an inverse condemnation proceeding so demands, the action must be given precedence over other civil cases for trial.</u></p>
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Table 8. Recommendations for revisions of a law relating to the agency - expenditure limitation.

Proviso	Proviso 84.1 in the FY 14-15 Appropriations bill
Basis	Proviso 84.1 allows SCDOT the flexibility needed to deal with cash balances from the previous year. Due to the construction cycle and multiple years across which some projects take, the ability to bridge fiscal years is important to SCDOT. The proviso was established in the 1950's and was amended to current language in 1993. SCDOT recommends codification.
Suggested Language	84.1 The Department of Transportation is hereby authorized to expend all cash balances brought forward from the previous year and all income including all federal funds, unexpended general funds and proceeds from bond sales accruing to the Department of Transportation, but in no case shall the expenditures of the Department of Transportation exceed the amount of cash balances brought forward

	<p>from the preceding year plus the amount of all income including federal funds, general funds and proceeds from bond sales.</p> <p><u>Section 57-3-205. Department of Transportation authorized to expend funds from previous fiscal year.</u></p> <p><u>The Department of Transportation is authorized to expend all cash balances brought forward from the previous year and all income including all federal funds, unexpended general funds and proceeds from bond sales accruing to the Department of Transportation, but in no case shall the expenditures of the Department of Transportation exceed the amount of cash balances brought forward from the preceding year plus the amount of all income including federal funds, general funds and proceeds from bond sales.</u></p>
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Table 9. Recommendations for revisions of a law relating to the agency - **special fund authorization and securing bonds and insurance.**

Provisos	<p>Proviso 84.2 in the FY 14-15 Appropriations bill</p> <p>Proviso 84.3 in the FY 14-15 Appropriations bill</p>
Basis	<p>Proviso 84.2 allows SCDOT to set up special funds with the Treasurer for accounting purposes. The proviso was introduced in 1951 with the current language.</p> <p>Proviso 84.3 allows SCDOT to obtain bonds and insurance to cover SCDOT operations. The Proviso was introduced in 1951 with the current language.</p> <p>SCDOT recommends codification.</p>
Suggested Language	<p>SECTION 57-3-110. Powers and duties of Department of Transportation.</p> <p>The Department of Transportation shall have the following duties and powers:</p> <p>(1) lay out, build, and maintain public highways and bridges, including the exclusive authority to establish design criteria, construction specifications, and standards required to construct and maintain highways and bridges;</p> <p>(2) acquire such lands, road building materials, and rights-of-way as may be needed for roads and bridges by purchase, gift, or condemnation;</p> <p>(3) cause the state highways to be marked with appropriate directions for travel and regulate the travel and traffic along such highways, subject to the laws of the State;</p> <p>(4) number or renumber state highways;</p> <p>(5) initiate and conduct such programs and pilot projects to further research and development efforts, and to promote training of personnel in the fields of planning, construction, maintenance, and operation of the state highway system;</p> <p>(6) cooperate with the federal government in the construction of federal-aid</p>

	<p>highways in the development of improved mass transit service, facilities, equipment, techniques, and methods and in planning and research in connection therewith; and seek and receive such federal aid and assistance as may from time to time become available except for funds designated by statute to be administered by the Chief Executive Officer of the State;</p> <p>(7) instruct, assist, and cooperate with the agencies, departments, and bodies politic and legally constituted agencies of the State in street, highway, traffic, and mass transit matters when requested to do so, and, if requested by such government authorities, supervise or furnish engineering supervision for the construction and improvement of roads and bridges, provided such duties do not impair the attention to be given the highways in the state highway system;</p> <p>(8) promulgate such rules and regulations in accordance with the Administrative Procedures Act for the administration and enforcement of the powers delegated to the department by law, which shall have the full force and effect of law;</p> <p>(9) grant churches the right to cross over, under, along, and upon any public roads or highways and rights-of-way related thereto;</p> <p>(10) enter into such contracts as may be necessary for the proper discharge of its functions and duties and may sue and be sued thereon;</p> <p>(11) erect such signs as requested by a local governing body, if the department deems the signs necessary for public safety and welfare, including "Deaf Child" signs and "Crime Watch Area" signs; and</p> <p><u>(12) to establish special funds with the State Treasurer out of the Department funds as may be deemed advisable for proper accounting purposes, with the approval of the State Treasurer.</u></p> <p><u>(13) to secure bonds and insurance covering such activities of the department as may be deemed proper and advisable, due consideration being given to the security offered and the service of the claims.</u></p> <p>(12) <u>(14)</u> do all other things required or provided by law.</p>
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Table 10. Recommendations for revisions of a law relating to the agency - **benefits**.

Proviso	Proviso 84.4 in the FY 14-15 Appropriations bill
Basis	Proviso 84.4 in the FY 14-15 Appropriations bill provides that SCDOT employees receive equivalent raises, benefits, and bonuses as other state employees, and that such compensation and benefits are funded from SC DOT funding sources. The proviso was introduced in 1996 with the current language. SCDOT recommends codification.
Suggested Language	84.4 (DOT: Benefits) Employees of the Department of Transportation shall receive equal compensation increases, health insurance benefits and employee bonuses

	<p>provided in this act for employees of the State generally. The amount will be funded from Department of Transportation funding sources.</p> <p><u>Section 57-3-790. Employees of the Department of Transportation shall receive equal compensation increases, health insurance benefits and employee bonuses provided in this act for employees of the State generally. The amount will be funded from Department of Transportation funding sources.</u></p>
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Table 11. Recommendations for revisions of a law relating to the agency - **document fees.**

Proviso	Proviso 84.5 in the FY 14-15 Appropriations bill
Basis	Proviso 84.5 allows SCDOT to recover the costs of producing the many documents that are requested from SCDOT by businesses and the public. The proviso was introduced in 1992 with the current language. SCDOT recommends codification.
Suggested Language	<p>84.5. (DOT: Document Fees) The Department of Transportation is hereby authorized to establish an appropriate schedule of fees to be charged for copies of records, lists, bidder's proposals, plans, maps, etc. based upon approximate actual costs and handling costs of producing such copies, lists, bidder's proposals, plans, maps, etc.</p> <p><u>Section 57-3-795. The Department of Transportation is authorized to establish an appropriate schedule of fees to be charged for copies of records, lists, bidder's proposals, plans, maps, and other documents based upon approximate actual costs and handling costs of producing such copies, lists, bidder's proposals, plans, maps, and other documents.</u></p>

Table 12. Recommendations for revisions of a law relating to the agency - **meals in emergency operations.**

Proviso	Proviso 84.6 in the FY 14-15 Appropriations bill
Basis	Proviso 84.6 in the FY 14-15 Appropriations Bill allows SCDOT to feed employees who cannot leave their work station during states of emergency or other such operations. The proviso was introduced in 2001 with the current language. SCDOT recommends codification.
Suggested Language	<p>84.6. (DOT: Meals in Emergency Operations) The Department of Transportation may provide meals to employees of the department who are not permitted to leave assigned duty stations and are required to work during deployment, emergency simulation exercises, and when the Governor declares a state of emergency.</p> <p><u>Section 57-3-800. The Department of Transportation may provide meals to employees of the department who are not permitted to leave assigned duty stations and are required to work during deployment, emergency simulation exercises, and when the Governor declares a state of emergency.</u></p>

Table 13. Recommendations for revisions of a law relating to the agency - **rest area water rates.**

Proviso	Proviso 84.7 in the FY 14-15 Appropriations bill
Basis	Proviso 84.7 in the FY 14-15 Appropriations Bill requires water and sewer providers to charge in-district water rates for SCDOT rest areas. The proviso was introduced in 2005 with the current language. SCDOT recommends codification.
Suggested Language	<p>84.7. (DOT: Rest Area Water Rates) For the current fiscal year, rest areas of the Department of Transportation shall be charged in-district water rates by providers of water and sewer services, unless the rate currently charged by the provider is less than in-district rates.</p> <p><u>Section 57-3-805. Rest areas of the Department of Transportation shall be charged in-district water rates by providers of water and sewer services, unless the rate currently charged by the provider is less than in-district rates.</u></p>

Table 14. Recommendations for revisions of a law relating to the agency - **printed report requirements.**

Proviso	Proviso 117.73 in the FY 14-15 Appropriations bill
Basis	Proviso 117.73 of the FY 14-15 allows SCDOT to submit several statutorily-required reports electronically rather than in printed format. With the availability of these reports in electronic format and corresponding ability to print, the printed requirement is obsolete. The proviso also allows SCDOT to combine its Annual Report and Mass Transit report with its Annual Accountability Report. SCDOT recommends codification.
Suggested Language	<p>117.77. (GP: Printed Report Requirements) (A) For Fiscal Year 2014-15, state supported institutions of higher learning shall not be required to submit printed reports mandated by Sections 2-47-40, 2-47-50, and 59-103-110 of the 1976 Code, and shall instead only submit the documents electronically.</p> <p>Submission of the plans or reports required by Sections 59-101-350, 59-103-30, 59-103-45(4), and 59-103-160(D) shall be waived for the current fiscal year, except institutions of higher learning must continue to report student pass rates on professional examinations, and data elements otherwise required for the Commission on Higher Education Management Information System. The commission, in consultation with institutions, shall take further action to reduce data reporting burdens as possible.</p> <p>(B) For Fiscal Year 2015-16, the Department of Agriculture shall not be required to submit printed reports mandated by Section 46-49-10 of the 1976 Code. The department shall provide these reports electronically and shall use any monetary savings for K5-12 agricultural education programs.</p> <p>(C) For Fiscal Year 2015-16, the Department of Health and Human Services shall not be required to provide printed copies of the Medicaid Annual Report required pursuant to Section 44-6-80 of the 1976 Code and shall instead only submit the documents electronically.</p>

	<p>(D) For Fiscal Year 2015-16, the Department of Transportation shall not be required to submit printed reports or publications mandated by Sections 1-11-58, 2-47-55, and 58-17-1450 of the 1976 Code.</p> <p>The Department of Transportation may combine their Annual Report and Mass Transit Report into their Annual Accountability Report.</p> <p>SECTION 57-3-760. Annual reports.</p> <p><u>(A)</u> The department, at the beginning of each regular session of the General Assembly, shall make a full, printed, detailed report to the General Assembly showing an analysis of:</p> <p>(1) the department's accomplishments in the past year;</p> <p>(2) a ten-year plan detailing future needs of the State in the fields of planning, construction, maintenance, and operation of the state highway system;</p> <p>(3) a five-year plan detailing the regulation of traffic which includes the administration and enforcement of traffic, driver, and motor vehicle laws and other laws relating to such subjects, the coordination of state and federal programs relating to mass transportation among the departments, agencies, and other bodies politic and legally constituted agencies in the State; and</p> <p>(4) a listing of all firms, companies, or businesses of any type doing business with the department and the amount of such contracts entered into by the department.</p> <p><u>(B)</u> The Department shall not be required to submit printed reports pursuant to Sections 1-11-58, 2-47-55, and 58-17-1450 of the 1976 Code</p>
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Table 15. Recommendations for revisions of a law relating to the agency - **welcome centers.**

Proviso	Proviso 117.74 in the FY 14-15 Appropriations bill
Basis	A proviso in the FY 14-15 Appropriations Bill required SCDOT to transfer ownership of the state Welcome Centers to the Department of Parks, Recreation, and Tourism, along with the amount of funds required to operate the centers from FY13-14 (\$3.16 million). The proviso was amended at the request of SCPRT to up the funding to \$3.23 million in the FY 15-16 budget. SCDOT recommends the deletion of this proviso because SCDOT has already transferred ownership to SCPRT and has a Memorandum of Understanding as to the operation and funding of the centers.
Suggested Language	117.114. (GP: South Carolina Welcome Centers) The Department of Parks, Recreation and Tourism and the Department of Transportation shall maintain a Memorandum of Understanding (MOU) that provides that the Department of Parks, Recreation and Tourism shall control operations of all South Carolina Welcome Centers. The MOU shall include replacement, renovation and maintenance of the facilities, daily operations, and grounds maintenance and upkeep and shall clearly define responsibility for additional portions of Welcome Centers to include paving and

	sidewalks. The Department of Transportation shall transfer to the Department of Parks, Recreation and Tourism the amount of \$3,313,560 less any state funds appropriated by the General Assembly for the same purpose. The Department of Parks, Recreation and Tourism assumes responsibility for this amount and the timing of the transfer of these funds shall be defined as part of the MOU. The funds transferred to the Department of Parks, Recreation and Tourism shall be placed in a separate and distinct fund and these funds shall be carried forward from the prior fiscal year into the current fiscal year and be expended for the same purposes.
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Table 16. Recommendations for revisions of a law relating to the agency - **non-federal aid restrictions.**

Code Section	
Basis	<p>South Carolina's 41,000 centerline mile roadway network is a state-owned, partially federally assisted system. As the owner of the state system, the State of SC is responsible for maintaining and operating all facets of it from the neighborhood streets, to the farm-to-market roads, to the US/SC Routes and to the Interstate System. While the federal-aid program does make available funding for some of these types of roadways, Congress is shifting the focus of the federal program to the National Highway System (NHS). For SC, this means the federal funds for pavement rehabilitation and reconstruction will likely be focused on the 3,603 centerline mile NHS system in the state, which includes the entire Interstate system and less than 30% of the Primary system.</p> <p>That movement at the federal level coupled with the state's current restriction to use the funding only on the "Non-Federal Aid System" (neighborhood streets) will leave the bulk of the Primary system and 10,370 centerline miles of Secondary (farm-to-market) roadways essentially defunded for resurfacing at the state level. These 2 segments of the state system carry nearly 2/3 of the state's traffic and both are in very poor condition with approximately half of their pavements already in poor condition, approximately 30% in fair and approximately 20% in good condition. An investment is critically needed here in order to return this segment of our network to better condition and save repair costs by intercepting the fair condition roadways before they decay to poor condition.</p> <p>SCDOT asks that it be allowed the flexibility to shift funds from the Non-Federal Aid Highway Fund to secondary and primary routes when need is demonstrated by the SCDOT Transportation Asset Management Plan and the projects are ranked according to Act 114.</p>
Suggested Language	<u>Section 57-11-30. Funds from the Non-Federal Aid Highway Fund may be utilized for resurfacing secondary and primary routes when need is sufficiently determined under the Department's Transportation Asset Management Plan, and the projects to receive funds are prioritized according to Section 57-1-370.</u>

Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are all available online.²⁷

General Assembly's Legislative Audit Council

Materials of interest from the General Assembly's Legislative Audit Council include the following:

- comprehensive audit of the agency released April 6, 2016;
- executive summary of the comprehensive audit; and
- presentations about the audit made by Legislative Audit Council staff.

Department of Transportation

Materials of interest from the agency pertaining to the audit released April 6, 2016, by the General Assembly's Legislative Audit Council include the following:

- agency's official response to the comprehensive audit released April 6, 2016;
- presentations about the audit made by Secretary of Transportation; and
- list of audit recommendations and the agency's response to each recommendation.

House Transportation Infrastructure & Management Ad-Hoc Committee

During its study of the agency, the work of the House Transportation Infrastructure & Management Ad-Hoc Committee was acknowledged. Notably, the following Legislative Oversight Committee members also serve on this ad-hoc committee: Subcommittee Chair Henderson, the Honorable Joseph H. Jefferson, Jr., and the Honorable Wm. Weston J. Newton.²⁸

Follow Up

On April 14, 2016, Secretary of Transportation Christy A. Hall testified that the agency agrees with close to 85% of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency released April 6, 2016, and that the agency intends to use this audit in its efforts toward continuous improvement.²⁹ Secretary Hall further stated the next step will be the publication of an implementation plan that includes target dates.³⁰ The Subcommittee recommends following up with the agency at the end of this year, via a Request for Information, to ascertain the status of the agency's stated plan for internal changes.

SELECTED AGENCY INFORMATION CITED

- SC Department of Transportation. "Annual Restructuring Report, 2016."
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20DOT.PDF> (accessed April 18, 2016).
- SC Department of Transportation. "LAC Recommendations/SCDOT Response, April 14, 2016"
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/DOT/LAC%20Recommendations%20SCDOT%20Response.pdf> (accessed April 18, 2016).
- SC Department of Transportation. "Program Evaluation Report, 2015."
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/SCDOT%20Program%20Evaluation%20Report.pdf> (accessed April 18, 2016).
- SC Department of Transportation. "Restructuring and Seven-Year Plan Report, 2015."
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Transportation.pdf> (accessed April 18, 2016).
- SC General Assembly, Legislative Audit Council. "A Review of the SC Department of Transportation, April 2016."
http://lac.sc.gov/LAC_Reports/2016/Pages/SCDOT.aspx (accessed April 18, 2016).
- SC House of Representatives, Legislative Oversight Committee. "May 2015 Survey Results."
[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20\(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ).pdf) (accessed April 18, 2016).
- SC House of Representatives, Legislative Oversight Committee. "September 1, 2015, Staff Study of the SC Department of Transportation and Agency Response."
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015StaffStudyAndAgencyResponse/SCDOT%20Staff%20Study%20and%20Agency%20Response.pdf> (accessed April 18, 2016).

ENDNOTES

¹ SC House of Representatives, House Legislative Oversight Committee, "Subcommittees -2016," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed April 18, 2016).

² *SC Code of Laws*, sec. 2-2-20(C).

³ SC House of Representatives, House Legislative Oversight Committee, Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee, "April 14, 2016, Meeting Minutes. As the minutes have not been approved by the Subcommittee yet for this meeting, they have not been published online at this time. A Video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁴ *Ibid*.

⁵ SC House of Representatives, House Legislative Oversight Committee, under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed April 23, 2016).

⁶ Information about the work of the House Transportation Infrastructure & Management Ad-Hoc Committee is available on the General Assembly's website under "House Transportation Infrastructure & Management Ad-Hoc Committee Postings and Reports."

⁷ SC House of Representatives, House Legislative Oversight Committee, "January 7, 2015 Meeting Minutes," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and under "Full Committee Minutes,"

<http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes.php> (accessed June 21, 2015). A Video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁸ The committee's recommendations, letters to the Speaker of the House of Representatives and House Clerk, and a direct link to the January 13, 2015, House Journal are available on the committee's website under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," <http://www.scstatehouse.gov/committeeinfo/houselegislativeOversightCommittee.php> (accessed June 21, 2015).

⁹ *SC Code of Laws*, sec. 2-2-10(1).

¹⁰ SC House of Representatives, House Legislative Oversight Committee, "February 5, 2015 Full Committee Minutes," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and under "Minutes,"

<http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/February052015.pdf> (accessed August 5, 2015). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

¹¹ SC General Assembly, Legislative Audit Council, "A Review of the SC Department of Transportation," under "Recent Publications" http://lac.sc.gov/LAC_Reports/2016/Pages/SCDOT.aspx (accessed April 18, 2016).

¹² SC House of Representatives, House Legislative Oversight Committee, "Subcommittees -2016," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed April 18, 2016).

¹³ SC House of Representatives, House Legislative Oversight Committee, "May 2015 Survey Results," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and under "Comptroller General's Office" [http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20\(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ\).pdf](http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/Survey/May%202015%20Survey%20Results%20(CG,%20DOT,%20First%20Steps,%20DSS,%20and%20DJJ).pdf), unnumbered page 1 and 133-135, (accessed July 5, 2015).

¹⁴ Standard practice 10.4.

¹⁵ SC House of Representatives, House Legislative Oversight Committee, "May 2015 Public Survey." The survey is closed. The survey sought comments from the public about the Comptroller General's Office; Department of Transportation; Department of Social Services; Department of Juvenile Justice; and First Steps to School Readiness. The 1,788 responses is inclusive of responses for all five agencies.

¹⁶ SC House of Representatives, House Legislative Oversight Committee, "Provide Input About Agencies," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports."

¹⁷ SC Department of Transportation, *Restructuring and Seven-Year Plan Report*.

¹⁸ *Ibid.*, 36.

¹⁹ SC Department of Transportation, *Program Evaluation Report*.

²⁰ SC House of Representatives, House Legislative Oversight Committee, "Standard Practices," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports." <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/StandardPractices02022016.pdf> (accessed April 19, 2016).

²¹ SC House of Representatives, House Legislative Oversight Committee, "2015 Summary - House Legislative Oversight Committee," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015SummaryHouseLegislativeOversightCommittee.pdf> (accessed April 19, 2016).

²² *Standard Practices*, 11.5.

²³ *2015 Summary - House Legislative Oversight Committee*.

²⁴ *2016 Annual Restructuring Report*, 1.

²⁵ SC House of Representatives, House Legislative Oversight Committee, "Department of Transportation," under "Committee's Seven-Year Study Cycle," and under "Agencies Currently Under Study,"

<http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/ComptrollerGeneral.php> (accessed July 5, 2015).

²⁶ *SC Code of Laws*, sec. 2-2-20(C).

²⁷ SC House of Representatives, House Legislative Oversight Committee, under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed April 23, 2016).

²⁸ Information about the work of the House Transportation Infrastructure & Management Ad-Hoc Committee is available on the General Assembly's website under "House Transportation Infrastructure & Management Ad-Hoc Committee Postings and Reports."

²⁹ SC House of Representatives, House Legislative Oversight Committee, Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee, "April 14, 2016, Meeting Minutes. As the minutes have not been approved by the Subcommittee yet for this meeting, they have not been published online at this time. A Video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

³⁰ *Ibid.*

CONTACT INFORMATION

Committee Contact Information

Address:

South Carolina House of Representatives
Legislative Oversight Committee
1105 Pendleton Street, Blatt Building Room 228
Post Office Box 11867
Columbia, South Carolina 29211

Telephone: 803-212-6810

Online:

You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "House Legislative Oversight Committee Postings and Reports". This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/committeeinfo/houselegislativeoversightcommittee.php>.

Agency Contact Information

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955 Park Street
Post Office Box 191
Columbia, South Carolina 29201-3959

Telephone: 803-737-2314
855-GO-SCDOT*
855-467-2368*
*toll free

Online:

Agency's home page: <http://www.dot.state.sc.us/>

SCTIB INFORMATION

- **RELATIONSHIPS**
- **PUBLIC SURVEY**

Relationships and Public Input

Relationships

In the SCTIB's reports to the Committee, it has provided information about its partners, customers and stakeholders.⁵⁴ Notably, the agency may have more than one relationship with an entity; for example, SCTIB lists the Department of Transportation as a partner, customer, and stakeholder.

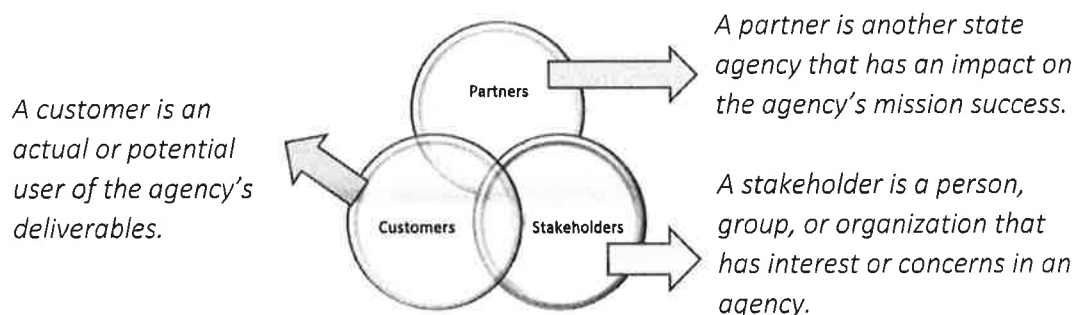


Figure 2. Partners, customers, and stakeholders defined.⁵⁵

Table 2. Agency's partners, customers, and stakeholders.⁵⁶

Partner	Customer	Stakeholder	Entity
State and Local Government Entities			
✓			SC State Treasurer's Office
✓			SC Department of Motor Vehicles
✓			SC Comptroller General's Office
✓			SC General Assembly
✓			Joint Bond Review Committee
	✓	✓	Local Governments
✓	✓	✓	SC Department of Transportation
Associations, Businesses, and Individuals			
	✓		Motorists in South Carolina (citizens and visitors)
✓			Bond Counsel
✓			Legal Counsel
✓			Financial Management Firm

Public Comments about the Agency

In the House Legislative Oversight Committee's September 2015 public survey, the opinions of 449 participants who chose to provide their opinion about the agency were divided, and a small percentage expressed no opinion (7.8% - 35).⁵⁷ The significant majority (80.4%) of participants had a negative (22.9% - 103) or very negative opinion (57.5% - 258) of the agency.⁵⁸ Only a small number (11.8% - 53) of participants had a positive or very positive opinion of the agency. Notably, many participants answered that they had knowledge of the agency through media coverage (36.7%) or through an Internet source (15.8%).⁵⁹ Additionally, the agency notes a challenge in its perception due to its complexity, which facilitates flexibility in financing major qualified projects.⁶⁰

Written comments about the agency were provided by 257 survey participants; often, those comments addressed more than one topic.⁶¹ Some of the topics addressed in the written comments are listed in Table 3. The complete comments can be found online.⁶² Responses to online surveys posted on the Committee's webpage are provided verbatim as they were received by the Committee. They are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, or the House of Representatives.⁶³

Table 3: Some topics addressed by survey participants in written comments about the agency.⁶⁴

Topic	Number of Comments
Decisions/Priorities	59
Condition of Roads	29
Governing Board	23
Accountability	18

Resources

Sources of Revenues and Expenses

Note: Background information on the state's budget process is available in the appendix to this document.

DEPARTMENT OF AGRICULTURE INFORMATION

Legislative Oversight Committee

South Carolina House of Representatives

Post Office Box 11867

Columbia, South Carolina 29211

Telephone: (803) 212-6810 • Fax: (803) 212-6811



2016 Annual Restructuring Report Guidelines

PLEASE NOTE:

The information included in the agency's report will appear online for all legislators and the public to view.

Agency Name:

Date Report Submitted:

Agency Head

First Name

Last Name:

Email Address:

Phone Number:

South Carolina Department of Agriculture

January 12, 2016

Hugh

Weathers

skitchen@scda.sc.gov

803-734-2179

General Instructions

SUBMISSIONS	
What to submit?	Please submit this document in electronically only in both the original format (Excel) as well as in a PDF document. Save the document as "2016 - Agency ARR (<i>insert date agency submits report</i>)."
When to submit?	The deadline for submission is by the first day of session, January 12, 2016.
Where to submit?	Email all electronic copies to HCommLegOv@schouse.gov.

NOTE: If the agency enters its Name and the Date of Submission in the "Cover Page" tab, it should automatically populate at the top of each tab in this report.

WHERE INFORMATION WILL APPEAR	
Where will submissions appear?	The information included in the agency's report will appear online for all legislators and the public to view. On the South Carolina Statehouse Website it will appear on the Publications page as well as on the individual agency page, which can be accessed from the House Legislative Oversight Page.

QUESTIONS	
Who to contact?	House Legislative Oversight at 803-212-6810.

OTHER INFORMATION	
<i>House Legislative Oversight</i>	
Mailing	Post Office Box 11867
Phone	803-212-6810
Fax	803-212-6811
Email	HCommLegOv@schouse.gov
Web	The agency may visit the South Carolina General Assembly Home Page (http://www.scstatehouse.gov) and click on "Citizens' Interest" then click on "House Legislative Oversight Committee Postings and Reports."

Mission, Vision and Goals

This is the second chart because the agency's mission and vision should have a basis in the legal standards, which the agency provided in the previous chart. After the agency knows the laws it must satisfy, along with its mission and vision, it can then set goals to satisfy those laws and achieve that vision (and the strategy and objectives to accomplish each goal - see next chart). To ensure accountability, one person below the head of the agency should be responsible for each goal. The same person is not required to be responsible for all of the goals.

Agency Responding	South Carolina Department of Agriculture
Date of Submission	42381
Fiscal Year for which information below pertains	2015-16

Instructions : Provide the agency's mission, vision and laws (i.e. state and/or federal statutes) which serve as the basis for the agency's mission and vision.

Mission	To promote and nurture the growth and development of South Carolina's agriculture industry and its related businesses while assuring the safety and security of the buying public.
Legal Basis for agency's mission	Act No. 104 of 1879
Vision	For the State's economy to grow and prosper, providing everyone, producers and consumers, opportunities to enjoy the benefits of agriculture.
Legal Basis for agency's vision	46-3-10

Instructions :

- 1) Under the "Legal Responsibilities Satisfied" column, enter the legal responsibilities (i.e. state and/or federal statutes and provisos) the goal is satisfying. All of the laws mentioned in the previous chart (i.e. Legal Standards Chart) should be included next to one of the agency's goals. When listing the Legal Responsibilities Satisfied, the agency can group the standards together when applicable (i.e. SC Code 63-19-320 thru 63-19-450). Make sure it is clear whether the agency is referencing state or federal laws and whether it is a proviso or statute.
- 2) Under the "Goals and Description" column, enter the number and description of the goal which will help the agency achieve its vision (i.e. Goal 1 - Increase the number of job opportunities available to juveniles to 20 per juvenile within the next 2 years). The agency should have 3-4 high level goals.
- 3) Under the "Describe how the Goal is SMART" column, enter the information which shows the goal is Specific, Measurable, Attainable, Relevant and Time-bound.
- 4) Under the "Public Benefit/Intended Outcome" column, enter the intended outcome of accomplishing the goal.
- 5) Under the "Responsible Person" columns, provide information about the individual who has primary responsibility/accountability for each goal. The Responsible Person has different teams of employees beneath him/her to help accomplish the goal. The Responsible Person is the person who, in conjunction with his/her team(s) and approval from higher level superiors, determines the strategy and objectives to accomplish the goal. In addition, this is the person who monitors the progress and makes any changes needed to the strategies and objectives to ensure the goal is accomplished. Under the "Position" column, enter the Responsible Person's position/title at the agency.

Legal Responsibilities Satisfied	Goals & Description	Describe how the Goal is S.M.A.R.T.	Public Benefit/Intended Outcome	Responsible Person Name:	Number of months person has been responsible for the goal or objective:	Position:
(i.e. state and federal statutes or provisos the goal is satisfying)	(i.e. Goal 1 - insert description)	Specific Measurable Attainable Relevant Time-bound	(Ex. Output = rumble strips are installed on the sides of a road; Outcome = incidents decrease and public perceives that the road is safer) Just enter the intended outcome			
46-3-10	Goal 1 - Improve agency operational readiness and workforce development		Better customer service and more efficient use of taxpayer dollars.	Aaron Wood		Assistant Commissioner, Agency Operations
46-3-20,240; 46-21-25,35; 46-27-410; 46-40-10; 46-41-40; 46-42-10; 39-9-70; Provisos 44.1.3,4,7,8	Goal 2 - Protect the consumers in the marketplace through compliance inspections, laboratory testing and analysis, issuing certifications, sampling, licensing, auditing, and providing commodity oversight of storage warehouses and facilities.		Protection of both producers and consumers engaged in the marketplace	Derek Underwood		Assistant Commissioner, Consumer Protection

Mission, Vision and Goals

46-3-80; 46-15-10 thru 46-15-80; 46-14-340; 46-19-290; Provisos 44.2,6	Goal 3 - Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products		Increase the per-acre value of agriculture in South Carolina.	Martin Eubanks		Assistant Commissioner, Agricultural Services
Proviso 44.1; 46-3-80	Goal 4 - Provide credible and timely information and increase public awareness of the overall impact of the agricultural industry		Build the public value of the agricultural industry; more, un-biased information will producers and consumers make better decisions.	All Assistant Commissioners and respective divisions		
46-19-290	Goal 5 - Enhance growth and expansion of the state's total agricultural product output, economic impact, and capital investment		Increase the direct, indirect, and induced value of agriculture in South Carolina	Clint Leach		Assistant Commissioner, Economic Development and External Affairs

Strategy, Objectives and Responsibility

This is the next chart because once the agency determines its goals, and those responsible for each goal, it then needs to determine the strategy and objectives to accomplish each goal. To ensure accountability, one person should be responsible for each objective. This can be the same person responsible for the goal, if it is a small agency, or, for larger agencies, a person who reports to the person responsible for the goal. The same person is not required to be responsible for all of the objectives.

Agency Responding	South Carolina Department of Agriculture
Date of Submission	4/23/11
Fiscal Year for which information below pertains	2015-16

Instructions:

- 1) Under the "Legal Responsibilities Satisfied" column, enter the legal responsibilities (i.e. state and/or federal statutes and provisos) the goal or objective is satisfying. For each goal, the agency can copy and paste the information from the Mission, Vision and Goals Chart. All of the legal standards mentioned for a particular goal should be included next to one of the objectives under that goal. When listing the Legal Responsibilities Satisfied, the agency can group the standards together when applicable (i.e. 63-19-320 thru 63-19-370). Make sure it is clear whether the agency is referencing state or federal laws and whether it is a proviso or statute.
- 2) Under the "Strategic Plan Part and Description" column, enter the strategic plan part number and description (i.e. Goal 1 - Increase the number of job opportunities available to juveniles to 20 per juvenile within the next 2 years). For each goal, the agency can copy and paste the information from the Mission, Vision and Goals Chart. If the agency is still utilizing the same strategies and objectives it submitted as part of the Accountability Report, it can copy and paste those into this chart, then fill in the remainder of the columns. However, if the agency has trouble explaining how each objective is SMART, it may need to revise its objectives. In addition, if the agency has revised its strategic plan since submitting its last Accountability Report, please provide information from the most current strategic plan.
- 3) Under the "Describe how it is SMART" column, enter the information which shows how each goal and objective is Specific, Measurable, Attainable, Relevant and Time-bound.
- 4) Under the "Public Benefit/Intended Outcome" column, enter the intended outcome of accomplishing each goal and objective.
- 5) Under the "Responsible Person" columns, provide information about the individual who has primary responsibility/accountability for each goal and objective. The Responsible Person for a goal has different teams of employees beneath him/her to help accomplish the goal. The Responsible Person for an objective has employees and possibly different teams of employees beneath him/her to help accomplish the objective. The Responsible Person for a goal is the person who, in conjunction with his/her team(s) and approval from higher level superiors, determines the strategy and objectives needed to accomplish the goal. The Responsible Person for an objective is the person who, in conjunction with his/her employees and approval from higher level superiors, sets the performance measure targets and heads the game plan for how to accomplish the objective for which he/she is responsible. Under the "Position" column, enter the Responsible Person's position/title at the agency. Under "Office Address" column, enter the address for the office from which the Responsible Person works. Under the "Department/Division" column, enter the department or division at the agency in which the Responsible Person works. Under the "Department/Division Summary" column, enter a brief summary (no more than 1-2 sentences) of what that department or division does in the agency.

Legal Responsibilities Satisfied:	Strategic Plan Part and Description	How it is S.M.A.R.T.:	Public Benefit/Intended Outcome:	Responsible Person Name:	Number of months person has been responsible for the goal or objective:	Position:	Office Address:	Department or Division:	Department or Division Summary:
(i.e. state and federal statutes or provisos the goal or objective is satisfying)	(i.e. Goal 1 - Insert description, Strategy 1.1 - Insert Description, Objective 1.1.1 - Insert Description)	Describe how each goal and objective is... Specific; Measurable; Attainable; Relevant; and Time-bound	(Ex. Output = rumble strips are installed on the sides of a road; Outcome = incidents decrease and public perceives that the road is safer) Just enter the intended outcome						
	Goal 1 - Improve agency operational readiness and workforce development	Unless otherwise noted, the time-frame for accomplishment is the end of this FY		Aaron Wood		Assistant Commissioner	Headquarters (1200 Senate Street, 5th Floor Wade Hampton Building, Columbia) unless otherwise noted	Agency Operations (AO) Division	see website
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 1.1 - Evaluate new technology products and services and implement based on cost/benefit analyses	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 1.1.1 - Replace personal computers every three years			Chris Cortez		IT Consultant / Info Sec Specialist		IT (AO)	
	Objective 1.1.2 - Update all computer operating systems to Windows 10 this FY			Chris Cortez		IT Consultant / Info Sec Specialist		IT (AO)	

Strategy, Objectives and Responsibility

The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 1.2 - Prioritize information security activities	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 1.2.1 - Achieve 100% completion of the US Department of Defense Information Security Awareness Program by 31 October every year			Chris Cortez		IT Consultant / Info Sec Specialist		IT (AO)	
	Objective 1.2.2 - Implement all 13 INFOSEC policies by 2016			Chris Cortez		IT Consultant / Info Sec Specialist		IT (AO)	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 1.3 - Provide more professional development opportunities for employees	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 1.3.1 - Offer in-house training at least quarterly			Kathleen Pierce		Human Resources Director		HR (AO)	
	Objective 1.3.2 - Staff will participate in trade groups and industry associations			Unit supervisors					
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 1.4 - Improve financial reporting and business procedures	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 1.4.1 - Provide monthly financial reports to division directors for personnel and operating funds in their areas of responsibility			Carla Lindler		Administration Director		Admin (AO)	
	Objective 1.4.2 - Achieve a higher agency procurement certification from MMO			Carla Lindler		Administration Director		Admin (AO)	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 1.5- Emphasize employee health and safety on and off the job	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 1.5.1 - Offer an annual health screening for all employees			Kathleen Pierce		Human Resources Director		HR (AO)	
	Objective 1.5.2 - Purchase Personal Protective Equipment for all field personnel			Unit supervisors					
	Objective 1.5.3 - Ensure that all agency office buildings with 10 or more employees are equipped with AED machines			Kathleen Pierce		Human Resources Director		HR (AO)	
	Goal 2 - Protect the consumers in the marketplace through compliance inspections, laboratory testing and analysis, issuing certifications, sampling, licensing, auditing, and providing commodity oversight of storage warehouses and facilities.			Derek Underwood		Assistant Commissioner	123 Ballard Court, West Columbia, SC	Consumer Protection (CP) Division	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 2.1 - Provide food/feed safety oversight at SC food manufacturing and storage facilities through routine periodic inspections based on product types, inspection history, and risk analysis	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 2.1.1 - Participate in the Food and Drug Administration's MFRPS by 2015			Angie Culler		Director	123 Ballard Court, West Columbia, SC	Food and Feed Safety (CP)	

Strategy, Objectives and Responsibility

	Objective 2.1.2 - Make all 42 public forms able to be submitted online			Chris Cortez / Lauren Gunn		IT Consultant / Administrative Assistant	123 Ballard Court, West Columbia, SC	IT (AO) / CP	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 2.2 - Maintain the accuracy of the state's measurement system by providing high precision calibration services to public and private sector customers at the SC Metrology Laboratory	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 2.2.1 - Become accredited by the National Voluntary Laboratory Accreditation Program (NVLAP)			Robert McGee		Lab Director	237 Catawba Street, Columbia SC	Metrology	
	Objective 2.2.2 - Design and build a new metrology laboratory to meet the requirements for an Echelon I metrology laboratory			Robert McGee		Lab Director	237 Catawba Street, Columbia SC	Metrology	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 2.3 - Provide the public with assurance that commodities bought and sold are the correct quantity and quality, safe, wholesome, and adhere to specific standards	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 2.3.1 - Routinely inspect 100% of regulated firms annually			John Stokes		Director	123 Ballard Court, West Columbia, SC	Consumer Services (CP)	
	Objective 2.3.2 - Ensure same-day follow-up communication on 100% of consumer complaints			Alicia Attaway		Administrative Assistant	123 Ballard Court, West Columbia, SC	Consumer Services (CP)	
	Objective 2.3.3 - Increase and broaden sampling of fruits and vegetables in the chemical residue laboratory by 10%			Sherry Garris		Chemist, Pesticide Residue	123 Ballard Court, West Columbia, SC	Laboratory (CP)	
	Goal 3 - Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products			Martin Eubanks		Assistant Commissioner		Agricultural Services (AS) Division	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 3.1 - Expand Certified SC (CSC) branding program	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 3.1.1 - Increase program membership by 10%			Ansley Rast		Marketing Specialist		Marketing (AS)	
	Objective 3.1.2 - Use merchandising to grow sales of local products in retail outlets by 5%			Sonny Dickinson		Merchandiser		Marketing (AS)	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 3.2 - Expand marketing opportunities through the State Farmers Market system, community based markets, roadside markets, and agritourism operators	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 3.2.1 - Identify and prioritize critical upgrades at all 3 market facilities based on consumer safety, overall appearance, and functionality			Martin Eubanks		Assistant Commissioner		AS	
	Objective 3.2.2 - Provide 4 training meetings for producers interested in accepting WIC/SNAP vouchers across the state			Emily Joyce		Marketing Specialist		Marketing (AS)	
	Objective 3.2.3 - Create 3 statewide food hubs			Clint Leach		Assistant Commissioner		Economic Development and Legislative Affairs (EDLA)	

Strategy, Objectives and Responsibility

The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 3.3 - Expand commodity board research, promotion and education	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 3.3.1 - Develop commodity specific strategies to highlight crop conditions, outlooks, and timin, to increase overall sales in-state by 5%			various marketing specialists					
	Objective 3.3.2 - Devote more resources into export market analysis, access, and development			Martin Eubanks		Assistant Commissioner		AS	
	Goal 4 - Provide credible and timely information to increase public awareness of the agricultural industry, and knowledge of agricultural issues			Stephanie Sox		Communications Director		Public Information	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 4.1 - Ensure timely delivery of informatio of both producer and consumer interest	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 4.1.1 - Develop strategies to reach consumers directly on internet channels with messaging one month before major events and two weeks before minor events			Elizabeth Shuler		Marketing Specialist		Marketing (AS)	
	Objective 4.1.2 - Respond to 100% of website information requests within 2 business days.			Stephanie Sox		Communications Director		Public Information	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 4.2 - Expand reach of Market Bulletin/Market News Service as an information vehicle and educational resource	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 4.2.1 - Maintain subscription reach of 15,625			Aaron Wood		Assistant Commissioner		AO	
	Objective 4.2.2 - Conduct reader interest survey every three years			Marsha Hewitt		Editor		Market Bulletin (AO)	
	Objective 4.2.3 - Engage staff to contribute articles and photographs for all 24 issues			Marsha Hewitt		Editor		Market Bulletin (AO)	
	Goal 5 - Enhance growth and expansion of the state's total agricultural product output, economic impact, and capital investment			Clint Leach		Assistant Commissioner		Economic Development and Legislative Affairs (EDLA)	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 5.1 - Expand existing industry and increase value-added production	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 5.1.1 - Help five current in-state companies use more SC products in their business process			Jack Shuler		Director		Agribusiness Development (EDLA)	
	Objective 5.1.2 - Encourage new business incentives for agribusiness			Clint Leach		Assistant Commissioner		EDLA	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 5.2 - Increase agribusiness recruitment efforts	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Strategy, Objectives and Responsibility

	Objective 5.2.1 - Engage state, local, and regional alliance officials about agribusiness opportunities by meeting with state commerce officials and regional alliance directors and staff on a quarterly basis.			Clint Leach		Assistant Commissioner		EDLA	
	Objective 5.2.2 - Participate in at least 7 business events and tradeshow per year			Jack Shuler		Director		Agribusiness Development (EDLA)	
	Objective 5.2.3 - Complete the Agribusiness Development application/online portal with Clemson University PSA			Clint Leach		Assistant Commissioner		EDLA	
The agency does not need to insert the information for the rest of the columns for any strategy, type "n/a"	Strategy 5.3 - Take a leading role in advocating for sound, responsible agribusiness policies that encourage business growth and resource stewardship	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	Objective 5.3.1 - Assess all industry policies prior to the beginning of each legislative session by gathering input from at least 10 different producers			Martin Eubanks / Clint Leach		Assistant Commissioners		AS / EDLA	
	Objective 5.3.2 - Work with regulatory and marketing program staff to review current laws, regulations, and policies to find the most efficient balance of consumer safety and a business friendly environment			All Assistant Commissioners					

Objective Details

This is the next chart because once the agency determines the associated programs and amount of funds it is allocating to accomplish each objective, the agency needs to ensure it has proper performance measures established to track how effectively and efficiently it is utilizing the resources allocated. The agency also needs to consider potential negative impacts which may arise, and need to be addressed, if the objective is not accomplished; ensure the agency is addressing issues raised in previous audits or reviews; and continually consider which partners the agency could work with to more effectively and efficiently accomplish each objective.

Agency Responding	South Carolina Department of Agriculture
Date of Submission	4/23/81
Fiscal Year for which information below pertains	2015-16

Instructions: Below is a template to complete for each Objective listed in the Strategy, Objectives and Responsibility Chart. It is recommended that the agency copy and paste the data in this tab into multiple other tabs, while it is still blank. The agency will then have a blank version to complete for each separate Objective. The agency needs to provide information in all the cells that are highlighted. Please save the information related to each Objective as a separate tab in the excel document. Label each Tab, "O__" and insert the applicable numbers in the blanks (For example "O1.1.1"). NOTE: Call House Staff if the agency has any questions or needs any assistance in completing the information below.

Strategic Plan Context		
# and description of Goal the Objective is helping accomplish:		Copy and paste this from the second column of the Mission, Vision and Goals Chart
Legal responsibilities satisfied by Goal:		Copy and paste this from the first column of the Mission, Vision and Goals Chart
# and description of Strategy the Objective is under:		Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Objective		
Objective # and Description:		Copy and paste this from the second column of the Strategy, Objectives and Responsibility Chart
Legal responsibilities satisfied by Objective:		Copy and paste this from the first column of the Strategy, Objectives and Responsibility Chart
Public Benefit/Intended Outcome:		Copy and paste this from the fourth column of the Strategy, Objectives and Responsibility Chart
Agency Programs Associated with Objective		
Program Names:		Enter all the agency programs which are helping accomplish this objective. The agency can determine this by sorting the Associated Programs Chart by the "Objective the Program Helps Accomplish" column
Responsible Person		
Name:		Copy and paste this information from the fifth column of the Strategy, Objectives and Responsibility Chart
Number of Months Responsible:		
Position:		
Office Address:		
Department or Division:		
Department or Division Summary:		
Amount Budgeted and Spent To Accomplish Objective		
Total Budgeted for this fiscal year:		Copy and paste this information from the Strategic Budgeting Chart
Total Actually Spent:	Agency will provide next year	

PERFORMANCE MEASURES

Instructions: Please copy and paste the chart and questions below as many times as needed so the agency can provide this information for each Performance Measure that applies to this objective.

- 1) In the cell next to, "Performance Measure," enter the performance measure just like the agency did in the accountability report.
- 2) In the cell next to, "Type of Measure," pick the type of measure that best fits the performance measure from the drop down box (see Types of Performance Measures explained below).
- 3) In the next set of cells enter the actual and target results for each year. Next to "Actual Results," enter the actual value the agency had for that performance measure at the end of that year. Next to "Target Results," enter the target value the agency wanted to reach for the performance measure for that year. Next to "Minimum acceptable level," enter the minimum level for this performance measure that the agency would find acceptable. Including a minimum acceptable level and target level will hopefully encourage the agency to continually set challenging targets each year. If the agency did not utilize a particular performance measure during certain years, then enter the following next to the applicable "Actual Results" and "Target Results," - "Agency did not use PM during this year."
- 4) In the last set of cells, answer the questions to provide Details about each measure. In the cell next to, "Is agency required to keep track of this by the state or federal government," pick State from the drop down menu if an entity in state government requires the agency to track this information, Federal if an entity in the federal government requires the agency to track this information, or Only Agency Selected if there is no state or federal entity that requires the agency to track this information and the agency selected it.

Objective Details

Types of Performance Measures:

Outcome Measure - A quantifiable indicator of the public and customer benefits from an agency's actions. Outcome measures are used to assess an agency's effectiveness in serving its key customers and in achieving its mission, goals and objectives. They are also used to direct resources to strategies with the greatest effect on the most valued outcomes. Outcome measures should be the first priority. Example - % of licensees with no violations.

Efficiency Measure - A quantifiable indicator of productivity expressed in unit costs, units of time, or other ratio-based units. Efficiency measures are used to assess the cost-efficiency, productivity, and timeliness of agency operations. Efficiency measures measure the efficient use of available resources and should be the second priority. Example - cost per inspection

Output Measure - A quantifiable indicator of the number of goods or services an agency produces. Output measures are used to assess workload and the agency's efforts to address demands. Output measures measure workload and efforts and should be the third priority. Example - # of business license applications processed.

Input/Explanatory/Activity Measure - Resources that contribute to the production and delivery of a service. Inputs are "what we use to do the work." They measure the factors or requests received that explain performance (i.e. explanatory). These measures should be the last priority. Example - # of license applications received

How the Agency is Measuring its Performance:

Objective Number and Description:	
Performance Measure:	
Type of Measure:	
Results	
2013-14 Actual Results (as of 6/30/14):	
2014-15 Target Results:	
2014-15 Actual Results (as of 6/30/15):	
2015-16 Minimum Acceptable Results:	
2015-16 Target Results:	
Details	
Does the state or federal government require the agency to track this? (provide any additional explanation needed, two cells over)	Insert any further explanation, if needed
What are the names and titles of the individuals who chose this as a performance measure?	
Why was this performance measure chosen?	
If the target value was not reached in 2014-15, what changes were made to try and ensure it was reached?	
What are the names and titles of the individuals who chose the target value for 2015-16?	
What was considered when determining the level to set the target value in 2015-16 and why was the decision finally made on setting it at the level at which it was set?	
Based on the performance so far in 2015-16, does it appear the agency is going to reach the target for 2015-16?	
If the answer to the question above is "questionable" or "no," what changes are being made to try and ensure it is reached or what resources are being diverted to ensure performance measures more likely to be reached, are reached?	

POTENTIAL NEGATIVE IMPACT

Instructions: Please list what the agency considers the most potential negative impact to the public that may occur as a result of the agency not accomplishing this objective. Next to, "Most Potential Negative Impact," enter the most potential negative impact to the public that may occur as a result of the agency not accomplishing the objective. Next to, "Level Requires Outside Help," enter the level at which the agency believes it needs outside help. Next to, "Outside Help to Request," enter the entities to whom the agency would reach out if the potential negative impact rises to that level. Next to, "Level Requires Inform General Assembly," enter the level at which the agency thinks the General Assembly should be put on notice of the level at which the potential negative impact has risen. Next to, "3 General Assembly Options," enter three options for what the General Assembly could do to help resolve the issue before it became a crisis. The House Legislative Oversight Committee will provide this information to all other House standing committees, but will not address it itself until the agency is under study.

Most Potential Negative Impact	
Level Requires Outside Help	
Outside Help to Request	
Level Requires Inform General Assembly	
3 General Assembly Options	

REVIEWS/AUDITS

Instructions: Below please list all external or internal reviews, audits, investigations or studies ("Reviews") of the agency which occurred during the past fiscal year that relates/impacts this objective. Please remember to maintain an electronic copy of each Review and any other information generated by the entity performing the Review as copies may be requested when the agency is under study. NOTE: Responses are not limited to the number of rows below that have borders around them, please insert as many rows as needed.

Matter(s) or Issue(s) Under Review	Reason Review was Initiated (outside request, internal policy, etc.)	Entity Performing the Review and Whether Reviewing Entity External or Internal	Date Review Began (MM/DD/YYYY) and Date Review Ended (MM/DD/YYYY)

PARTNERS

Objective Details

Instructions: Under the column labeled, "Current Partner Entities" list all entities the agency is currently working with that help the agency accomplish this objective. Under the "Ways Agency works with Current Partners," enter the ways the agency works with the entity (names of projects, initiatives, etc.) which helps the agency accomplish this objective. List only one partner per row and insert as many rows as necessary to list all of the partners. Note, if there is a large list of partners that all fit within a certain group, the agency can list the group instead of each partner individually. For example, if the agency works with every middle school in the state, the agency can list SC Middle Schools, instead of listing each middle school separately. As another example, if the agency works with every high school in Lexington county, the agency can list Lexington County High Schools, instead of listing each high school in the county separately.

Current Partner Entity	Ways Agency Works with Current Partner	Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

Restructuring Recommendations and Feedback

Agency Responding	South Carolina Department of Agriculture
Date of Submission	4/23/81
Fiscal Year for which information below pertains	2015-16

RESTRUCTURING RECOMMENDATIONS

Instructions: Please answer the questions below and add as many rows as needed.

Does the agency have any recommendations, minor or major, for restructuring?

No

If the agency has recommendations for restructuring, list each one on a separate row in the chart below. Add as many rows as needed.

Does the agency recommendation require legislative action?	Recommendation for restructuring

FEEDBACK (Optional)

Instructions: Please answer the questions below to provide feedback on this Annual Restructuring Report ("Report").

Please list 1-3 benefits the agency sees in the public having access to the information requested in the Report, in the format it was requested.	Please list 1-3 benefits to agency management and employees in having all of this information available in one document.	Now that the agency has completed the Report, please list 1-3 things the agency could do differently next year (or it could advise other agencies to do) to complete the Report in less time and at a lower cost to the agency.
1	1	1
2	2	2
3	3	3

Does the agency believe this year's Restructuring Report was less burdensome than last year's?	Please list 1-3 changes to the Report questions, format, etc. the agency recommends to ensure the Report provides the best information to the public and General Assembly, in the least burdensome way to the agency.	Please add any other feedback the agency would like to provide (add as many additional rows as necessary)
No	Create a different reporting approach other than goals/strategies/objectives, which have already been aggregated in the Accountability Report.	The Restructuring Report in its current format requires agencies to expand upon information provided in the Accountability Report to the point where it is no longer useful or practical. Self-evaluation is an important tool to state agencies, and reports that divert staff time away from achieving the agency's mission should have a clear purpose and application.
Why or why not?	Avoid asking for the same information multiple different times, i.e. legal responsibilities satisfied.	
The objective detail is extremely cumbersome to aggregate; and the formatting was rough	Remove objective details worksheet.	

Agencies are not required to do anything in this worksheet. This worksheet is part of the document so the proper drop down menus can be available in the other tabs.

Is Performance Measure Required?

State

Federal

Only Agency Selected

Type of Performance Measure

Outcome

Efficiency

Output

Input/Explanatory/Activity

Is the Partner a State/Local Government Entity; College, University; or Other Business, Association, or Individual?

State/Local Government Entity

College/University

Business, Association or Individual

Does the Agency have any restructuring recommendations

Yes

No

Does the agency believe this year's Restructuring Report was less burdensome than last year's?

Yes

No

Legal Standards

This is the first chart in the report because the legal standards which apply to the agency should serve as the basis for the agency's mission, vision and strategic plan.

Agency Responding	South Carolina Department of Agriculture
Date of Submission	January 12, 2016

Instructions: List all state and federal statutes, regulations and provisos that apply to the agency ("Laws") and a summary of the statutory requirement and/or authority granted in the particular Law listed. If the agency grouped Laws together last year, they can continue to do so this year. However, please be aware that when the agency goes under study, the House Legislative Oversight Committee will ask it to list each Law individually. The Committee makes this request so the agency can then analyze each of the Laws to determine which current Laws may need to be modified or eliminated, as well as any new Laws possibly needed, to allow the agency to be more effective and efficient or to ensure the Law matches current practices and systems. Included below is an example, with a partial list of Laws which apply to the Department of Juvenile Justice. Please delete the example information before submitting this chart in final form. NOTE: Responses are not limited to the number of rows below that have borders around them, please list all that are applicable.

Item #	Statute, Regulation, or Proviso Number	State or Federal	Summary of Statutory Requirement and/or Authority Granted	Is the law a Statute, Proviso or Regulation?
1	46-3-10	State	Establishes duties of Department-The Department of Agriculture shall execute the laws of this State pertaining to agriculture except such laws as specifically designated for execution by others.	Statute
2	46-3-20	State	Establishes SCDA's authority to issue food manufacturers, processors, and packers permits.	Statute
3	46-3-25	State	Establishes a program within SCDA to foster relationships between S.C. farms, school districts, and other institutions and to provide them with fresh and minimally processed foods for consumption by students.	Statute
4	46-3-30	State	Establishes qualifications of the Commissioner of Agriculture.	Statute
5	46-3-40	State	Establishes election process for the Commissioner of Agriculture.	Statute
6	46-3-50	State	Establishes the bond of the Commissioner of Agriculture.	Statute
7	46-3-60	State	Allows for the appointment of a clerk by the Commissioner.	Statute

Legal Standards

8	46-3-80	State	Establishes duties of the Commissioner-promotion of agriculture; establish a land registry	Statute
9	46-3-90	State	Establishes the Commissioner's authority to regulate the sale of marl or ground limestone.	Statute
10	46-3-100	State	Establishes the Commissioner's authority to regulate the sale of inoculating material.	Statute
11	46-3-110	State	Establishes the disposition of moneys derived from sale of innoculating material.	Statute
12	46-3-120	State	Establishes that other Departments and agencies shall furnish information to the Commissioner as necessary.	Statute
13	46-3-130	State	Establishes the authority of SCDA to enter into contracts or agreements with any State agency.	Statute
14	46-3-140	State	Establishes the requirement of an annual report of SCDA's work.	Statute
15	46-3-145	State	Establishes the definition of "beneficiary class" and SCDA's involvement with loan programs.	Statute
16	46-3-160	State	Establishes the Commissioner's authority to enter into agreements with the U.S. government for the conduct of aquatic plant control projects.	Statute
17	46-3-170	State	Establishes that the Commissioner may sue or be sued.	Statute
18	46-3-175	State	Establishes the authority of SCDA to issue agribusiness licenses.	Statute
19	46-3-180	State	Establishes the authority of the Commissioner to revoke registrations or licenses.	Statute
20	46-3-190	State	Establishes that a hearing must occur before a license is revoked.	Statute
21	46-3-200	State	Establishes the procedural powers of the Commissioner at license revocation hearing.	Statute
22	46-3-210	State	Establishes the bond to stay revocation.	Statute
23	46-3-220	State	Establishes the appeals process for revocation of registrations or licenses.	Statute
24	46-3-230	State	Establishes release of certain items from restraining orders.	Statute
25	46-3-240	State	Establishes the authority of the Commissioner and inspectors to enforce regulations relating to food and drugs.	Statute
26	46-3-260	State	Establishes the South Carolina Renewable Energy Infrastructure Development Fund and gives SCDA authority to prescribe procedures, as necessary, to execute related provisions.	Statute
27	46-3-270	State	Establishes the authority of SCDA to waive the remittance of indirect cost recoveries for the Specialty Crop Grant.	Statute

Legal Standards

28	46-15-10	State	Establishes the general duties of SCDA.	Statute
29	46-15-20	State	Establishes the general powers of SCDA.	Statute
30	46-15-21	State	Establishes the abolition of the State Agricultural Marketing Commission.	Statute
31	46-15-30	State	Establishes that any rules and regulations must be filed with the Secretary of State.	Statute
32	46-15-40	State	Establishes that inspection, grading, and buyers' services shall be made available to private markets at reasonable charges.	Statute
33	46-15-50	State	Establishes that SCDA must keep markets' records.	Statute
34	46-15-60	State	Establishes that funds from the operation of the wholesale farmers' markets must be deposited monthly with the State Treasurer.	Statute
35	46-15-70	State	Establishes the Agricultural Marketing Advisory Council with the Commissioner as chairman.	Statute
36	46-15-80	State	Establishes meetings and compensation of the Agricultural Marketing Advisory Council.	Statute
37	46-15-90	State	Establishes duties of the Agricultural Marketing Advisory Council.	Statute
38	46-17-340	State	Establishes that SCDA shall provide administrative support to S.C. Commodity Boards and Associations.	Statute
39	46-19-40	State	Establishes that SCDA shall approve, assist, and supervise local marketing authorities.	Statute
40	46-19-210	State	Establishes the authority of the Commissioner to establish and supervise the Roadside Market Incentive Program.	Statute
41	46-19-220	State	Establishes the authority of the Commissioner to prescribe standards for participating in the Roadside Market Incentive Program.	Statute
42	46-19-230	State	Establishes the application process for the Roadside Market Incentive Program.	Statute
43	46-19-240	State	Establishes the Commissioner's authority to make signs for the Roadside Market Incentive Program.	Statute
44	46-19-250	State	Establishes periodic inspections of approved roadside markets.	Statute
45	46-19-260	State	Establishes notice and hearing on disapproved market application.	Statute
46	46-19-270	State	Establishes penalty for displaying an unauthorized market sign.	Statute
47	46-19-280	State	Establishes transfer of market signs.	Statute
48	46-19-290	State	Establishes the authority of the Commissioner to expend funds for the promotion and expansion of agricultural products.	Statute
49	46-19-300	State	Establishes the authority of the Commissioner to adopt rules to implement the Roadside Market Incentive Program.	Statute

Legal Standards

50	46-19-310	State	Establishes the authority of the Commissioner to apply for an injunction.	Statute
51	46-21-25	State	Establishes the authority of SCDA to enforce state seed law.	Statute
52	46-21-35	State	Establishes the SCDA seed laboratory.	Statute
53	46-27-410	State	Establishes the authority of SCDA to inspect and take feed samples.	Statute
54	46-40-10	State	Establishes the SC Grain Dealers Guaranty Fund.	Statute
55	46-41-40	State	Establishes the authority of SCDA to issue agricultural dealers and handlers licenses.	Statute
56	46-42-10	State	Establishes the authority of SCDA to sample, grade, and inspect grain and oilseeds.	Statute
57	46-51-10	State	Establishes the Aquaculture Permit Assistance Office within SCDA.	Statute
58	39-9-68	State	Charges SCDA Consumer Services Division with performing weights and measures functions.	Statute
59	39-9-70	State	Charges the Commissioner of Agriculture with maintaining and enforcing weights and measures inspections and standards.	Statute
60	44.1	State	Establishes the authority of SCDA to charge a yearly subscription for the Market Bulletin.	Proviso
61	44.2	State	Establishes fruit/vegetable inspectors subsistence.	Proviso
62	44.3	State	Establishes SCDA use of the Warehouse Receipts Guaranty Fund.	Proviso
63	44.4	State	Establishes a weights and measures registration fee.	Proviso
64	44.5	State	Establishes the authority of SCDA to retain revenues associated with the sale of its property.	Proviso
65	44.6	State	Establishes an account for revenue associated with the State Farmers Market.	Proviso
66	44.7	State	Establishes the authority of SCDA to charge for export certification.	Proviso
67	44.8	State	Establishes the authority of SCDA to charge for registration of feed labels.	Proviso
68	5-190	State	State Farmers Markets; rules and regulations	Regulation
69	5-200 through 5-207	State	Commercial feeding stuffs	Regulation
70	5-210 through 5-235	State	Egg grading and packaging	Regulation
71	5-300 through 5-322	State	Food labeling	Regulation
72	5-360 through 5-373	State	Salvage operations dealing in foods and cosmetics	Regulation
73	5-420 through 5-426	State	Livestock sales licenses	Regulation
74	5-440 through 5-449	State	Petroleum products	Regulation
75	5-450 through 5-459	State	The Roadside Market Incentive Program	Regulation
76	5-460 through 5-483	State	Seeds	Regulation

Legal Standards

77	5-490 through 5-497	State	Warehouse system	Regulation
78	5-500 through 5-572	State	Weights and measures	Regulation
79	5-581	State	Dealers and handlers of agricultural products	Regulation
80	5-610 through 5-613	State	Milk Producer Tax Credit	Regulation

Reporting Requirements

Agency Responding	SC Department of Agriculture
Date of Submission	1/12/2015
Fiscal Year for which information below pertains	2015-16

Instructions:

List all reports, if any, the agency is required to submit to a state, federal or outside entity on a regular basis. Insert the name of each report in a separate column and answer the questions below it. Add as many columns as needed.

PLEASE NOTE: All information the agency provides in the rows below the row labeled, "Date the Report was last submitted," should apply to when the agency most recently submitted the report (i.e. date report was last submitted).

Agency Responding:	SC Department of Agriculture	SC Department of Agriculture	SC Department of Agriculture	SC Department of Agriculture	SC Department of Agriculture	SC Department of Agriculture	SC Department of Agriculture
Report #:	1	2	3	4	5	6	7
Report Name:	Restructuring Report	Accountability Report	Fees and Fines Report	Report on Sale of Real Property	Energy Usage Annual Progress Report	FY13-14 General Appropriations Property Report	2015 Capital Permanent Improvement Plan
Why Report is Required							
Legislative entity requesting the agency complete the report:	House Legislative Oversight Committee	Executive Budget Office	House Ways and Means Committee and Senate Finance Committee	House Ways and Means Committee	Office of Regulatory Staff, Energy Office	Division of General Services	Executive Budget Office
Law which requires the report:	SC Code 1-80-10(6)(1)	Proviso 117.29	Proviso 117.75	Proviso 93.25	48-52-610 through 48-52-910	Proviso 118.2 of the FY 2013-2014 General Appropriations Act	SC Code 2-47-55
Agency's understanding of the intent of the report:	Increased Efficiency	Provide the Governor and General Assembly with information that supports their analysis of the budget and ensure that the Agency Head Salary Commission has a basis for its decisions	Promote accountability and transparency	Information	Allow the Energy Office to verify compliance with the State Government Energy Conservation Act; assist in statewide energy planning efforts	to obtain a complete and accurate portfolio of all state-owned property.	The CIP is designed to include all permanent improvement projects projected and proposed for the years covered by the plan regardless of the sources of funds expected to finance them.
Year agency was first required to complete the report:	2015	2012	unknown	2009	unknown	unknown	2002
Reporting frequency (i.e. annually, quarterly, monthly):	Annually	Annually	Annually	Annually	Annually	One time	Annually
Information on Most Recently Submitted Report							
Date Report was last submitted:	4/30/2015	9/14/2015	9/1/2014	12/4/2013	9/1/2015	8/3/2014	1/13/2015
Timing of the Report							
Month Report Template is Received by Agency:	November	June	July	July		February	January
Month Agency is Required to Submit the Report:	January	September	September	September	September	March	March
Where Report is Available & Positive Results							
To whom the agency provides the completed report:	House Legislative Oversight Committee	Executive Budget Office	SC House Ways and Means Committee and Senate Finance Committee	SC House Ways and Means Committee	Office of Regulatory Staff, Energy Office	Division of General Services	Capital Budgeting Unit, Executive Budget Office
Website on which the report is available:	scstatehouse.gov	admin.sc.gov/budget	www.agriculture.sc.gov				http://www.admin.sc.gov/budget/capital-budgeting-unit/CPIP
If it is not online, how can someone obtain a copy of it:	n/a	n/a		contact House Ways and Means	contact the Energy Office	contact the Dept of Administration	
Positive results agency has seen from completing the report:	n/a	Increased clarity and organization of agency goals, strategies, and objectives.					

Associated Programs

This is the next chart because once the agency has determined its goals, strategies and objectives, the agency needs to determine which of its programs will help achieve those objectives and goals and which programs may need to be curtailed or eliminated. If one program is helping accomplish an objective that a lot of other programs are also helping accomplish, the agency should consider whether the resources needed for that program could be better utilized (i.e. so the agency can most effectively and efficiently accomplish all of its goals and objectives) if they were distributed among the other programs that are helping accomplish the same objective or among programs that are helping accomplish other objectives.

Agency Responding	South Carolina Department of Agriculture
Date of Submission	January 12, 2016
Fiscal Year for which information below pertains	2015-16

Instructions:

- 1) Under the "Name of Agency Program" column, enter the name of every program at the agency on a separate row.
- 2) Under the "Description of Program" column, enter a 1-3 sentence description of the agency program.
- 3) Under the "Legal Statute Requiring Program" column, enter the legal statute which requires (this is different than allows) the program, if the program is required by a state or federal statute or proviso. Make sure it is clear whether the agency is referencing state or federal laws and whether it is a proviso or statute. If the program is not required by a state or federal statute or proviso, enter "none."
- 3) Under the "Objective the Program Helps Accomplish" column, enter the strategic plan objective number and description. The agency can copy the Objective number and description from the first column of the Strategy, Objective and Responsibility Chart. Enter ONLY ONE objective per row. If an agency program helps accomplish multiple objectives, insert additional rows with that agency program information and enter each different objective it helps accomplish on a separate row.

Name of Agency Program	Description of Program	Legal Statute or Proviso Requiring the Program	Objective the Program Helps Accomplish (The agency can copy the Objective number and description from the first column of the Strategy, Objective and Responsibility Chart) List <u>ONLY ONE</u> strategic objective per row.
State Farmers Markets	The State of South Carolina owns and manages three regional state farmers markets in Columbia, Florence, and Greenville which provide consumers with a wide variety of locally grown produce and specialty products.	State 46-15-20	Goal 3
Grading/Inspections	Under a cooperative agreement with USDA, fruit, vegetable, poultry and egg, and commodity grading and inspection services are provided. Includes Good Agricultural Practices (GAP) training.	State 46-42-10	Goals 2 and 3
Market News Services	A USDA market service that analyzes and distributes price, volume, and other market information to all segments of the produce, grain, and livestock industries, and to consumers.	State 46-15-10	Goals 3 and 4
Marketing	Maintains and develops broad-based marketing programs that increase consumer awareness and product demand for quality SC agricultural products at local, national, and international levels.	State 46-15-10	Goal 3
Consumer Services	Protects consumers by ensuring that the net content statements on packages and weighing or measuring devices are correct; and that agricultural products are measured accurately for commerce.	State 39-9-68; 39-9-70; Proviso 44.4	Goal 2
Laboratory Services	Protects consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale; assures that goods meet acceptable standards of quality; and issues registrations, licenses, and permits to certain businesses. (Food Laboratory, Feed Laboratory, Seed Laboratory, Chemical Residue Laboratory, and Petroleum Products Laboratory)	State 46-21-25; 46-21-35; 46-27-410	Goal 2
Metrology	Provides NIST traceable calibrations for mass and volume standards, calibrates equipment for our state inspectors and private scale and pump service companies for the enforcement of weights and measures regulations.	State 39-9-68; 39-9-70	Goal 2

Associated Programs

Food & Feed Safety and Compliance	Ensures that foods and feeds are manufactured under safe and sanitary conditions through routine surveillance inspections .	State 46-3-240	Goal 2
Administrative Services	Provides executive leadership, support, policy development and review, financial services, information technology , facilities management and other administrative services.	State 46-3-10	Goals 1 and 4
Market Bulletin	Publication issued twice a month; available printed and electronically	Proviso 44.1	Goal 4
Agribusiness Development	Works to continually promote agribusiness in SC through research and recruitment of prospective agribusinesses that may have an interest in locating or growing their agribusiness in SC, via the production of SC grown products or value-added services/processing .	State 46-15-10	Goal 5
Grants Coordination	Cooperate with the federal government to implement the Specialty Crop Block Grant (SCBG), Farm to School Grant (F2S), Manufactured Food and Regulatory Program Standards (MFRPS); pursue and secure other grants to benefit the agriculture industry and SCDA.	Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C 1621 note.) and ammended under section 10109 of the Food Conservation and Energy Act of 2008, Public Law 110-246 (the Farm Bill); currently implemented under 7 CFR Part 1291	Goals 3 and 5

Strategic Budgeting

This is the next chart because once the agency determines its goals, strategies and objectives, as well as the programs that will best allow the agency to accomplish its objectives, the agency needs to determine how to allocate its funds to most effectively and efficiently accomplish the objectives. After allocating the funds to the objectives, the agency may decide to go back and revise which associated programs it will continue, curtail or eliminate in order to most effectively and efficiently accomplish its goals and objectives.

Agency Responding	S. C. Department of Agriculture
Date of Submission	Insert Date Submitted
Fiscal Year for which information below pertains	2015-2016

IMPORTANT TIME SAVING NOTE: Please note that only one year of budgeted funds is requested. Once an agency is under study with the House Legislative Oversight Committee, the Committee may request information on how the agency budgeted and spent money for the previous five years. If an agency is chosen for study five years from now, the agency can quickly and easily combine the information from this chart for each of the last five years.

Part A Instructions: Estimated Funds Available this Fiscal Year (2015-16)

1) Please enter each source of funds for the agency in a separate column. Group the funding sources however is best for the agency (i.e. general appropriation programs, proviso 18.2, proviso 19.3, grant ABC, grant XYZ, Motor Vehicle User Fees, License Fines, etc.) to provide the information requested below each source (i.e. state, other or federal funding; recurring or one-time funding; etc.). The agency is not restricted by the number of columns below so please delete or add as many as needed. However the agency chooses to group its funding sources, it should be clear through Part A and B, how much the agency estimates it has available to spend and where the agency has budgeted the funds it has available to spend.

Part B Instructions: How Agency Budgeted Funds this Fiscal Year (2015-16)

1) Enter each agency objective and description (i.e. Objective 1.1.1 - insert description of objective). The agency can insert as many rows as necessary so that all objectives are included.

2) After entering all of the objectives, enter each "unrelated purpose" for which money received by the agency will go (i.e. Unrelated Purpose #1 - insert description of unrelated purpose) on a separate row. An "unrelated purpose" is money the agency is legislatively directed to spend on something that is not related to an agency objective (i.e. pass through, carry forward, etc.).

3) Enter how much money from each source of funds the agency budgets to spend on each objective and unrelated purpose. The "Total budgeted to spend on objectives and unrelated purposes" for each source of funds in Part B should equal the "Amount estimated to have available to spend this fiscal year" in Part A.

Explanations from the Agency regarding Part A:

Insert any additional explanations the agency would like to provide related to the information it provides below.

PART A
Estimated Funds
Available this
Fiscal Year
(2015-16)

Source of Funds:	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development	
Is the source state, other or federal funding:	Totals	State & Other	State and Other	State, Other, Federal	Other	State	
Is funding recurring or one-time?	Totals	Recurring	Recurring and one-time	Recurring and one-time	Recurring	Recurring	
\$ From Last Year Available to Spend this Year							
Amount available at end of previous fiscal year		\$77,693	\$259,299	\$5,058,334	\$28,679	\$0	
Amount available at end of previous fiscal year that agency can actually use this fiscal year:		\$77,693	\$259,299	\$5,058,334	\$28,679	\$0	
If the amounts in the two rows above are not the same, explain why:	Enter explanation for each fund to the right						
\$ Estimated to Receive this Year							
Amount budgeted/estimated to receive in this fiscal year:		\$1,427,847	\$3,920,224	\$12,722,776	\$136,700	\$750,000	
Total Actually Available this Year							
Amount estimated to have available to spend this fiscal year (i.e. Amount available at end of previous fiscal year that agency can actually use in this fiscal year PLUS Amount budgeted/estimated to receive this fiscal year):		\$1,505,540	\$4,179,523	\$17,781,110	\$165,379	\$750,000	

Strategic Budgeting

PART B**How Agency
Budgeted Funds
this Fiscal Year
(2015-16)**

Explanations from the Agency regarding Part B:

Insert any additional explanations the agency would like to provide related to the information it provides below.

Source of Funds: (the rows to the left should populate automatically from what the agency entered in Part A)	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development	0
Is source state, other or federal funding: (the rows to the left should populate automatically from what the agency entered in Part A)	Totals	State & Other	State and Other	State, Other, Federal	Other	State	0
Restrictions on how agency is able to spend the funds from this source:	n/a	No	No	No	No	No	
Amount estimated to have available to spend this fiscal year: (the rows to the left should populate automatically from what the agency entered in Part A)	\$0	\$1,505,540	\$4,179,523	\$17,781,110	\$165,379	\$750,000	\$0
Are expenditure of funds tracked through SCEIS? (if no, state the system through which they are recorded so the total amount of expenditures could be verified, if needed)	n/a	Yes	Yes	Yes	Yes	Yes	
Where Agency Budgeted to Spend Money this Year							
1: Improve agency operational readiness and workforce development:		\$1,101,000	\$150,000	\$250,000			
2: Protect the consumers in the marketplace through compliance inspections, laboratory testing and analysis, issuing certifications, sampling, licensing, auditing and providing community oversight of storage warehouses and facilities:			\$4,029,523	\$4,984,968			
3: Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products and to enhance growth and expansion of the state's total agricultural product output, economic impact and capital investment:				\$6,367,114		\$200,000	
4: Provide credible and timely information and increase public awareness of the overall impact of the agricultural industry:		\$404,540		\$150,000	\$165,379		
5: Enhance growth and expansion of the state's total agricultural product output, economic impact and capital investment:				\$5,410,302		\$550,000	
Unrelated Purpose #1: Renewable Energy				\$19,668			
Unrelated Purpose #2: Gateway Project				\$500,000			
Unrelated Purpose #3: No More Homeless Pets				\$99,058			
Total Budgeted to Spend on Objectives and Unrelated Purposes: (this should be the same as Amount estimated to have available to spend this fiscal year)		\$1,505,540	\$4,179,523	\$17,781,110	\$165,379	\$750,000	

South Carolina Department of Agriculture



Hugh E. Weathers, Commissioner

South Carolina Department of Agriculture (SCDA)

Mission:

To promote and nurture the growth and development of South Carolina's agriculture industry and its related businesses while assuring the safety and security of the buying public.

SCDA

- Agricultural Services
 - Marketing
 - Grading and Inspection – F&V, grain
 - Market News Service – F&V, livestock
 - State Farmers Markets
- External Affairs and Economic Development
 - Legislative Affairs
 - Agribusiness Development
 - Grant Programs

SCDA

- **Consumer Protection**

- Food & Feed Safety
- Laboratory Services
- Consumer Services
- Metrology

- **Agency Operations**

- Office of the Commissioner
- Administration
- Human Resources
- Information Technology
- Public Information



Certified South Carolina

- 2,050 members
- 91% of consumers are more likely to purchase CSC over other products
- 67% of consumers are willing to pay more food items labeled CSC

Fresh on the Menu

- 310 members
- Program awareness is up 10 percentage points from 2013



AGRIBUSINESS

#1 INDUSTRY
in South Carolina

AGRIBUSINESS HAD A
TOTAL ECONOMIC IMPACT OF
\$41.7 BILLION
IN 2013

ECONOMIC IMPACT HAS
INCREASED 23%
SINCE 2006

ACCOUNTS FOR
212,530
JOBS TOTAL

REPRESENTING
10.5%
OF THE STATE'S WORKFORCE

2015 Flood and Rain Damage

Page 249 of 900





Clarendon County farm under water

SCDA Involvement

- SERT ESF 11 (food) and 17 (animal agriculture)
- Damage assessment
- Hay and feed analysis
- Sample grades of peanuts and grain
- Communication with crop insurance agents
- Fuel quality
- Developed protocols for evaluation of food crops in flooded areas
- 5 Team SC events and 6 farmer meetings
- Meeting with RMA Deputy Administrator

50 x 20

Working toward our goal of agribusiness being a \$50 billion industry by 2020.

- Access
- Partnerships
- Recruitment
- Diversification



Questions?

agriculture.sc.gov



Appendix E. July 6, 2016 Meeting Information

Appendix Includes:

- Correspondence before meeting
 - Press release announcing public input meeting (June 28, 2016)
- Meeting Packet
 - Agenda
 - June 28, 2016 - Meeting Minutes
 - Department of Agriculture
 - History, mission, and vision
 - Relationships
 - Public survey responses
- Documents provided by agency during meeting
 - PowerPoint - History, mission, vision, and key partners (July 6, 2016)
- Correspondence after meeting
 - Letter from Subcommittee to Department of Agriculture (August 9, 2016)
 - Requests the following information after the July 6, 2016, meeting: (1) brief overview of relationships with South Carolina State University public service activities; (2) information about pivot irrigation systems; (3) studies mentioned during the meeting; and (4) recommendations for revisions to laws that the agency would like the Subcommittee to consider for inclusion as a part of its study.
 - Letter from Department of Agriculture to Oversight Subcommittee (September 2, 2016)
 - Responds to the Subcommittee's August 9, 2016, letter and includes: (1) "The Economic Impact of Agribusiness and the Return on the Certified South Carolina Grown Campaign" published by The Darla Moore School of Business, University of South Carolina (April 2010); (2) "The Economic Impact of the Agribusiness Industry in South Carolina" prepared for the Palmetto AgriBusiness Council by Miley, Gallo & Associates, LLC (September 2008); (3) "The Impact of the Agribusiness Sector on the South Carolina Economy" prepared for the Palmetto AgriBusiness Council, SC Department of Agriculture, SC Farm Bureau, and Clemson University Public Service Activities (2015); and (4) "The Facts about Surface & Ground Water Withdrawal".



MEDIA RELEASE

June 28, 2016
For Immediate Release

Contact: Chairman Weston Newton
Email: WestonNewton@schouse.gov

INVITATION FOR PUBLIC TESTIMONY ABOUT THE SC DEPARTMENT OF AGRICULTURE AND THE SC SCHOOL FOR THE DEAF AND THE BLIND AT HOUSE LEGISLATIVE OVERSIGHT COMMITTEE'S SUBCOMMITTEE MEETINGS

Columbia, SC - The House Legislative Oversight Committee is currently conducting oversight studies on the South Carolina Department of Agriculture and the South Carolina School for the Deaf and the Blind. Subcommittee meetings will be held on the dates below for the purpose of receiving comments from the public about these agencies

[SC Department of Agriculture](#) - Wednesday, July 6, 2016 - 10:30 a.m. - Room 110, Blatt Building
[SC School for the Deaf and the Blind](#) - Wednesday, July 13, 2016 - 10:00 a.m. - Room 108, Blatt Building

During these times, Speaker Jay Lucas and the South Carolina House of Representatives' Legislative Oversight Committee are pleased to invite the public to provide comments and recommendations about the agencies. Individuals can sign up to speak by calling the House Legislative Oversight Committee at 803-212-6810, emailing the Committee at hcommlegov@schouse.gov or signing up in person a few minutes prior to the meeting.

These meetings provide the opportunity to have an individual member of the public's face and voice connected with the comments while speaking directly to the Subcommittee members. Another ongoing opportunity is a public input link available on the Committee's website, which allows individuals to provide comments anonymously. A previous opportunity was an online public survey to provide comments anonymously, which was open for a month.

It is the Committee's practice to publish responses to online surveys verbatim as received by the Committee. To view responses, go to www.scstatehouse.gov, click on the "Citizens' Interest" tab on the top row, then on the "House Legislative Oversight" link and finally click on the agency for which you would like to view responses from the public.

The Committee's vision is for South Carolina agencies to become, and continuously remain, the most effective state agencies in the country through processes which eliminate waste and efficiently deploy resources thereby creating greater confidence in state government. Comments from those citizens who choose to provide input are important to the Members of the House Legislative Oversight Committee because they may help direct the Committee to additional potential areas for improvement with these agencies.

The specific task of the House Legislative Oversight Committee is to conduct legislative oversight studies on agencies at least once every seven years. The purpose of a legislative oversight study is to determine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether or not they should be continued, curtailed or even eliminated. Also, the Committee recognizes that an oversight study serves the purpose of informing the public about an agency. Any legislator may file legislation, which will go through the normal legislative process, to implement recommendations this Committee may have relating to the agencies.

Suggestions for additional ways to inform the public about this meeting and the House Legislative Oversight Committee's process are welcomed. ###

South Carolina
House of Representatives



Legislative Oversight Committee

***ECONOMIC DEVELOPMENT, TRANSPORTATION, NATURAL RESOURCES AND
REGULATORY SUBCOMMITTEE***

*Chairman Phyllis J. Henderson
The Honorable Ralph W. Norman
The Honorable Robert L. Ridgeway III
The Honorable Samuel Rivers Jr.*

*Wednesday, July 6, 2016
10:30 a.m.*

Room 110 -Blatt Building

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming
whenever technologically feasible.*

AGENDA

- I. Approval of Minutes from the June 28, 2016 Subcommittee Meeting
- II. Discussion of the study of the Department of Agriculture, including, but not limited to, its history, mission, and vision
- III. Opportunity for Public Testimony about the Department of Agriculture

Individuals can sign up to testify by calling the House Legislative Oversight Committee at 803-212-6810, emailing the Committee at hcommlegov@schouse.gov, or signing up in person a few minutes prior to the meeting. S.C. Code of Laws Section 2-2-70 provides that all testimony given to the investigating committee must be under oath.

An ongoing opportunity for public input is available on the Committee's website, which allows individuals to provide comments to the House Legislative Oversight Committee anonymously.

- III. Adjournment

LEGISLATIVE OVERSIGHT COMMITTEE

ECONOMIC DEVELOPMENT,
TRANSPORTATION, NATURAL
RESOURCES AND REGULATORY
SUBCOMMITTEE

MINUTES FROM JUNE 28, 2016 MEETING

Chairman Wm. Weston J. Newton

First Vice-Chair:
Laurie Slade Funderburk

Legislative Oversight Committee



South Carolina House of Representatives

Nathan Ballentine
Gary E. Clary
Kirkman Finlay III
Joseph H. Jefferson Jr.
Walton J. McLeod
Joshua Putnam
Samuel Rivers Jr.
Tommy M. Stringer
Bill Taylor

William K. (Bill) Bowers
Raye Felder
Phyllis J. Henderson
Mia S. McLeod
Ralph W. Norman
Robert L. Ridgeway III
James E. Smith, Jr.
Edward R. Tallon Sr.
Robert Q. Williams

Jennifer L. Dobson
Research Director

Cathy A. Greer
Administration Coordinator

Post Office Box 11867
Columbia, South Carolina 29211
Telephone: (803) 212-6810 • Fax: (803) 212-6811
Room 228 Blatt Building

Charles L. Appleby IV
Legal Counsel

Carmen J. McCutcheon
Auditor/Research Analyst

Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee

June 28, 2016

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Audits*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Economic Development, Transportation, Natural Resource, and Regulatory Subcommittee meeting was called to order by Chair Phyllis J. Henderson on Tuesday, June 28, 2016, in Room 110 of the Blatt Building. The following members of the Subcommittee were present for the meeting: Chair Henderson, Representative Samuel Rivers, Jr., and Representative Robert L. Ridgeway, III.
- II. The following were present from the State Transportation Infrastructure Bank: Mr. Vincent Graham (Chairman); Mr. Jim Holly (Legal Counsel); and Ms. Tami Reed (Chief Financial Officer).

- III. The following were present from the Department of Transportation: Secretary Christy Hall and Mr. Allen Hutto (Governmental Affairs Officer).
- IV. The following were present from the Legislative Audit Council: Mr. Earle Powell (Director); Mr. Andy Young (Audit Manager); and Courtney Phillips (Auditor).

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.
- II. Representative Ridgeway moved to approve the minutes from the Subcommittee's previous meeting on May 26, 2016. A roll call vote was held, and the motion was passed.

Rep. Ridgeway's motion that the Subcommittee approve the May 26 minutes:	Yea	Nay	Not Voting
Representative Norman			✓
Representative Ridgeway	✓		
Representative Rivers	✓		
Representative Henderson	✓		

Discussion of the Transportation Infrastructure Bank

- I. Chair Henderson said that the purpose of the meeting was to give the Subcommittee the opportunity to ask questions of the Transportation Infrastructure Bank and to hear testimony from the Bank.
- II. Mr. Vincent Graham (Chairman) and Mr. Jim Holly (Legal Counsel) provided testimony in response to the Legislative Audit Council's audit of the Bank, and they explained which of the LAC recommendations with which the agency agreed and disagreed.

Mr. Holly testified that the Bank was in the process of updating its website so as to provide more information about the agency to the public.

Mr. Holly answered questions asked by Chair Henderson about the changes in the Bank's sources of revenue over time.

Mr. Andy Young (Audit Manager) testified about one of LAC's recommendations with which the Bank disagreed.

Mr. Holly answered questions asked by Chair Henderson about the Bank's guidelines for funding projects with local matches.

Representative Ridgeway asked for more information about the Bank's opinion that its bonding activities were constitutional. He also asked for an explanation of the process the Bank uses to amend its policies and guidelines.

Ms. Christy Hall (Secretary of Transportation) testified that the Department of Transportation had its own internal code of conduct that regulates the types of ethics activities that had been highlighted in the LAC audit.

- III. Representative Ridgeway moved that the Subcommittee's study include the Legislative Audit Council's recommendation number 24 relating to ethics violations by state employees for further study. A roll call vote was held, and the motion was passed.

Rep. Ridgeway's motion that the Subcommittee's study include Legislative Audit Council's recommendation number 24:	Yea	Nay	Not Voting
Representative Norman			✓
Representative Ridgeway	✓		
Representative Rivers	✓		
Representative Henderson	✓		

Representative Rivers moved that the Subcommittee include in its study, for information purposes, the Bank's response to the audit by the Legislative Audit Council and the Bank's summary of the changes to its guidelines and processes for informational purposes. A roll call vote was held, and the motion was passed.

Rep. Ridgeway's motion that the Subcommittee include in its Study the Bank's response to the audit by the Legislative Audit Council and the Bank's summary of the changes to its guidelines and processes for informational purposes:	Yea	Nay	Not Voting
Representative Norman			✓
Representative Ridgeway	✓		
Representative Rivers	✓		
Representative Henderson	✓		

- IV. Mr. Graham testified before the Subcommittee about the changes the Bank had recently made to its operating guidelines and about his strategic vision for the agency.

Mr. Graham testified that he hoped to have a revised strategic plan to present to the Subcommittee in two or three months.

- V. Ms. Hall testified that the recent reforms of Act 275 were positive and would help the Department of Transportation and the Transportation Infrastructure Bank work together.

Chair Henderson asked if the two agencies had worked out the collaboration process that was required by Act 275. Secretary Hall said that the two agencies had started to develop the collaboration process.

- VI. Chair Henderson asked for an explanation of the process the Bank uses to choose a bonding agency. Mr. Holly and Mr. Graham testified about the bonding process of the Bank.

- VII. Chair Henderson said that the Subcommittee would likely hold another meeting with the Bank in a few months so that the Bank could submit the revised guidelines and strategic plan, and that the Subcommittee would complete its Subcommittee Study of the Bank after that time.

- VIII. The meeting was adjourned.

LEGISLATIVE OVERSIGHT COMMITTEE

ECONOMIC DEVELOPMENT,
TRANSPORTATION, NATURAL
RESOURCES AND REGULATORY
SUBCOMMITTEE

HISTORY, MISSION AND VISION

Agency Name:
Agency Code:
Agency Section:

Purpose/Mission/Vision Chart

INSTRUCTIONS: Provide information about the date the agency, in its current form, was initially created and the present purpose, mission and vision of the agency, with the date each were established in paranthesis. The Legal Standards Cross Reference column should link the purpose, mission and vision to the statutes, regulations and provisos listed in the Legal Standards Chart, which they satisfy.

Agency Submitting Report	Date Agency created	Purpose	Mission	Vision	Legal Standards Cross References
S.C. Department of Agriculture	December 23, 1879	To foster agribusiness through marketing and promotion; to protect South Carolina's citizens by ensuring proper weights and measures, grading and inspection of the state's agricultural products, laboratory analysis of food, feed, seeds, pesticides, and petroleum products, and food safety and compliance (December 23, 1879)	To promote and nurture the growth and development of South Carolina's agriculture industry and its related businesses while assuring the safety and security of the buying public.	For the state's economy to grow and prosper providing everyone, producers and consumers, opportunities to enjoy the benefits of agriculture.	Creation: Act No. 104 of 1879 Purpose: 46-3-10 Mission: 46-3 Vision: 46-3

Agency Name:
 Agency Section:
 Agency Code:

Historical Perspective Chart

INSTRUCTIONS: Please provide information about any restructuring or major changes in the agency's purpose or mission during the last ten years. NOTE: Responses are not limited to the number of rows below that have borders around them, please list all that are applicable.

Agency Submitting Report	Year	Description of Restructuring that Occurred	Description of Major Change in Agency's Purpose or Mission
SC Department of Agriculture	2014	Restructuring of divisions into Agency Operations, Agricultural Services, Consumer Protection, and External Affairs and Economic Development.	The restructuring of agency divisions was designed to more fully support the agency's purpose and mission, not change it.

Agency Name:
Agency Section:
Agency Code:

INSTRUCTIONS: Provide information about the body that oversees the agency and to whom the agency head reports including what the overseeing body is (i.e. board, commission, etc.); total number of individuals on the body; whether the individuals are elected or appointed; who elects or appoints the individuals; the length of term for each individual; whether there are any limitations on the total number of terms an individual can serve; whether there are any limitations on the number of consecutive terms an individual can serve; and any other requirements or nuances about the body which the agency believes is relevant to understanding how the agency performs and its results.

Agency Submitting Report	Type of Body (i.e. Board, Commission, etc.)	# of Times per Year Body Meets	Total # of Individuals on the Body	Are Individuals Elected or Appointed?	Who Elects or Appoints?	Length of Term	Limitations on Total Number of Terms	Limitations on Consecutive Number of Terms	Challenges Imposed or that Agency staff and the Body have faced based on the structure of the overseeing body	Other Pertinent Information
S.C. Department of Agriculture	Commissioner of Agriculture is an elected position-Commissioner and agency report to the public.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	

History, Mission, and Vision
of the
Department of Agriculture

Economic Development, Transportation, Natural
Resources,
and Regulatory Subcommittee
of the House Legislative Oversight Committee



History of the Department Agriculture

- Established in 1879.
- The Department of Agriculture was initially supported by fines, forfeitures, and fees rather than by appropriations.
- The Department of Agriculture has been renamed several times.
- Today, the Department of Agriculture oversees the states \$3 billion agricultural industry

Agency Mission

To promote and nurture the
growth and development of South
Carolina's Agriculture industry
and its related businesses while
assuring the safety and security of
the buying public.
(Act No. 104 of 1879)

Agency Vision



For the State's economy to grow
and prosper, providing everyone,
producers and consumers,
opportunities to enjoy the benefits
of agriculture.

(SC Code § 46-3-10)

LEGISLATIVE OVERSIGHT COMMITTEE

ECONOMIC DEVELOPMENT,
TRANSPORTATION, NATURAL
RESOURCES AND REGULATORY
SUBCOMMITTEE

AGENCY RELATIONSHIPS

Agency Name:
Agency Section:
Agency Code:

INSTRUCTIONS: Provide information about the key customer segments identified by the agency and each segment's key requirements/expectations. A customer is defined as an actual or potential user of the agency's deliverables. Please be as specific as possible in describing the separate customer segments (i.e. do not simply put "public.") The Deliverables Cross References column should link customer groups to the deliverable listed in the Key Deliverables Chart, which they utilize. NOTE: Responses are not limited to the number of rows below that have borders around them, please list all that are applicable.

Agency Submitting Report	Item #	Customer Segments	Requirements/Expectations	Deliverables Cross References
S.C. Department of Agriculture	1	consumers	quality products that are safe, delivered accurately, and affordable	Certified South Carolina Marketing Program; Consumer Protection
S.C. Department of Agriculture	2	processors/manufacturers	support and promotion of their locally made products and as little regulation as necessary	Certified South Carolina Marketing Program; State Farmers Markets; SC Roadside Market Program
S.C. Department of Agriculture	3	wholesalers, retailers, direct marketers	help with expanding market opportunities and marketing	Certified South Carolina Marketing Program; State Farmers Markets; SC Roadside Market Program
S.C. Department of Agriculture	4	commodity boards and associations	a fair and equal marketplace for the commodities they represent; additional product and market development	Certified South Carolina Marketing Program; State Farmers Markets; SC Roadside Market Program; Grading and Inspection Services
S.C. Department of Agriculture	5	local, state, and federal government officials	for their constituents to be well-served	All
S.C. Department of Agriculture	6	existing, expanding, or developing agribusinesses	assistance in agribusiness development	Agribusiness economic development

Agency Name:
Agency Section:
Agency Code:

INSTRUCTIONS: Provide information about the agency's key stakeholder groups and their key requirements and expectations. A stakeholder is defined as a person, group or organization that has interest or concern in an agency. Stakeholders can affect or be affected by the agency's actions, objectives and policies. Please be as specific as possible in describing the separate stakeholder groups (i.e. please do not simply put "the public.") The Deliverables Cross References column should link stakeholder groups to the deliverable, listed in the Key Deliverables Chart, for which they group has the most interest or concern. **NOTE:** Responses are not limited to the number of rows below that have borders around them, please list all that are applicable.

Agency Submitting Report	Item #	Stakeholder Group	Requirements/Expecations	Deliverables Cross References
S.C. Department of Agriculture	1	Taxpayers	Fiscal responsibility; return on investment of tax dollars	all
S.C. Department of Agriculture	2	Employees	Healthy work environment, equitable compensation and benefits, opportunities for career advancement	n/a
S.C. Department of Agriculture	3	Vendors and suppliers	Fair procurement process	n/a
S.C. Department of Agriculture	4	Public and private agricultural partners	Cooperation and assistance in advancing their respective missions	all

Agency Name:
Agency Code:
Agency Section:

Key Partner Agencies Chart

INSTRUCTIONS: List the names of the other state agencies which have the biggest impact on the agency's mission success (list a minimum of three); partnership arrangements established and performance measures routinely reviewed with the other entity. The Major Program Areas Cross References Column should link the Partner Agency to the major program area, in the Major Program Areas Chart, on which it has the biggest impact. **NOTE:** Responses are not limited to the number of rows below that have borders around them, please list all that are applicable and a minimum of three.

Agency Submitting Report	Agency w/ Impact on Mission Success	Partnership Arrangement Established	Performance Measures Routinely Reviewed Together	Major Program Areas Cross Reference
S.C. Department of Agriculture	Clemson University	Farm to School Program	cafeteria implementation, economic impact, classroom implementation, school gardens, sustainability	Marketing and Promotions
S.C. Department of Agriculture	S.C. Department of Commerce	Agribusiness recruitment and project management	project announcements, capital investment, jobs created	Marketing and Promotions
S.C. Department of Agriculture	S.C. Department of Parks, Recreation, and Tourism	Chef Ambassador Program	brand recognition, consumer preference	Marketing and Promotions
S.C. Department of Agriculture	S.C. Department of Health and Environmental Control	Farm to School Program	cafeteria implementation, economic impact, classroom implementation, school gardens, sustainability	Marketing and Promotions
S.C. Department of Agriculture	S.C. Department of Education	Farm to School Program	cafeteria implementation, economic impact, classroom implementation, school gardens, sustainability	Marketing and Promotions

LEGISLATIVE OVERSIGHT COMMITTEE

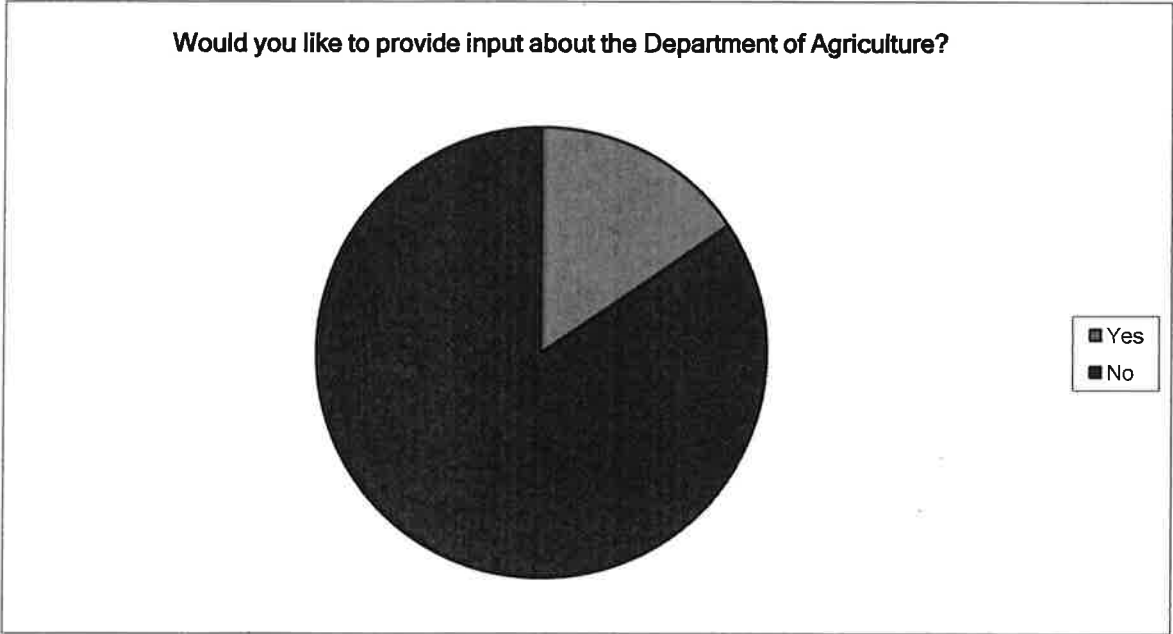
**ECONOMIC DEVELOPMENT,
TRANSPORTATION, NATURAL
RESOURCES AND REGULATORY
SUBCOMMITTEE**

PUBLIC INPUT

May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Would you like to provide input about the Department of Agriculture?

Answer Options	Response Percent	Response Count
Yes	15.4%	156
No	84.6%	858
	<i>answered question</i>	1014
	<i>skipped question</i>	11

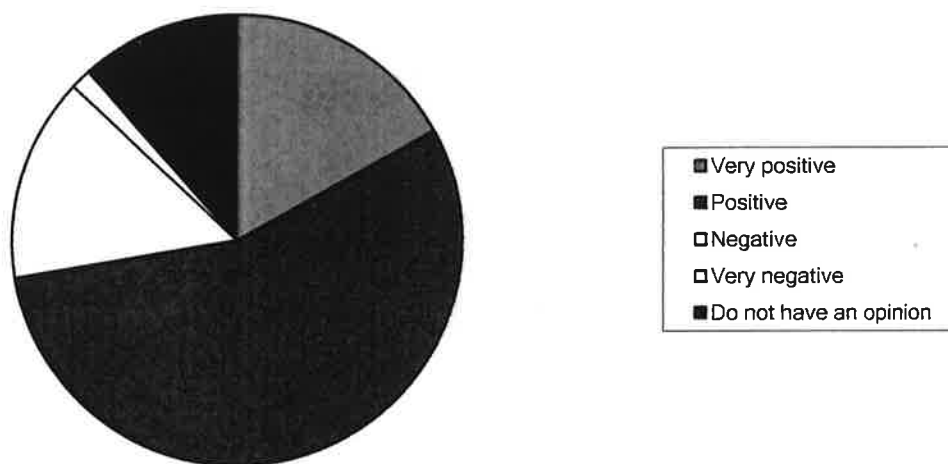


May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Overall, what is your opinion of the Department of Agriculture?

Answer Options	Response Percent	Response Count
Very positive	16.9%	22
Positive	55.4%	72
Negative	14.6%	19
Very negative	1.5%	2
Do not have an opinion	11.5%	15
<i>answered question</i>		130
<i>skipped question</i>		895

Overall, what is your opinion of the Department of Agriculture?

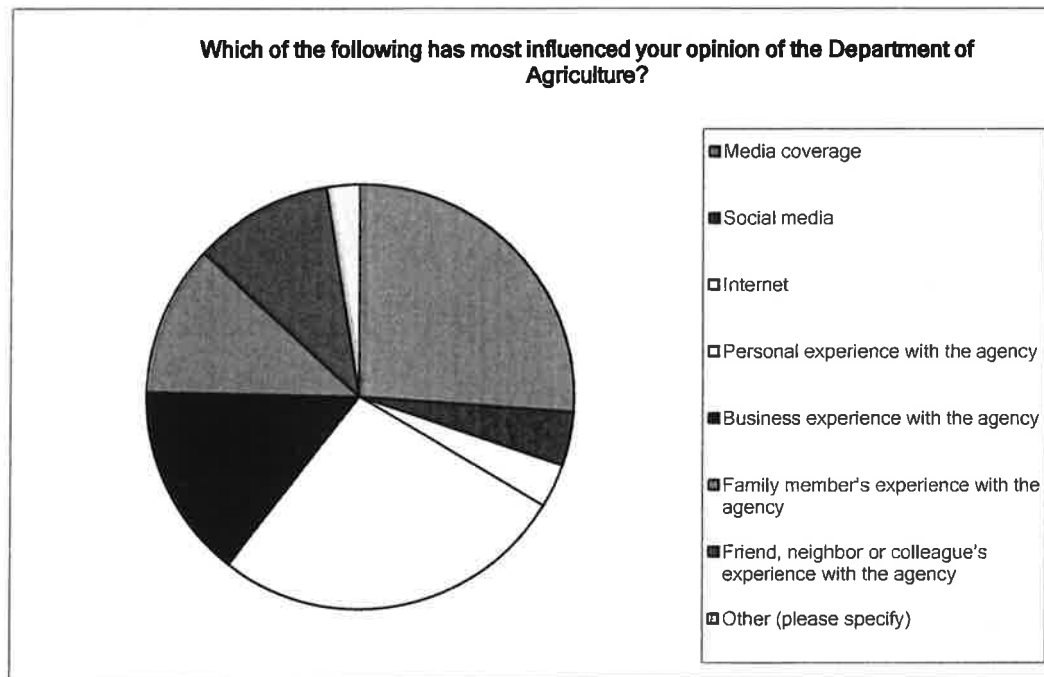


May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Which of the following has most influenced your opinion of the Department of Agriculture?

Answer Options	Response Percent	Response Count
Media coverage	26.2%	32
Social media	4.1%	5
Internet	3.3%	4
Personal experience with the agency	27.0%	33
Business experience with the agency	14.8%	18
Family member's experience with the agency	11.5%	14
Friend, neighbor or colleague's experience with the	10.7%	13
Other (please specify)	2.5%	3
<i>answered question</i>		122
<i>skipped question</i>		903

Number	Response Date	Other (please specify)
1	May 18, 2016 12:41 PM	Guidelines from USDA that affect WIC Program
2	May 16, 2016 1:18 PM	WIC
3	May 16, 2016 12:27 PM	No interaction



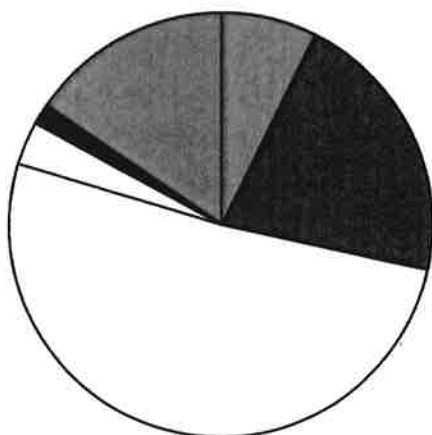
May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

How do you think the Department of Agriculture functions on an overall basis in comparison to other state agencies in South Carolina?

Answer Options

	Response Percent	Response Count
Much better	7.3%	9
Better	21.1%	26
About the same	51.2%	63
Worse	3.3%	4
Much worse	1.6%	2
Do not have an opinion	15.4%	19
answered question		123
skipped question		902

How do you think the Department of Agriculture functions on an overall basis in comparison to other state agencies in South Carolina?



- Much better
- Better
- About the same
- Worse
- Much worse
- Do not have an opinion

May 2016 - Provide Input to the South Carolina House of Representatives' Legislative Oversight Committee

Please list any comments, concerns, or suggestions you may have about the Department of Agriculture. Your response will be quoted verbatim and published online.

Answer Options	Response Count
	23
<i>answered question</i>	23
<i>skipped question</i>	1002

Number	Response Date	Response Text
1	May 27, 2016 12:45 PM	local staff are helpful
2	May 26, 2016 1:37 PM	Please publish online the ethanol free gas stations and octane
3	May 23, 2016 2:24 PM	The environmental impacts of industrial farming are growing. Most farming operations are exempt from DHEC rules and the Dept of Agriculture relies on the Natural Resource Conservation Service to help farmers reduce their environmental impact. Is this system adequate for the future or is more oversight needed?
4	May 22, 2016 5:25 PM	The farmers market in West Columbia is a huge disappointment. There are very few vendors selling fresh fruits and vegetables. A lot of wasted space and not very convenient as to location.
5	May 19, 2016 7:37 PM	Why does the Department of Agriculture waste money on parties? The Food and Safety Compliance office has excellent, well trained personnel
6	May 18, 2016 2:18 PM	Unnecessary State (and Federal) subsidies are a concern.
7	May 17, 2016 6:58 AM	Slow to respond, if at all.
8	May 16, 2016 7:23 PM	The new Farmers Market is a joke. People pass it by to travel to the Western orth Carolinas Market in Asheville.
9	May 16, 2016 5:44 PM	There is a lot of red tape for farmers to get approved to receive funding and assistance in having fresh fruits and vegetables into the hands of South Carolinian's. Out dated methods of training for farmers.
10	May 16, 2016 1:59 PM	Improve relationships with small home garden residents
11	May 16, 2016 1:55 PM	

- 12 **May 16, 2016 1:52 PM** what do they do concerning their roles for the public?
Need to have less qualifications for WIC participants to make it user friendly and to increase participation

13 **May 16, 2016 1:18 PM** rates up
The actual responsibilities and assistance available to the non-average farmer (individual or organization who may seek assistance on a limited basis) is not clear.

14 **May 16, 2016 1:09 PM**

15 **May 16, 2016 12:07 PM** The "SC Grown Certified" campaign seems to be very helpful for SC farmers. Keep up the good work.
I find it appalling that when I call I get the run around. No one in the agency seems versed on what they actually do. The answer is always DHEC or Clemson does that. Well what does the department do besides collect state tax dollars and pesticides? Where do they find the money to repeatedly buy PFG shirts for the events they attend? I was at the fair, both flower shows, and that BBQ festival. All employees had different PFGs at all events. Also who is in charge of these "events" at the farmers market? After attending several BbQ fests it seems there are 3 or 4 employees standing around drinking during working hours. I find that appalling that A. They are allowed to not work and B that they were drinking. The farmers market is a great place for events, shaded, parking, and easily located. Seems like more "events" should happen there. Also who designed that ridiculous sign and how much money was earmarked for that? It looks like the state fair sign.
It is nice to see SC brand of fruits and vegetables and massive amount of advertisement for it. Has there been a cost-benefit study of this campaign by an external entity?

16 **May 15, 2016 7:24 PM**

17 **May 14, 2016 10:13 PM**

I have had several products tested by the Lab for my farm. I have stopped by to talk with those running the test or Phil (lab manager) to be told their hours are 7:30-3:30. Also on Friday the only people who ever seem to be there after 3 are the girl at the front desk and maybe one or two others. Why have your hours be from 8:30-5 if the majority of the employees aren't there from that time? I haven't had dealings with other agencies so I am not sure how they fair, but this agency seems to allow certain personnel to work when they want and force others to cover their

18 **May 14, 2016 6:03 PM** Never hear about them.

19 **May 13, 2016 8:44 PM** They do a good job.

20 **May 13, 2016 8:42 PM** It has come to my attention that an individual that was hired for a "certified" position is actually not certified in his area. This makes me very concerned about the efficacy and legality of the work being done by the Dept of Ag. Second, I have also come to find out that hard-working individuals that have been performing duties outside of their area (as preparation for a new title) are being passed over after they have already completed the extra work with no compensation. This is a very poor choice for management and also a huge problem for the employees' commitment and morale, not to mention ethically

21 **May 13, 2016 1:07 PM** wrong.

Great Job - Agribusiness is very important to SC. Keep up the great

22 **May 9, 2016 2:57 AM** work!

SCDA touches more citizens in South Carolina daily more than most other agencies. SCDA not only inspects the fruits and vegetables we eat, but also ensures consumer protection in multiple ways. I wish SCDA would spend as much time informing citizens about their Consumer Protection Division and SCDA's many inspection services as they do about Certified SC and the farmers markets.

23

May 4, 2016 12:25 PM

South Carolina Department of Agriculture



Hugh E. Weathers, Commissioner

House Legislative Oversight Committee

Economic Development, Transportation, Natural Resources,
and Regulatory Subcommittee

10:30 am

Wednesday, July 6, 2016

110 Blatt Building




South Carolina Department of Agriculture (SCDA)

- History
- Mission
- Vision
- Key partners and relationships
- Comments



SC Agriculture Commissioners



A.P. Butler	1880-1890
Mr. Moore	1890-1891
Ebbie J. Watson	1904-1917
A. C. Summers	1917-1919
Bonneau Harris	1919-1925
James W. Shealy	1926-1932
J. Roy Jones	1932-1956
William L. Harrelson	1956-1976
G. Bryan Patrick, Jr	1976-1982
D. Leslie Tindal	1982-2002
Charles R. Sharpe	2002-2005
Hugh E. Weathers	2005-present

History

- State's economy was built on production of crops like rice, indigo, tobacco, and cotton
- By the mid 1800's soil became overworked and depleted
- State also lacked statistical data by which to help make decisions
- Established in 1879 with broad scope of responsibilities, including: fertilizer regulation, soil improvement and analysis, distribution of seeds, sheep husbandry, immigration, geology, labor, forestry and more

History

- Began under the supervision of the Board of Agriculture
 - Governor (Chair and ex officio) plus four others
- Agency began with an appropriation of \$168,759 (inflation adjusted)
- SCDA was initially supported by fines and forfeitures, and fees for land registration

History

- SC Agriculture in 1880 (US Census)
 - 450,756 cows
 - 1,350,515 acres of cotton
 - 78,222 acres of rice
 - 81,009 bushels of peaches
 - Farmland – 6,259,186 acres
 - Molasses 414,015 gallons (9,446 ac of sugarcane and sorghum)

History

- In 1887, SCDA worked with South Carolina College to help set up experiment farms in Charleston, Columbia, Darlington and Spartanburg Counties
- Clemson A & M College founded in 1889 and funded by fertilizer tonnage fee
- Under the Pure Food & Drug Act in 1913, SCDA was tasked with regulating “spirituous, fermented and malted liquors;” and prevention of the sale of cocaine
- Also in 1913, the *Market Bulletin* was first published as part of *The State Newspaper*

History

- At least a dozen agencies have been created with responsibilities originally housed at SCDA
 - Clemson Regulatory Services
 - State Veterinarian's Office
 - Department of Labor, Licensing and Regulation
 - Department of Health & Environmental Control
 - Forestry Commission
 - Department of Revenue
 - State Law Enforcement Division
 - DNR (Land Resources, Geological Survey, Wildlife and Marine Resources)

History

- SCDA has been renamed several times, with the current name being established in 1941
- 1968 brought legislation that created the Agriculture Commission and the authority to create and oversee commodity boards, and administer marketing orders
- In 1974, the Columbia Farmers Market was acquired by the State and placed under the supervision of SCDA

History

- SCDA assumed operations of the Greenville Market in 1980
- Pee Dee State Farmers Market opened in 1989
- The office of Commissioner of Agriculture became a Constitutional Office in 1982

History

- “Certified SC” campaign launched in 2007
 - 1,800 members currently
- In late 2009, “50 by 20 – A Ten Year Goal for South Carolina Agriculture” initiative is rolled out
- 2010 - “Fresh On The Menu” restaurant program is established
 - Over 300 restaurants now participating
- 2011 – began partnership with SC Department of Commerce for agribusiness project manager
- In January 2014, Agritourism program created

History

- Agriculture today (2012 Census of Agriculture)
 - Agribusiness \$42 billion total impact, 212,000 jobs
 - 25,266 farms covering 4,971,244 acres
 - Broilers are the top cash crop (\$226 million)
 - Total farm gate income over \$3 billion
 - 300,036 acres of cotton (587,589 bales)
 - 106,476 acres of peanuts
 - 320,861 acres of corn
 - 581 agritourism operators (55% growth over 2007)

SCDA Mission

To promote and nurture the growth and development of South Carolina's agriculture industry and its related businesses while assuring the safety and security of the buying public



SCDA Vision

For the State's economy to grow and prosper, providing everyone, producers and consumers, opportunities to enjoy the benefits of agriculture



Key Partners

Economic Development

- SC Department of Commerce
 - Agribusiness recruitment
- Clemson University
 - Agribusiness education and research
- University of South Carolina
 - economic impact research, including current export study

Key Partners

Agricultural Services

- DHEC
 - Farm to institution, increasing access to healthy foods, farmers market nutrition, WIC/SNAP
- PRT & Governor's Office
 - Chef Ambassador Program
- SC Department of Education
 - Farm to Institution

Key Partners

Agricultural Services

- USDA Agricultural Marketing Service (AMS)
 - Market News
 - Poultry and Egg grading
- USDA Feed Grain Inspection Service (FGIS)
 - Grain grading and inspection
- USDA Food Safety Inspection Service (FSIS)
 - Fruit and Vegetable grading and inspection

Key Partners

Consumer Protection

- **FDA**

- Food and Cosmetic Act – enhanced contract inspections by FDA commissioned state inspectors
- Food Safety and Modernization Act (FSMA) – Preventive Controls and Produce Safety outreach and regulatory
- Manufactured Food Regulatory Program Standards (MFRPS) and Animal Feed Regulatory Program Standards (AFRPS) – FDA training and funding to implement federal food / feed laws and enhance laboratory capabilities

Key Partners

Consumer Protection

- SC Aeronautics Commission
 - Aeronautics purchased specialized equipment and SCDA inspects Jet A and 100LL dispensers at all public airports in the state

Key Partners

Consumer Protection

- DHEC – MOUs to prevent redundancies
 - Food Protection – SCDA inspects manufacturing, wholesale, distribution; DHEC inspects retail
 - Dairy – streamlined regulation of all dairy products one agency (DHEC)

Key Partners

Consumer Protection

- **Clemson PSA**
 - Food Safety Education and training, including FSMA and Good Agricultural Practices (GAP) to prevent conflict of interest
 - Pesticide Disposal Program
- **USDA**
 - AMS – Country of Origin Labeling (COOL) enforcement
 - Grain Inspection, Packers and Stockyards Administration (GIPSA) livestock scale standards

Key Partners

Agency Operations

- DNR
 - Tennant at the State Farmers Market
 - Regional Licensing Office
- Division of Technology
 - Provides network and information security support
 - SCDA IT staff working with DTO to streamline products and services

Key Partners

Agency Operations

- State Treasurer's Office
 - Previously combined HR department
- Lieutenant Governor's Office
 - Sourced 4,500 meals at Thanksgiving with Office on Aging



Chairman Wm. Weston J. Newton

*First Vice-Chair:
Laurie Slade Funderburk*

Legislative Oversight Committee

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Gary E. Clary
Kirkman Finlay III
Joseph H. Jefferson Jr.
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Samuel Rivers Jr.
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Bill Taylor*



South Carolina House of Representatives

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Mia S. McLeod
Ralph W. Norman
Robert L. Ridgeway III
James E. Smith Jr.
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Legal Counsel*

*Carmen J. McCutcheon
Auditor/Research Analyst*

*Cathy A. Greer
Administration Coordinator*

August 9, 2016

Commissioner Hugh E. Weathers
South Carolina Department of Agriculture
Post Office Box 11280
Columbia, South Carolina 29211

Dear Commissioner Weathers:

Thank you for the important work in which you are engaged in the administration of the South Carolina Farm Aid Program, which makes available \$40 million dollars in relief funding to South Carolina farmers who suffered at least a 40% loss of an affected crop as a result of last October's flooding. On behalf of the entire Economic Development, Transportation, Natural Resources and Regulatory Subcommittee, I would like to thank you for sharing your time and knowledge with the subcommittee at our July 6, 2016, meeting.

The purpose of this letter is to share requests for information from the subcommittee as a follow up to the meeting. These requests are listed below.

- Please provide a brief overview of any relationships the Department of Agriculture may have with South Carolina State University public service activities.
- Please provide a brief summary about pivot irrigation systems, including any effects these system may have on wells.
- Please share with the subcommittee a copy of the stud[ies] you mentioned during our last meeting, including those which show how we may impact certain agricultural markets.
- Please provide any recommendations for revisions to laws that you would like the subcommittee to consider for inclusion as a part of its study.

We ask that you please provide this information by Friday, September 2, 2016. In your responses, please provide the subcommittee with any relevant, necessary context information. If the agency has any

Page Two
Commissioner Weathers

concerns about the format of these questions yielding answers that do not provide an accurate reflection of the agency, please express those concerns, prior to responding to the question, in a letter to me with a copy to committee staff. Please retain any working papers for these responses in the event the subcommittee would like to view those.

Sincerely,

Phyllis J. Henderson
Subcommittee Chair

cc: Economic Development, Transportation, Natural Resources, and Regulatory
Subcommittee Members

State of South Carolina
Department of Agriculture



Hugh E. Weathers
Commissioner

Wade Hampton Office Building
P.O. Box 11280
Columbia, S.C. 29211

Telephone: (803) 734-2190
Fax: (803) 734-2192
E-Mail: hweathe@scda.sc.gov

September 2, 2016

The Honorable Phyllis J. Henderson
Subcommittee Chair
Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee
PO Box 11867
Columbia, SC 29211

Dear Chairwoman Henderson,

Thank you for the opportunity to provide an overview of the South Carolina Department of Agriculture (SDCA) at the July 6, 2016 meeting of the Economic Development, Transportation, Natural Resources and Regulatory Subcommittee. This letter is in response to the request for information as a follow-up to that meeting, and includes the attached documents:

- An overview of ongoing work in collaboration with SC State University 1890 Extension Program
- A brief summary of irrigation systems
- *The Economic Impact of Agribusiness and the Return on the Certified South Carolina Grown Campaign*: Released in April 2010, this study conducted by the Darla Moore School of Business presents results from an analysis of the Certified South Carolina Grown program showing the campaign's economic potential.
- *The Economic Impact of the Agribusiness Industry in South Carolina*: Based on 2006 data, this report provides a summary of the combined impact of the agriculture and forestry industries.
- *The Impact of the Agribusiness Sector on the South Carolina Economy*: This assessment released in 2015 updates the previously mentioned economic impact study and shows a 23% increase in the economic impact of the SC agribusiness industry.
- Recommendations for revisions to laws: Also provided in the Program Evaluation Report, these recommendations focus on revisions to state law in order to reflect changes in federal law. This will streamline the regulatory process for producers and distributors, allow our Consumer Protection Division to simultaneously conduct state and federal inspections (rather than FDA), and provide greater food safety protection to consumers.

I look forward to the continued work of this committee. Please do not hesitate to contact me or my staff with any additional questions.

Sincerely,

Signature Redacted

Hugh E. Weathers

South Carolina State University

South Carolina Farm Aid Fund

Delbert T. Foster, 1890 Extension Administrator, is a member of the Farm Aid Advisory Board. SCDA has worked with 1890 Extension Agents to educate farmers and provide assistance with completing the Farm Aid application.

AgDiscovery Program

SCSU participates in AgDiscovery, a USDA summer outreach program designed to help teenagers explore careers in plant and animal science, wildlife management, and agribusiness. SCDA hosts the group of students each year at the State Farmers Market and provides staff time and resources to give a tour of the laboratory and market facilities, as well as provide an overview of SCDA and the SC agriculture industry.

South Carolina Advocates for Agriculture

Both SCDA and SCSU representatives work with a non-profit organization, SC Advocates for Agriculture, to promote the South Carolina agriculture industry. Numerous projects and programs have benefited from this collaboration.

Irrigation Systems

The attached document provides details about surface and groundwater usage across the spectrum in South Carolina. In 2013, there were 1,046 farms with a total of 33,927 acres using irrigation systems in the state. New technology and management techniques, including timers, rotating nozzles, and measuring systems, have allowed irrigation systems to become more efficient in water usage. Irrigation Water and System Management, a major research and extension program at Clemson University's Edisto Research and Education Center (REC), is developing and promoting sustainable and efficient irrigation water management in South Carolina.

Nationally, according to a 2012 USDA Economic Research Study, farmers continue to make significant investments in new and improved irrigation systems. Approximately, \$2.15 billion was invested in irrigations systems in 2008, a 92 percent increase over investments for 2003. Most on-farm irrigation investment is financed privately-less than 10 percent of farms reported financing irrigation improvements in 2008 through public financial assistance programs.

Recommendations for Revisions to Laws

Feed 36-25-210 and 40-7-1

1. Model Feed Law, American Association of Feed Control Officials: Adopt this feed law into our current feed law.
2. Current feed law was written in 1967 and places consumers and feed mills at a disadvantage.
3. Current law does not provide specifics for feed inspections that federal FDA currently performs (Medicated feed, BSE, and GMP at mill operations).

4. Feed (animal or pet food) is being categorized much like human food. SCDA wishes to protect animals, pets, and growers thru adopting AAFCO model feed bill to anticipate and educate industry prior to FSMA.
5. FSMA will affect feed mills, animal/pet food operators and feed stores in SC. SCDA wishes to adopt this model feed bill in order to be the primary regulatory body to educate and regulate these facilities prior to, and in conjunction with, federal agencies.
6. Will require registration of facilities with SCDA to facilitate recalls, food borne outbreaks, animal welfare and potential issues prior to an event.

Food Quality (Consumer Protection Lab)

1. Habitual violations for food testing (butter fat, meat fat, etc. under minimum), such as fat content, affects prices at grocery store. A 90-10(lean to fat) hamburger meat vs 70-30 (lean to fat) hamburger meat has a substantial price difference.
2. Adding administration fees to samples that are in violation because the lab must retest, validate and print reports, send out inspectors and utilize extra resources due to a violation or a mislabeled food. Recommend a \$100 admin fee for violators.
3. Feed Registration fees. Currently at \$15, recommend \$25 to mirror sister states. Tonnage Fees will not be used (this is very industry friendly).

Consumer Services

1. Petroleum Law; add registration fee for products/facility. **39-41-250**
2. 66,000 dispensers in SC. \$5 per dispenser will generate \$330, 000 for more inspectors, more equipment to test, better response time for complaints and accountability. **39-9-68**
3. SCDA needs the authority to administer penalty (Not ALJ) for repeat violators and habitual offenders. Firms that cheat customers, inaccurately advertise cash credit prices, have repeat dispenser issues (meter creeping), or repeat dispensers out of tolerance (shorting the consumer) should have a monetary penalty to protect the buying consumers in SC. Recommend 1st Offense \$50 (current), 2nd \$200, 3rd \$500. **39-9-200 thru 39-9-210, 39-41-190**
4. Warehouse receipts...add verbiage to allow electronic receipts. **39-22-80, 39-22-200, and regulations Article 13, 5-493**

Food/Feed Safety 39-25-10

1. Introduce Fee for Registration Verification Certificate (RVC) (SCDA Permit) application. Allows for department to collect fee at time of application. Applications are reviewed including business plan, product analysis, certifications and training requirements, and labels. This would happen much like a DHEC permit plan Review. Recommend \$25. **39-25-210**
2. RVC annual renewal based on tier system based on risk/length of inspection, size of firm (distribution) to prevent small prospective manufacturers from being burdened. RVC renewals will allow for more inspectors, better equipment, and faster response time for recalls, complaints, illnesses and enforcement. Public Health and Food Safety must be top priority. Recommend a renewal fee based on DHEC model. **39-25-210**
3. Add enabling legislation to enact FSMA (including Produce Safety Rule) at state level with no exemptions or changes. SCDA will be the face for outreach, education (along

with Clemson University), and regulatory oversight, in lieu of Federal Food and Drug Enforcement. New section to be created.

Lessen Restrictions for businesses, stop duplication of inspection

Cottage Bill (Remove SCDA involvement): This is a DHEC law and the new food code allows DHEC to regulate 100%. **44-1-143** DHEC's new Food Code allows for non-hazardous foods to be sold at retail and this law is MORE restrictive. SCDA does not regulate retail food sales directly to the end consumer in South Carolina, therefore, the approval of any operation as exempt from Regulation 61-25 is solely the responsibility of Department of Health and Environmental Control's Food Protection Division (DHEC).

Changes to Egg Law: Will exempt USDA Graded facilities from applying. Will focus on small egg producers in SC and will continue to require registration and licensing to continue but will add more exemptions for small producers. **39-39-10 to 39-39-40**

Changes to Salvage Food Regulation: Since RVC is required for food manufactures under SCDA purview; this actually will eliminate duplication and will shore up database. Also, regulation verbiage needs updating to modern language and terminology used by FDA and DHEC. This will prevent duplication of inspection and licensing/permitting. **5-360 through 5-373**

Appendix F. October 31, 2016 Meeting Information

Appendix Includes:

- Meeting Packet
 - Agenda
 - September 19, 2016 - Meeting Minutes
 - Draft Subcommittee Study of SC Transportation Infrastructure Bank
- Documents provided by agency during meeting
 - PowerPoint - SC Commodity Board structure and function (October 31, 2016)

**South Carolina
House of Representatives**



Legislative Oversight Committee

***ECONOMIC DEVELOPMENT, TRANSPORTATION, NATURAL RESOURCES AND
REGULATORY SUBCOMMITTEE***

***Chairman Phyllis J. Henderson
The Honorable Ralph W. Norman
The Honorable Robert L. Ridgeway III
The Honorable Samuel Rivers Jr.***

Monday, October 31, 2016

9:45 a.m.

Room 108 -Blatt Building

***Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming
whenever technologically feasible.***

AGENDA

- I. Approval of Minutes from the September 19, 2016 Subcommittee Meeting**
- II. Further discussion of the study of the State Transportation Infrastructure Bank, including but not limited to, study recommendations**
- III. Further discussion of the study of the Department of Agriculture, including but not limited to, commodity boards**
- IV. Adjournment**

LEGISLATIVE OVERSIGHT COMMITTEE

ECONOMIC DEVELOPMENT, TRANSPORTATION,
NATURAL RESOURCES AND REGULATORY
SUBCOMMITTEE

MINUTES FROM SEPTEMBER 19, 2016 MEETING

Chairman Wm. Weston J. Newton

First Vice-Chair:
Laurie Slade Funderburk

Legislative Oversight Committee



Nathan Ballentine
Gary E. Clary
Kirkman Finlay III
Joseph H. Jefferson Jr.
Walton J. McLeod
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Carmen J. McCutcheon
Auditor/Research Analyst

Economic Development, Transportation, Natural
Resources, and Regulatory Subcommittee

September 19, 2016

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Economic Development, Transportation, Natural Resource, and Regulatory Subcommittee meeting was called to order by Chair Phyllis J. Henderson on Monday, September 19, 2016, in Room 110 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Chair Henderson; Representative Ralph W. Norman; Representative Robert L. Ridgeway, III, and Representative Samuel Rivers, Jr.

- II. Present on behalf of the State Transportation Infrastructure Bank (Bank) were: Mr. Vince Graham (Chair of the Transportation Infrastructure Bank Board), Mr. Jim Holley (General Counsel), and Ms. Tami Reed (Chief Financial Officer).
- III. Present on behalf of the Department of Transportation were: Ms. Christy Hall (Secretary of Transportation) and Mr. Brian Keys (Deputy Secretary for Finance and Procurement).

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.
- II. Representative Norman moved to approve the minutes from the Subcommittee's meeting on August 25, 2016. A roll call vote was held, and the motion passed.

Rep. Norman's motion to approve the minutes from July 6, 2016:	Yea	Nay	Not Voting
Rep. Norman	✓		
Rep. Ridgeway	✓		
Rep. Rivers	✓		
Rep. Henderson	✓		

Discussion of the Department of Agriculture

- I. Chair Henderson provided an update on the Subcommittee's study of the Department of Agriculture.

Discussion of the Transportation Infrastructure Bank

- I. Chair Henderson provided an update on the status of the Subcommittee's study of the State Transportation Infrastructure Bank's progress. She noted that the purpose of the meeting was to receive the information the Subcommittee had requested from the agency after its last meeting, which has been posted online for the public to view.

II. Subcommittee members asked questions of the agency on the following topics:

- litigation costs and legal expense responsibilities;
- I-526 project (potential litigation; debt commitments; future of the project; wind down process for project; and availability of capacity for other projects);
- financial commitments;
- status of draft guidelines provided to subcommittee
 - local matches - agency noted changes were proposed to these draft guidelines as a part of the legislative oversight process;
 - bundling of projects - agency noted changes were proposed to these draft guidelines as a part of the legislative oversight process;
 - application scoring and evaluation process availability online; and
 - potential scrivener's errors
- staffing at the agency;
- increased accountability and transparency at the agency; and
- status of implementation of Act 275 of 2016.

III. There being no further business, the meeting was adjourned.

LEGISLATIVE OVERSIGHT COMMITTEE

ECONOMIC DEVELOPMENT, TRANSPORTATION,
NATURAL RESOURCES AND REGULATORY
SUBCOMMITTEE

DRAFT SUBCOMMITTEE STUDY OF THE SC
TRANSPORTATION INFRASTRUCTURE BANK

Legislative Oversight Committee

DRAFT Subcommittee Study of the South Carolina Transportation Infrastructure Bank *October 31, 2016*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

CONTENTS

Contents

Executive Summary	5
Study Process	5
Purpose of Oversight Study	5
Recommendations.....	5
Additional Information of Interest.....	6
Study Process.....	7
House Legislative Oversight Committee's Actions.....	7
Subcommittee Studying the Agency.....	7
Meetings with the Agency	7
Information from the Public	8
Information from the Agency	8
Next Steps	8
Recommendation Details	9
Purpose of Recommendations	9
Recommendations.....	9
Additional Information of Interest.....	11
Follow up	12
Selected Agency Information Cited	12
Endnotes.....	13
Subcommittee Member Statements	15
Contact Information	15

Tables

Table 1. Key Dates and Actions of the Study Process, 2015-2016, South Carolina Transportation Infrastructure Bank..... 4

Table 2. Summary of recommendations..... 6

Table 1. Key Dates and Actions of the Study Process, 2015-2016, South Carolina Transportation Infrastructure Bank.

House Legislative Oversight Committee's Actions

- April 14, 2015 - Approves the priority of the study of the agency
- April 15 - 22, 2015 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, Members of the House, Clerk of the Senate, and Governor
- September 1, 2015 - Issues press release announcing public survey opportunity for the agency

Economic Development, Transportation, Natural Resources and Regulatory Subcommittee's Actions

- April 21, 2015 - **(Meeting 1)** Holds introductory meeting with the agency to discuss the legislative oversight process
- March 9, 2016 - Provides Staff Study to Agency
- March 10, 2016 - **(Meeting 2)** Holds meeting with the agency and receives an overview of the agency
- March 23, 2016 - Sends agency a follow up letter requesting information on project selection, bank administration, and projects for local governments
- April 8, 2016 - Notifies House Members about the public input meeting and issues press release about public input meeting
- April 28, 2016 - **(Meeting 3)** Holds meeting to receive public input about the agency
- May 26, 2016 - **(Meeting 4)** Holds meeting to receive information about the Legislative Audit Council's May 2016 audit of the agency
- June 15, 2016 - Sends agency a follow up letter requesting information pertaining to the audit of the agency
- July 6, 2016 - Sends agency a follow up letter requesting an updated organizational chart; summary document of new operating guidelines, noting those which implement or begin the implementation process of any Legislative Audit Council recommendations; general timeline for implementation of Legislative Audit Council recommendations; and any recommendations the agency would like the Subcommittee to consider for inclusion in its study
- June 28, 2016 - **(Meeting 5)** Holds meeting with the agency to further discuss the Legislative Audit Council's recommendations and the status of the agency's development of its strategic plan
- August 25, 2016 - **(Meeting 6)** Holds meeting with the agency to discuss a timeline of the agency's implementation of any of the Legislative Audit Council's recommendations; new agency operating guidelines; and study recommendations
- September 19, 2016 - **(Meeting 7)** Holds meeting with the agency for further discussion of recommendations
- October 31, 2016 - **(Meeting 8)** Holds meeting with the agency for further discussion of recommendations

South Carolina Transportation Infrastructure Bank's Actions

- March 31, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- July 27, 2015 - Submits its Program Evaluation Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- March 11, 2016 - Submits its response to the Staff Study
- April 23, 2016 - Provides Subcommittee information in response to the Subcommittee's March 23, 2016, letter
- August 15, 2016 - Provides Subcommittee information in response to the Subcommittee's July 6, 2016, letter

Public's Actions

- September 1 - 30, 2015 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - www.scstatehouse.gov)
- April 28, 2016 - Opportunity for public input at Subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

EXECUTIVE SUMMARY

Study Process

The Economic Development, Transportation, Natural Resources and Regulatory Subcommittee ("Subcommittee") of the House Legislative Oversight Committee ("Committee") is studying the South Carolina Transportation Infrastructure Bank ("agency" or "SCTIB"). The chair of the Subcommittee is the Honorable Phyllis J. Henderson; other members include: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.¹ The Subcommittee met with SCTIB eight times during the course of its study. Key dates and actions of the study process are listed in Table 1 on the previous page.

Purpose of Oversight Study

As stated in SC Code of Laws Section 2-2-20(B), "[t]he purpose of these oversight studies and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out in accordance with the intent of the General Assembly; and (2) **should be continued, curtailed, or eliminated.**" In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency's laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.²

Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency. These recommendations are based on the agency's self-analysis requested by the full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency by the General Assembly's Legislative Audit Council and the agency's response to this audit. This information, including, but not limited to the Staff Study, various agency reports to the Committee, and videos of meetings with the agency are available on the Committee's website.³

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs or elimination of agency programs.

The Subcommittee recommends revisions to laws relating to the agency as well as one recommendation that applies to agencies in general. A summary of these recommendations is included in Table 2 on the next page, and more information about the recommendations is included in the Recommendation Details section of this study beginning on page 9.

Table 2. Summary of recommendations.

Topic	Recommendation for ...
	... Agencies in general
Gifts received by state public officials, board members, and employees	The Subcommittee recommends implementation of the Legislative Audit Council's recommendation number 24 from its comprehensive audit released May 26, 2016. Specifically, this is a recommendation that "[t]he General Assembly should amend South Carolina Code of Laws § 8-13-710 to make it illegal for all state public officials, board members, and employees to accept any gifts over a specific dollar amount that are a result of their holding state government positions." ⁴
	... SCTIB in particular
\$25,000,000 minimum project cost	The Subcommittee recommends SCTIB not fund projects that have been "bundled together" to meet the minimum project threshold amount, if the smaller projects individually do not reach the \$25,000,000 minimum project cost required by statute. ⁵
Local match	The Subcommittee recommends SCTIB adopt, in its publicly available operating guidelines, a definition of the term "local match." ⁶
	... Follow up
Approval process for providing a loan or other financial assistance	The Subcommittee recommends follow up with SCTIB in the next year to obtain more information about the working relationship between SCTIB and the Department of Transportation (DOT) in light of the changes effected by Act 275 of 2016 with regards to the approval process for providing a loan or other financial assistance to a qualified borrower on a qualified project. Notably, SCTIB and DOT are still in the process of determining how Act 275 will be implemented. ⁷

Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are all available online as are the materials relating to the study of the agency.⁸

On May 26, 2016, the General Assembly received a comprehensive audit of the agency conducted by the Legislative Audit Council.⁹ SCTIB concurs with 12 of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency.¹⁰ On August 15, 2016, SCTIB provided the Subcommittee an implementation timeline for the Legislative Audit Council recommendations in which the agency concurs.¹¹

STUDY PROCESS

House Legislative Oversight Committee's Actions

On January 7, 2015, the House Legislative Oversight Committee approved a proposed seven-year study schedule for the Speaker of the House.¹² The Speaker approved the Committee's recommendations, which were then published in the House Journal on January 13, 2015.¹³ The South Carolina Transportation Infrastructure Bank is an agency subject to legislative oversight.¹⁴ The Committee approved the study of the agency on April 14, 2015.¹⁵

The Committee notified the agency about the study on April 15, 2015.¹⁶ As the Committee encourages collaboration in its legislative oversight process, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor were also notified about the agency study.

Subcommittee Studying the Agency

The Economic Development, Transportation, Natural Resources and Regulatory Subcommittee of the House Oversight Committee is studying the agency. The chair of the Subcommittee is the Honorable Phyllis J. Henderson; other members include: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.¹⁷

Meetings with the Agency

The Subcommittee met with the agency on eight occasions. Videos and minutes of meetings are available online.

1. **April 21, 2015**, the Subcommittee held an introductory meeting with the agency, the purpose of which was to discuss the legislative oversight process and receive a general overview of the agency's actions.
2. **March 10, 2016**, the Subcommittee held a meeting and received an overview of the agency.
3. **April 28, 2016**, the Subcommittee held a meeting, the purpose of which was to provide an opportunity for the public to provide input.
4. **May 26, 2016**, the Subcommittee held a meeting and received information about the comprehensive audit of the agency released by the Legislative Audit Council.
5. **June 28, 2016**, the Subcommittee held a meeting with the agency to further discuss the Legislative Audit Council's recommendations and the status of the agency's development of its strategic plan.
6. **August 25, 2016**, the Subcommittee held a meeting with the agency to further discuss a timeline of the agency's implementation of any of the Legislative Audit Council's recommendations; new agency operating guidelines; and study recommendations.
7. **September 19, 2016**, the Subcommittee held a meeting to further discuss recommendations relating to the agency.
8. **October 31, 2016**, the Subcommittee held a meeting to further discuss recommendations relating to the agency.

Information from the Public

During the month of September, 2015, the Committee posted an **online survey to solicit comments from the public about the South Carolina Transportation Infrastructure Bank** and other agencies. Communication about this survey was sent to all House members to forward to their constituents. In an effort to communicate it throughout the state, it was also sent to media statewide via a press release. As noted in the survey, "input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."¹⁸ **The public was informed they could continue to submit written comments about agencies online** after the public survey closed.¹⁹ The public was also informed that comments submitted are not considered testimony.²⁰ All meetings were open to the public, streamed live online, and videos are archived when technologically feasible. **During the April 28, 2016, meeting the Committee invited the public to provide comments and recommendations about to the agency directly to the Subcommittee.**²¹ By the time the Subcommittee issued this Subcommittee Study, members of the public had an opportunity to participate anonymously in a public survey, provide comments anonymously after the public survey was over via a link on the Committee website, and appear in person before the Subcommittee.

Information from the Agency

The **Committee asked the agency to conduct a self-analysis** by requiring it to complete and submit a 2015 Restructuring Report, Seven-Year Plan for cost savings and increased efficiencies, Program Evaluation Report, and 2016 Annual Restructuring Report. The agency submitted its 2015 Restructuring Report and Seven-Year Plan, which were combined into a single report for 2015, on March 31, 2015.²² The agency submitted its Program Evaluation Report on July 27, 2015.²³ The agency submitted its 2016 Annual Restructuring Report on January 12, 2016.²⁴ Committee staff provided the agency the **committee staff study** on March 11, 2016.²⁵ The agency had ten business days to provide a response, if it wanted to provide a response.²⁶ House Members were notified about the staff study on April 6, 2016.²⁷ These reports are available online.

Next Steps

Pursuant to Committee Standard Practice 12.4, **individual members of this Subcommittee have the opportunity to provide a separate written statement for inclusion with the Subcommittee's Study.** Once all individual members of the Subcommittee have provided their written statement, or indicated to the Subcommittee Chair that they will not provide a separate written statement, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the full Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee Chair, the full Committee Chair shall, pursuant to Committee Standard Practice 13.1, **include the Subcommittee Study on the agenda for a full committee meeting.** During a full Committee meeting at which the Subcommittee Study is discussed, the full Committee will vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the Subcommittee for further evaluation; (2) approve the Subcommittee's study; or (3) further evaluate the agency as a full Committee, utilizing any of the available tools of legislative oversight available.

When the full Committee approves a final study, any member of the Committee may provide a written statement for inclusion with the final study. The final study, and written statements, will be published online and the agency, as well as all House Standing Committees, will receive a copy. Lastly, the full Committee

shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee. The Committee Chair may also provide briefings to the public about the final oversight study.

RECOMMENDATION DETAILS

Purpose of Recommendations

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out in accordance with the intent of the General Assembly; and (2) **should be continued, curtailed, or eliminated.**” In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.²⁸

Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee **recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency.** These recommendations are based on the agency’s self-analysis requested by the full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency by the General Assembly’s Legislative Audit Council and the agency’s response to this audit. This information, including, but not limited to the Staff Study, various agency reports to the Committee, and videos of meetings with the agency can all be found on the Committee’s website.

Continue

The Subcommittee **does not have any specific recommendations with regards to continuance of agency programs.**

Eliminate

The Subcommittee **does not have any specific recommendations with regards to elimination of agency programs.**

Revise (i.e., curtail)

The Subcommittee recommends revisions to laws relating to the agency as well as one recommendation that applies to agencies in general. A summary of these recommendations is included in Table 2 on page 6.

On May 26, 2016, the General Assembly received a comprehensive audit of the agency conducted by the Legislative Audit Council.²⁹ Notably, SCTIB concurs with 12 of the recommendations provided by the

Legislative Audit Council in its comprehensive audit of the agency, and on August 15, 2016, SCTIB provided the Subcommittee an implementation timeline for the recommendations in which the agency concurs.³⁰

While the Subcommittee chose to include the recommendations from the Legislative Audit Council for information purposes in this report to the full Committee, the Subcommittee recommends the General Assembly implement Legislative Audit Council Recommendation #24.³¹ Specifically, this is a recommendation that “[t]he General Assembly should amend South Carolina Code of Laws § 8-13-710 to make it illegal for all state public officials, board members, and employees to accept any gifts over a specific dollar amount that are a result of their holding state government positions.”³² The Subcommittee notes this recommendation applies to agencies in general and not to SCTIB in particular.

With regards to the issue of receipt of gifts by state public officials, board members, and employees, Secretary of Transportation Christy A. Hall testified that cabinet agencies and some other agencies have adopted an employee code of conduct and established their own ethics officers.³³ Executive Order 2014-23 established a State Employee Code of Conduct Task Force, and the task force issued its final report on August 7, 2014, which recommended a model code of conduct for state employees.³⁴ Cabinet agency employees are required to have training on these issues at least once a year. The Department of Administration assists in this process by providing online training modules for employees to complete. There is a training module which discusses policies on policy on gifts and other things of value, and the stated best practice is to avoid accepting gifts or other things of value.³⁵

The Subcommittee acknowledges revisions in law enacted in Act 275 of 2016 by the General Assembly pertaining to SCTIB. The complete text of Act 275 of 2016 is available on the General Assembly’s website. The portions of Act 275 of 2016 pertaining to SCTIB are set forth below in an excerpt from a summary of the legislation prepared by the Office of House Research.

Before providing a loan or other financial assistance, the board of directors that oversees [SCTIB] must . . . submit its decision to the Department of Transportation Commission for its consideration. The [Department of Transportation] Commission can, in turn, approve or reject the decision or request additional information from the bank’s board of directors. [SCTIB’s policy of following the SC Department of Transportation’s project priority criteria is established as a statutory requirement. The General Assembly may, however, enact a joint resolution specifically allowing the bank to fund a project without using [Department of Transportation’s] prioritization criteria. The minimum project amount set in [SCTIB’s] requirements is lowered from \$100 million to \$25 million. This threshold is lowered to allow more areas to be able to afford local match requirements and take advantage of the bank’s bonding capabilities for financing their transportation projects.³⁶

The Subcommittee recommends that SCTIB not fund projects that have been “bundled together” to meet the minimum threshold amount if the smaller projects individually do not reach the \$25,000,000 minimum project cost.³⁷ After approval of this recommendation, on September 15, 2016, SCTIB provided the Subcommittee with a copy of proposed revisions to its new operating guidelines, which among other things, includes proposed revisions relating to bundling projects.³⁸

As provided by SC Code Section 11-43-180(C), the Bank may not provide any loans or other financial assistance, including bond proceeds, to any project unless the eligible costs of the project are at least \$25 million. Applicants may not combine improvements

to more than one project for the purpose of meeting the minimum amount of eligible project costs in SC Code Section 11-43-180(C).³⁹

The Subcommittee recommends SCTIB adopt, in its publicly available operating guidelines, a definition of the term “local match.”⁴⁰ Section 11-43-180(B) provides that “[t]he board shall determine which projects are eligible projects and then select from among the eligible projects those qualified to receive a loan or other financial assistance. Preference must be given to eligible projects which have local financial support.” On August 15, 2016, SCTIB provided the Subcommittee with a copy of its new operating guidelines that were approved in May 2016.⁴¹ After approval of this recommendation, on September 15, 2016, SCTIB provided the Subcommittee with a copy of proposed revisions to its new operating guidelines, which among other things, includes proposed revisions relating to local matches.⁴²

Local matches must consist of the payment of monies by the project sponsor or owner to support the project. Local matches or loan payments on a project consisting of payments to the Bank that may be pledged to revenue bonds will be scored higher than other forms of ~~matches or payments~~. Next in order of scoring will be local matches that consist of payments of projects costs or loan payments that may not be pledged to revenue bonds. Local matches that are in kind or consist of the ~~local government project sponsor or owner~~ improving roads that are collateral to or not part of the project ~~may~~ will not be considered.⁴³

Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are available online as is the study materials relating to the study of SCTIB.⁴⁴

General Assembly’s Legislative Audit Council

Materials of interest from the General Assembly’s Legislative Audit Council include the following:

- comprehensive audit of SCTIB released May, 2016;
- executive summary of the comprehensive audit;
- presentations about the audit made by Legislative Audit Council staff;
- agency’s official response to the comprehensive audit;
- agency’s bond counsel’s official response to the comprehensive audit;
- presentations about the comprehensive audit made by SCTIB Chairman Vince Graham;
- list of audit recommendations and the agency’s response to each recommendation, including a timeline of implementation for those recommendations in which the agency is in agreement;
- Department of Transportation’s official response to the comprehensive audit of SCTIB; and
- presentations about the audit made by Secretary of Transportation Christy A. Hall.

South Carolina Transportation Infrastructure Bank

Also, the following materials are available online relating to the study of the agency:

- video archives;
- minutes of Subcommittee meetings;
- oversight reports and studies;
- public survey and public input via the Legislative Oversight Committee's webpage;
- correspondence with the agency;
- organizational charts;
- strategic budgeting;
- Act 148 of 1997 legislative findings;
- minutes from SCTIB Board meetings (April 1, 2004 - May 18, 2016);
- presentations provided by SCTIB to the Subcommittee;
- SCTIB operating guidelines;
- application process documents provided by SCTIB;
- applications submitted to SCTIB for project funding; and
- project summary for fiscal year 2016.

Follow Up

The Subcommittee recommends following up with SCTIB in the subsequent year to obtain more information about the working relationship between SCTIB and the Department of Transportation (DOT) in light of the changes effected by Act 275 of 2016 with regards to the approval process for providing a loan or other financial assistance to a qualified borrower on a qualified project. Notably, SCTIB and DOT are still in the process of determining how Act 275 will be implemented.

SELECTED AGENCY INFORMATION CITED

SC Transportation Infrastructure Bank. *Program Evaluation Report*, 2015.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/State%20Transportation%20Infrastructure%20Program%20Evaluation%20Report.PDF>

SC Transportation Infrastructure Bank. *Restructuring and Seven-Year Plan Report*, 2015.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/TransportationInfrastructureBank.php>

SC Transportation Infrastructure Bank. *September 2015 Survey Results*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/September%202015%20Survey%20Results.pdf>

SC Transportation Infrastructure Bank. *Annual Restructuring Report*, 2016.

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20SCTIB%20\(PDF\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20SCTIB%20(PDF).PDF)

ENDNOTES

¹ SC House of Representatives, House Legislative Oversight Committee, "Subcommittees -2016," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

² *SC Code of Laws*, sec. 2-2-20(C).

³ SC House of Representatives, House Legislative Oversight Committee, "Transportation Infrastructure Bank, S.C.," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

⁴ SC House of Representatives, House Legislative Oversight Committee, "June 28, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C.," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁵ SC House of Representatives, House Legislative Oversight Committee, "August 25, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C.," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *SC Transportation Infrastructure Bank study materials.*

⁹ SC General Assembly, Legislative Audit Council, "A Review of the SC South Carolina Transportation Infrastructure Bank," under "Recent Publications" http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf (accessed July 21, 2016).

¹⁰ SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (August 15, 2016) response to Legislative Audit Council's recommendations" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

¹¹ *Ibid.*

¹² SC House of Representatives, House Legislative Oversight Committee, "January 7, 2015 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Meeting Minutes and Handouts," and under "Full Committee Minutes,"

<http://www.scstatehouse.gov/committeefinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes.php> (accessed June 21, 2015). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

¹³ The committee's recommendations, letters to the Speaker of the House of Representatives and House Clerk, and a direct link to the January 13, 2015, House Journal are available on the committee's website under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/committeefinfo/houselegislativeOversightCommittee.php> (accessed June 21, 2015).

¹⁴ *SC Code of Laws*, sec. 2-2-10(1).

¹⁵ SC House of Representatives, House Legislative Oversight Committee, "April 14, 2015 Full Committee Minutes," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Meeting Minutes and Handouts," and under "Full Committee Minutes,"

<http://www.scstatehouse.gov/committeefinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes.php> (accessed June 21, 2015). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

¹⁶ SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to STIB" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

¹⁷ *Subcommittees -2016.*

¹⁸ SC House of Representatives, House Legislative Oversight Committee, "September 2015 Public Survey." The survey is closed. The survey sought comments from the public about the South Carolina Transportation Infrastructure Bank; South Carolina School for the Deaf and the Blind; Commission for the Blind; Department of Public Safety; and the Treasurer's Office.

¹⁹ SC House of Representatives, House Legislative Oversight Committee, "Provide Input About Agencies," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee."

²⁰ *Standard Practice 10.4.*

²¹ SC House of Representatives, House Legislative Oversight Committee, "April 28, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank,

S.C.” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

²² SC House of Representatives, House Legislative Oversight Committee, “2015 - Agency ARR and Seven-Year Plan (March 31, 2015),” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016)

²³ SC House of Representatives, House Legislative Oversight Committee, “Agency PER” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

²⁴ SC House of Representatives, House Legislative Oversight Committee, “2016 Agency ARR” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

²⁵ SC House of Representatives, House Legislative Oversight Committee, “Staff Study and Agency Response (March 11, 2016)” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

²⁶ *Standard Practice*, 11.5. The agency opted not to provide a response to the staff study.

²⁷ SC House of Representatives, House Legislative Oversight Committee, “2015-2016 Summary - House Legislative Oversight Committee” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

²⁸ *SC Code of Laws*, sec. 2-2-20(C).

²⁹ SC General Assembly, Legislative Audit Council, “A Review of the SC South Carolina Transportation Infrastructure Bank,” under “Recent Publications” http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf (accessed July 21, 2016).

³⁰ SC House of Representatives, House Legislative Oversight Committee, “Correspondence from State Transportation Infrastructure Bank (August 15, 2016) response to Legislative Audit Council’s recommendations” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee,” under “Transportation Infrastructure Bank, S.C.”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

³¹ *June 28, 2016 Meeting Minutes*.

³² SC General Assembly, Legislative Audit Council, “A Review of the SC South Carolina Transportation Infrastructure Bank,” under “Recent Publications” http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf (accessed July 21, 2016).

³³ Secretary Christy’s Hall testimony is available for review on the June 28, 2016, video of the Subcommittee meeting at 50:39.

³⁴ This Executive Order and the task force’s report are both available online by visiting the website of South Carolina Office of the Governor Nikki R. Haley.

³⁵ The training modules are available online by visiting the website of the South Carolina Department of Administration. Specifically, Module 2 relates to gifts and other things of value.

³⁶ SC House of Representatives, Office of House Research, “Legislative Update June 7, 2016,” under “Publications,” under “Legislative Updates” <http://www.scstatehouse.gov/hupdate.php> (accessed September 8, 2016).

³⁷ *August 25, 2016 Meeting Minutes*.

³⁸ SC House of Representatives, House Legislative Oversight Committee, “Correspondence from State Transportation Infrastructure Bank (September 15, 2016) - draft revised SCTIB operating guidelines,” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20\(September%2019,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20(September%2019,%202016).pdf) (accessed October 17, 2016).

³⁹ *Ibid*, page 10.

⁴⁰ *August 25, 2016 Meeting Minutes*.

⁴¹ SC House of Representatives, House Legislative Oversight Committee, “Correspondence from State Transportation Infrastructure Bank (August 25, 2016) - SCTIB operating guidelines,” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

⁴² SC House of Representatives, House Legislative Oversight Committee, “Correspondence from State Transportation Infrastructure Bank (September 15, 2016) - draft revised SCTIB operating guidelines,” under “Citizens’ Interest,” under “Agency Oversight by the House Legislative Oversight Committee” ” under “Transportation Infrastructure Bank, S.C.”

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20\(September%2019,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20(September%2019,%202016).pdf) (accessed October 17, 2016).

⁴³ *Ibid*, page 10.

⁴⁴ SC House of Representatives, House Legislative Oversight Committee, under “Citizens’ Interest,” under “Agency Oversight by House Legislative Oversight Committee,”

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed April 23, 2016).

SUBCOMMITTEE MEMBER STATEMENTS

Pursuant to Standard Practice 12.4, on October 31, 2016, the following Legislative Oversight Committee Members provided statements for inclusion with the Subcommittee's Study:

CONTACT INFORMATION

Committee Contact Information

Address:

South Carolina House of Representatives
Legislative Oversight Committee
1105 Pendleton Street, Blatt Building Room 228
Post Office Box 11867
Columbia, South Carolina 29211

Online:

You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "Agency Oversight by House Legislative Oversight Committee." This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

Telephone:

803-212-6810

Agency Contact Information

Address:

South Carolina Transportation
Infrastructure Bank
Post Office Box 191
Columbia, SC 29202-0191

Online:

Agency's home page: <http://sctib.sc.gov/Pages/default.aspx>

Telephone:

(803) 737-2875

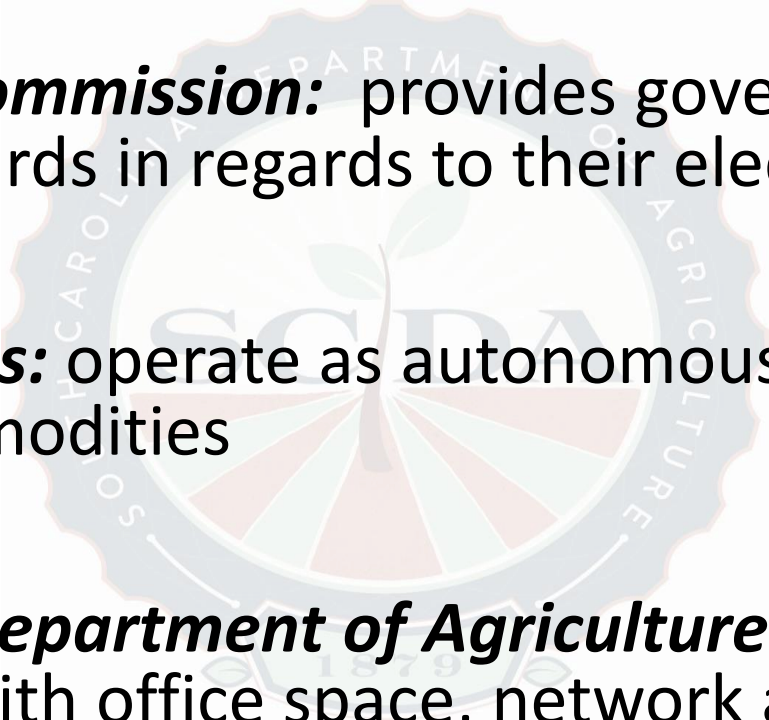
South Carolina Department of Agriculture

Hugh E. Weathers, Commissioner



“South Carolina Commodity Board Structure and Function”

Overview

- 
- ***The SC Agriculture Commission:*** provides governance and oversight to SC Commodity Boards in regards to their elections and structure.
 - ***SC Commodity Boards:*** operate as autonomous representatives of their respective commodities
 - ***The South Carolina Department of Agriculture:*** provides SC Commodity Boards with office space, network access and personnel services; and staff support to the Agriculture Commission

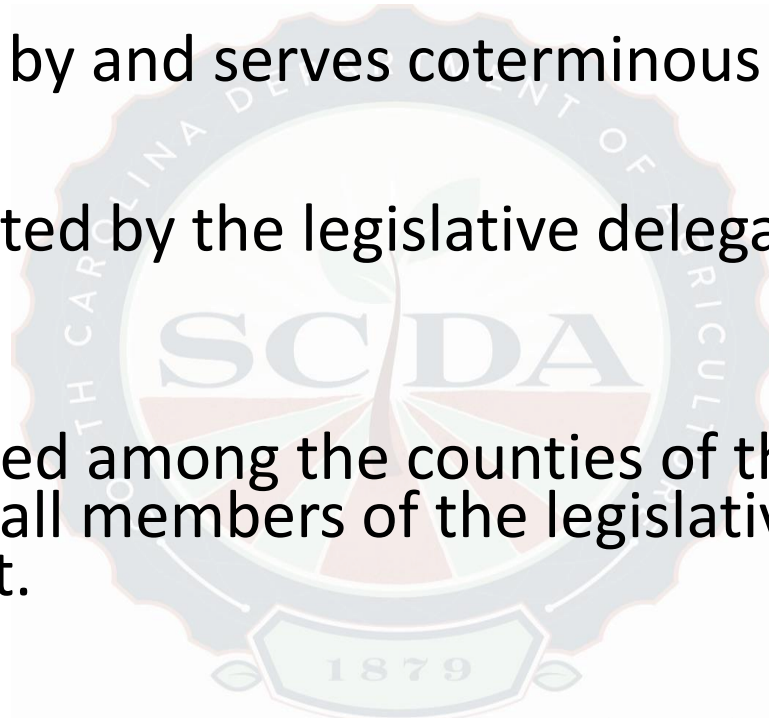
SC Agriculture Commission

SC Code §46-5

- Created in 1968 primarily to oversee the administration of the South Carolina Agricultural Commodities Marketing Act.
- Responsible for issuance, amendment, or termination of marketing agreements or orders to produce the intended effects of the Act.
- Maintains the required records, issues notices, conducts hearings, and ensures that all growers have the opportunity to participate in referendums.

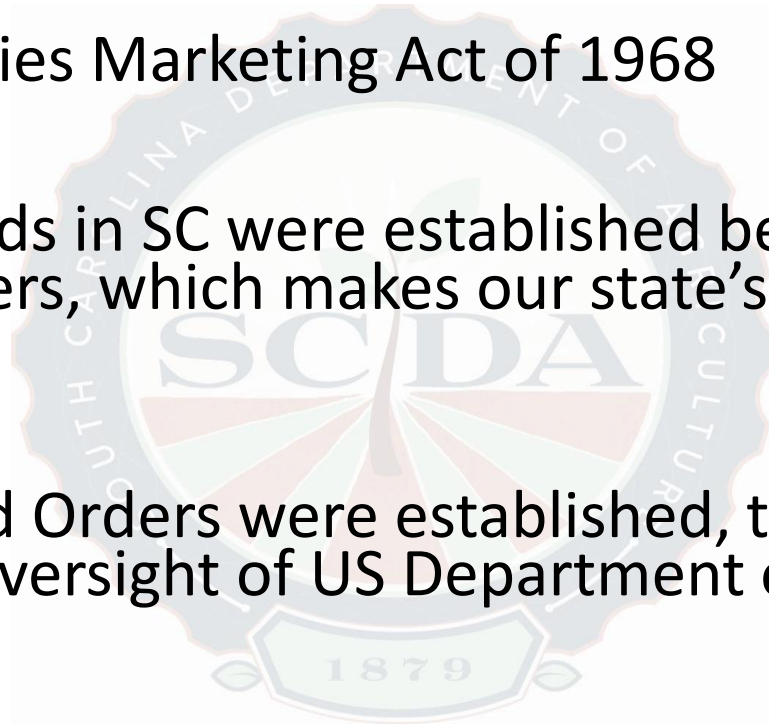
SC Agriculture Commission cont.

- Chairman is appointed by and serves coterminous with the Governor.
- One member is appointed by the legislative delegation from each judicial circuit.
- Representation is rotated among the counties of the circuit except by unanimous consent of all members of the legislative delegation representing the circuit.
- The Chairman of the House Ag Committee, the Chairman of the Senate Ag Committee, and the Commissioner of Agriculture all serve as Ex Officio members.



Commodity Boards History

- Agricultural Commodities Marketing Act of 1968
- Most Commodity Boards in SC were established before any National Marketing Acts or Orders, which makes our state's structure unique from a national perspective.
- Once National Acts and Orders were established, the funds of the state boards fell under the oversight of US Department of Agriculture-Agriculture Marketing Service.
- Commodity Board oversight was given to the SC Agriculture Commission as a check and balance system

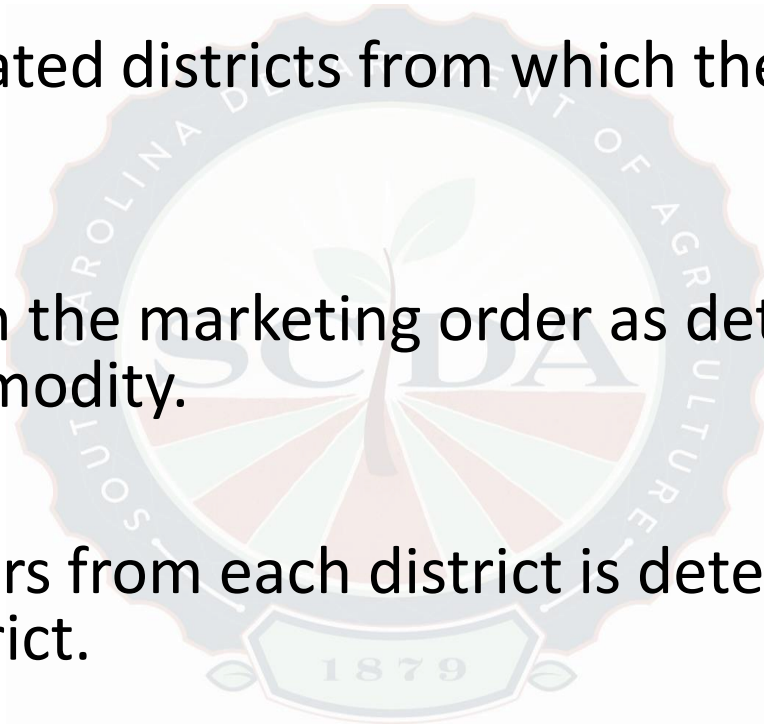


Commodity Boards Currently in Operation

- SC Beef Council
 - SC Pork Board
 - SC Peanut Board
 - SC Cotton Board
 - SC Tobacco Board
 - SC Soybean Board
 - SC Watermelon Board
- 
- Farmer leaders pooling and investing their own dollars to increase profitability and sustainability of their respective commodities.

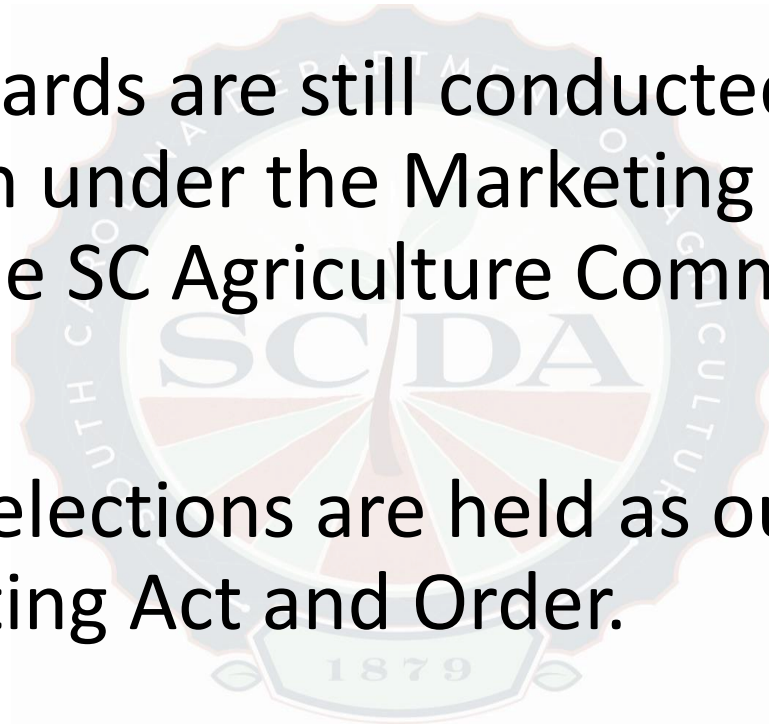
Structure

- Each Board has designated districts from which the board of directors is elected.
- Districts are set forth in the marketing order as determined by the producers of that commodity.
- The number of members from each district is determined by the amount of production in that district.
- The State Commodity Board of Directors serve as representatives of all producers of their respective commodity in the state.



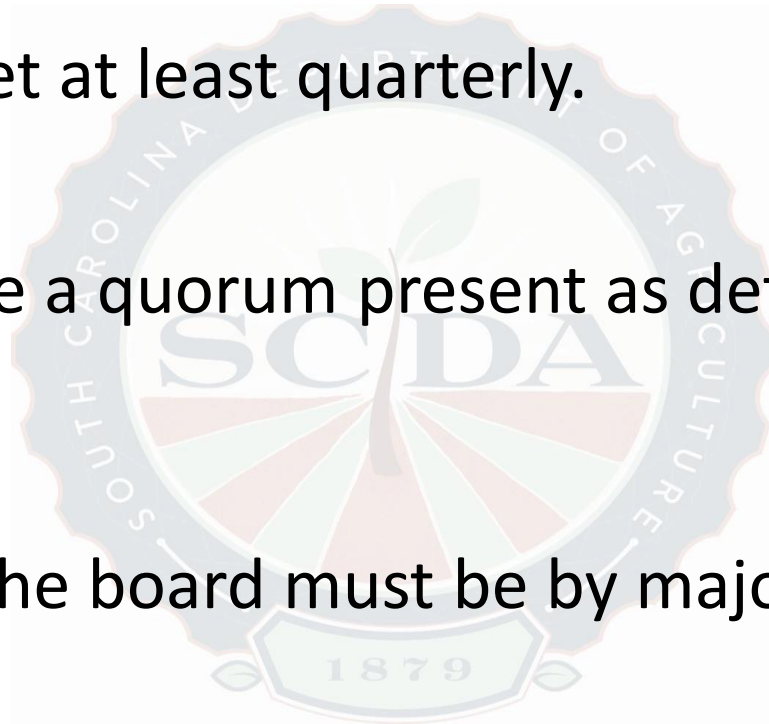
Structure cont.

- Elections to the boards are still conducted under the guidelines set forth under the Marketing Act and administered by the SC Agriculture Commission.
- National delegate elections are held as outlined by the USDA-AMS Marketing Act and Order.



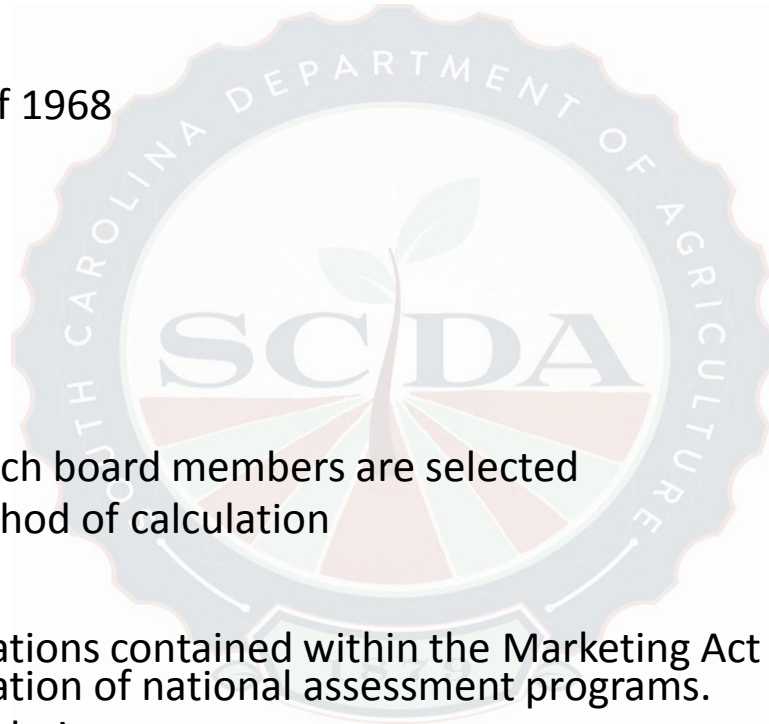
Board Meetings

- Each Board must meet at least quarterly.
- Each Board must have a quorum present as defined in their marketing act and order.
- Any action taken by the board must be by majority vote, provided a quorum is present.



State Rules and Regulations

- Established by the Marketing Act of 1968
- Not the same for all commodities
- Differences include:
 - Number of board members
 - Number of Districts from which board members are selected
 - Assessment amount and method of calculation
- Many of the State Rules and Regulations contained within the Marketing Act of 1968 were superseded by federal rules and regulations upon the creation of national assessment programs.
 - Assessment amount and calculation
 - Remittance process
 - Compliance regulations



National Rules and Regulations

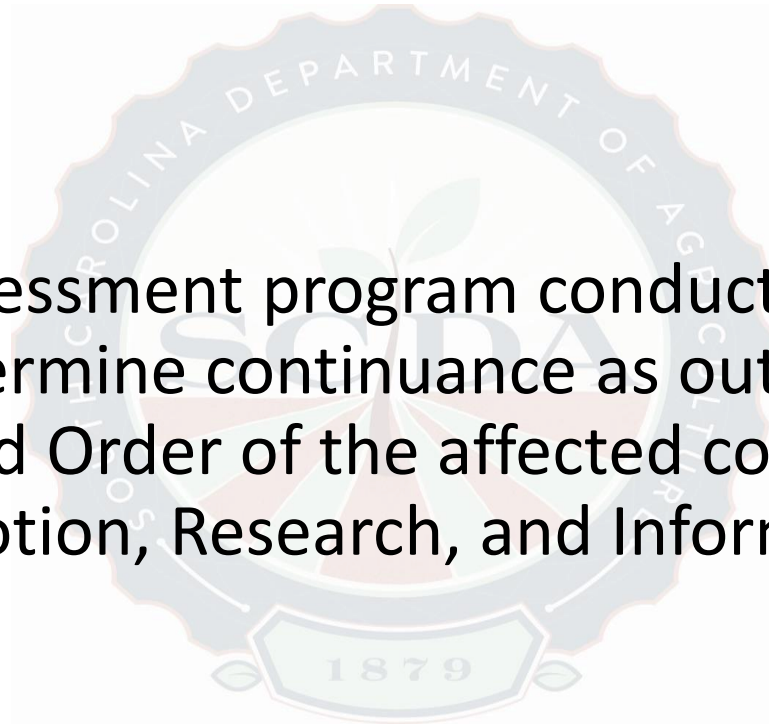
- Every Commodity Board that falls under the Marketing Act of 1968, with the exception of the SC Tobacco Board, now has a national program administered by USDA-AMS by a way of federal acts and orders governing compliance and operation.
- Assessments are collected from producers in South Carolina and are divided between the national commodity board and the state commodity board.
- National boards and state boards invest their respective assessments under federal rules, or state rules where applicable.

Federal Compliance

- The Boards of Directors ensure that the funds being expended are in the best interest of the producers and provide a return on investment to the industry for which they represent.
- **Financial Audit**
 - Independent financial audit conducted each year to ensure compliance
- **Compliance and Control Audit**
 - Conducted by a USDA AMS approved designee at least every five years and whenever a new executive director is appointed to ensure sound policies and procedures and strong internal controls.

Continuance of federal acts and orders

Each national assessment program conducts a referendum of producers to determine continuance as outlined in either the Marketing Act and Order of the affected commodity or in the “Commodity Promotion, Research, and Information Act of 1996.”

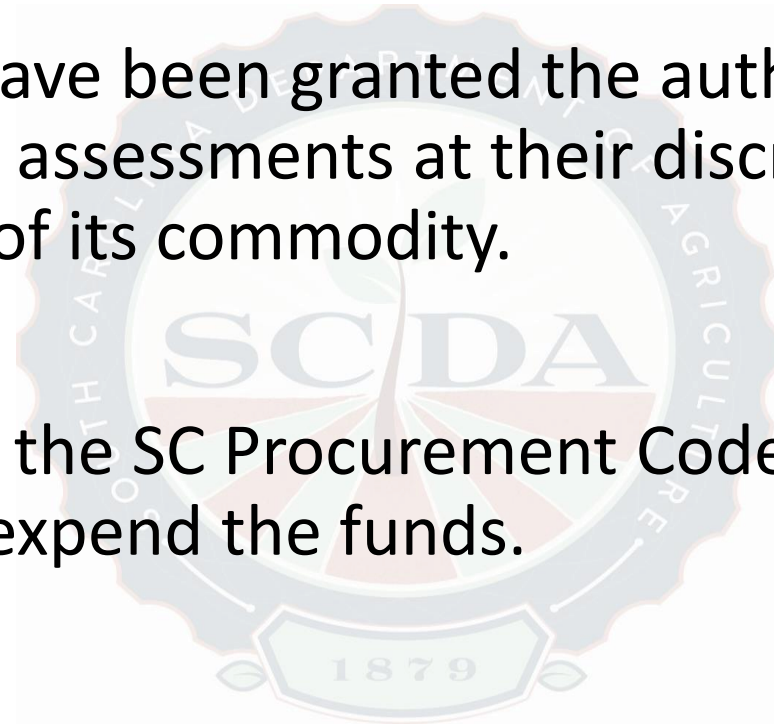


Assessments

- Collected differently by every board, as outlined by the USDA-AMS Marketing Act and order.
- Deposited differently, depending on the Commodity Board's needs along with input from the national organization
- Each Board has a specific set of guidelines set forth by their national Act and Order that they must follow when expending funds from their respective assessments.
- Each Commodity Board is uniquely structured to maximize the benefit of assessments paid by farmers.
 - Example- SC Beef Council can only conduct market based research, whereas the SC Pork Board can conduct production research.

Expenditure of Funds Issue

- Commodity Boards have been granted the authority to expend funds from their respective assessments at their discretion as the representative body of its commodity.
- Problems arise when the SC Procurement Code Rules do not align with the decision to expend the funds.

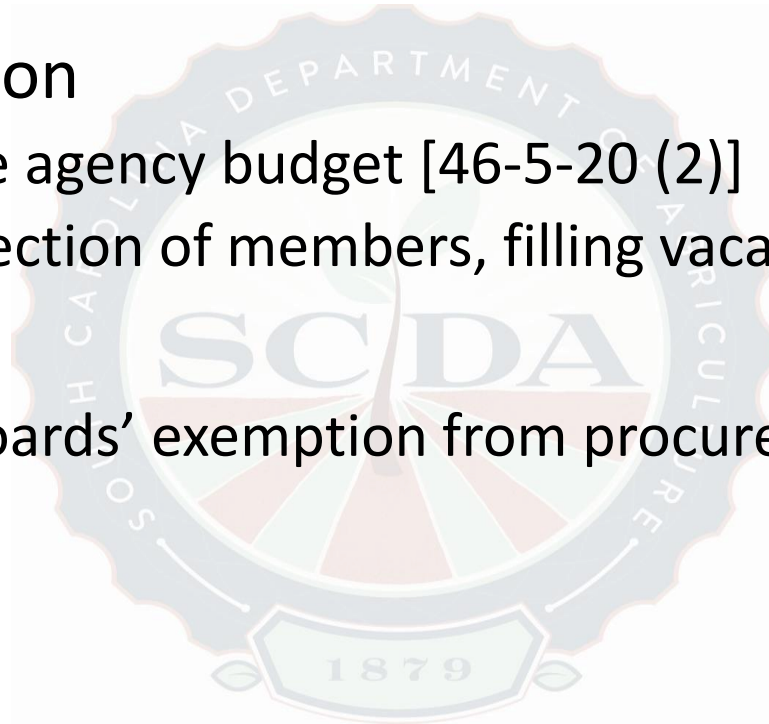


Expenditure of Funds Issue cont.

- Examples:
 - National assessment programs are allowed to participate in the sponsorship of certain programs or events, and sponsorships are not allowed under the SC State Procurement Code.
 - National assessment programs allow the state Board of Directors to expend funds through a majority vote as long as the expenditure is within the annual budget parameters that is submitted to and approved by USDA-AMS. SC State Procurement Codes disallows some of these expenditures after the fact, which creates problems between the vendor and the Commodity Board.

Possible legislative changes

- Agriculture Commission
 - Strike approval of the agency budget [46-5-20 (2)]
 - Process for terms, election of members, filling vacancies
- Procurement
 - Clarify commodity boards' exemption from procurement



Value of Commodity Boards

- Co-location with SCDA improves cooperation and leverages marketing resources
- Farmers get more staff support, and in one place
- Farmers investing their own money
- Many examples of success
 - Got Milk, Beef: It's What's For Dinner
 - Consumer education BSE (mad-cow disease)
- Funds university research (Clemson, USC, SC State)

Appendix G. January 26, 2017 Meeting Information

Appendix Includes:

- Meeting Packet
 - Agenda
 - October 31, 2016 - Meeting Minutes
 - Study Status
 - SC Transportation Infrastructure Bank
 - Department of Agriculture
 - Human Affairs Commission
 - SC Transportation Infrastructure Bank
 - Draft Subcommittee Study
 - Recommendations

**South Carolina
House of Representatives**



Legislative Oversight Committee

***ECONOMIC DEVELOPMENT, TRANSPORTATION,
AND NATURAL RESOURCES SUBCOMMITTEE***

Chairman Ralph W. Norman

The Honorable Neal A. Collins

The Honorable Mandy Powers Norrell

The Honorable Robert L. Ridgeway III

Thursday, January 26, 2017

30 minutes after adjournment

Room 409 -Blatt Building

(full Agriculture Committee Meeting Room)

***Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming
whenever technologically feasible.***

AGENDA

- I. Approval of Minutes from the October 31, 2016 Subcommittee Meeting**
- II. Member Work Session, including but not limited to, discussion of studies of the State Transportation Infrastructure Bank and the Department of Agriculture**
- III. Adjournment**

LEGISLATIVE OVERSIGHT COMMITTEE

ECONOMIC DEVELOPMENT, TRANSPORTATION,
AND NATURAL RESOURCES SUBCOMMITTEE

MINUTES FROM OCTOBER 31, 2016 MINUTES

First Vice-Chair:
Laurie Slade Funderburk

Legislative Oversight Committee

Nathan Ballentine
Gary E. Clary
Kirkman Finlay III
Joseph H. Jefferson Jr.
Walton J. McLeod
Joshua Putnam
Samuel Rivers Jr.
Tommy M. Stringer
Bill Taylor



William K. (Bill) Bowers
Raye Felder
Phyllis J. Henderson
Mia S. McLeod
Ralph W. Norman
Robert L. Ridgeway III
James E. Smith, Jr.
Edward R. Tallon Sr.
Robert Q. Williams

South Carolina House of Representatives

Jennifer L. Dobson
Research Director

Cathy A. Greer
Administration Coordinator

Post Office Box 11867

Columbia, South Carolina 29211

Telephone: (803) 212-6810 • Fax: (803) 212-6811

Room 228 Blatt Building

Charles L. Appleby IV
Legal Counsel

Economic Development, Transportation, Natural Resources and Regulatory

Subcommittee Meeting

Monday, October 31st, 2016

9:30 a.m.

Room 108 - Blatt Building

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, S.C. ETV was allowed access for streaming the Subcommittee meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and click on "Committee Postings and Reports," then under House Standing Committees click on "Legislative Oversight". Lastly, click on "Video Archives" for a listing of archived videos for the Legislative Oversight Committee.

Minutes

- I. House Rule 4.5 requires the standing committees of the House to prepare and make available for public inspection, in compliance with Section 30-4-90, the minutes of full committee meetings. House Rule 4.5 further provides that such minutes need not be verbatim accounts of such meetings. It is the practice of the House Legislative Oversight Committee to provide minutes, which are not verbatim accounts of such meetings, for its Subcommittee meetings.

Attendance

- I. The Economic Development, Transportation, Natural Resource and Regulatory Subcommittee (Subcommittee) meeting was called to order by Subcommittee Chair Phyllis J. Henderson on Monday, October 31st, 2016 in Room 108 of the Blatt Building, Columbia, South Carolina. The following Subcommittee Members were

present: Subcommittee Chair Henderson, Representative Robert L. Ridgeway III, and Representative Ralph W. Norman.

Approval of Minutes from Previous Meeting

- I. Subcommittee Chair Henderson submitted proposed minutes from the Committee's previous meeting, September 19, 2016. Representative Ridgeway moved to approve the minutes. A roll call vote was held, and all present voted in favor of approval.

Rep. Ridgeway's Motion to Approve the Minutes from the September 19, 2016 Meeting	Yea	Nay	Not Voting
Rep. Phyllis Henderson	✓		
Rep. Ralph Norman	✓		
Rep. Robert Ridgeway	✓		
Rep. Samuel Rivers			Not Present

Discussion of the Study of the State Transportation Infrastructure Bank (STIB)

- I. Subcommittee Chair Henderson provided an update on the SCTIB. In May, the Legislative Audit Council released its' comprehensive audit of SCTIB. Subcommittee Chair Henderson stated that she and Representative Norman had some additional questions for the SCTIB so they are not yet ready to complete the study. Representative Norman asked for additional questions to be submitted to the SCTIB. Chair Henderson moved that members submit any additional questions to STIB. A roll call vote was held, and the motion passed.

Chair Henderson's Motion to Submit Additional Questions to STIB:	Yea	Nay	Not Voting
Rep. Phyllis Henderson	✓		
Rep. Ralph Norman	✓		
Rep. Robert Ridgeway	✓		
Rep. Samuel Rivers			Not Present

Discussion of the Study of the Department of Agriculture

- II. Commissioner Weathers explained to the Subcommittee the ways Hurricane Matthew effected the Department of Agriculture and the state.
- III. Commissioner Weathers gave an overview of the various commodity boards, and the structure and history of the Department of Agriculture.

- IV. Commissioner Weathers testified about the Department's reliance upon a legal opinion issued by the Attorney General in its procurement practices relating to commodity boards. He testified about possible legislative changes that could be made in light of the state's agricultural situation.

Commissioner Weathers answered questions about topics such as:

- a. The makeup of the Commission of Agriculture, and the process by which commissioners are appointed;
 - b. The nature of the staff employed by the agency that work with the commodity boards; and
 - c. The fees assessed by the commodity boards.
- V. Representative Norman requested access to audits of the commodity boards and information on the agency's paid staff that worked with the boards.
- VI. The meeting was adjourned.

LEGISLATIVE OVERSIGHT COMMITTEE

ECONOMIC DEVELOPMENT, TRANSPORTATION,
AND NATURAL RESOURCES SUBCOMMITTEE

STATUS CHARTS OF STUDIES

Table 1. Key Dates and Actions of the Study Process, 2015-2016, South Carolina Transportation Infrastructure Bank.

House Legislative Oversight Committee's Actions

- April 14, 2015 - Approves the priority of the study of the agency
- April 15 - 22, 2015 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, Members of the House, Clerk of the Senate, and Governor
- September 1, 2015 - Issues press release announcing public survey opportunity for the agency

Economic Development, Transportation, and Natural Resources Subcommittee's Actions

- April 21, 2015 - **(Meeting 1)** Holds introductory meeting with the agency to discuss the legislative oversight process
- March 9, 2016 - Provides Staff Study to Agency
- March 10, 2016 - **(Meeting 2)** Holds meeting with the agency and receives an overview of the agency
- March 23, 2016 - Sends agency a follow up letter requesting information on project selection, bank administration, and projects for local governments
- April 8, 2016 - Notifies House Members about the public input meeting and issues press release about public input meeting
- April 28, 2016 - **(Meeting 3)** Holds meeting to receive public input about the agency
- May 26, 2016 - **(Meeting 4)** Holds meeting to receive information about the Legislative Audit Council's May 2016 audit of the agency
- June 15, 2016 - Sends agency a follow up letter requesting information pertaining to the audit of the agency
- July 6, 2016 - Sends agency a follow up letter requesting an updated organizational chart; summary document of new operating guidelines, noting those which implement or begin the implementation process of any Legislative Audit Council recommendations; general timeline for implementation of Legislative Audit Council recommendations; and any recommendations the agency would like the Subcommittee to consider for inclusion in its study
- June 28, 2016 - **(Meeting 5)** Holds meeting with the agency to further discuss the Legislative Audit Council's recommendations and the status of the agency's development of its strategic plan
- August 25, 2016 - **(Meeting 6)** Holds meeting with the agency to discuss a timeline of the agency's implementation of any of the Legislative Audit Council's recommendations; new agency operating guidelines; and study recommendations
- September 19, 2016 - **(Meeting 7)** Holds meeting with the agency for further discussion of recommendations
- October 31, 2016 - **(Meeting 8)** Holds meeting and requests in writing additional information from the agency

South Carolina Transportation Infrastructure Bank's Actions

- March 31, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- July 27, 2015 - Submits its Program Evaluation Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- March 11, 2016 - Submits its response to the Staff Study
- April 23, 2016 - Provides Subcommittee information in response to the Subcommittee's March 23, 2016, letter
- August 15, 2016 - Provides Subcommittee information in response to the Subcommittee's July 6, 2016, letter
- December 16, 2016 - Provides Subcommittee information in response to the Subcommittee's November 4, 2016, letter

Public's Actions

- September 1 - 30, 2015 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - www.scstatehouse.gov)
- April 28, 2016 - Opportunity for public input at Subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

Key Dates and Actions of the Study Process for the Department of Agriculture

House Legislative Oversight Committee's Actions

- January 28, 2016 - Approves the study of the agency
- February 2016, 2015 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor
- June 28, 2016 - Issues press release announcing public survey opportunity for the agency

Economic Development, Transportation, and Natural Resources Subcommittee's Actions

- April 28, 2016 - **(Meeting 1)** Holds introductory meeting with the agency to discuss the legislative oversight process
- July 6, 2016 - **(Meeting 2)** Holds public input meeting and receives information on agency's history, mission, and vision
- October 31, 2016 - **(Meeting 3)** Discusses South Carolina Commodity Boards structure and function

Department of Agriculture's Actions

- March 21, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- August 25, 2016 - - Submits agency's Program Evaluation Report
- December 30, 2016 - - Submits updated information relating to the agency's Program Evaluation Report to ensure the website information remains current
- **Subcommittee Steps to be addressed:**
 - **Agency Legal Directives, Plan and Resources**
 - **Agency Daily Operations and Performance**
 - **Agency Recommendations**

Public's Actions

- May 1, 2016 - May 31, 2016 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - www.scstatehouse.gov)
- July 6, 2016 - Opportunity for public input at subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

Constituent comments, including requested revisions, and Committee staff notes summarizing those comments are not the comments or expression of the House Legislative Oversight Committee, any of its Subcommittees, the House of Representatives, or any of these entities staff.

Key Dates and Actions of the Study Process for the **Human Affairs Commission**

House Legislative Oversight Committee's Actions

- January 10, 2017 - Approves the study of the agency
- January 17, 2017 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor

Economic Development, Transportation, and Natural Resources Subcommittee's Actions

Human Affairs Commission Actions

- April 14, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee

Public's Actions

- Ongoing - Public may submit written comments on the Oversight Committee's webpage

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LEGISLATIVE OVERSIGHT COMMITTEE

ECONOMIC DEVELOPMENT, TRANSPORTATION,
AND NATURAL RESOURCES SUBCOMMITTEE

TRANSPORTATION INFRASTRUCTURE BANK

- DRAFT REPORT
- ISSUES; POTENTIAL QUESTIONS AND
MOTION

Legislative Oversight Committee

DRAFT Subcommittee Study of the South Carolina Transportation Infrastructure Bank *January, 2017*



FULL COMMITTEE OPTIONS STANDARD PRACTICE 13	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the subcommittee or an ad hoc committee for further evaluation; (2) Approve the subcommittee's study; or (3) further evaluate the agency as a full committee, utilizing any of the available tools of legislative oversight available		

CONTENTS

Contents

Executive Summary	5
Study Process	5
Purpose of Oversight Study	5
Recommendations.....	5
Additional Information of Interest.....	6
Study Process.....	7
House Legislative Oversight Committee's Actions.....	7
Subcommittee Studying the Agency.....	7
Meetings with the Agency.....	7
Information from the Public	8
Information from the Agency	8
Next Steps	8
Recommendation Details	9
Purpose of Recommendations	9
Recommendations.....	9
Additional Information of Interest.....	11
Follow up.....	12
Selected Agency Information Cited	12
Endnotes.....	12
Subcommittee Member Statements	15
Contact Information	15

Tables

Table 1. Key Dates and Actions of the Study Process, 2015-2016, South Carolina Transportation Infrastructure Bank.....4

Table 2. Summary of recommendations.....6

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House Legislative Oversight Committee's Actions

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- September 1, 2015 - Issues press release announcing public survey opportunity for the agency

Economic Development, Transportation, and Natural Resources Subcommittee's Actions

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South Carolina Transportation Infrastructure Bank's Actions

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- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
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Public's Actions

- September 1 - 30, 2015 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - www.scstatehouse.gov)
- April 28, 2016 - Opportunity for public input at Subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

EXECUTIVE SUMMARY

Study Process

The Economic Development, Transportation, and Natural Resources Subcommittee (“Subcommittee”) of the House Oversight Committee (“Committee”) is studying the South Carolina Transportation Infrastructure Bank (“agency” or “SCTIB”). The chair of the Subcommittee is the Honorable Ralph W. Norman; other members include: the Honorable Neal A. Collins, the Honorable Mandy Powers Norrell, and the Honorable Robert L. Ridgeway, III.¹

The study began in the 121st General Assembly by the Economic Development, Transportation, Natural Resources and Regulatory Subcommittee. The chair of the Subcommittee for the 121st General Assembly was the Honorable Phyllis J. Henderson; other members included: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.²

The Subcommittee met with SCTIB eight times during the course of its study. Key dates and actions of the study process are listed in Table 1 on the previous page.

Purpose of Oversight Study

As stated in SC Code of Laws Section 2-2-20(B), “[t]he **purpose of these oversight studies** and investigations is to **determine if agency laws and programs** within the subject matter jurisdiction of a standing committee: (1) **are being implemented** and carried out in accordance with the intent of the General Assembly; and (2) **should be continued, curtailed, or eliminated.**” In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency’s laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.³

Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee **recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency.** These recommendations are based on the agency’s self-analysis requested by the full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency by the General Assembly’s Legislative Audit Council and the agency’s response to this audit. This information, including, but not limited to the Staff Study, various agency reports to the Committee, and videos of meetings with the agency are available on the Committee’s website.⁴

The Subcommittee **does not have any specific recommendations with regards to continuance of agency programs or elimination of agency programs.**

The Subcommittee recommends revisions to laws relating to the agency as well as one recommendation that **applies to agencies in general.** A summary of these recommendations is included in Table 2 on the next page, and more information about the recommendations is included in the Recommendation Details section of this study beginning on page 9.

Table 2. Summary of recommendations.

Topic	Recommendation for . . .
Gifts received by state public officials, board members, and employees	. . . Agencies in general
	The Subcommittee recommends implementation of the Legislative Audit Council's recommendation number 24 from its comprehensive audit released May 26, 2016. Specifically, this is a recommendation that "[t]he General Assembly should amend South Carolina Code of Laws § 8-13-710 to make it illegal for all state public officials, board members, and employees to accept any gifts over a specific dollar amount that are a result of their holding state government positions." ⁵
\$25,000,000 minimum project cost	. . . SCTIB in particular
	The Subcommittee recommends SCTIB not fund projects that have been "bundled together" to meet the minimum project threshold amount, if the smaller projects individually do not reach the \$25,000,000 minimum project cost required by statute. ⁶ Note: SCTIB has internally implemented this recommendation. SCTIB formally adopted a provision addressing this issue in revisions to its operating guidelines approved December 14, 2016. "Applicants may not combine improvements to more than one project for the purpose of meeting the minimum amount of eligible project costs in SC Code Section 11-43-180(C)." ⁷
Local match	The Subcommittee recommends SCTIB adopt, in its publicly available operating guidelines, a definition of the term "local match." ⁸ Note: SCTIB has internally implemented this recommendation. SCTIB formally adopted a definition in revisions to its operating guidelines approved December 14, 2016. ⁹
Approval process for providing a loan or other financial assistance	. . . Follow up
	The Subcommittee recommends follow up with SCTIB in the next year to obtain more information about the working relationship between SCTIB and the Department of Transportation (DOT) in light of the changes effected by Act 275 of 2016 with regards to the approval process for providing a loan or other financial assistance to a qualified borrower on a qualified project. Notably, SCTIB and DOT are still in the process of determining how Act 275 will be implemented. ¹⁰

Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are all available online as are the materials relating to the study of the agency.¹¹

On May 26, 2016, the General Assembly received a comprehensive audit of the agency conducted by the Legislative Audit Council.¹² SCTIB concurs with 12 of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency.¹³ On August 15, 2016, SCTIB provided the Subcommittee an implementation timeline for the Legislative Audit Council recommendations in which the agency concurs.¹⁴

STUDY PROCESS

House Legislative Oversight Committee's Actions

On January 7, 2015, the House Legislative Oversight Committee approved a proposed seven-year study schedule for the Speaker of the House.¹⁵ The Speaker approved the Committee's recommendations, which were then published in the House Journal on January 13, 2015.¹⁶ The South Carolina Transportation Infrastructure Bank is an agency subject to legislative oversight.¹⁷ The Committee approved the study of the agency on April 14, 2015.¹⁸

The Committee notified the agency about the study on April 15, 2015.¹⁹ As the Committee encourages collaboration in its legislative oversight process, the Speaker, standing committee chairs in the House, members of the House, Clerk of the Senate, and Governor were also notified about the agency study.

Subcommittee Studying the Agency

The Economic Development, Transportation, and Natural Resources Subcommittee of the House Oversight Committee is studying the agency. The chair of the Subcommittee is the Honorable Ralph W. Norman; other members include: the Honorable Neal A. Collins, the Honorable Mandy Powers Norrell, and the Honorable Robert L. Ridgeway, III.²⁰

The study began in the 121st General Assembly by the Economic Development, Transportation, Natural Resources and Regulatory Subcommittee. The chair of the Subcommittee for the 121st General Assembly was the Honorable Phyllis J. Henderson; other members included: the Honorable Ralph W. Norman, the Honorable Robert L. Ridgeway, III, and the Honorable Samuel Rivers, Jr.²¹

Meetings with the Agency

The Subcommittee met with the agency on eight occasions. Videos and minutes of meetings are available online.

1. **April 21, 2015**, the Subcommittee held an introductory meeting with the agency, the purpose of which was to discuss the legislative oversight process and receive a general overview of the agency's actions.
2. **March 10, 2016**, the Subcommittee held a meeting and received an overview of the agency.
3. **April 28, 2016**, the Subcommittee held a meeting, the purpose of which was to provide an opportunity for the public to provide input.
4. **May 26, 2016**, the Subcommittee held a meeting and received information about the comprehensive audit of the agency released by the Legislative Audit Council.

5. **June 28, 2016**, the Subcommittee held a meeting with the agency to further discuss the Legislative Audit Council's recommendations and the status of the agency's development of its strategic plan.
6. **August 25, 2016**, the Subcommittee held a meeting with the agency to further discuss a timeline of the agency's implementation of any of the Legislative Audit Council's recommendations; new agency operating guidelines; and study recommendations.
7. **September 19, 2016**, the Subcommittee held a meeting to further discuss recommendations relating to the agency.
8. **October 31, 2016**, the Subcommittee held a meeting to further discuss information to obtain from the agency.

Information from the Public

During the month of September, 2015, the Committee posted an **online survey to solicit comments from the public about the South Carolina Transportation Infrastructure Bank** and other agencies. Communication about this survey was sent to all House members to forward to their constituents. In an effort to communicate it throughout the state, it was also sent to media statewide via a press release. As noted in the survey, "input and observations from those citizens who [chose] to provide responses are very important . . . because they may help direct the Committee to potential areas for improvement with these agencies."²² **The public was informed they could continue to submit written comments about agencies online** after the public survey closed.²³ The public was also informed that comments submitted are not considered testimony.²⁴ All meetings were open to the public, streamed live online, and videos are archived when technologically feasible. **During the April 28, 2016, meeting the Committee invited the public to provide comments and recommendations about to the agency directly to the Subcommittee.**²⁵ By the time the Subcommittee issued this Subcommittee Study, members of the public had an opportunity to participate anonymously in a public survey, provide comments anonymously after the public survey was over via a link on the Committee website, and appear in person before the Subcommittee.

Information from the Agency

The Committee asked the agency to conduct a **self-analysis** by requiring it to complete and submit a 2015 Restructuring Report, Seven-Year Plan for cost savings and increased efficiencies, Program Evaluation Report, and 2016 Annual Restructuring Report. The agency submitted its 2015 Restructuring Report and Seven-Year Plan, which were combined into a single report for 2015, on March 31, 2015.²⁶ The agency submitted its Program Evaluation Report on July 27, 2015.²⁷ The agency submitted its 2016 Annual Restructuring Report on January 12, 2016.²⁸ Committee staff provided the agency the **committee staff study** on March 11, 2016.²⁹ The agency had ten business days to provide a response, if it wanted to provide a response.³⁰ House Members were notified about the staff study on April 6, 2016.³¹ These reports are available online.

Next Steps

Pursuant to Committee Standard Practice 12.4, **individual members of this Subcommittee have the opportunity to provide a separate written statement for inclusion with the Subcommittee's Study.** Once all individual members of the Subcommittee have provided their written statement, or indicated to the Subcommittee Chair that they will not provide a separate written statement, the Subcommittee Chair, pursuant to Committee Standard Practice 12.5, shall notify the full Committee Chair in writing that a Subcommittee Study is available for consideration by the full Committee.

Once the Committee Chair receives written notice from the Subcommittee Chair, the full Committee Chair shall, pursuant to Committee Standard Practice 13.1, include the Subcommittee Study on the agenda for a full committee meeting. During a full Committee meeting at which the Subcommittee Study is discussed, the full Committee will vote, pursuant to Committee Standard Practice 13.2, to take one of the following three options: (1) refer the study and investigation back to the Subcommittee for further evaluation; (2) approve the Subcommittee's study; or (3) further evaluate the agency as a full Committee, utilizing any of the available tools of legislative oversight available.

When the full Committee approves a final study, any member of the Committee may provide a written statement for inclusion with the final study. The final study, and written statements, will be published online and the agency, as well as all House Standing Committees, will receive a copy. Lastly, the full Committee shall offer at least one briefing to Members of the House about the contents of the final oversight study approved by the Committee. The Committee Chair may also provide briefings to the public about the final oversight study.

RECOMMENDATION DETAILS

Purpose of Recommendations

As stated in SC Code of Laws Section 2-2-20(B), "[t]he purpose of these oversight studies and investigations is to determine if agency laws and programs within the subject matter jurisdiction of a standing committee: (1) are being implemented and carried out in accordance with the intent of the General Assembly; and (2) should be continued, curtailed, or eliminated." In making these determinations the Subcommittee evaluates (1) the application, administration, execution, and effectiveness of the agency's laws and programs, (2) the organization and operation of the agency, and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.³²

Recommendations

The following recommendations include areas identified for potential improvement by the Subcommittee. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency. These recommendations are based on the agency's self-analysis requested by the full Committee, discussion with the agency during multiple meetings with the Subcommittee, and analysis of the information obtained by the Subcommittee, including the comprehensive audit of the agency by the General Assembly's Legislative Audit Council and the agency's response to this audit. This information, including, but not limited to the Staff Study, various agency reports to the Committee, and videos of meetings with the agency can all be found on the Committee's website.

Continue

The Subcommittee does not have any specific recommendations with regards to continuance of agency programs.

Eliminate

The Subcommittee does not have any specific recommendations with regards to elimination of agency programs.

Revise (i.e., curtail)

The Subcommittee recommends revisions to laws relating to the agency as well as one recommendation that applies to agencies in general. A summary of these recommendations is included in Table 2 on page 6.

On May 26, 2016, the General Assembly received a comprehensive audit of the agency conducted by the Legislative Audit Council.³³ Notably, SCTIB concurs with 12 of the recommendations provided by the Legislative Audit Council in its comprehensive audit of the agency, and on August 15, 2016, SCTIB provided the Subcommittee an implementation timeline for the recommendations in which the agency concurs.³⁴

While the Subcommittee chose to include the recommendations from the Legislative Audit Council for information purposes in this report to the full Committee, the Subcommittee recommends the General Assembly implement Legislative Audit Council Recommendation #24.³⁵ Specifically, this is a recommendation that “[t]he General Assembly should amend South Carolina Code of Laws § 8-13-710 to make it illegal for all state public officials, board members, and employees to accept any gifts over a specific dollar amount that are a result of their holding state government positions.”³⁶ The Subcommittee notes this recommendation applies to agencies in general and not to SCTIB in particular.

With regards to the issue of receipt of gifts by state public officials, board members, and employees, Secretary of Transportation Christy A. Hall testified that cabinet agencies and some other agencies have adopted an employee code of conduct and established their own ethics officers.³⁷ Executive Order 2014-23 established a State Employee Code of Conduct Task Force, and the task force issued its final report on August 7, 2014, which recommended a model code of conduct for state employees.³⁸ Cabinet agency employees are required to have training on these issues at least once a year. The Department of Administration assists in this process by providing online training modules for employees to complete. There is a training module which discusses policies on policy on gifts and other things of value, and the stated best practice is to avoid accepting gifts or other things of value.³⁹

The Subcommittee acknowledges revisions in law enacted in Act 275 of 2016 by the General Assembly pertaining to SCTIB. The complete text of Act 275 of 2016 is available on the General Assembly’s website. The portions of Act 275 of 2016 pertaining to SCTIB are set forth below in an excerpt from a summary of the legislation prepared by the Office of House Research.

Before providing a loan or other financial assistance, the board of directors that oversees [SCTIB] must . . . submit its decision to the Department of Transportation Commission for its consideration. The [Department of Transportation] Commission can, in turn, approve or reject the decision or request additional information from the bank’s board of directors. [SCTIB’s policy of following the SC Department of Transportation’s project priority criteria is established as a statutory requirement. The General Assembly may, however, enact a joint resolution specifically allowing the bank to fund a project without using [Department of Transportation’s] prioritization criteria. The minimum project amount set in [SCTIB’s] requirements is lowered from \$100 million to \$25 million. This threshold is lowered to allow

more areas to be able to afford local match requirements and take advantage of the bank's bonding capabilities for financing their transportation projects.⁴⁰

The Subcommittee recommends that SCTIB not fund projects that have been "bundled together" to meet the minimum threshold amount if the smaller projects individually do not reach the \$25,000,000 minimum project cost.⁴¹ After approval of this recommendation, on September 15, 2016, SCTIB provided the Subcommittee with a copy of proposed revisions to its operating guidelines, which among other things, included a proposed revisions relating to bundling projects.⁴² SCTIB internally implemented this change on December 14, 2016, by formally adopting the revision listed below to its internal operating guidelines.⁴³

As provided by SC Code Section 11-43-180(C), the Bank may not provide any loans or other financial assistance, including bond proceeds, to any project unless the eligible costs of the project are at least \$25 million. Applicants may not combine improvements to more than one project for the purpose of meeting the minimum amount of eligible project costs in SC Code Section 11-43-180(C).⁴⁴

The Subcommittee recommends SCTIB adopt, in its publicly available operating guidelines, a definition of the term "local match."⁴⁵ Section 11-43-180(B) provides that "[t]he board shall determine which projects are eligible projects and then select from among the eligible projects those qualified to receive a loan or other financial assistance. Preference must be given to eligible projects which have local financial support." On August 15, 2016, SCTIB provided the Subcommittee with a copy of its new operating guidelines that were approved in May 2016.⁴⁶ After approval of this recommendation, on September 15, 2016, SCTIB provided the Subcommittee with a copy of proposed revisions to its new operating guidelines, which among other things, includes proposed revisions relating to local matches.⁴⁷ SCTIB internally implemented this change on December 14, 2016, by formally adopting the revision listed below to its internal operating guidelines.⁴⁸

Local matches must consist of the payment of monies by the project sponsor or owner to support the project. Local matches or loan payments on a project consisting of payments to the Bank that may be pledged to revenue bonds will be scored higher than other forms payments. Next in order of scoring will be local matches that consist of payments of projects costs or loan payments that may not be pledged to revenue bonds. Local matches that are in kind or consist of the project sponsor or owner improving roads that are collateral to or not part of the project will not be considered.⁴⁹

Additional Information of Interest

This Subcommittee Study references additional information of interest relating to the agency, which are not recommendations of the Subcommittee. These materials of interest are available online as is the study materials relating to the study of SCTIB.⁵⁰

General Assembly's Legislative Audit Council

Materials of interest from the General Assembly's Legislative Audit Council include the following:

- comprehensive audit of SCTIB released May, 2016;
- executive summary of the comprehensive audit;
- presentations about the audit made by Legislative Audit Council staff;

- agency's official response to the comprehensive audit;
- agency's bond counsel's official response to the comprehensive audit;
- presentations about the comprehensive audit made by SCTIB Chairman Vince Graham;
- list of audit recommendations and the agency's response to each recommendation, including a timeline of implementation for those recommendations in which the agency is in agreement;
- Department of Transportation's official response to the comprehensive audit of SCTIB;
- presentations about the audit made by Secretary of Transportation Christy A. Hall; and
- an October 25, 2016, Attorney General Opinion relating to the Legislative Audit Council's recommendation number 25.

South Carolina Transportation Infrastructure Bank

Also, the following materials are available online relating to the study of the agency:

- video archives;
- minutes of Subcommittee meetings;
- oversight reports and studies;
- public survey and public input via the Legislative Oversight Committee's webpage;
- correspondence with the agency;
- organizational charts;
- strategic budgeting;
- Act 148 of 1997 legislative findings;
- minutes from SCTIB Board meetings (April 1, 2004 - May 18, 2016);
- presentations provided by SCTIB to the Subcommittee;
- SCTIB operating guidelines;
- application process documents provided by SCTIB;
- applications submitted to SCTIB for project funding;
- project summary for fiscal year 2016; and
- audited financial statements year ended June 30, 2016.

Follow Up

The Subcommittee recommends following up with SCTIB in the subsequent year to obtain more information about the working relationship between SCTIB and the Department of Transportation (DOT) in light of the changes effected by Act 275 of 2016 with regards to the approval process for providing a loan or other financial assistance to a qualified borrower on a qualified project. Notably, SCTIB and DOT are still in the process of determining how Act 275 will be implemented.

SELECTED AGENCY INFORMATION CITED

SC Transportation Infrastructure Bank. *Program Evaluation Report*, 2015.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015%20Program%20Evaluation%20Reports/State%20Transportation%20Infrastructure%20Program%20Evaluation%20Report.PDF>

SC Transportation Infrastructure Bank. *Restructuring and Seven-Year Plan Report*, 2015.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/TransportationInfrastructureBank.php>

SC Transportation Infrastructure Bank. *September 2015 Survey Results*.

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Survey/September%202015%20Survey%20Results.pdf>

SC Transportation Infrastructure Bank. *Annual Restructuring Report*, 2016.

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20SCTIB%20\(PDF\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20SCTIB%20(PDF).PDF)

ENDNOTES

¹ SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2017," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed January 3, 2017).

² SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2016," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed January 3, 2017).

³ *SC Code of Laws*, sec. 2-2-20(C).

⁴ SC House of Representatives, House Legislative Oversight Committee, "Transportation Infrastructure Bank, S.C.," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

⁵ SC House of Representatives, House Legislative Oversight Committee, "June 28, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C.," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁶ SC House of Representatives, House Legislative Oversight Committee, "August 25, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C.," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁷ SC Transportation Infrastructure Bank, "Operating Guidelines revised December 14, 2016," paragraph E, page 10.

⁸ SC House of Representatives, House Legislative Oversight Committee, "August 25, 2016 Meeting Minutes."

⁹ SC Transportation Infrastructure Bank, "Operating Guidelines revised December 14, 2016," paragraph C, page 10.

¹⁰ SC House of Representatives, House Legislative Oversight Committee, "August 25, 2016 Meeting Minutes."

¹¹ *SC Transportation Infrastructure Bank study materials*.

¹² SC General Assembly, Legislative Audit Council, "A Review of the SC South Carolina Transportation Infrastructure Bank," under "Recent Publications" http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf (accessed July 21, 2016).

¹³ SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (August 15, 2016) response to Legislative Audit Council's recommendations" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

¹⁴ *Ibid.*

¹⁵ SC House of Representatives, House Legislative Oversight Committee, "January 7, 2015 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Meeting Minutes and Handouts," and under "Full Committee Minutes,"

<http://www.scstatehouse.gov/committeeinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes.php> (accessed June 21, 2015). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

¹⁶ The committee's recommendations, letters to the Speaker of the House of Representatives and House Clerk, and a direct link to the January 13, 2015, House Journal are available on the committee's website under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/committeefinfo/houselegislativeOversightCommittee.php> (accessed June 21, 2015).

¹⁷ *SC Code of Laws*, sec. 2-2-10(1).

¹⁸ SC House of Representatives, House Legislative Oversight Committee, "April 14, 2015 Full Committee Minutes," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Meeting Minutes and Handouts," and under "Full Committee Minutes,"

<http://www.scstatehouse.gov/committeefinfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes.php> (accessed June 21, 2015). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

¹⁹ SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to STIB" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

²⁰ *Subcommittees - 2017*.

²¹ *Subcommittees - 2016*.

²² SC House of Representatives, House Legislative Oversight Committee, "September 2015 Public Survey." The survey is closed. The survey sought comments from the public about the South Carolina Transportation Infrastructure Bank; South Carolina School for the Deaf and the Blind; Commission for the Blind; Department of Public Safety; and the Treasurer's Office.

²³ SC House of Representatives, House Legislative Oversight Committee, "Provide Input About Agencies," under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee."

²⁴ *Standard Practice 10.4*.

²⁵ SC House of Representatives, House Legislative Oversight Committee, "April 28, 2016 Meeting Minutes," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

²⁶ SC House of Representatives, House Legislative Oversight Committee, "2015 - Agency ARR and Seven-Year Plan (March 31, 2015)," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C."

<http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016)

²⁷ SC House of Representatives, House Legislative Oversight Committee, "Agency PER" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C."

<http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

²⁸ SC House of Representatives, House Legislative Oversight Committee, "2016 Agency ARR" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

²⁹ SC House of Representatives, House Legislative Oversight Committee, "Staff Study and Agency Response (March 11, 2016)" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C." <http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016) A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

³⁰ *Standard Practice*, 11.5. The agency opted not to provide a response to the staff study.

³¹ SC House of Representatives, House Legislative Oversight Committee, "2015-2016 Summary - House Legislative Oversight Committee" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee"

<http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

³² *SC Code of Laws*, sec. 2-2-20(C).

³³ SC General Assembly, Legislative Audit Council, "A Review of the SC South Carolina Transportation Infrastructure Bank," under "Recent Publications" http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf (accessed July 21, 2016).

³⁴ SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (August 15, 2016) response to Legislative Audit Council's recommendations" under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee," under "Transportation Infrastructure Bank, S.C."

<http://www.scstatehouse.gov/CommitteefInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

³⁵ *June 28, 2016 Meeting Minutes*.

³⁶ SC General Assembly, Legislative Audit Council, "A Review of the SC South Carolina Transportation Infrastructure Bank," under "Recent Publications" http://lac.sc.gov/LAC_Reports/2016/Documents/SCDOT.pdf (accessed July 21, 2016).

³⁷ Secretary Christy's Hall testimony is available for review on the June 28, 2016, video of the Subcommittee meeting at 50:39.

³⁸ This Executive Order and the task force's report are both available online by visiting the website of South Carolina Office of the Governor Nikki R. Haley.

³⁹ The training modules are available online by visiting the website of the South Carolina Department of Administration. Specifically, Module 2 relates to gifts and other things of value.

⁴⁰ SC House of Representatives, Office of House Research, "Legislative Update June 7, 2016," under "Publications," under "Legislative Updates" <http://www.scstatehouse.gov/hupdate.php> (accessed September 8, 2016).

⁴¹ *August 25, 2016 Meeting Minutes*.

⁴² SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (September 15, 2016) - draft revised SCTIB operating guidelines," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C." [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20\(September%2019,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20(September%2019,%202016).pdf) (accessed October 17, 2016). SCTIB formally adopted the new operating guidelines in December 2016.

⁴³ SC House of Representatives, House Legislative Oversight Committee, "STIB Operating Guidelines - Adopted May 26, 2016; Revised December 14, 2016," " under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C."

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/STIB%20Operating%20Guidelines%20Revised%20December%2014,%202016.pdf> (accessed January 9, 2017).

⁴⁴ *Ibid*, paragraph E - page 10 .

⁴⁵ *August 25, 2016 Meeting Minutes*.

⁴⁶ SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (August 25, 2016) - SCTIB operating guidelines," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C.," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed September 7, 2016).

⁴⁷ SC House of Representatives, House Legislative Oversight Committee, "Correspondence from State Transportation Infrastructure Bank (September 15, 2016) - draft revised SCTIB operating guidelines," under "Citizens' Interest," under "Agency Oversight by the House Legislative Oversight Committee" " under "Transportation Infrastructure Bank, S.C." [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20\(September%2019,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/TransportationInfrastructureBank/Draft%20STIB%20Operation%20Guidelines%20(September%2019,%202016).pdf) (accessed October 17, 2016). SCTIB formally adopted the new operating guidelines in December 2016.

⁴⁸ STIB Operating Guidelines - Adopted May 26, 2016; Revised December 14, 2016.

⁴⁹ *Ibid*, paragraph C- page 10.

⁵⁰ SC House of Representatives, House Legislative Oversight Committee, under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed April 23, 2016).

SUBCOMMITTEE MEMBER STATEMENTS

CONTACT INFORMATION

Committee Contact Information

Address:

South Carolina House of Representatives
Legislative Oversight Committee
1105 Pendleton Street, Blatt Building Room 228
Post Office Box 11867
Columbia, South Carolina 29211

Online:

You may visit the South Carolina General Assembly Home Page (<http://www.scstatehouse.gov>) and click on "Citizens' Interest" then click on "Agency Oversight by House Legislative Oversight Committee." This will list the information posted online for the committee; click on the information you would like to review. Also, a direct link to committee information is <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>.

Telephone:

803-212-6810

Agency Contact Information

Address:

South Carolina Transportation
Infrastructure Bank
Post Office Box 191
Columbia, SC 29202-0191

Online:

Agency's home page: <http://sctib.sc.gov/Pages/default.aspx>

Telephone:

(803) 737-2875

DRAFT

Appendix H. February 16, 2017 Meeting Information

Appendix Includes:

- Meeting Packet
 - Agenda
 - January 26, 2017 - Meeting Minutes
 - PowerPoint - Program structure in General Appropriations Act; goals and strategic plan; agency operations; and partnerships (February 16, 2017)
- Documents provided by agency after meeting
 - SC Farm Aid by the numbers

**South Carolina
House of Representatives**



Legislative Oversight Committee

***ECONOMIC DEVELOPMENT, TRANSPORTATION,
AND NATURAL RESOURCES SUBCOMMITTEE***

Chairman Ralph W. Norman

The Honorable Neal A. Collins

The Honorable Mandy Powers Norrell

The Honorable Robert L. Ridgeway III

Thursday, February 16, 2017

30 minutes after adjournment

Room 110 -Blatt Building

***Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming
whenever technologically feasible.***

AGENDA

- I. Approval of Minutes from the February 14, 2017 Subcommittee Meeting**
- II. Further discussion of the study of the Department of Agriculture**
- III. Adjournment**



Economic Development, Transportation and Natural Resources Subcommittee

January 26, 2017

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Chair Ralph W. Norman on Wednesday, January 26, 2017, in Room 409 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Chair Norman; Representative Neal A. Collins, and Representative Robert L. Ridgeway, III.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Ridgeway moved to approve the minutes from the Subcommittee's meeting on October 31, 2016. A roll call vote was held, and the motion passed.

Rep. Ridgeway's motion to approve the minutes from October 31, 2016	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins				✓
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Norman	✓			

Discussion of the Transportation Infrastructure Bank

- I. Chair Norman provided an update of the Subcommittee's work related to the Transportation Infrastructure Bank and the agency's implementation status of recommendations made by the Subcommittee in the previous session.
- II. Representative Collins moved to approve the recommendations made by the Subcommittee in the previous session related to the Transportation Infrastructure Bank. A roll call vote was held, and the motion passed.

Rep. Collins's motion to approve the recommendations related to the Transportation Infrastructure Bank made by the Subcommittee in the previous session	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Norman	✓			

Discussion of the Department of Agriculture

- I. Chair Norman provided an update of the Subcommittee's work related to the Department of Agriculture.

- II. Representative Collins moved to approve the continuing study of the agency. A roll call vote was held, and the motion passed.

Rep. Collins's motion to approve the recommendations related to the Department of Agriculture made by the Subcommittee in the previous session	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Norman	✓			

Representative Collins moved that Subcommittee Members provide staff with any questions they would like asked of these agencies at the Subcommittee's next meeting by the end of the business day on Friday, January 27, 2017.

Rep. Collins's motion for Subcommittee Members to provide any questions of the agencies to staff by the end of the business day, January 27, 2017	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Norman	✓			

Administrative Matters

- I. Chair Norman said that the Subcommittee's next meeting would be held on February 2, 2017, and thanked Members for their service.
- II. The meeting was adjourned.


South Carolina Department of Agriculture

Hugh E. Weathers, Commissioner



House Legislative Oversight Committee
Economic Development, Transportation, and Natural Resources Subcommittee
February 16, 2017

Program Structure in General Appropriations Act

- 
- The seal of the North Carolina Department of Agriculture is a circular emblem with a scalloped border. The outer ring contains the text "NORTH CAROLINA DEPARTMENT OF AGRICULTURE" at the top and "1879" at the bottom. The center features a stylized green leaf and a red and white striped sunburst.
- I. Administrative Services
 - III. Consumer Protection
 - IV. Marketing Services. A. Marketing & Promotions
 - IV. Marketing Services. B. Commodity Boards
 - IV. Marketing Services. C. Market Services
 - IV. Marketing Services. D. Inspection Services
 - IV. Marketing Services. E. Market Bulletin
 - V. Employee Benefits

Goals and Strategic Plan

Goal	Intended Public Benefit/Outcome
Improve agency operational readiness and workforce development	Agency employees provide better customer service and are more productive
Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities	Provide public safety by ensuring quality and quantity of products in the marketplace are accurate
Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products	Grow the value (per unit, total) of agricultural products and by-products in the state
Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders	Increase the value of agribusiness in SC

Agency Operations

“Improve agency operational readiness and workforce development”

Daily Operations Programs:

- Commissioner's Office
- Human Resources
- Administration
- Information Technology



Agency Operations

“Improve agency operational readiness and workforce development”

Key Services/Products

- Executive leadership
- Agency support services
- Personnel, budget, and supply management
- Constituent services

Customers

- Executive branch/state agencies
- Employees
- General public

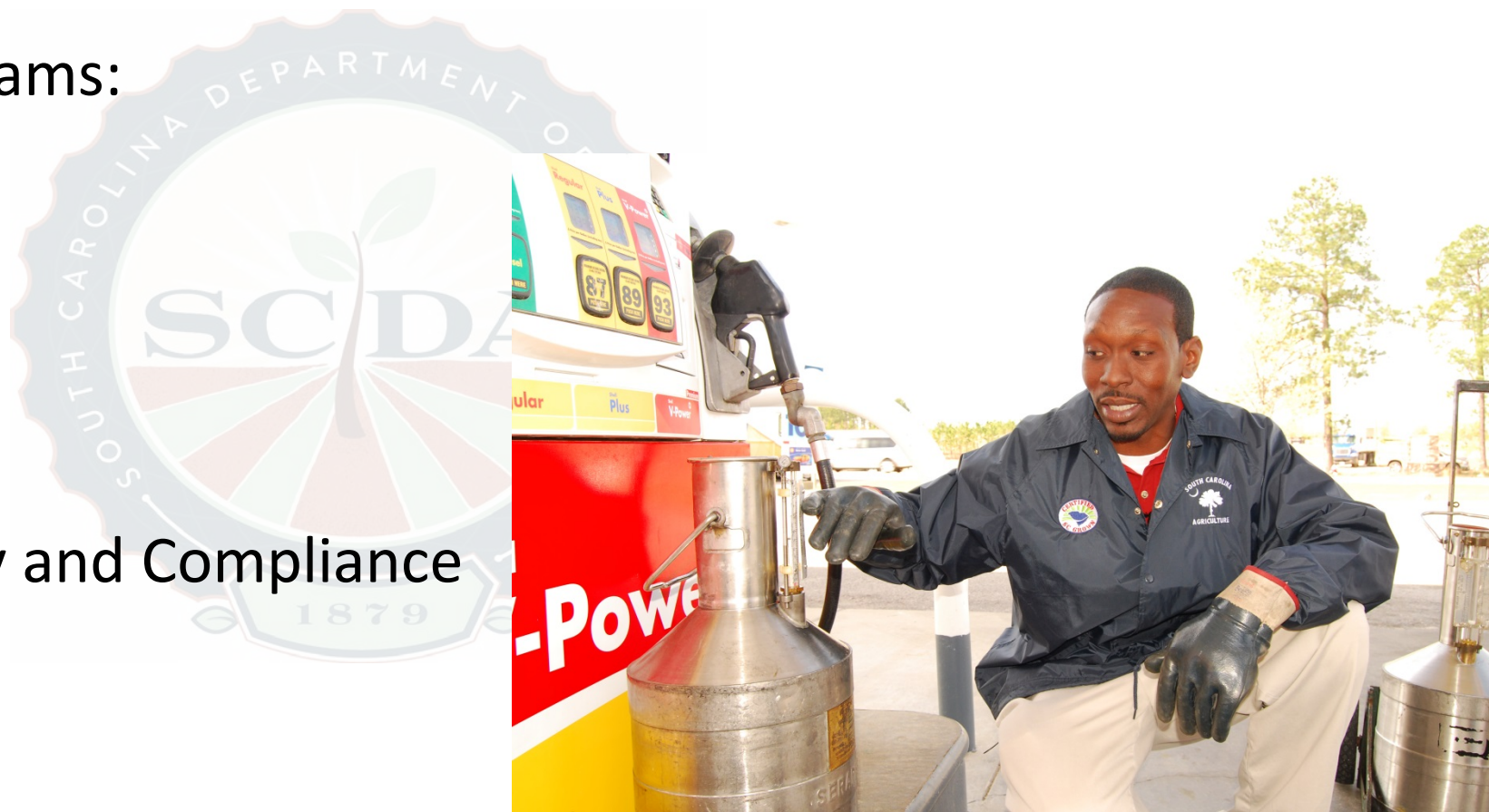


Consumer Protection

“Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities”

Daily Operations Programs:

- Laboratory Services
- Consumer Services
- Metrology Services
- Food and Feed Safety and Compliance



Consumer Protection

“Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities”

Key Services/Products

- Chemical residue testing
- Gasoline and diesel fuel products inspection and analysis
- Seed germination and purity testing
- Food and feed sampling and analysis
- Weighing and measuring devices inspection
- Licensing and bonding of grain handlers and warehouses
- Calibration services

Customers

- Agriculture industry
- Retail industry (businesses using commercial scales)
- Other state and local government agencies
- General public

Agricultural Services

“Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products”

Daily Operations Programs:

- State Farmers Markets
- Marketing and Promotions
- Commodity boards
- Market News Service
- Grading and Inspections



Agricultural Services

“Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products”

Key Services/Products

- Provide places to buy and sell locally grown produce and specialty products
- Promotion of SC ag products
- Research, promotion, and education of agricultural commodities
- Provide price, volume, and other agricultural market information
- Ensure correct grading of fruit, vegetables, peanuts, grain, poultry, and eggs
- Good Agricultural Practices (GAP) certification

Customers

- General public
- Agriculture and agribusiness industry (farmers, commodity buying points, roadside markets, agritourism, etc.)

External Affairs and Economic Development

“Expand South Carolina’s agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders”

Daily Operations Programs:

- Agribusiness development
- Grant coordination
- Public information



External Affairs and Economic Development

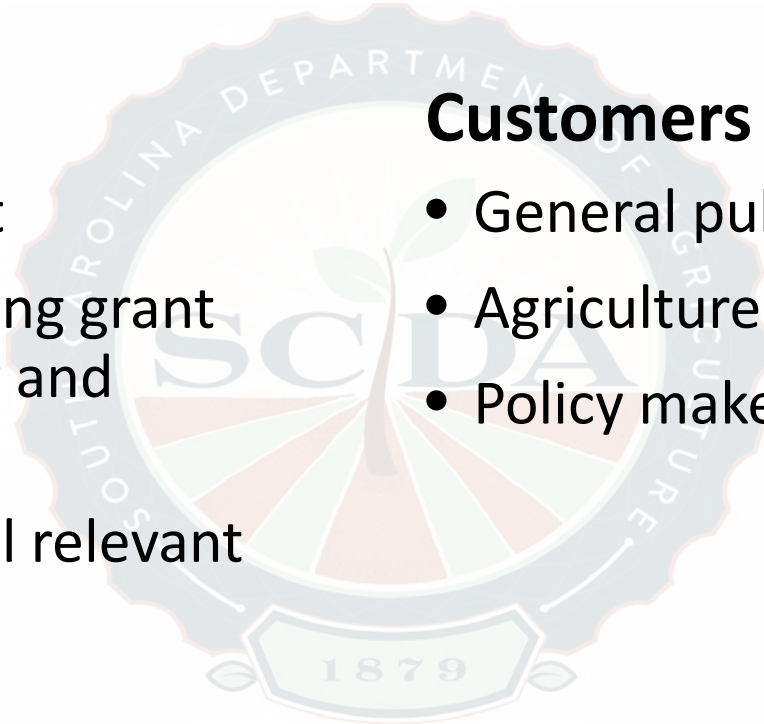
“Expand South Carolina’s agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders”

Key Services/Products

- Agribusiness recruitment
- Securing and implementing grant resources both internally and externally
- Communication across all relevant platforms

Customers

- General public
- Agriculture industry
- Policy makers

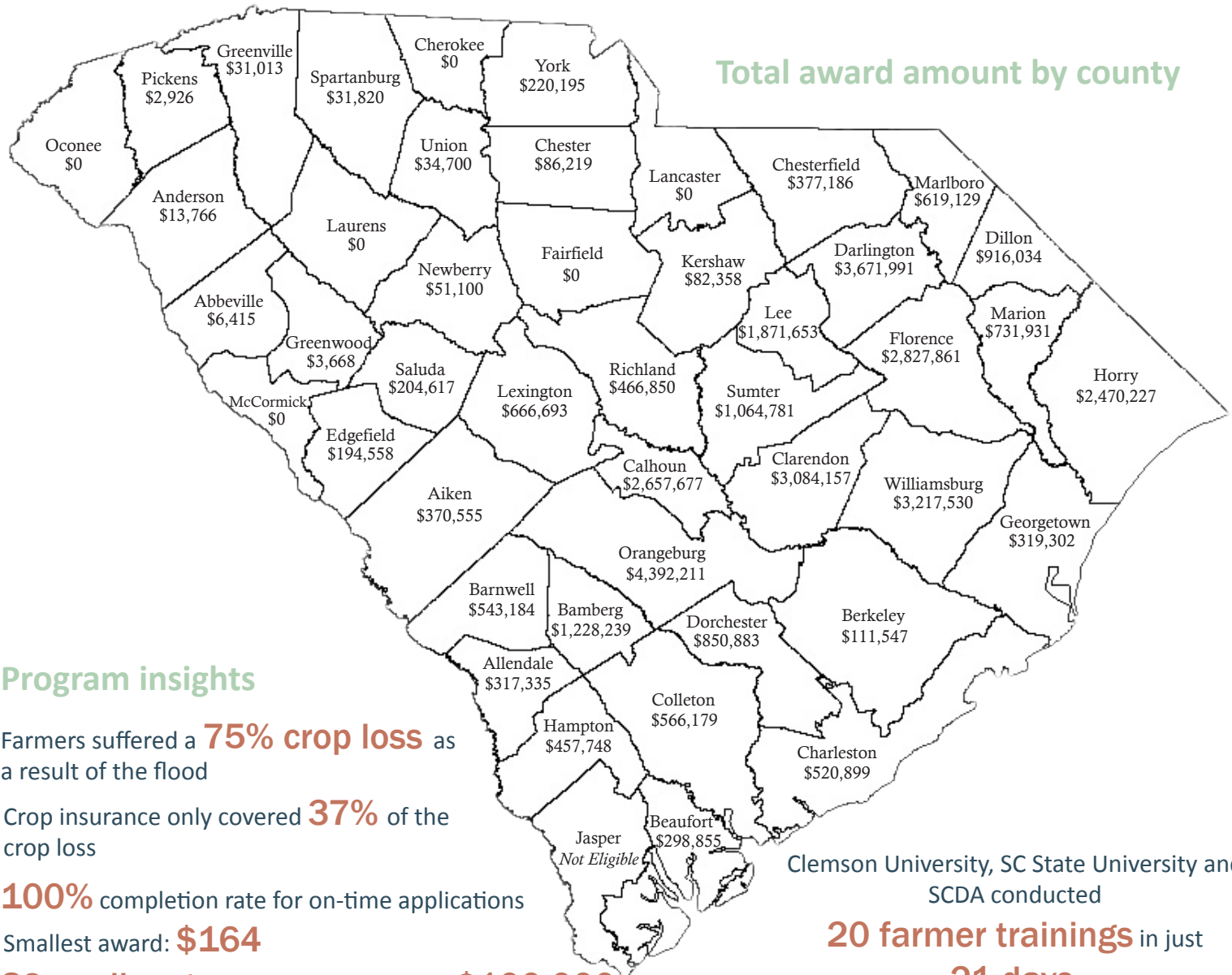


Name of Partner Entity	Description of Partnership
	Page 395 of 900
SC Department of Health and Environmental Control (DHEC)	Farm to School, Local Foods Access, Food Safety, Dairy
SC Department of Commerce	Agribusiness Recruitment and Project Management
SC Department of Social Services	DSS administers Supplemental Nutrition Assistance Program (SNAP); SCDA trains farmers, farmers markets, roadside markets on how to participate in, and accept, SNAP
SC Department of Education	Train cafeteria staff for Farm to School
Clemson University PSA	Agribusiness Research, Food Safety Outreach and Education, Farm to School, Farm to Food Bank, Farm Aid Grant Program, Palmetto Series
SC State University	Farmer outreach and education
University of South Carolina	Palmetto Series, Farm to School, Agribusiness Studies
SC Department of Parks, Recreation and Tourism (PRT)	Chef Ambassador Program
Governor's Office	Chef Ambassador Program
SC Department of Natural Resources	Seafood regulatory programs, Regional Licensing Office at the Columbia State Farmers Market
SC Department of Administration (Admin)	SCDA is Division of Technology customer, seeks guidance from Division of Human Resources, purchases and leases vehicles, and leases office space through General Services
SC Department of Revenue	Farm Aid Grant Program, Milk Producer's Tax Credit
SC Aeronautics Commission	SCDA inspects fuel pumps at all public airports
SC Department of Corrections	SCDA purchases is a customer for many items, including office equipment, forms, and letterhead
USDA National Agricultural Statistics Service (NASS)	NASS is a tenant at the Columbia State Farmers Market; SCDA and NASS have a cooperative agreement
USDA Agricultural Marketing Service (AMS)	Cooperative Agreements for Country of Origin Labeling (COOL), Poultry and Egg Grading, Market News, Fruit and Vegetable, Good Agricultural Practices (GAP), Organic, Specialty Crop Block Grant (SCBG),
USDA Feed Grain Inspection Service (FGIS)	Export Inspections
USDA Food and Nutrition Service (FNS)	Farm to School
US Food and Drug Administration (FDA)	Cooperative Agreements for Food and Feed Inspections, Manufactured Foods Regulatory Process Standards (MFRPS), Animal Feed Regulatory Process Standards (AFRPS), Food Safety & Modernization Act (FSMA) Produce Rule

South Carolina Farm Aid

By the numbers

1245 farmers were approved for a total award amount of **\$35,583,991**



Program insights

Farmers suffered a **75% crop loss** as a result of the flood

Crop insurance only covered **37%** of the crop loss

100% completion rate for on-time applications

Smallest award: **\$164**

89 applicants awarded maximum of **\$100,000**

Average award: **\$28,399**

Only **7** ineligible applications

Clemson University, SC State University and SCDA conducted

20 farmer trainings in just **21 days.**



Hugh E. Weathers, Commissioner

South Carolina Department of Agriculture • 1200 Senate Street • Columbia, SC • 29201
agriculture.sc.gov

Appendix I. May 2, 2017 Meeting Information

Appendix Includes:

- Meeting Packet
 - Amended Agenda
 - February 28, 2017 - Meeting Minutes
 - Program Evaluation Report
 - Questions from Word document
 - Daily operations programs
 - Employees available
 - General Appropriation Act programs and strategic plan objective resource allocation 2015-16
 - Employee allocation by objective 2015-16
 - Strategic spending 2015-16
 - Employee allocation by General Appropriation Act program 2016-17
 - General Appropriation Act programs and strategic plan objective resource allocation 2016-17
 - Employee allocation by objective 2016-17
 - Strategic budgeting 2016-17
 - PowerPoint - Agency successes and challenges; LAC recommendations and implementations; emerging issues; programs and objectives; and performance measures (dated April 27, 2017, but because a Subcommittee meeting was cancelled, it was not presented until May 2, 2017)
- Documents provided by agency during meeting
 - Agency's implementation of Legislative Audit Council's recommendations (April 12, 2017)
- Correspondence after meeting
 - Letter from Oversight Subcommittee to Department of Agriculture (May 3, 2017)
 - Requests additional information relating to the following topics: (1) federal Food Safety Modernization Act; and (2) commodity boards and procurement.
 - Letter from Department of Agriculture to Oversight Subcommittee (June 6, 2017)
 - Responds to the Subcommittee's May 3, 2017, letter.
 - Department of Health and Environmental Control correspondence with Oversight Subcommittee on cottage law recommendation (June 14, 2017)
 - Agency's recommended statutory changes (June 15, 2017)

South Carolina
House of Representatives



Legislative Oversight Committee

*ECONOMIC DEVELOPMENT, TRANSPORTATION,
AND NATURAL RESOURCES SUBCOMMITTEE*

The Honorable Neal A. Collins

The Honorable Mandy Powers Norrell

The Honorable Robert L. Ridgeway III

Tuesday, May 2, 2017

9:00 a.m.

Room 321 -Blatt Building

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming
whenever technologically feasible.*

AMENDED AGENDA

- I. Approval of Minutes from the February 28, 2017 Subcommittee Meeting**
- II. Further discussion of the study of the Department of Agriculture**
- III. Adjournment**



Economic Development, Transportation and Natural Resources Subcommittee

February 28, 2017

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Chair Ralph W. Norman on Thursday, February 16, 2017, in Room 110 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Representative Neal A. Collins, Representative Robert L. Ridgeway, III, and Representative Laurie Slade Funderburk, Committee First Vice-Chair.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Collins moved to approve the minutes from the Subcommittee's meeting on February 16, 2017. A roll call vote was held, and the motion passed.

Rep. Collins's motion to approve the minutes from the February 16, 2017, meeting:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Funderburk				✓

Discussion of the Study of the South Carolina Transportation Infrastructure Bank

- I. South Carolina Transportation Infrastructure Bank and Department of Transportation officials responded to Subcommittee Members' questions relating to:
- a) Agency's most recent audited financial statements year ended June 30, 2016; and
 - b) Relationship between the South Carolina Transportation Infrastructure Bank and the Department of Transportation in light of Act 275 of 2016.
- III. Representative Ridgeway moved that (1) staff draft a Subcommittee Report for presentation to the full Committee; (2) staff provide a copy of the Report to all Subcommittee members by Friday March 3, 2017; (3) staff include any Subcommittee member written statements pursuant to Standard Practice 12.4, which staff receives prior to 5:00 pm on Thursday March 9, 2017; and (4) unless the Committee receives an alternative request by 5:00 pm on Friday March 10, 2017, the Committee will provide notification pursuant to Standard Practice 12.5 that a study is available for consideration by the full Committee. A roll call vote was held, and the motion passed.

Rep. Ridgeway's motion:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Funderburk				✓

- II. There being no further business, the meeting was adjourned.

- c. SC DSS: 3.3.4
 - i. SCDA trains farmers on how to accept Supplemental Nutrition Assistance Program (SNAP) and Farmers Market Nutrition Program (FMNP)
- d. SC Department of Education: 3.3.5; 3.4.4
 - i. SCDA trains school cafeteria staff and prepares nutrition information for teachers
- e. Clemson University: 2.1.3; 2.1.4; 2.4.1; 3.2.2; 3.3.3; 3.4.4; 4.2.3; 5.1.2; 5.1.4; 5.2.5
 - i. Utilize Clemson PSA's extension service county offices to provide education on various topics; and faculty to provide food safety education and agribusiness research; and evaluation component of Farm to Institution
- f. University of South Carolina: 3.3.5
 - i. USC conducts evaluation components of Farm to Institution
- g. South Carolina State University: 3.2.2; 3.3.2; 3.3.3; 3.3.4; 5.1.2
 - i. Utilize SCSU's extension presence to reach farmers and provide education
- h. SC Department of Parks, Recreation and Tourism: 3.1.1; 3.1.5
 - i. Partner to coordinate Chef Ambassador program
- i. SC Department of Natural Resources: 3.3.1; 2.1.4; 2.4.1
 - i. Coordinate seafood regulatory programs to prevent overlap while increasing efficiency of service; DNR is a tenant at the State Farmers Market
- j. Admin: Division of Technology: 1.1.2; 1.1.5; 1.2.1; 1.2.2; 1.2.3
 - i. Access DTO's expertise; standardize service and product offerings; follow lead on INFOSEC policy development and implementation

10. Please provide the following information regarding the amount of funds remaining at the end of each year that the agency had available to use the next year (i.e. in 2011-12, insert the amount of money left over at the end of the year that the agency was able to carry forward and use in 2012-13), for each of the last five years.

Year	Amount Remaining at end of year that agency could use the next year
2011-12	\$1,757,450
2012-13	\$2,472,562
2013-14	\$4,712,809
2014-15	\$5,426,456
2015-16	\$5,382,093

11. How much does the agency believe is necessary to have in carryforward each year? Why?

The amounts carried forward are necessary to support associated programs year-round. Many sources of funds do not receive a steady stream of revenue all year long, rather, the revenue may be received over a two-to-three month period, and then nothing will be received for the rest of the year (example, seed licenses, feed registrations, commodity board assessments). If the agency does not carry forward appropriate revenue, we run the risk of being unable to meet operating expenses for the portion of the year when revenue is not coming in steadily. Additionally, commodity board assessments are based on annual crop output. If there is a year in which weather affects crops (soybean, peanuts, watermelon, cotton, tobacco) negatively, the boards would not receive crop assessments sufficient enough to meet the next year's operating expenses. SCDA acts as a fiduciary agent for commodity board assessments, but does not control the amount of remittances or how/when the funds are spent. Also, built into the carryforward for 2014, 2015 and 2016 are amounts for non-recurring funds received through provisos which will NOT be available after this fiscal year.

graph/chart for each performance measure) the agency believes are vital to knowing whether the agency is successful, and:

- a. Three agency, government, non-profit, or for-profit entities the agency considers the best in the country in this process or similar process and why.
 - i. New Jersey Department of Agriculture (NJDA) –“Jersey Fresh” Branding Program. NJ was the first state in the country to put resources into branding their state’s agricultural products.
 - ii. Florida Department of Agriculture & Consumer Services (FDACS) - “Fresh From Florida” Branding Program is highly visible, using vast amounts of funding and resources. Also, Florida has an excellent seafood regulatory program because of the size of the industry and many miles of coastline.
 - iii. North Carolina Department of Agriculture & Consumer Services (NDACS) – Food Safety Regulatory Programs. NDACS has the staff, resources, and a very progressive legislature that allows them to make proactive statutory changes.
- b. If the agency did not use results from another entity as a performance benchmark, why not? What did the agency choose as the benchmark, and why?
 - i. N/A

Comparison to Others

29. Are there other agencies that have goals similar to those at this agency? If so, which agencies and which goals?

- a. Some agencies have goals in the area of administration, operations, or support services that are somewhat topically similar. However, the strategies and objectives (performance reviews, safety equipment, etc.) are unique for each agency because of size, function, capacity, etc. SCDA does network with other agencies in the Economic Development, Transportation, Natural Resources, and Regulatory arena, and often exchanges operational ideas and information.

30. For each of the agency’s goals that are similar to goals at other agencies,

- a. How are what the other agencies, and this agency, striving for the same goal?
- b. How are what the other agencies, and this agency, striving for different?
- c. Are there ways this agency and those other agencies could work together to accomplish the goals more efficiently?
- d. Are there ways this agency and those other agencies could work together to accomplish the goals more effectively?

Looking Ahead - Agency Ideas/Recommendations

31. Please list any ideas the agency has for internal changes at the agency that may improve efficiency and outcomes. These can be ideas that are still just ideas, things the agency is analyzing the feasibility of implementing, or things the agency already has plans for implementing. For each, include the following details:

- a. Stage of analysis;
- b. Objectives and Associated Performance measures impacted and predicted impact;
- c. Costs of the objectives that will be impacted and the anticipated impact;
- d. On which objective(s) the agency plans to utilize additional available funds if the change saves costs, or obtain funds if the change requires additional funds, and how the objective(s) receiving or releasing the funds will be impacted; and
- e. Anticipated implementation date.

Restructuring of the Marketing and Promotions Functional Area

- a. Complete

Agency Responding	Department of Agriculture
Date of Submission	8/24/2016

INSTRUCTIONS: In this Chart, the agency will find information in the second two columns which it provided in its Restructuring Report. Please do the following:

(a) Review the programs listed and make any additions or other modifications needed. Please, do not consider the General Appropriations Act programs. Instead think of what the agency considers programs in the agency's daily operations (this may not have been clear in the Restructuring Report). These may be divisions, departments, programs it is working on related to grants, etc.

(b) Regardless of whether the agency selected yes or no in the previous column, in the last column titled, "Other agencies whose mission the program may fit within," list other agencies whose mission the program may fall within based on the agency's knowledge of the program and reference to the list of all other agency missions, attached to these guidelines.

Fiscal Year (i.e. 2015-16; 2016-17; or both)	Daily Operations Program	Purpose of Program	Other agencies whose mission the program may fit within
#REF!	State Farmers Markets	The State of South Carolina owns and manages three regional state farmers markets in Columbia, Florence, and Greenville which provide consumers with a wide variety of locally grown produce and specialty products.	None
#REF!	Grading/Inspections	Under a cooperative agreement with USDA, fruit, vegetable, poultry and egg, and commodity grading and inspection services are provided. Includes Good Agricultural Practices (GAP) training.	None
#REF!	Market News Services	A contract service provided by SCDA to USDA that analyzes and distributes price, volume, and other market information to all segments of the produce, grain, and livestock industries, and to consumers.	None
#REF!	Marketing	Maintains and develops broad-based marketing programs that increase consumer awareness and product demand for quality SC agricultural products at local, national, and international levels.	None
#REF!	Consumer Services	Protects consumers by ensuring that the net content statements on packages and weighing or measuring devices are correct; and that agricultural products are measured accurately for commerce.	None
#REF!	Laboratory Services	Protects consumers from unsafe, ineffective, or fraudulent goods which may be offered for public sale; assures that goods meet acceptable standards of quality; and issues registrations, licenses, and permits to certain businesses. (Food Laboratory, Feed Laboratory, Seed Laboratory, Chemical Residue Laboratory, and Petroleum Products Laboratory)	DHEC
#REF!	Metrology	Provides NIST traceable calibrations for mass and volume standards, calibrates equipment for our state inspectors and private scale and pump service companies for the enforcement of weights and measures regulations.	None

#REF!	Food & Feed Safety and Compliance	Ensures that foods and feeds are manufactured under safe and sanitary conditions through routine surveillance inspections.	None
#REF!	Administration	Provides agency support services, including: procurement, supply, fleet management, accounting and financial services, information technology, facilities management and other administrative services.	SFAA Procurement Services, Admin Division of General Services, Admin Division of Technology
#REF!	Office of the Commissioner	This office provides executive leadership, constituent services, special projects, events briefings, scheduling, and strategic planning.	None
#REF!	Human Resources	The Human Resources Department manages personnel matters, including benefits administration, state classification plan, payroll, leave accounting, and staff development. Human Resources also ensures that SCDA personnel practices are compliant with state and federal regulations.	Admin Division of Human Resources
#REF!	Public Information / Communications	The Public Information Department communicates SCDA's mission, and the importance of SC agriculture and agribusiness, through traditional and social media, websites, and the SC Market Bulletin. Public Information also informs industry members and the general public of pertinent agricultural issues, and responds to various media inquiries.	None
#REF!	Market Bulletin	Publication issued twice a month as a marketplace for agricultural goods and services, and provide consumer interest articles; available printed and electronically.	None
#REF!	Agribusiness Development	Works to continually promote agribusiness in SC through research and recruitment of prospective agribusinesses that may have an interest in locating or growing their agribusiness in SC, via the production of SC grown products or value-added services/processing. Works with elected officials and business/state leaders at all levels to facilitate sound public policy and serve as an unbiased source of information.	Department of Commerce
#REF!	Grants Coordination	Cooperate with the federal government to implement the Specialty Crop Block Grant (SCBG), Farm to School Grant (F2S), Manufactured Food and Regulatory Program Standards (MFRPS); pursue and secure other grants to benefit the agriculture industry and SCDA.	None

Agency Responding	Department of Agriculture
Date of Submission	8/24/2016

INSTRUCTIONS: This chart requests the number of authorized, filled and unfilled full time equivalent (FTE) positions at the agency by general fund, other fund and federal funds during each of the last five years. It also asks for the number of temporary non-FTE and temporary grant non-FTE positions during the same time period.

General Fund Full Time Equivalent Positions (FTEs)					
	2011-12	2012-13	2013-14	2014-15	2015-16
Figures below are as of...	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016
Authorized	56.51	58.51	58.51	58.51	58.51
Filled	46.6	38.05	45.8	51	50.65
Unfilled	9	13.41	11	7	10

Other Fund FTEs					
	2011-12	2012-13	2013-14	2014-15	2015-16
Figures below are as of...	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016
Authorized	79.49	79.49	79.49	79.49	79.49
Filled	70.15	76.95	74.85	74.65	70.15
Unfilled	10	7.59	5	5	6

Federal FTEs					
	2011-12	2012-13	2013-14	2014-15	2015-16
Figures below are as of...	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016
Authorized	0	0	0	0	0
Filled	0	0	1	0	0.85
Unfilled	0	0	0	0	0

Total FTEs (General + Other + Federal Fund) & Non-FTEs					
	Unfilled FTEs	Filled FTEs	Temporary Non-FTEs	Temporary Grant Non-FTEs	Total
2011-12	19	116.75	13.929	3	152.679
2012-13	21	115	35.448	3	174.448
2013-14	16	121.65	29.159	1	167.809
2014-15	12	125.65	134.736	1	273.386
2015-16	16	121.65	123.212	2	262.862

The practice of delimiting seasonal temporary positions at the end of the season was discontinued in FY14-15. Creating over 100 seasonal positions in SCEIS is tedious and time-consuming.

Each year, seasonal temporary employees are hired to grade peanuts. This number fluctuates with the number of acres planted and demand from buying points. These seasonal employees are funded from other funds.

Agency Responding	Department of Agriculture
Date of Submission	8/24/2016

Disclaimer: The Committee understands amount the agency spent per objective and amount of employee equivalents that are associated with costs of each program are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

INSTRUCTIONS: In this Chart, please do the following:

- (a) In the first two columns, the agency can copy and paste the information from the Accountability Report, "Major Programs," chart.
- (b) In the column titled, "Money Spent on Program in 2015-16," list the amount of money the agency spent on the program in 2015-16.
- (c) In the column titled, "Number of employee equivalents associated with the budget program in 2015-16," list the total number of employee equivalents working on the program in 2015-16 from the Employee Allocation by Budget Program Chart.
- (d) In the column titled, "Objective the Program Helps Accomplish," list each objective the program helps the agency accomplish. Please list only objective per row. This may require inserting additional rows between programs.
- (e) In the column titled, "Approx. amount of money spent on objective that is associated with costs from program," consider the total amount actually spent on the program and what portion of that amount was related to each objective. If the agency adds up the amounts for each associated objective, it should equal the total amount spent on the program.
- (f) In the column titled, "Approx. amount of employee equivalents utilized on objective that are associated with the program," consider the total amount of employee equivalents utilized on the program and what portion of that time was related to each objective. If the agency adds up the amounts for each associated objective, it should equal the total number of employee equivalents utilized on the program.

General Appropriation Act Programs (2015-16)	Description of Program	Money Spent on Program in 2015-16	Number of employee equivalents associated with this Program in 2015-16	Objective the Program Helps Accomplish (The agency can copy the Objective number and description from the first column of the Strategy, Objective and Responsibility Chart) List ONLY ONE strategic objective per row.	Approx. amount of money spent on each objective in 2015-16 that is associated with costs from this program (if you add up the amounts for each objective it should equal the total amount spent on the	Approx. amount of employee equivalents in 2015-16 utilized on each objective that are associated with this program (if you add up the amounts for each objective it should equal the total amount employee equivalents for the
I. Administrative Services	Provides executive leadership, support, policy development and review, financial services, information technology, facilities management and other administrative services.	\$1,286,022	15	1.1.1 Place all internal agency forms on network	\$51,440.88	0.6
				1.1.2 Replace personal computers every three years	\$77,161.32	0.9
				1.1.3 Convert Wade Hampton Office phone systems to Voice Over IP (VOIP) system	\$34,293.92	0.4
				1.1.4 Equip 100% of Consumer Protection field inspectors with 4G mobile network access	\$42,867.40	0.5
				1.1.5 Work with vendors and service providers to refine current products and offer best-in-breed technology to staff	\$60,014.36	0.7
				1.2.1 Achieve 100% completion annually of the US Department of Defense Information Security Awareness Program by 31 October	\$17,146.96	0.2
				1.2.2 Have Executive and Information Technology (IT) staff participate in State of SC INFOSEC project by attending quarterly meetings or as directed by Division of Technology	\$25,720.44	0.3
				1.2.3 Implement all 13 INFOSEC policies by 2016	\$64,301.10	0.75
				1.3.1 Encourage employees to identify relevant technical training during their yearly EPMS planning stage	\$8,573.48	0.1
				1.3.2 Expand training delivery platforms to be more convenient and offer options for different learning styles	\$25,720.44	0.3
				1.3.3 Offer in-house training at least quarterly	\$42,867.40	0.5

				1.3.4 Solicit suggestions for training on broad topics beneficial to all employees	\$8,573.48	0.1
				1.3.5 Encourage participation in trade groups and industry associations	\$4,286.74	0.05
				1.4.1 Complete planning stage documents within 2 months of the calendar year for all existing employees or within 1 month of hiring all new employees	\$60,014.36	0.7
				1.4.2 Evaluate and counsel 100% of employees by the end of annual, probationary, or trial period	\$51,440.88	0.6
				1.4.3 Include comments and/or personal development plan for 100% of employees	\$42,867.40	0.5
				1.5.1 Provide monthly financial reports to appropriate program staff	\$34,293.92	0.4
				1.5.2 Conduct annual introductory and advanced training for supervisors	\$17,146.96	0.2
				1.5.3 Encourage more frequent meetings between supervisors and subordinates	\$17,146.96	0.2
				1.5.5 Review agency and departmental policies annually; edit and/or draft new policies as necessary	\$42,867.40	0.5
				1.6.1 Provide monthly financial reports to division directors for personnel and operating funds in their areas of responsibility	\$34,293.92	0.4
				1.6.2 Assistant Commissioner for Agency Operations and Director of Administration will review all agency financials monthly	\$25,720.44	0.3
				1.6.3 Expand procurement training and procedural knowledge to ensure compliance with procurement code, expand advertising scope, and diversify vendor pool	\$154,322.64	1.8
				1.6.4 Achieve a higher procurement certification to enable more in-house procurement actions and shorter processing time for new contracts	\$51,440.88	0.6
				1.7.1 Attend at least two recruitment events annually, other than those facilitated by state government	\$17,146.96	0.2
				1.7.2 Use at least three additional avenues, other than NeoGov, to advertise position vacancies over the course of the year	\$25,720.44	0.3
				1.7.3 Complete the required EEOC reporting and focus on potential areas of improvement	\$17,146.96	0.2
				1.8.1 Offer an annual health screening for all employees	\$8,573.48	0.1
				1.8.2 Certify and maintain currency for 10% of strategically placed agency employees in first aid, CPR, and use of AED machines	\$4,286.74	0.05
				1.8.3 Ensure that all agency office buildings with 10 or more employees are equipped with AED machines	\$4,286.74	0.05
				1.8.4 Purchase Personal Protective Equipment (PPE) for all field personnel	\$25,720.44	0.3

				4.1.3 Respond to 100% of website Information Requests within 2 business days	\$8,573.48	0.1
				4.4.2 Organize, clean up, and increase use of the shared network drive	\$51,440.88	0.6
				4.4.3 Establish an accurate position on key issues and create consistent messaging across the agency	\$42,867.40	0.5
				4.4.4 Increase staff professional development related to communications and hot topics	\$42,867.40	0.5
				4.4.5 Newly created Communications committee to implement, evaluate, and update communications plan	\$42,867.40	0.5
II. Laboratory Services	Protects consumers from unsafe, ineffective, or fraudulent goods that may be offered for public sale; assures that goods meet acceptable standards of quality; monitors labeling; registers animal and pet foods, frozen desserts, gasoline and antifreeze; issues licenses for butterfat testers and milk samplers, grants permits to salvage food operations; issues two to three thousand licenses, permits and registrations; provides assistance regarding food safety and security in the event of a natural disaster or an accidental or international emergency related to Homeland Security.	\$1,428,696	20.5	2.1.5 Make all 42 public forms able to be submitted online	\$1,359,003.51	19.5
				2.4.7 Develop and maintain Laboratory Safety Program with 100% attendance to all safety meetings and trainings	\$69,692.49	1

III. Consumer Services	Draws samples for analysis in the SCDA's laboratories; protects the people of the state, farmers and non-farmers, from fraud by ensuring the accuracy of weights and measures; inspects food and cosmetic manufacturing and storage facilities; assures farmers that they receive full and prompt payment for the products they produce and that their stored cotton and grain crops are protected in warehouse facilities; inspects gas pumps, grocery store scales, vehicle tank meters, and liquid petroleum gas measuring devices; collects official samples of petroleum, produce, meat and feeds for laboratory analysis; licenses, bonds and audits warehouses and dealers; inspects storage facilities for sanitation compliance.	\$2,580,998	34.5	1.5.4 Designate training officers for all Consumer Service programs and staff	\$14,962.31	0.2
				2.1.1 Provide advanced classroom training, on-the-job training and continuing education courses for entire food/feed inspection team	\$52,368.08	0.7
				2.1.2 Hire Feed Control Official Replacement to cover feed industry inspections in SC	\$59,849.23	0.8
				2.1.3 Participate in the Food and Drug Administration's MFRPS by 2015	\$157,104.23	2.1
				2.1.4 Create 4 working and viable Memorandum for Understanding (MOUs) with other state agencies including DHEC, DNR AND SC LPH	\$74,811.54	1
				2.2.1 Enhance lab's credibility by becoming accredited by the National Voluntary Laboratory Accreditation Program (NVLAP)	\$149,623.07	2
				2.2.2 Establish a new Quality Manager Position to provide ongoing auditing and documentation of the quality assurance program	\$44,886.92	0.6
				2.2.3 Design and build a new metrology laboratory to meet the requirements for Echelon I metrology laboratory	\$149,623.07	2
				2.3.1 Establish a subject matter expert position for in-the-field assessments and knowledge exchange	\$44,886.92	0.6
				2.3.2 Perform routine inspections, consistent with policy, of 100% firms covered under SCDA regulatory oversight	\$1,271,796.12	17

				2.3.3 Ensure same-day follow-up communication to 100% of consumer complaints	\$149,623.07	2
				2.3.4 Continue field level supervision of Weights and Measures program for 100% of SC counties	\$149,623.07	2
				2.4.1 Collaborate and ensure open communication with other state agencies (Clemson, DOT, DHEC, DOR and APHIS, FERN, Produce Inspection) to perform routine and emergency testing	\$44,886.92	0.6
				2.4.2 Ensure technical training of 100% of new and existing staff	\$29,924.61	0.4
				2.4.3 Evaluate and track national and state organization memberships for the value gained by SCDA	\$29,924.61	0.4
				2.4.4 Develop SOPs and protocols to enhance laboratory capabilities through national and regulatory accreditation programs	\$119,698.46	1.6
				2.4.5 Increase and broaden sampling of fruits and vegetables by 10%	\$29,924.61	0.4
				2.4.6 As current positions become open, elevate prerequisites and educational level for 50% of new hires	\$7,481.15	0.1
IV. Marketing Services. A. Marketing & Promotions	Develops and implements broad-based marketing programs; provides programs and services designed to increase consumer awareness and product demand for quality South Carolina agricultural commodities; strives to improve the economic vitality of business and individuals in the industry of agriculture; encourages expansion and development of existing industries that use South Carolina agricultural commodities, both fresh and processed, to increase the marketability of locally-grown products; domestic and international marketing assistance; certifies roadside markets; promotes specialty crops and specialty products; assists small farmer and provides support for locally grown certification; promotes the green industry (nursery, greenhouse, landscape, etc); authorizes individual farmers and farmers markets to be able to accept coupons from those who are nutritionally at risk to buy fresh, unprepared produce issued in the WIC and Senior Farmers Market	\$4,558,048	12.5	3.1.1 Increase program membership participation by 10%	\$354,406.13	1
				3.1.2 Increase in-state merchandising efforts, resulting in a 5% increase in total sales of local products in retail outlets	\$337,436.12	0.9

				3.1.3 Future outreach: Grow sales in North Carolina, Virginia, and Mid-Atlantic region with key retailers by 10% in key measurable areas of fresh produce through combined radio and merchandise efforts	\$299,943.22	0.8
				3.1.4 Increase event attendance by 10% and adjust future direction based on project utilization and evaluation	\$149,971.61	0.4
				3.1.5 Increase CSC brand recognition by 10%	\$262,450.31	0.7
				3.2.4 Place more resources into export market analysis, access, and development	\$374,929.02	1
				3.2.5 Explore current and new marketing events and activities	\$749,858.04	2
				3.3.4 Provide 4 training meetings for producers interested in accepting WIC/SNAP vouchers across the state during the months of November through January	\$149,971.61	0.4
				3.3.5 Continue to increase school participation in direct purchases of local product with increase in sales of 10% statewide via direct consultation and promotion efforts under Farm to School programming	\$149,971.61	0.4
				3.4.1 Create three statewide food hubs	\$149,971.61	0.4
				3.4.2 Increase the number of agritourism operations participating in SCDA programming by 10%	\$100,000.00	0.6
				3.4.3 Educate the general public, by written communication and social media, on the diverse opportunities of nontraditional agriculture, on a monthly basis	\$149,971.61	0.4
				3.4.4 Collaborate on a monthly basis with SC Department of Health and Environmental Control, Clemson University, and SC Department of Agriculture to promote farm-to-school program to current school nutrition efforts and food service employees	\$37,492.90	0.1
				4.1.1 Develop strategies to reach consumers directly on internet channels with messaging one month out on major events and two weeks out on minor events	\$33,743.61	0.09
				4.1.2 Update plan for crisis management and/or regulatory enforcement events	\$3,749.29	0.01
				4.1.4 Actively use social media messaging and maintain activity level of at least two posts per day	\$18,746.45	0.05
				4.1.5 Ensure sound management of information systems used by producers in regards to market pricing in order to report at 98% accuracy	\$412,421.92	1.1
				4.2.1 Increase earned media coverage year over and above 2012-13 performance results	\$18,746.45	0.05

				4.2.2 Leverage paid media to get higher return on investment	\$18,746.45	0.05
				4.2.3 Develop relationships with media statewide for key story opportunities related to positive ag news, events, etc. as they occur	\$7,498.58	0.02
				4.4.1 Public Information Office (PIO) staff should conduct visits with different program staff at least monthly	\$7,498.58	0.02
				5.1.1 Meet with five current companies to encourage them to use more SC products in their business process	\$29,850.75	0.08
				5.1.2 Create collaborations between in-state farming operations and food processors to determine supply chain opportunities	\$11,194.03	0.03
				5.1.3 Encourage new business incentives for agribusiness	\$14,925.37	0.04
				5.1.4 Engage stakeholders in the business development community to consider opportunities and overcome obstacles related to infrastructure	\$22,388.06	0.06
				5.2.1 Engage state, local, and regional alliance officials about agribusiness opportunities by meeting with state commerce officials and regional alliance directors and staff on a quarterly basis	\$29,850.75	0.08
				5.2.2 Participate in at least 7 business events and tradeshow per year	\$26,119.40	0.07
				5.2.3 Perform an annual inventory analysis on agribusiness companies who are interested in expansion in SC & Southeast USA	\$11,194.03	0.03
				5.2.4 Engage with at least three existing industry players to identify barriers to growth, promote opportunities for expansion, and encourage additional investment	\$186,567.16	0.5
				5.2.5 Complete the "Agribusiness Development" application/online portal with Clemson University PSA	\$11,194.03	0.03
				5.3.1 Assess all industry policies prior to the beginning of each legislative session by gathering input from at least 10 different producers	\$14,925.37	0.04
				5.3.2 Be an industry voice in communicating factual information by making policy statements to elected officials at the appropriate time	\$373,134.33	1
				5.3.3 Work with regulatory and marketing program staff to review current laws, regulations, and policies to find the most efficient balance of consumer safety and a business friendly environment	\$18,656.72	0.05

IV. Marketing Services. B. Commodity Boards	Serves as a liaison to commodity boards, associations and the state's Agriculture Commission to aid in marketing state commodities, as well as fund various research projects relevant to the commodity.	\$1,813,116	2	3.2.1 Develop commodity specific efforts to highlight crop conditions, outlooks, and timing backed up by promotional efforts to increase overall sales in-state by 5%	\$861,230.10	0.95
				3.2.2 Fund research of new technologies, science, and best management practices for production, packaging, and processing	\$90,655.80	0.1
				3.2.3 Increase cross-promotion of, and between, commodities	\$861,230.10	0.95
IV. Marketing Services. C. Market Services	Oversees and operates the three state farmers markets in Lexington, Florence and Greenville. These markets provide central points for farmers and producers to sell their products.	\$1,539,830	14	3.3.1 Identify and prioritize critical necessary upgrades at all 3 market facilities based on consumer safety, overall appearance, and functionality	\$1,110,877.36	10.1
				3.3.2 Recruit new farmers, identify demand for new products, and align resources to meet the needs of producers and consumers	\$428,952.64	3.9
IV. Marketing Services. D. Inspection Services	Provides quality grade standards and up-to-date first-hand market news to the allied industry through a cooperative agreement with the USDA; provides grading and inspecting of poultry products and fruits and vegetables.	\$2,491,536	26	3.3.3 Develop producer Good Agricultural Practice (GAP) training and certification schedule and outreach efforts to meet needs during pre-season and production to increase GAP certified farms by 15%	\$2,491,536.00	26
IV. Marketing Services. E. Market Bulletin	Publishes the Market Bulletin which is designed as a vehicle for farmers and non-farmers to buy and sell agricultural and agricultural-related items, a resource for economic stability especially in rural areas.	\$147,643	2.5	4.3.1 Maintain subscription of 15,625	\$117,228.54	1.985
				4.3.2 Engage staff to contribute articles and photographs for all 24 issues	\$29,528.60	0.5
				4.3.3 Reduce fixed costs, excluding postage, during FY 15	\$295.29	0.005
				4.3.4 Conduct reader interest survey every three years	\$590.57	0.01

Agency Responding	Department of Agriculture
Date of Submission	8/24/2016

Disclaimer: The Committee understands the number of employee equivalents are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

INSTRUCTIONS: In this Chart, please do the following:

- (a) Review the agency's strategic plan, which is provided in the chart based on the information from the agency's Restructuring Report.
- (b) In the column titled, "Number of employee equivalents working on the goal or objective in 2015-16," list the number of employees working toward each objective, by totaling the amounts from the Employee Allocation by Budget Program Chart.
- (c) The total number of employees working toward each goal should automatically sum based on the numbers you enter for the number of employees per objective.

Strategic Plan Part and Description (2015-16) <i>(i.e. Goal 1 - Insert description, Strategy 1.1 - Insert Description, Objective 1.1.1 - Insert Description)</i>	Number of physical employees working on the goal or objective in 2015-16	Number of employee equivalents working the goal or objective in 2015-16
Number of FTEs Available	121.65	
Number of Temporary Non-FTEs Available	123.212	
Number of Temporary Grant Non-FTEs Available	2	
Total Number of Employees Available	262.862	
Goal 1 - Improve agency operational readiness and workforce development	148	13
<i>Strategy 1.1 - Evaluate new technology products and services and implement based on cost/benefit analyses</i>	11	3.1
Objective 1.1.1 - Place all internal agency forms on the network	2	0.6
Objective 1.1.2 - Replace personal computers every three years	2	0.9
Objective 1.1.3 - Convert Wade Hampton Office phone systems to Voice Over IP (VOIP) system	3	0.4
Objective 1.1.4 - Equip 100% of Consumer Protection field inspectors with 4G mobile network access	2	0.5
Objective 1.1.5 - Work with vendors and service providers to refine current products and offer best-in-breed technology to staff	2	0.7
<i>Strategy 1.2 - Prioritize information security activities</i>	5	1.25
Objective 1.2.1 - Achieve 100% completion of the US Department of Defense Information Security Awareness Program by 31 October every year	2	0.2
Objective 1.2.2 - Have Executive and IT staff participate in State of SC INFOSEC project by attending quarterly meetings or as directed by Division of Technology	1	0.3
Objective 1.2.3 - Implement all 13 INFOSEC policies by 2016	2	0.75
<i>Strategy 1.3 - Provide more professional development opportunities for employees</i>	12	1.05
Objective 1.3.1 Encourage employees to identify relevant technical training during their yearly EPMS planning stage	4	0.1
Objective 1.3.2 - Expand training delivery platforms to be more convenient and offer options for different learning styles	2	0.3
Objective 1.3.3 - Offer in-house training at least quarterly	1	0.5
Objective 1.3.4 - Solicit suggestions for training on broad topics beneficial to all employees	1	0.1
Objective 1.3.5 - Staff will participate in trade groups and industry associations	4	0.05
<i>Strategy 1.4 - Fully utilize annual Employee Performance Management System (EPMS) as a communication tool</i>	87	1.8
Objective 1.4.1 - Complete planning stage documents within 2 months of the calendar year for all existing employees or within 1 month of hiring new employees	29	0.7

Objective 1.4.2 - Evaluate and counsel 100% of employees by the end of annual, probationary, or trial period	29	0.6
Objective 1.4.3 - Include comments and/or personal development plan for 100% of employees	29	0.5
<i>Strategy 1.5 - Empower supervisors to be better decision makers and personnel managers</i>	12	1.5
Objective 1.5.1 Provide monthly financial reports to appropriate program staff	2	0.4
Objective 1.5.2 - Conduct annual introductory and advanced training for supervisors	1	0.2
Objective 1.5.3 - Encourage more frequent meetings between supervisors and subordinates	5	0.2
Objective 1.5.4 - Designate training officers for all Consumer Service programs and staff	2	0.2
Objective 1.5.5 - Review agency and departmental policies annually; edit and/or draft new policies as necessary	2	0.5
<i>Strategy 1.6- Improve financial reporting and business procedures</i>	7	3.1
Objective 1.6.1 - Provide monthly financial reports to division directors for personnel and operating funds in their areas of responsibility	1	0.4
Objective 1.6.2 - Assistant Commissioner for Agency Operations and Director of Administration will review all agency financials monthly	2	0.3
Objective 1.6.3 - Expand procurement training and procedural knowledge to ensure compliance with procurement code, expand advertising scope, and diversify vendor pool	2	1.8
Objective 1.6.4 - Achieve a higher agency procurement certification from MMO	2	0.6
<i>Strategy 1.7 - Diversify agency workforce by EEOC categories, age, education, experience, and perspective</i>	6	0.7
Objective 1.7.1 - Attend at least two recruitment events annually	2	0.2
Objective 1.7.2 - Use at least three additional avenues, other than NeoGov, to advertise position vacancies over the course of the year	2	0.3
Objective 1.7.3 - Complete required EEOC reporting and focus on potential areas of improvement	2	0.2
<i>Strategy 1.8 - Emphasize employee health and safety on and off the job</i>	8	0.5
Objective 1.8.1 - Offer an annual health screening for all employees	1	0.1
Objective 1.8.2 - Certify and maintain currency for 10% of strategically placed agency employees in first aid, CPR, and AED	2	0.05
Objective 1.8.3 - Ensure that all agency office buildings with 10 or more employees are equipped with AED machines	1	0.05
Objective 1.8.4 - Purchase Personal Protective Equipment for all field personnel	4	0.3
Goal 2 - Protect the consumers in the marketplace through compliance inspections, laboratory testing and analysis, issuing certifications, sampling, licensing, auditing, and providing commodity oversight of storage warehouses and facilities.	97	54.8
<i>Strategy 2.1 - Provide food/feed safety oversight at SC food manufacturing and storage facilities through routine periodic inspections based on product types, inspection history, and risk analysis</i>	16	24.1
Objective 2.1.1 - Provide advanced classroom training, on-the-job training, and continuing education courses for entire food/feed inspection team	4	0.7
Objective 2.1.2 - Hire Feed Control Official replacement to cover feed industry inspections in SC	2	0.8
Objective 2.1.3 - Participate in the Food and Drug Administration's MFRPS by 2015	4	2.1
Objective 2.1.4 - Create 4 working and viable MOUs with other state agencies including DHEC, DNR, and SC LPH	2	1
Objective 2.1.5 - Make all 42 public forms able to be submitted online	4	19.5
<i>Strategy 2.2 - Maintain the accuracy of the state's measurement system by providing high precision calibration services to public and private sector customers at the SC Metrology Laboratory</i>	11	4.6
Objective 2.2.1 - Become accredited by the National Voluntary Laboratory Accreditation Program (NVLAP)	3	2
Objective 2.2.2 - Establish a new Quality Manager Position to provide ongoing auditing and documentation of the quality assurance program	2	0.6
Objective 2.2.3 - Design and build a new metrology laboratory to meet the requirements for an Echelon I metrology laboratory	6	2

<i>Strategy 2.3 - Provide the public with assurance that commodities purchased are the correct quantity and quality, through routine inspections of gasoline/petroleum dispensers, scales, and commodity storage facilities</i>	33	21.6
Objective 2.3.1 - Establish a subject matter expert position for in-the-field assessments and knowledge exchange	3	0.6
Objective 2.3.2 - Routinely inspect 100% of regulated firms annually	20	17
Objective 2.3.3 - Ensure same-day follow-up communication on 100% of consumer complaints	4	2
Objective 2.3.4 - Continue field level supervision of Weights and Measures program for 100% of SC Counties	6	2
<i>Strategy 2.4 - Provide the public with assurance that commodities purchased are safe, wholesome, and adhere to standards, through chemical and physical analytical analysis of food, animal feed, seed, and petroleum products</i>	37	4.5
Objective 2.4.1 - Collaborate and ensure open communication with other state agencies to perform routine and emergency testing	3	0.6
Objective 2.4.2 - Ensure technical training of 100% of new and existing staff	5	0.4
Objective 2.4.3 - Evaluate and track national and state organization memberships for the value gained by SCDA	2	0.4
Objective 2.4.4 - Develop SOPs and protocols to enhance laboratory capabilities through national and regulatory accreditation programs	4	1.6
Objective 2.4.5 - Increase and broaden sampling of fruits and vegetables in the chemical residue laboratory by 10%	19	0.4
Objective 2.4.6 - As current positions become open, elevate prerequisites and educational level for 50% of new hires	2	0.1
Objective 2.4.7 Develop and maintain Laboratory Safety Program with 100% attendance at all safety meetings and trainings	2	1
Goal 3 - Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products	117	52.1
<i>Strategy 3.1 - Expand Certified SC (CSC) branding program</i>	28	3.8
Objective 3.1.1 - Increase program membership by 10%	3	1
Objective 3.1.2 - Use merchandising to grow sales of local products in retail outlets by 5%	3	0.9
Objective 3.1.3 - Grow sales in NC, VA and Mid-Atlantic region with key retailers by 10% in key measurable areas of fresh produce through combined radio and merchandising efforts	3	0.8
Objective 3.1.4 - Increase event attendance by 10% and adjust future direction based on project utilization and evaluation	4	0.4
Objective 3.1.5 - Increase CSC brand recognition by 10%	15	0.7
<i>Strategy 3.2 - Expand commodity board research, promotion and education</i>	27	5
Objective 3.2.1 - Develop commodity specific strategies to highlight crop conditions, outlooks, and timing, to increase overall sales in-state by 5%	3	0.95
Objective 3.2.2 - Fund research of new technologies, science and best management practices for production, packaging and processing	2	0.1
Objective 3.2.3 - Increase cross-promotion of, and between, commodities	15	0.95
Objective 3.2.4 - Devote more resources into export market analysis, access, and development	3	1
Objective 3.2.5 - Explore current and new marketing events and activities	4	2
<i>Strategy 3.3 - Expand marketing opportunities through the State Farmers Market system, community based markets, roadside markets, and agritourism operators</i>	52	41.8
Objective 3.3.1 - Identify and prioritize critical upgrades at all 3 market facilities based on consumer safety, overall appearance, and functionality	15	10.1
Objective 3.3.2 - Recruit new farmers, identify demand for new products, and align resources to meet the needs of producers and consumers	6	4.9
Objective 3.3.3 Develop producer Good Agricultural Practice (GAP) training and certification schedule and outreach efforts during pre-season and production to increase GAP certified farms by 15%	26	26
Objective 3.3.4 - Provide 4 training meetings for producers interested in accepting WIC/SNAP vouchers across the state	2	0.4

Objective 3.3.5 - Continue to increase school participation in direct purchases of local product with increase in sales of 10% statewide	3	0.4
<i>Strategy 3.4 - Increase promotion of non-traditional agriculture</i>	10	1.5
Objective 3.4.1 - Create 3 statewide food hubs	3	0.4
Objective 3.4.2 - Increase the number of agritourism operations participating in SCDA programming by 10%	2	0.6
Objective 3.4.3 - Educate the general public on the diverse opportunities of nontraditional agriculture, on a monthly basis	3	0.4
Objective 3.4.4 - Collaborate on a monthly basis with DHEC, Clemson, USC and Department of Education to promote farm to school program to current school nutrition officials and food service employees	2	0.1
Goal 4 - Provide credible and timely information to increase public awareness of the agricultural industry, and knowledge of agricultural issues	21	2.47
<i>Strategy 4.1 - Ensure timely delivery of information of both producer and consumer interest</i>	12	1.35
Objective 4.1.1 - Develop strategies to reach consumers directly on internet channels with messaging one month before major events and two weeks before minor events	2	0.09
Objective 4.1.2 - Update plan for crisis management and/or regulatory enforcement events	2	0.01
Objective 4.1.3 - Respond to 100% of website information requests within 2 business days.	2	0.1
Objective 4.1.4 - Actively use social media messaging and maintain activity level of at least two posts per day	2	0.05
Objective 4.1.5 - Ensure market news reports maintain 98% accuracy	4	1.1
<i>Strategy 4.2 - Increase media coverage of agency activities and functions</i>	4	0.12
Objective 4.2.1 - Increase earned media coverage year over and above 2012-13 performance results	1	0.05
Objective 4.2.2 Leverage paid media for a higher ROI	2	0.05
Objective 4.2.3 - Develop relationships with media statewide for key story opportunities related to positive ag news and events as they occur	1	0.02
<i>Strategy 4.3 - Expand reach of Market Bulletin/Market News Service as an information vehicle and educational resource</i>	10	2.545
Objective 4.3.1 - Maintain subscription reach of 15,625	3	1.985
Objective 4.3.2 - Engage staff to contribute articles and photographs for all 24 issues	3	0.5
Objective 4.3.3 - Reduce fixed costs, excluding postage, during FY15	2	0.05
Objective 4.3.4 - Conduct reader interest survey every three years	2	0.01
<i>Strategy 4.4 - Improve internal agency communication and access to information to enhance customer service</i>	11	2.12
Objective 4.4.1 - Public Information Office staff should conduct visits with different program staff at least monthly	1	0.02
Objective 4.4.2 - Organize, clean up and increase use of the shared network drive	2	0.6
Objective 4.4.3 - Establish an accurate position on key issues and create consistent messaging across the agency	2	0.5
Objective 4.4.4 - Increase staff professional development related to communications and hot topics	2	0.5
Objective 4.4.5 - Newly created Communications committee to implement, evaluate and update communications plan	4	0.5
Goal 5 - Enhance growth and expansion of the state's total agricultural product output, economic impact, and capital investment	28	2.01
<i>Strategy 5.1 - Expand existing industry and increase value-added production</i>	8	0.21
Objective 5.1.1 - Help five current in-state companies use more SC products in their business process	2	0.08
Objective 5.1.2 - Create collaborations between in-state farming operations and food processors to determine supply chain opportunities	2	0.03
Objective 5.1.3 - Encourage new business incentives for agribusiness	2	0.04

Objective 5.1.4 Engage stakeholders in the business development community to consider opportunities and overcome obstacles related to infrastructure	2	0.06
<i>Strategy 5.2 - Increase agribusiness recruitment efforts</i>	12	0.71
Objective 5.2.1 - Engage state, local, and regional alliance officials about agribusiness opportunities by meeting with state commerce officials and regional alliance directors and staff on a quarterly basis	3	0.08
Objective 5.2.2 - Participate in at least 7 business events and tradeshow per year	3	0.07
Objective 5.2.3 - Perform an annual inventory analysis on agribusiness companies who are interested in expansion in SC and the Southeastern US	3	0.03
Objective 5.2.4 - Engage with at least three existing industry players to identify barriers to growth, promote opportunities for expansion, and encourage additional investment	2	0.5
Objective 5.2.5 - Complete the Agribusiness Development application/online portal with Clemson University PSA	1	0.03
<i>Strategy 5.3 - Take a leading role in advocating for sound, responsible agribusiness policies that encourage business growth and resource stewardship</i>	8	1.09
Objective 5.3.1 - Assess all industry policies prior to the beginning of each legislative session by gathering input from at least 10 different producers	1	0.04
Objective 5.3.2 - Be an industry voice in communicating factual information by making policy statements to elected officials at the appropriate time	3	1
Objective 5.3.3 - Work with regulatory and marketing program staff to review current laws, regulations, and policies to find the most efficient balance of consumer safety and a business friendly environment	4	0.05

Agency Responding	Department of Agriculture
Date of Submission	8/24/2016

Disclaimer: The Committee understands amount the agency budgeted and spent per goal and objective are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

INSTRUCTIONS:

Below you will find information the agency submitted in its 2016 Restructuring Report. Please update this information to reflect the information requested as of the end of fiscal year 2015-16.

Part A: Funds Available this past Fiscal Year (2015-16)

(a) Please enter each source of funds for the agency in a separate column. Group the funding sources however is best for the agency (i.e., general appropriation programs, proviso 18.2, proviso 19.3, grant ABC, grant XYZ, Motor Vehicle User Fees, License Fines, etc.) to provide the information requested below each source (i.e., state, other or federal funding; recurring or one-time funding; etc.). The agency is not restricted by the number of columns so please delete or add as many as needed. However the agency chooses to group its funding sources, it should be clear through Part A and B, how much the agency had available to spend and where the agency spent the funds.

Part B: Funds Spent this past Fiscal Year (2015-16)

(a) The agency's objectives and unrelated purposes are listed based on the information the agency provided in the Restructuring Report. The agency will see there are new rows between "objectives" and "unrelated purposes." These new rows are intended to allow the agency to list money it spent this year that was for previously committed multiple year projects. The intent of these new rows is to separate what the agency spent toward its current objectives and what it spent toward objectives and projects from previous years, which took multiple years to pay off.

(b) Please add any information needed in the new rows (i.e., "Money previously committed for multiple years") and make any revisions necessary to ensure all unrelated purposes are listed. As a reminder, an "unrelated purpose" is money the agency is legislatively directed to spend on something that is not related to an agency objective (i.e., pass through, carry forward, etc.).

(c) Finally, review and revise the amounts spent from each funding source on the agency objectives, money previously committed for multiple years and unrelated purposes so it reflects how much the agency actually spent on each and fill in the information requested in the remaining rows. Remember, in each row, you need to provide the total of all the values from the different funding sources for that row.

PART A - Funds Available this past Fiscal Year (2015-16)

What is the source of funds? (insert as many columns as needed, just make sure to total everything in the last column)	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development
State, other or federal funding?	n/a	State & Other	State and Other	State, Other, Federal	Other	State
Recurring or one-time?	n/a	Recurring	Recurring and one-time	Recurring and one-time	Recurring	Recurring
\$ From Last Year Available to Spend this Year						
Amount available at end of previous fiscal year	\$5,424,005	\$77,693	\$259,299	\$5,058,334	\$28,679	\$0
Amount available at end of previous fiscal year that agency can actually use this fiscal year:	\$5,424,005	\$77,693	\$259,299	\$5,058,334	\$28,679	\$0
If the amounts in the two rows above are not the same, explain why :	n/a	Amounts are the same	Amounts are the same	Amounts are the same	Amounts are the same	Amounts are the same
\$ Received this Year						
Amount <u>budgeted to receive</u> in this fiscal year:	\$18,957,547	\$1,427,847	\$3,920,224	\$12,722,776	\$136,700	\$750,000
Amount <u>actually received</u> this fiscal year:	\$18,100,566	\$1,257,106	\$3,938,169	\$12,011,193	\$144,098	\$750,000
If the amounts in the two rows above are not the same, explain why :	n/a	Lower revenue for PMC rent than expected	Increased revenue for several programs.	Less Revenue received in commodity boards due to flooding of crops.	Increase in number of subscribers	N/A
Total Actually Available this Year						
Total amount available to spend this fiscal year (i.e. Amount available at end of previous fiscal year that agency can actually use in this fiscal year PLUS Amount budgeted/estimated to receive this fiscal year):	\$23,524,570	\$1,334,799	\$4,197,468	\$17,069,527	\$172,777	\$750,000

PART B - Funds Spent this past Fiscal Year (2015-16)

Where Agency Spent Money - Current Objectives						
What is the source of funds? (insert as many columns as needed, just make sure to total everything in the last column)	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development
State, other or federal funding?	n/a	State & Other	State and Other	State, Other, Federal	Other	State
Recurring or one-time?	n/a	Recurring	Recurring and one-time	Recurring and one-time	Recurring	Recurring
What are the external restrictions (from state or federal government, grant issuer, etc.), if any, on how the agency was able to spend the funds from this source:	n/a	No	No	No	No	No
Were expenditure of funds tracked through SCEIS? (if no, state the system through which they are recorded so the total amount of expenditures could be verified, if needed)	n/a	Yes	Yes	Yes	Yes	Yes
Total amount available to spend	\$23,524,570	\$1,334,799	\$4,197,468	\$17,069,527	\$172,777	\$750,000
Where Agency Spent Money - Current Objectives						
Goal 1: Improve agency operational readiness and workforce development:	\$1,281,482	\$881,482	\$150,000	\$250,000	\$0	\$0
Goal 2: Protect the consumers in the marketplace thorough compliance inspections, laboratory testing and analysis, issuing certifications, sampling, licensing, auditing and providing community oversight of starge warehouses and facilities:	\$6,355,758	\$0	\$3,859,694	\$2,496,064	\$0	\$0
Goal 3: Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products and to enhance growth and expansion of the state's total agricultural product output, economic impact and capital investment:	\$4,923,902	\$0	\$0	\$4,723,902	\$0	\$200,000
Goal 4: Provide credible and timely information and increase public awareness of the overall impact of the agricultural industry:	\$702,183	\$404,540	\$0	\$150,000	\$147,643	\$0
Goal 5: Enhance growth and expansion of the state's total agricultural product output, economic impact and capital investment:	\$4,312,562	\$0	\$0	\$3,762,562	\$0	\$550,000
Total Spent on Current Objectives:	\$17,575,887	\$1,286,022	\$4,009,694	\$11,382,528	\$147,643	\$750,000
Where Agency Spent Money - Money previously committed for multiple years						

<i>Example - Continental Tire Recruitment Grant (agreement requires State pay income taxes for the company until 2020)</i>						
<i>Insert any additional money previously committed</i>						
Total Spent on previous multiple year commitments						
Where Agency Spent Money - Unrelated Purpose (pass through or other purpose unrelated to agency's strategic plan)						
<i>Unrelated Purpose #1: Renewable Energy</i>	\$19,668	\$0	\$0	\$19,668	\$0	\$0
<i>Unrelated Purpose #2: Gateway Project</i>	\$500,000	\$0	\$0	\$500,000	\$0	\$0
<i>Unrelated Purpose #3: No More Homeless Pets</i>	\$46,922	\$0	\$0	\$46,922	\$0	\$0
<i>Insert any additional unrelated purposes</i>						
Total Spent on Unrelated Purposes:	\$566,590					
Total Spent	\$18,142,477	\$1,286,022	\$4,009,694	\$11,949,118	\$147,643	\$750,000
Amount Remaining						
Funds budgeted for use in subsequent years (i.e. when grant or other money received all at once, but intended to be spent over multiple years)						
<i>Example - WIOA 3 year funds budgeted for use in next two fiscal years</i>						
Funds budgeted for use in subsequent years						
Cash Balance Remaining, minus funds budgeted for use in subsequent years	\$5,382,093	\$48,777	\$187,774	\$5,120,409	\$25,134	\$0
Additional Explanations regarding Part B:	<i>Insert any additional explanations the agency would like to provide related to the information it provided above.</i>					

Agency Responding	Department of Agriculture
Date of Submission	12/30/2016

Disclaimer: The Committee understands the number of employee equivalents are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

INSTRUCTIONS: In this Chart, please do the following:

- (a) Consider the total number of FTE and non-FTE positions at the agency in 2015-16, which will auto-fill from the Employees Available Chart.
- (b) Then, in the column titled, "Number of physical employees working on the budget program in 2015-16," list the number of physical employees working on each budget program. These employees may spend 100%, 50% or even 10% of their time working toward accomplishing the program.
- (c) In the column titled, "Number of employee equivalents associated with the budget program in 2015-16," list the total number of employee equivalents working on the program in 2015-16. The agency may calculate the figure utilizing the method outlined in the Instructions and Examples for the Program Evaluation Report document.

General Appropriation Act Program (2016-17)	Number of physical employees working on the program in 2016-17	Number of employee equivalents working on the program in 2016-17
Number of FTEs Available	126	125.65
Number of Temporary Non-FTEs Available	132	132
Number of Temporary Grant Non-FTEs Available	2	2
Total Number of Employees Available	260	259.65
I. Administrative Services	16	15
III. Consumer Protection	56	54.5
IV. Marketing Services. A. Marketing & Promotions	14	13.15
IV. Marketing Services. B. Commodity Boards	2	2
IV. Marketing Services. C. Market Services	15	14.5
IV. Marketing Services. D. Inspection Services	26	25.5
IV. Marketing Services. E. Market Bulletin	3	2.5
V. Employee Benefits	0	0

Each year, seasonal temporary employees are hired to grade peanuts. This number fluctuates with the number of acres planted and demand from buying points. These seasonal employees are funded from other funds.

Agency Responding	Department of Agriculture
Date of Submission	12/30/2016

Disclaimer: The Committee understands amount the agency spent per objective and amount of employee equivalents that are associated with costs of each program are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

INSTRUCTIONS: In this Chart, please do the following:

- (a) In the first two columns, the agency can copy and paste the information from the Accountability Report, "Major Programs," chart.
- (b) In the column titled, "Money Budgeted on Program for 2016-17," list the amount of money the agency is budgeting to spend on the program in 2016-17.
- (c) In the column titled, "Number of employee equivalents associated with the program," list the total number of employee equivalents the agency plans to have working on the program in 2016-17.
- (d) In the column titled, "Objective the Program Helps Accomplish," list each objective the program helps the agency accomplish. Please list only objective per row. This may require inserting additional rows between programs.
- (e) In the column titled, "Approx. amount of money budgeted on objective that is associated with costs from program," consider the total amount budgeted for the program and what portion of that amount relates to each objective. If the agency adds up the amounts for each associated objective, it should equal the total amount budgeted for the program.
- (f) In the column titled, "Approx. amount of employee equivalents planned to be utilized on objective that are associated with the program," consider the total amount of employee equivalents the agency plans to utilize on the program and what portion of that time will related to each objective. If the agency adds up the amounts for each associated objective, it should equal the total number of employee equivalents the agency plans to utilize on the program.

General Appropriation Act Programs (2016-17)	Description of Program	Money Budgeted for the Program in 2016-17	Number of employee equivalents associated with the Program	Objective the Program Helps Accomplish (The agency can copy the Objective number and description from the first column of the Strategy, Objective and Responsibility Chart) List <u>ONLY ONE</u> strategic objective per row.	Approx. amount of money budgeted on each objective that is associated with budgeted costs from this program (if you add up the amounts for each objective it should equal the total amount spent on the program)	Approx. amount of employee equivalents planned to be utilized on each objective that are associated with this program (if you add up the amounts for each objective it should equal the total amount employee equivalents for the program)
I. Administrative Services	Provides executive leadership, support, policy development and review, financial services, information technology, facilities management and other administrative services.	\$1,248,301	15	1.1.1 Inventory and establish a replacement schedule for all agency IT equipment	\$83,220.07	1
				1.1.2 Achieve that 100% of appropriate staff complete an annual information security awareness training	\$41,610.03	0.5
				1.1.3 Triage and acknowledge helpdesk tickets within 24 hours; provide desktop support to all agency users	\$104,025.08	1.25
				1.1.4 Work with Division of Information Security (DIS) to develop and implement INFOSEC policies	\$41,610.03	0.5
				1.2.1 Perform all actions related to personnel (i.e.: E-Verify, SCEIS, NeoGov, EPMS, Insurance, Retirement, documentation) within required timeframes (3 -30 days) as outlined in procedures and laws	\$228,855.18	2.75
				1.2.2 Complete required EEOC reporting and focus on potential areas of improvement	\$20,805.02	0.25

				1.2.3 Complete planning stage documents by 1 March each year for all existing employees and within 1 month of new hires	\$20,805.02	0.25	
				1.2.4 Offer an annual health screening for all employees and purchase Personal Protective Equipment (PPE) for all field personnel	\$20,805.02	0.25	
				1.2.5 Coach supervisors through introductory and advanced training, writing personal development plans for subordinates, and implementation of progressive discipline policy	\$41,610.03	0.5	
				1.3.1 Provide monthly financial reports to division directors and program staff	\$41,610.03	0.5	
				1.3.2 Ensure compliance with procurement code, enhance procedural knowledge, and diversify vendor pool	\$62,415.05	0.75	
				1.3.3 Update fleet vehicle and equipment inventory and complete reports monthly; assess needs and establish an annual replacement plan	\$78,018.81	1	
				1.3.4 Set up purchase orders, post payments received, and process invoices within 2 weeks of receipt	\$187,245.15	2.25	
				1.4.1 Facilitate communication up and down the chain of command through staff meetings, notifications, event attendance, and leading the communications committee	\$78,018.81	0.5	
				1.4.2 Complete Farm Aid application processing, review and disbursements by 1 October 2016	\$104,025.08	1.25	
				1.4.3 Respond to constituent contacts within 3 business days of receipt	\$41,610.03	0.5	
				1.4.4 Brief Commissioner Weathers daily regarding his schedule, pertinent industry issues, employee news, and constituent contacts; represent Commissioner Weathers at meetings, seminars, and events	\$83,220.07	1	

III. Consumer Protection	Protects consumers from unsafe, ineffective, or fraudulent goods that may be offered for public sale; assures that goods meet acceptable standards of quality; monitors labeling; registers animal and pet foods, frozen desserts, gasoline and antifreeze; issues licenses for butterfat testers and milk samplers, grants permits to salvage food operations; issues two to three thousand licenses, permits and registrations; provides assistance regarding food safety and security in the event of a natural disaster or an accidental or international emergency related to Homeland Security. Draws samples for analysis in the SCDA's laboratories; protects the people of the state, farmers and non-farmers, from fraud by ensuring the accuracy of weights and measures;	\$4,022,062	55	2.4.4 Have 100% staff attendance at all technical trainings and safety meetings	\$1,499,132.20	20.5	
				2.1.1 Lead implementation plans for federal regulatory mandates such as FSMA, MFRPS, AFRPS, and COOL	\$36,564.20	0.5	
				2.1.2 Hire and train a Plan Reviewer to provide assistance to new food entrepreneurs wishing to begin wholesale food businesses	\$73,128.40	1	
				2.1.3 Participate in regional and national food safety events by way of membership, attendance, work groups and forums	\$73,128.40	1	
				2.1.4 Create and maintain a new department within the Consumer Protection Division dedicated to educating about, and enforcement of, the FDA's FSMA Produce Safety Rule	\$83,220.07	1	
				2.2.1 Enhance the Metrology Laboratory's creditibility by becoming accredited by the national Voluntary Laboratory Accreditation Program (NVLAP)	\$54,846.30	0.75	
				2.2.2 Establish a new Quality Manager position to provide ongoing quality assurance auditing and documentation	\$20,805.02	0.25	
				2.2.3 Design and build a new metrology laboratory to meet the NIST requirements for Echelon I metrology lab environments	\$146,256.80	2	
				2.2.4 Perform calibrations within 1 month of a work order	\$292,513.60	4	

				2.3.1 Procure and deploy new large mass vehicles to provide service to large scale firms	\$36,564.20	0.5	
				2.3.2 Perform routine inspections, consistent with policy, of 100% of firms annually under SCDA regulatory oversight	\$1,316,311.20	18	
				2.3.3 Provide follow-up communication on 100% of consumer complaints	\$109,692.60	1.5	
				2.4.1 Collaborate with other government agencies (Clemson, DOT, DHEC, DOR, APHIS, FERN, FDA, USDA) to perform routine and emergency testing	\$36,564.20	0.5	
				2.4.2 Develop and install a new Laboratory Information Management System (LIMS) to enhance reporting and interface with FERN and FDA compliant databases	\$109,692.60	1.5	
				2.4.3 Develop SOPs and protocols to enhance laboratory capabilities through regulatory accreditation programs, such as ISO/IEC 17025	\$73,128.40	1	
				2.4.5 Analyze official and submitted samples and communicate results within five business days	\$73,128.40	1	
IV. Marketing Services. A. Marketing & Promotions	Develops and implements broad-based marketing programs; provides programs and services designed to increase consumer awareness and product demand for quality South Carolina agricultural commodities; strives to improve the economic vitality of business and individuals in the industry of agriculture; encourages expansion and development of existing industries that use South Carolina agricultural commodities, both fresh and processed, to increase the marketability of locally-grown products; domestic and international marketing assistance; certifies roadside markets; promotes specialty crops and specialty products; assists small farmer and provides support for locally grown certification; promotes the green industry (nursery,	\$5,712,256	13.15	3.1.1 Increase program membership participation and brand recognition by 5%	\$1,188,252.36	2.5	
				3.1.2 Actively use social media to engage the public with at least two posts per day	\$356,475.71	0.75	

				3.1.3 Grow agritourism operator participation in SC programming by 5% and consumer traffic at those venues by 10%	\$175,000.00	1.5	
				3.1.4 Conduct participant evaluation at all events to determine effectiveness and utilization	\$356,475.71	0.75	
				3.3.2 Provide four training meetings for producers and community based markets to expand SNAP/WIC usage of this program	\$356,475.71	0.75	
				3.3.4 Provide technical assistance and funding to nine new schools and pre-schools	\$237,650.47	0.5	
				3.3.5 Leverage earned media to reach consumers two weeks prior to major events like Flower Festivals and Family Fun Day	\$190,120.38	0.4	
				4.1.1 Meet with 10 current companies annually to encourage them to use more SC agricultural products in their business processes	\$308,945.61	0.65	
				4.1.2 Create collaborations between in-state farmers and food processors to determine supply-chain opportunities	\$118,825.24	0.25	
				4.1.3 Meet with state, locals and regional alliance officials quarterly about agribusiness opportunities	\$237,650.47	0.5	
				4.1.4 Participate in at least seven business events and/or trade shows per year to meet with prospective companies	\$475,300.94	1	
				4.1.5 Perform an annual inventory analysis on agribusiness companies who are primed for expansion in SC or the Southeastern United States	\$118,825.24	0.25	
				4.2.1 Assess all industry policies before each legislative session by gathering input from a cross section of at least 10 different producers	\$190,120.38	0.4	
				4.2.2 Be an industry voice in communicating factual information to elected officials at the appropriate time	\$95,060.19	0.2	
				4.2.3 Work with agency program staff to review current laws, regulations, and policies to balance consumer safety and a business friendly environment	\$190,120.38	0.4	
				4.3.1 Update agency plan for crisis management and/or regulatory enforcement events	\$47,530.09	0.1	
				4.3.2 Respond to 100 percent of website information requests within two business days	\$118,825.24	0.25	
				4.3.3 Develop relationships with media statewide to pitch positive agricultural news, events, stories as they occur	\$356,475.71	0.75	
				4.4.2 Public Information staff should conduct visits with different program staff at least monthly	\$118,825.24	0.25	

				4.4.3 Establish an accurate position on key issues and create consistent messaging across the agency	\$237,650.47	0.5	
				4.4.4 Leverage paid media to get a higher return on investment	\$237,650.47	0.5	
IV. Marketing Services. B. Commodity Boards	Serves as a liaison to commodity boards, associations and the state's Agriculture Commission to aid in marketing state commodities, as well as fund various research projects relevant to the commodity.	\$1,884,610	2	3.2.1 Use merchandising and commodity-specific promotions to increase sales of SC products by 5% in retail food outlets and food service venues	\$471,152.50	0.5	
				3.2.2 Fund research of new technologies, science, and best management practices for production, packaging, and processing	\$471,152.50	0.5	
				3.2.3 Place more resources into export market analysis, access, and development	\$471,152.50	0.5	
				3.2.4 Use cross-promotion of, and between, commodities to increase demand by 5%	\$471,152.50	0.5	
IV. Marketing Services. C. Market Services	Oversees and operates the three state farmers markets in Lexington, Florence and Greenville. These markets provide central points for farmers and producers to sell their products.	\$1,319,198	14.5	3.3.1 Identify and prioritize critical upgrades at all 3 State Farmers Markets (SFM) to ensure producers and consumers have safe and clean facilities	\$1,319,198.00	14.5	
IV. Marketing Services. D. Inspection Services	Provides quality grade standards and up-to-date first-hand market news to the allied industry through a cooperative agreement with the USDA; provides grading and inspecting of poultry products and fruits and vegetables.	\$2,608,313	25.5	3.3.3 In conjunction with Clemson University Extension, update producer Good Agricultural Practice (GAP) training and outreach efforts to increase certification by 5%	\$179,001.87	1.75	
				3.4.1 Make weekly visits to six livestock auctions and daily visits to produce wholesalers to record price, volume and other market information	\$332,432.05	3.25	
				3.4.2 Produce and publish information daily and weekly through through Internet reports, printed reports, telephone recording devices, daily radio programs, as well as newspapers	\$153,430.18	1.5	
				3.4.3 Perform grading and inspection at all statewide peanut buying points and contracted grain and commodity buying points	\$1,738,875.33	17	
				3.4.4 Increase the diversity of USDA commodity certifications that SCDA inspectors can issue upon request	\$204,573.57	2	

IV. Marketing Services. E. Market Bulletin	Publishes the Market Bulletin which is designed as a vehicle for farmers and non-farmers to buy and sell agricultural and agricultural-related items, a resource for economic stability especially in rural areas.	\$178,427	2.5	4.4.1 Maintain subscription of 15,000	\$178,427.00	2.5
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Agency Responding	Department of Agriculture
Date of Submission	12/30/2016

Disclaimer: The Committee understands the number of employee equivalents are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

INSTRUCTIONS: In this Chart, please do the following:

- Review the agency's strategic plan, which is provided in the chart based on the information from the agency's Restructuring Report.
- In the column titled, "Number of employee equivalents working on the goal or objective in 2015-16," list the number of employees working toward each objective, by totaling the amounts from the Employee Allocation by Budget Program Chart.
- The total number of employees working toward each goal should automatically sum based on the numbers you enter for the number of employees per objective.

Strategic Plan Part and Description (2016-17) <i>(i.e. Goal 1 - Insert description, Strategy 1.1 - Insert Description, Objective 1.1.1 - Insert Description)</i>	Number of physical employees working on the goal or objective in 2016-17	Number of employee equivalents working the goal or objective in 2016-17
Number of FTEs Available	126	125.65
Number of Temporary Non-FTEs Available	132	132
Number of Temporary Grant Non-FTEs Available	2	2
Total Number of Employees Available	260	259.65
Goal 1 - Improve agency operational readiness and workforce development	23	15
<i>Strategy 1.1 - Prioritize and deploy Information Technology (IT) products and services</i>	5	3.25
Objective 1.1.1 - Inventory and establish a replacement schedule for all agency IT equipment	1	1
Objective 1.1.2 - Achieve that 100% of appropriate staff complete an annual information security awareness training	1	0.5
Objective 1.1.3 - Triage and acknowledge helpdesk tickets within 24 hours; provide desktop support to all agency users	2	1.25
Objective 1.1.4 - Work with Division of Information Security (DIS) to develop and implement INFOSEC policies	1	0.5
<i>Strategy 1.2 - Recruit and retain highly qualifed and motivated employees</i>	7	4
Objective 1.2.1 - Perform all actions related to personnel (i.e.: E-Verify, SCEIS, NeoGov, EPMS, Insurance, Retirement, documentation) within required timeframes (3 -30 days) as outlined in procedures and laws	3	2.75
Objective 1.2.2 - Complete required EEOC reporting and focus on potential areas of improvement	1	0.25
Objective 1.2.3 - Complete planning stage documents by 1 March each year for all existing employees and within 1 month of new hires	1	0.25
Objective 1.2.4 - Offer an annual health screening for all employees and purchase Personal Protective Equipment (PPE) for all field personnel	1	0.25
Objective 1.2.5 - Coach supervisors through introductory and advanced training, writing personal development plans for subordinates, and implementation of progressive discipline policy	1	0.5

<i>Strategy 1.3- Improve financial reporting and business procedures</i>	6	4.5
Objective 1.3.1-Provide monthly financial reports to division directors and program staff	1	0.5
Objective 1.3.2 - Ensure compliance with procurement code, enhance procedural knowledge,and diversify vendor pool	1	0.75
Objective 1.3.3 - Update fleet vehicle and equipment inventory and complete reports monthly; assess needs and establish an annual replacement plan	1	1
Objective 1.3.4 - Set up purchase orders, post payments received, and process invoices within 2 weeks of receipt	3	2.25
<i>Strategy 1.4 - Set, execute and monitor a strategic plan towards accomplishing the agency mission</i>	5	3.25
Objective 1.4.1 - Facilitate communication up and down the chain of command through staff meetings, notifications, event attendance, and leading the communications committee	1	0.5
Objective 1.4.2 - Complete Farm Aid application processing, review and disbursements by 1 October 2016	2	1.25
Objective 1.4.3 - Respond to constituent contacts within 3 business days of receipt	1	0.5
Objective 1.4.4- Brief Commissioner Weathers daily regarding his schedule, pertinent industry issues, employee news, and constituent contacts; represent Commissioner Weathers at meetings, seminars, and events	1	1
Goal 2- Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities	59	55
<i>Strategy 2.1- Provide food/feed safety oversight of SC food manufacturers, processors, and food distribution facilities through routine, risk-based, compliance inspections</i>	4	3.5
Objective 2.1.1 - Lead implementation plans for federal regulatory mandates such as FSMA, MFRPS, AFRPS, and COOL	1	0.5
Objective 2.1.2 - Hire and train a Plan Reviewer to provide assistance to new food entrepreneurs wishing to begin wholesale food businesses	1	1
Objective 2.1.3 - Participate in regional and national food safety events by way of membership, attendance, work groups and forums	1	1
Objective 2.1.4 - Create and maintain a new department within the Consumer Protection Division dedicated to educating about, and enforcement of, the FDA's FSMA Produce Safety Rule	1	1
<i>Strategy 2.2 - Maintain the accuracy of the state's mass and volume measurement system by providing high quality calibration services to public and private sector customers</i>	8	7
Objective 2.2.1 - Enhance the Metrology Laboratory's creditibility by becoming accredited by the national Voluntary Laboratory Accreditation Program (NVLAP)	1	0.75
Objective 2.2.2 - Establish a new Quality Manager Position to provide ongoing quality assurance auditing and documentation of the quality assurance program	1	0.25
Objective 2.2.3 - Build a new metrology laboratory to meet the NIST requirements for Echelon I metrology laboratory environments	2	2
Objective 2.2.4- Perform calibrations within 1 month of a work order	4	4
<i>Strategy 2.3 - Ensure commodities offered for sale are the correct quantity and quality through inspections of petroleum dispensers, retail scales, and storage facilities</i>	21	20

Objective 2.3.1 - Procure and deploy new large mass vehicles to provide service to large scale firms	1	0.5
Objective 2.3.2 - Perform routine inspections, consistent with policy, of 100% of firms annually under SCDA regulatory oversight	18	18
Objective 2.3.3 - Provide follow-up communication on 100% of consumer complaints	2	1.5
<i>Strategy 2.4 - Provide public safety assurance that commodities purchased are safe, wholesome, and adhere to standards, through chemical and physical analytical analysis of food, animal feed, seed, and petroleum products</i>	26	24.5
Objective 2.4.1 - Collaborate and ensure open communication with other state agencies (Clemson, DOT, DHEC, DOR, APHIS, FERN, FDA, USDA) to perform routine and emergency testing	1	0.5
Objective 2.4.2 - Develop and install a new Laboratory Information Management System (LIMS) to enhance reporting and interface with FERN and FDA compliant databases	2	1.5
Objective 2.4.3 - Develop SOPs and protocols to enhance laboratory capabilities through regulatory accreditation programs, such as ISO/IEC 17025	1	1
Objective 2.4.4 - Have 100% staff attendance at all technical trainings and safety meetings	21	20.5
Objective 2.4.5 - Analyze official and submitted samples and communicate results within five business days	1	1
Goal 3 - Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products	56	49.15
<i>Strategy 3.1- Expand Certified SC branding and marketing efforts</i>	7	5.5
Objective 3.1.1 - Increase program membership by 5%	2	2.5
Objective 3.1.2 - Actively use social media to engage the public with at least two posts per day	1	0.75
Objective 3.1.3 - Grow agritourism operator participation in SC programming by 5% and consumer traffic at those venues by 10%	3	1.5
Objective 3.1.4 - Conduct participant evaluation at all events to determine effectiveness and utilization	1	0.75
<i>Strategy 3.2 -Maximize Return on Investment (ROI) of producer-led commodity boards through research, promotion and education</i>	4	2
Objective 3.2.1 - Use merchandising and commodity-specific promotions to increase sales of SC products by 5% in retail food outlets and food service venues	1	0.5
Objective 3.2.2 - Fund research of new technologies, science and best management practices for production, packaging and processing	1	0.5
Objective 3.2.3 - Place more resources into export market analysis, access, and development	1	0.5
Objective 3.2.4 - Use cross-promotion of, and between, commodities to increase demand by 5%	1	0.5
<i>Strategy 3.3 - Expand direct sales opportunities through the State Farmers Market system, community based markets, roadside markets, Farm-to-School, and niche markets</i>	20	17.9
Objective 3.3.1 - Identify and prioritize critical upgrades at all 3 State Farmers Market (SFMs) to ensure producers and consumers have safe and clean facilities	15	14.5
Objective 3.3.2 - Provide four training meetings for producers and community based markets to expand SNAP/WIC usage of this program	1	0.75
Objective 3.3.3- In conjunction with Clemson University Extension, update producer Good Agricultural Practice (GAP) training and outreach efforts to increase certification by 5%	2	1.75
Objective 3.3.4 - Provide technical assistance and funding to nine new schools and pre-schools	1	0.5

Objective 3.3.5 - Leverage earned media to reach consumers two weeks prior to major events like Flower Festivals and Family Fun Day	1	0.4
<i>Strategy 3.4 - Provide daily market news reports and USDA quality grading and inspections for fruits, vegetables, peanuts, and other commodities</i>	25	23.75
Objective 3.4.1 - Make weekly visits to six livestock auctions and daily visits to produce wholesalers to record price, volume and other market information	4	3.25
Objective 3.4.2 - Produce and publish information daily and weekly through Internet reports, printed reports, telephone recording devices, daily radio programs, as well as newspapers	2	1.5
Objective 3.4.3 - Perform grading and inspection at all statewide peanut buying points and contracted grain and commodity buying points	17	17
Objective 3.4.4 - Increase the diversity of USDA commodity certifications that SCDA inspectors can issue upon request	2	2
Goal 4 - Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders	17	8.5
<i>Strategy 4.1 - Grow existing industry by increasing agribusiness recruitment efforts and value-added opportunities</i>	5	2.65
Objective 4.1.1-Meet with 10 current companies annually to encourage them to use more SC agricultural products in their business processes	1	0.65
Objective 4.1.2-Create collaborations between in-state farmers and food processors to determine supply-chain opportunities	1	0.25
Objective 4.1.3-Meet with state, locals and regional alliance officials quarterly about agribusiness opportunities	1	0.5
Objective 4.1.4-Participate in at least seven business events and/or trade shows per year to meet with prospective companies	1	1
Objective 4.1.5-Perform an annual inventory analysis on agribusiness companies who are primed for expansion in SC or the Southeastern United States	1	0.25
<i>Strategy 4.2 -Research and advocate for responsible agricultural policies which encourage growth and resource stewardship</i>	3	1
Objective 4.2.1-Assess all industry policies before each legislative session by gathering input from a cross section of at least 10 different producers	1	0.4
Objective 4.2.2- Be an industry voice in communicating factual information to elected officials at the appropriate time	1	0.2
Objective 4.2.3-Work with agency program staff to review current laws, regulations, and policies to balance consumer safety and a business friendly environment	1	0.4
<i>Strategy 4.3- Provide credible and timely information to South Carolinians to increase awareness of agriculture</i>	3	1.1
Objective 4.3.1- Update agency plan for crisis management and/or regulatory enforcement events	1	0.1
Objective 4.3.2-Respond to 100 percent of website information requests within two business days	1	0.25
Objective 4.3.3- Develop relationships with media statewide to pitch positive agricultural news, events, stories as they occur	1	0.75

<i>Strategy 4.4 -Continue to foster external and internal communications as educational resources and enhanced customer service tools</i>	6	3.75
Objective 4.4.1-Maintain a Market Bulletin subscription of 15,000	3	2.5
Objective 4.4.2- Public Information staff should conduct visits with different program staff at least monthly	1	0.25
Objective 4.4.3- Establish an accurate position on key issues and create consistent messaging across the agency	1	0.5
Objective 4.4.4- Leverage paid media to get a higher return on investment	1	0.5

Agency Responding	Department of Agriculture
Date of Submission	

Disclaimer: The Committee understands amount the agency budgeted and spent per goal and objective are estimates from the agency. The information is acceptable as long as the agency has a logical basis, which it can explain, as to how it reached the numbers it provided.

INSTRUCTIONS:

Part A: Funds Available in Fiscal Year 2016-17

(a) Please enter each source of funds for the agency in a separate column. Group the funding sources however is best for the agency (i.e., general appropriation programs, proviso 18.2, proviso 19.3, grant ABC, grant XYZ, Motor Vehicle User Fees, License Fines, etc.) to provide the information requested below each source (i.e., state, other or federal funding; recurring or one-time funding; etc.). The agency is not restricted by the number of columns so please delete or add as many as needed. However the agency chooses to group its funding sources, it should be clear through Part A and B, how much the agency had available to spend and where the agency spent the funds.

Part B: How Agency Plans to Budget Funds in 2016-17

(a) The agency's objectives and unrelated purposes are listed based on the information the agency provided in the Restructuring Report. The agency will see there are new rows between "objectives" and "unrelated purposes." These new rows are intended to allow the agency to list money it spent this year that was for previously committed multiple year projects. The intent of these new rows is to separate what the agency spent toward its current objectives and what it spent toward objectives and projects from previous years, which took multiple years to pay off.

(b) Please add any information needed in the new rows (i.e., "Money previously committed for multiple years") and make any revisions necessary to ensure all unrelated purposes are listed. As a reminder, an "unrelated purpose" is money the agency is legislatively directed to spend on something that is not related to an agency objective (i.e., pass through, carry forward, etc.).

(c) Remember in each row, you need to provide the total of all the values from the different funding sources for that row.

PART A - Funds Available Fiscal Year (2016-17)

What is the source of funds? (insert as many columns as needed, just make sure to total everything in the last column)	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development
State, other or federal funding?	n/a	State and Other	State and Other	State, Other, Federal	Other	State
Recurring or one-time?	n/a	Recurring	Recurring and One-Time	Recurring and One-Time	Recurring	Recurring and One-Time
\$ From Last Year Available to Spend this Year						
Amount available at end of previous fiscal year	\$5,382,094	\$48,777	\$187,774	\$5,120,409	\$25,134	\$0
Amount available at end of previous fiscal year that agency can actually use this fiscal year:	\$5,382,094	\$48,777	\$187,774	\$5,120,409	\$25,134	\$0
If the amounts in the two rows above are not the same, explain why :	n/a	Amounts are the same	Amounts are the same	Amounts are the same	Amounts are the same	Amounts are the same
\$ Estimated to Receive this Year						
Amount <u>requested</u> to <u>receive</u> this fiscal year:	\$16,973,167	\$1,248,301	\$4,022,062	\$10,774,377	\$178,427	\$750,000
Amount <u>actually received</u> this fiscal year:	\$16,973,167	\$1,248,301	\$4,022,062	\$10,774,377	\$178,427	\$750,000
If the amounts in the two rows above are not the same, explain why :	n/a	Same	Same	Same	Same	Same
Total Available if amounts requested are received						
Amount estimated to have available to spend this fiscal year (i.e. Amount available at end of previous fiscal year that agency can actually use in this fiscal year PLUS Amount requested to receive this fiscal year):	\$22,355,261	\$1,297,078	\$4,209,836	\$15,894,786	\$203,561	\$750,000

Additional Explanations regarding Part A:

Insert any additional explanations the agency would like to provide related to the information it provided above.

PART B - How Agency Plans to Budget Funds in 2016-17

What is the source of funds? (insert as many columns as needed, just make sure to total everything in the last column)	Totals	Administrative Services	Consumer Protection	Marketing Services	Market Bulletin	Agribusiness/Economic Development
State, other or federal funding?	n/a	State and Other	State and Other	State, Other, Federal	Other	State
Recurring or one-time?	n/a	Recurring	Recurring and One-Time	Recurring and One-Time	Recurring	Recurring and One-Time
What are the external restrictions (from state or federal government, grant issuer, etc.), if any, on how the agency can spend the funds from this source:	n/a	None	None	None	None	None
Will expenditure of funds be tracked through SCEIS? (if no, state the system through which they are recorded so the total amount of expenditures could be verified, if needed)	n/a	Yes	Yes	Yes	Yes	Yes
Total amount estimated to have available to spend	\$22,355,261	\$1,297,078	\$4,209,836	\$15,894,786	\$203,561	\$750,000
Where Agency Plans to Spend Money - Current Objectives						
<i>Goal 1: Improve agency operational readiness and workforce development.</i>	\$1,220,810	\$1,220,810				
<i>Goal 2: Protect consumers and businesses in the marketplace through physical inspections, laboratory analyses, product sampling, licensing, field testing, auditing, and other compliance activities.</i>	\$4,198,306		\$4,198,306			
<i>Goal 3: Promote and market South Carolina agriculture, both domestically and abroad, to increase demand for agricultural products.</i>	\$11,702,662			\$10,952,662		\$750,000
<i>Goal 4: Expand South Carolina's agricultural outputs by providing value-added opportunities to farmers and timely information to all stakeholders.</i>	\$147,643				\$147,643	
Total Agency Plans to Spend on Objectives:	\$17,269,421	\$1,220,810	\$4,198,306	\$10,952,662	\$147,643	\$750,000
Where Agency Plans to Spend Money - Money previously committed for multiple years						
<i>Example - Continental Tire Recruitment Grant (agreement requires State pay income taxes for the company until 2020)</i>						

Total Agency Plans to Spend on previous multiple year commitments	\$0	\$0	\$0	\$0	\$0	\$0
Where Agency Plans to Spend Money - Unrelated Purpose (pass through or other purpose unrelated to agency's strategic plan)						
<i>Unrelated Purpose #1 - insert description:</i>						
<i>Unrelated Purpose #1 - insert description:</i>						
<i>Unrelated Purpose #2 - insert description:</i>						
<i>Insert any additional unrelated purposes</i>						
Total Agency Plans to Spend on Unrelated Purposes:	\$0	\$0	\$0	\$0	\$0	\$0

Total Agency Plans to Spend (Total on Objectives + Total on Unrelated Purposes)	\$17,269,421	\$1,220,810	\$4,198,306	\$10,952,662	\$147,643	\$750,000
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Amount Remaining						
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Funds budgeted for use in subsequent years (i.e. when grant or other money received all at once, but intended to be spent over multiple years)						
<i>Example - WIOA 3 year funds budgeted for use in next two fiscal years</i>						
<i>Insert any additional Funds budgeted for use in subsequent years</i>						
Funds budgeted for use in subsequent years	\$0	\$0	\$0	\$0	\$0	\$0

Cash Balance Remaining, minus funds budgeted for use in subsequent years	\$5,085,840	\$76,268	\$11,530	\$4,942,124	\$55,918	\$0
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Additional Explanations regarding Part B:	<i>Insert any additional explanations the agency would like to provide related to the information it provided above.</i>
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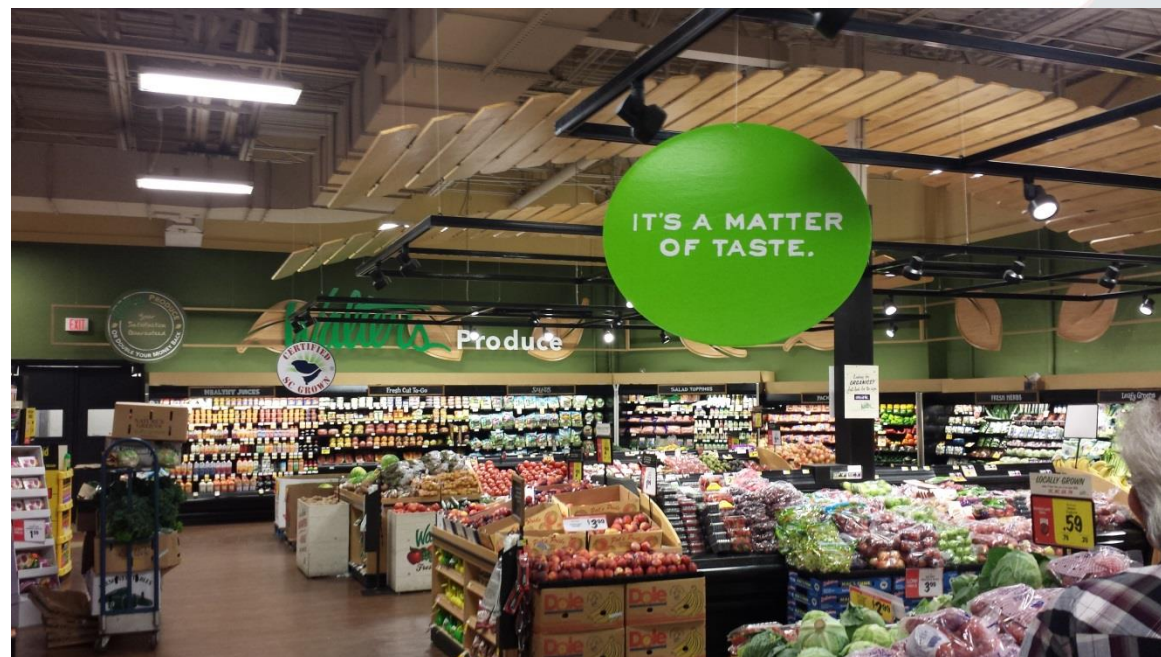
South Carolina Department of Agriculture

Hugh E. Weathers, Commissioner



House Legislative Oversight Committee
Economic Development, Transportation, and Natural Resources Subcommittee
April 27, 2017

Agency Successes



- Growth, popularity, and recognition of the brands under Certified SC umbrella
- The Metrology Department's national ranking
- SC Farm Aid development and execution

Agency Challenges

- Increasing retail traffic at the State Farmers Market
- Employee recruitment and retention due to being one of the lower paying state agencies
- Balancing communications with a wide variety of consumers, customers, and target audiences



Legislative Audit Council Recommendations and Implementations

- *SCDA should charge an admission fee or parking fee for special events hosted at the Farmers Market.*
 - Parking fee for the Plant and Flower Shows implemented in spring 2016.
 - Met with vocal resistance from the public and attendance suffered.
 - Vendor rates were successfully raised instead at the 2017 spring show.
- *Install a functioning surveillance system at the gatehouse and consider any other necessary locations.*
 - The security system at the gate house has been repaired and is serviceable.
 - Determining the need for retaining the security company currently under contract in order to save ~\$50K per year.

Legislative Audit Council Recommendations and Implementations cont.

- *SCDA should obtain all funds due to it per the agreement between the agency and the restaurant and ensure timely payments are made going forward.*
 - The tenant is current on rent and is paying quarterly.
 - New tea room and retail outlet featuring Certified South Carolina specialty food products.
 - Discussing ways to better meet the needs of the middle to lower-income and SNAP recipients that make up much of the demographics in the surrounding area.
 - Other space in building is fully leased to DNR, who is current on rent.

Agency Emerging Issues

- More federal work under cooperative agreement, particularly related to the Food Safety and Modernization Act (FSMA)
- The evaluation and implementation of technology products and services
- Implementation of information security policies
- The construction and opening of a new metrology laboratory



Programs and Objectives- Administrative Services

- 1.1.1 Inventory and establish a replacement schedule for all agency IT equipment
- 1.2.5 Coach supervisors through introductory and advanced training, writing personal development plans for subordinates, and implementation of progressive discipline policy
- 1.3.2 Ensure compliance with procurement code, enhance procedural knowledge, and diversify vendor pool
- 1.4.2 Complete Farm Aid application processing, review and disbursements by 1 October 2016

Programs and Objectives- Consumer Protection

- 2.1.1 Lead implementation plans for federal regulatory mandates such as FSMA, MFRPS, AFRPS, and COOL
- 2.2.3 Design and build a new metrology laboratory to meet the NIST requirements for Echelon I metrology lab environments
- 2.3.1 Procure and deploy new large mass vehicles to provide service to large scale firms
- 2.4.5 Analyze official and submitted samples and communicate results within five business days

Programs and Objectives-

Marketing Services-Marketing and Promotions

- 3.1.1 Increase program membership participation and brand recognition by 5%
- 3.1.4 Conduct participant evaluation at all events to determine effectiveness and utilization
- 4.1.1 Meet with 10 current companies annually to encourage them to use more SC agricultural products in their business processes
- 4.3.2 Respond to 100 percent of website information requests within two business days

Programs and Objectives- Marketing Services-Commodity Boards

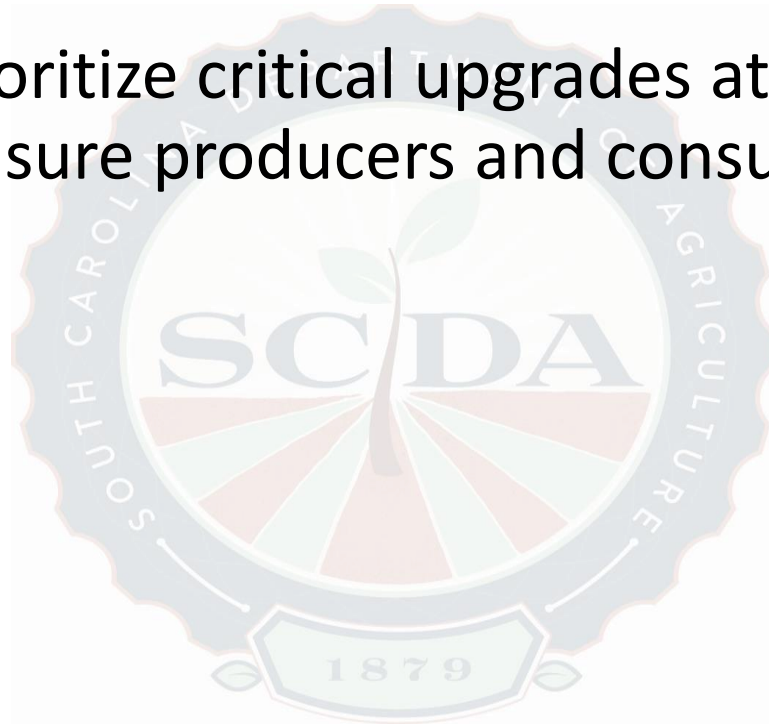
- 3.2.1 Use merchandising and commodity-specific promotions to increase sales of SC products by 5% in retail food outlets and food service venues
- 3.2.2 Fund research of new technologies, science, and best management practices for production, packaging, and processing



Programs and Objectives-

Marketing Services-Market Services

- 3.3.1 Identify and prioritize critical upgrades at all 3 State Farmers Markets (SFM) to ensure producers and consumers have safe and clean facilities



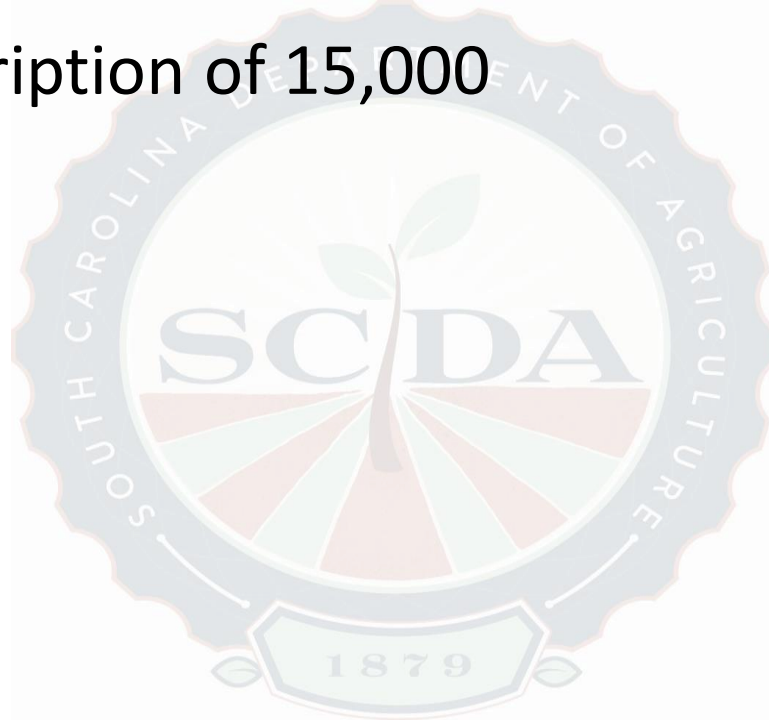
Programs and Objectives-

Marketing Services-Inspection Services

- 3.3.3 In conjunction with Clemson University Extension, update producer Good Agricultural Practice (GAP) training and outreach efforts to increase certification by 5%
- 3.4.1 Make weekly visits to six livestock auctions and daily visits to produce wholesalers to record price, volume and other market information
- 3.4.3 Perform grading and inspection at all statewide peanut buying points and contracted grain and commodity buying points

Programs and Objectives- Marketing Services-Market Bulletin

- 4.4.1 Maintain subscription of 15,000



Examples of Performance Measures

- CSC brand recognition
- Percent of planning staging documents completed within 2 months of the calendar year for existing employees and within 1 month of hiring new employees
- Percent of consumer protection requests and complaints with same-day follow-up communication
- Agribusinesses identified for prospective expansion or new projects
- Percent of grading and inspection staff able to provide full service to customers without restrictions

Agency Resource Use

- Agency objectives were changed in 2017 to become better aligned with divisions and to better portray and track invested resources.
- Employee breakdown
 - Allotted 136 FTE slots but have approximately 125 FTE employees
 - Over the course of a full year, have 20-130 temporary employees
 - 4 temporary grant and 9 time-limited employees
- Seasonal temporary employees for peanut inspections
 - Number fluctuates each year with the acres planted and demand from buying points

Agency Resource Use cont.

- Reclassifying Poultry and Egg inspectors as time-limited instead of FTE
 - Funding source is not guaranteed and has ebbed and flowed over the last couple of years as the workload of processing plants changes.
- ~60% of FTEs and 95% of temporary employees are funded by other funds.

Strategic Plan

To ensure the South Carolina agribusiness industry has a \$50 billion economic impact by the year 2020, the South Carolina Department of Agriculture will:

- Strategic Goal 1

Be the face of and lead the voice of the South Carolina agriculture industry.

- Strategic Goal 2

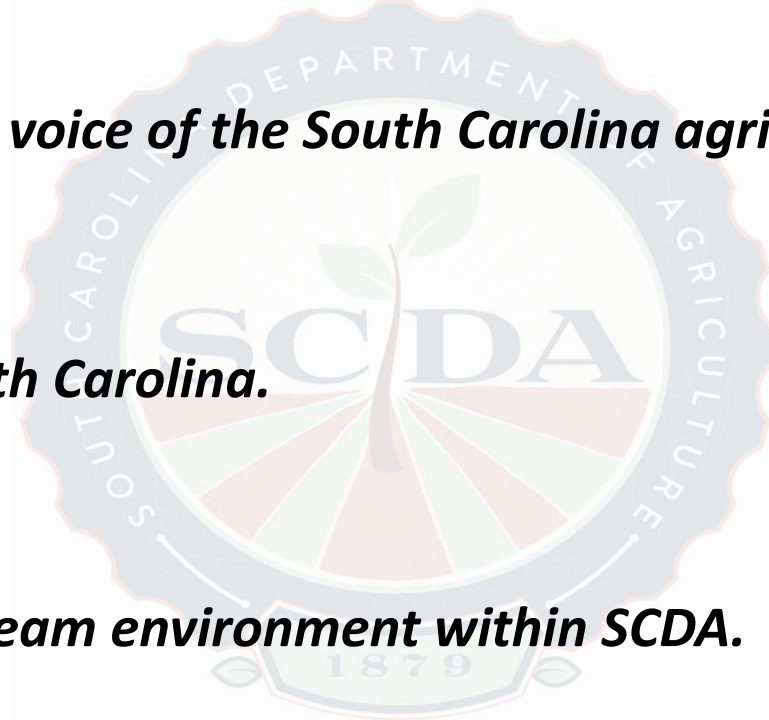
Own the food space in South Carolina.

- Strategic Goal 3

Build a creative, cohesive team environment within SCDA.

- Strategic Goal 4

Enhance public trust in SCDA and the industry we regulate.



LAC recommendations that have been implemented:

- 1) "When leasing property at the Farmers' Market, the S.C. Department of Agriculture should ensure that lease agreements include specific information on when rental payments must be made and recourse for the S.C. Department of Agriculture if rental payments are not made on time."

Lease language has been updated and is being implemented as leases come due.

- 2) "S.C. Department of Agriculture should install a functioning surveillance system at the gatehouse and consider any other necessary locations at the Farmers' Market.
The security system at the gate house has been repaired and is serviceable. A new system for the major sheds has been ordered and is being installed prior to season. Will also determine the need for retaining the Security Company currently under contract. A decrease in hours of service or cancellation of contract will save approximately \$50K per year, depending on the need for this service once cameras are installed. This was put in motion last year but was delayed due to the departure of a staff member who was ordering and installing the new system.

- 3) The S.C. Department of Agriculture should obtain all funds due to it per the agreement between the agency and the restaurant and ensure timely payments are made going forward.

The tenant is current on rent that is due. He is paying quarterly and is within the 2x per year format established in the lease. Income is averaging approximately 1K per month. The restaurant owner has recently opened a new tea room and retail outlet in the old Jacobs Store space, featuring Certified South Carolina specialty food products. We are also having conversations with the restaurant owner to better meet the needs of the middle to lower-income and SNAP recipients that make up much of the surrounding demographics in the area. Other space in building is fully leased to DNR and they are current on rent.

- 4) "The S.C. Department of Agriculture should charge an admission fee or parking fee for attendees of special events hosted at the Farmers' Market."

A parking fee for the Plant and Flower Shows was implemented in Spring of 2016. This was met with resistance from the general public. They were vocal in their displeasure of having to pay to attend a public event at the state farmers market. This also resulted in traffic back up as every vehicle was required to stop upon entry. Parking generated approximately \$10.5K in receipts and did impact overall attendance. For the spring of 2017 P&F Show, we decided to raise vendor rates by \$50.00 per stall, in lieu of a parking fee. We will capture approximately \$7800.00 in additional revenue, and have less manpower cost associated with collecting a parking fee. We will cover the parking income through the fee when considering the cost of having 4 to 6 additional staff, per shift (2 per day), required each day of the four day event. This is in essence saving work time, over a weekend, that will save those associated parking costs.

In addition, we have expanded the area we are using for paid parking of tractor trailers. This has resulted in an additional revenue stream.

- 5) "The S.C. Department of Agriculture should continue to maintain updated policies and procedures for the gatehouse and revenue collection at the Farmers' Market."
Have been developed for the gatehouse as recommended. Supervisors have gone over these with gatehouse staff and all is going well.
- 6) "The S.C. Department of Agriculture should implement a plan to better coordinate and communicate with private property owners at the Farmers' Market."
As recommended, all private partners are provided a personal visit with information on all upcoming events. This allows them to prepare for any special activities during the event and to adjust logistics as required during high volume traffic periods.
- 7) "The S.C. Department of Agriculture should ensure that covenants of privately-owned properties at the Farmers' Market site are enforced."
The department has spoken with landowners in regards to upkeep and maintenance of open areas. There has been an overall improvement in keeping grass mowed and areas free of litter.

*First Vice-Chair:
Laurie Slade Funderburk*

Legislative Oversight Committee



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*Charles L. Appleby IV
Legal Counsel*

*Carmen J. McCutcheon Simoi
Research Analyst/Auditor*

May 3, 2017

The Honorable Hugh E. Weathers
Commissioner, Department of Agriculture
Post Office Box 11280
Columbia, South Carolina 29211-1280

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, thank you for your recent presentation to the Subcommittee on May 2, 2017. During this meeting, Subcommittee Members noted they would like additional information on two issues:

- A brief outline of the federal Food Safety Modernization Act and the areas of new regulation; and
- Any recommendation the agency may have for revision to the code of laws to clarify that commodity boards are exempt from the State Procurement Act.

Thank you for your service to the citizens of South Carolina and for your cooperation with the legislative oversight process.

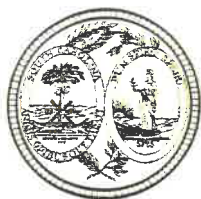
Sincerely,

Signature Redacted

Laurie Slade Funderburk
First Vice-Chair, House Legislative Oversight Committee

cc: Economic Development, Transportation and Natural Resources Subcommittee Members

State of South Carolina
Department of Agriculture



Hugh E. Weathers
Commissioner

Wade Hampton Office Building
P.O. Box 11280
Columbia, S.C. 29211
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June 6, 2017

The Honorable Laurie Slade Funderburk
SC House of Representatives
Legislative Oversight Committee
PO Box 11867
Columbia, SC 29211

Dear Representative Funderburk,

This letter is in response to your request for additional information following the May 2, 2017 meeting of the Economic Development, Transportation, and Natural Resources Subcommittee.

Please see the enclosed document providing a brief outline of the federal Food Safety Modernization Act (FSMA) and the areas of new regulation.

With regards to the agency's recommendation for revisions to the code of laws to clarify that commodity boards are exempt from the State Procurement Act, I request that the subcommittee issue a finding noting the related opinion by the South Carolina Attorney General, dated April 28, 2016. The Department of Agriculture has no further request at this time.

Thank you for your work and commitment to the legislative oversight process. Please do not hesitate to contact my office if you have any additional questions or if I can be of assistance.

Sincerely,

Signature redacted -
pp Stefanie Kitchens

Hugh E. Weathers

Enclosure



ALAN WILSON
ATTORNEY GENERAL

April 28, 2016

The Honorable Hugh E. Weathers
South Carolina Department of Agriculture
PO Box 11280
Columbia, SC 29211

Dear Commissioner Weathers:

We have received your opinion request inquiring whether commodity boards are exempt from the South Carolina Consolidated Procurement Code ("Procurement Code"), S.C. Code Ann. § 11-35-10 *et seq.* (1976 Code, as amended). Specifically, you ask whether the Agricultural Commodities Marketing Act ("Marketing Act"), S.C. Code Ann. § 46-17-10 *et seq.* (1976 Code, as amended), authorizes commodity boards to determine how and when assessments collected from farmers are spent. In your opinion request letter, you provide a thorough analysis of the Marketing Act:

[t]he South Carolina Department of Agriculture (SCDA), on behalf of all Agricultural Commodity Boards operating in South Carolina, needs an opinion from the Attorney General in regards to the powers of boards created under the Code of Laws governing the Marketing Act.

The South Carolina Commodities Marketing Act (Act) was passed by the General Assembly in the South Carolina Code of Laws in 1976, under Title 46, Agriculture, Chapter 17. The Act created the Agriculture Commission of South Carolina and charged it to oversee all aspects of Agricultural Commodity Boards. Duties assigned to the Agriculture Commission included a broad scope of responsibilities – managing legal requirements for individual board creation, hearings, referendums, election of directors, collections of assessments, and general oversight of board activities. These duties were to ensure that all business by the Commodity Boards was conducted as outlined under the Act and the by-laws of each individual board.

Commodity Board policy and procedure development goes through a rigorous process involving all producers affected. In the

The Honorable Hugh E. Weathers
Page 2
April 28, 2016

case of determining producer interest in a marketing order for a particular crop, a referendum must be held for producers of that crop. Marketing orders are thus created for each specific commodity per the wishes and voluntary financial commitment of impacted farmers. The sole purpose of marketing orders for all crops is to fund specific activities in promotion, research, and education through a farmer paid assessment. Decisions regarding these funds are granted to boards and board members as outlined in Section 46-17-290 and stated in by-laws of each commodity board. They are also provided specific powers in Section 46-17-260 and are also clearly provided the powers and authority conferred by law upon corporations.

The Agriculture Commission collects assessments for the Commodity Board and SCDA provides financial accounting services in holding funds in individual accounts and dispersing as directed by the Board of Directors. These are not state funds and they are never co-mingled with state funds. Neither the SCDA nor the State of South Carolina can expend, transfer, or use any of these funds, except as expressed under the Act and by-laws of each commodity board under the specific direction of the Commodity Boards.

Upon passage of the Act in 1976 and the creation of the Agriculture Commission, Commodity Boards were considered exempt from State Procurement Codes, as all money collected was from farm producer assessments with no public dollars appropriated to support individual commodities. Again, these are grower funded and managed commodity boards, and are provided specific powers under the Act. The Commodities Boards are also audited annually.

In the mid 1980's legislation was enacted to govern how state agencies managed funds under specific, transparent guidelines outlined under state procurement codes. At that time a proviso to the budget was passed to exempt commodity boards from procurement codes. That proviso remained in force until 2012, when it was deleted from the state budget. As a result, Commodity Boards are now treated like a state agency in terms of how they can direct the farmers' dollars. Given the responsibility of stewardship of these funds, board members from all seven active

The Honorable Hugh E. Weathers
 Page 3
 April 28, 2016

Commodity Boards have taken exception to the procurement rule. Rightfully so, they say it usurps their authority as outlined under the Act, and are seeking an opinion on the matter.

In hindsight, it appears that the original proviso exempting Commodity Boards from procurement rules was not necessary, as they were already exempt when the Act was passed. However, with that proviso no longer in effect, the State Procurement Office and State Auditor do not consider them exempt. Growers are adamant that these are not state dollars, and that they are provided specific powers, with checks and balances in place outlined in the Act, to ensure transparency and compliance with their by-laws.

SCDA requests a review of the Code of Laws, Title 46, Agriculture, Chapter 17, pertaining to the powers provided to Commodity Boards and their Directors. Please provide an opinion regarding an individual commodity board's authority to determine how and when assessment dollars are spent in the conduct of business. SCDA agrees that the Boards should be exempt from state procurement guidelines when they are not dealing with state dollars. SCDA has discussed with members of the General Assembly and need clarification to resolve the matter.

LAW/ANALYSIS:

We begin our analysis with a brief background on statutory interpretation. In prior opinions, we have discussed the principles of statutory construction and they are:

“[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” Hodges v. Rainey, 341 S.C. 79, 86, 533 S.E.2d 578, 581 (2000) . . . “[C]ourts will reject a statutory interpretation that would lead to an absurd result not intended by the legislature or that would defeat plain legislative intention.” State v. Johnson, 396 S.C. 182, 189, 720 S.E.2d 516, 520 (Ct. App. 2011). . . .

Op. S.C. Atty. Gen., September 18, 2013 (2013 WL 5494616).

Our Office has also determined that:

‘[s]ections which are part of the same statutory law of the State must be construed together. In construing statutory language, the

The Honorable Hugh E. Weathers
 Page 4
 April 28, 2016

statute must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect, if it can be done by any reasonable construction. Statutes pertaining to the same subject matter must be harmonized if at all possible.’ In Interest of Doe, 318 S.C. 527, 531-32, 458 S.E.2d 556, 559 (Ct. App. 1995) (citations omitted). However, ‘[w]here there is one statute addressing an issue in general terms and another statute dealing with the identical issue in a more specific and definite manner, the more specific statute will be considered an exception to, or a qualifier of, the general statute and given such effect.’ Capco of Summerville, Inc. v. J.H. Gayle Constr. Co. Inc., 368 S.C. 137,142, 628 S.E.2d 38, 41 (2006).

Op. S.C. Atty. Gen., July 28, 2014 (2014 WL 3886690) (quoting Op. S.C. Atty. Gen., July 11, 2008 (2008 WL 3198122)). We stated more succinctly in Op. S.C. Atty. Gen., March 20, 2006 (2006 WL 981695) (citing Criterion Insurance Company v. Hoffman, 258 S.C. 282, 188 S.E.2d 459 (1972); Op. Atty. Gen. dated August 5, 1986) that “[i]t is a rule of statutory construction that general and specific statutes should be harmonized if possible. However to the extent of any conflict between the two, the special statute usually prevails.”

We will now review the language of the Procurement Code and the Marketing Act. The pertinent section of the Procurement Code describes its application. Section 11-35-40(2) states:

[t]his code applies to every procurement or expenditure of funds by this State under contract acting through a governmental body as herein defined irrespective of the source of the funds, including federal assistance monies, except as specified in Section 11-35-40(3) (Compliance with Federal Requirements) and except that this code does not apply to gifts, to the issuance of grants, or to contracts between public procurement units, except as provided in Article 19 (Intergovernmental Relations). It also shall apply to the disposal of state supplies as provided in Article 15 (Supply Management). . . .

S.C. Code Ann. § 11-35-40(2) (1976 Code, as amended).

The purpose and policy of the Marketing Act are described in sections 46-17-20 and 46-17-30. Section 46-17-20 states:

[i]t is declared to be the purpose of this chapter to promote the general welfare of the State by enabling producers of agricultural

The Honorable Hugh E. Weathers
 Page 5
 April 28, 2016

commodities¹ to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading and standardizing of the commodities they produce and in promoting and increasing the sale and proper use of such commodities. . . .

S.C. Code Ann. § 46-17-20 (1976 Code, as amended). Section 46-17-30(b) provides:

[i]t is hereby declared to be the policy of this chapter:

(b) To enable agricultural producers of this State, with the aid of the State:

(1)To develop, and engage in research and educational programs to develop better and more efficient marketing and utilization of agricultural products;

(2)To establish orderly marketing of agricultural commodities;

(3)To provide for uniform grading and proper preparation of agricultural commodities for market;

(4)To provide methods and means including, but not limited to, public relations and promotion for the maintenance of present markets and for the development of new or larger markets, both domestic and foreign, for agricultural commodities produced within this State and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of such agricultural commodities to market;

(5)To eliminate or reduce economic waste in the marketing or use of agricultural commodities;

(6) To restore and maintain adequate purchasing power for agricultural producers.

¹ “‘Agricultural commodity’ means a distinctive type of agricultural, horticultural, viticultural, floricultural, aquacultural, vegetable, or animal product, either in its natural or processed state. . .” S.C. Code Ann. § 46-17-40 (1976 Code, as amended).

The Honorable Hugh E. Weathers

Page 6

April 28, 2016

S.C. Code Ann. § 46-17-30 (1976 Code, as amended).

We have also reviewed the powers provided to commodity boards under the Marketing Act. The Marketing Act is to be administered under the direct control and supervision of the Agriculture Commission, including such administrative requirements of marketing orders and agreements not specifically assigned to commodity boards. See S.C. Code Ann. § 46-17-50 (1976 Code, as amended). However, the Marketing Act grants commodity boards many powers. Commodity boards can exercise the powers and authority conferred by law upon corporations.² S.C. Code Ann. § 46-17-260 (1976 Code, as amended). Commodity boards have the powers assigned to them by marketing orders and agreements, such as preparing and enforcing plans for promoting and advertising the sale of agricultural commodities; establishing research programs for control of insects or disease, economic causes and effects, harvesting, storing, transporting, handling, processing, or any other research which would benefit a commodity; and establishing educational programs designed to acquaint producers, handlers, processors, and other interested persons with the results of research. See S.C. Code Ann. § 46-17-270 (1976 Code, as amended); S.C. Code Ann. § 46-17-290 (1976 Code, as amended). Commodity boards can appoint or utilize committees and individuals to advise them or the Agriculture Commission and can fix the compensation for such services, which may be paid from the funds of the board. S.C. Code Ann. § 46-17-250 (1976 Code, as amended).

It should be noted that commodity boards and the Agriculture Commission can only use the assessments collected from farmers to pay the expenses and costs arising in connection with the administration, amendment or termination of the marketing orders and agreements. S.C. Code Ann. § 46-17-340 (1976 Code, as amended). Additionally, both the commodity boards and the Agriculture Commission are required to keep accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid-outs, monies, and other financial

² Under the South Carolina Business Corporation Act of 1988, S.C. Code Ann. § 33-1-101 *et seq.* (1976 Code, as amended), corporations have the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power to . . .

(4) purchase, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal with real or personal property, or any legal or equitable interest in property, wherever located. . .

(7) make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations (which may be convertible into or include the option to purchase other securities of the corporation), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income. . .

(15) make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

S.C. Code Ann. § 33-3-102 (1976 Code, as amended).

The Honorable Hugh E. Weathers
 Page 7
 April 28, 2016

transactions made pursuant to an order or agreement, and the records must be audited at least annually in accordance with generally accepted auditing standards. S.C. Code Ann. § 46-17-380 (1976 Code, as amended).

In a prior opinion of our Office, one of the issues was whether it was a violation of the State Procurement Code for section 23-9-430 for the South Carolina State Firemen's Association to receive a percentage of money received from the one percent tax on fire insurance for the purpose of the betterment and maintenance of skillful and efficient fire departments within the county. We determined that:

[i]t is the opinion of this Office that the State Procurement Code is inapplicable in this situation. The Legislature has mandated that the funds are to be spent through the use of the [Firemen's] Association by virtue of creating the statutory provisions that allowed the S.C. State Firemen's Association to spend the money as instructed in Title 23, Chapter 9, Article 3. The Legislature has precisely determined what must be done and specified in the statutes guidelines for how the money should be allocated. See, e.g., S.C. Code § 23-9-430. Therefore, no bidding process is necessary. One legislature is not bound by another.

Op. S.C. Atty. Gen., May 5, 2011 (2011 WL 2214073).

In that opinion, we also stated that "the Legislature, pursuant to its plenary powers, may expressly authorize the [Firemen's] Association's duties and powers, irrespective of other statutes, such as the State Procurement Code. . . ." Id.

The Legislature may exempt certain functions from the Procurement Code and we believe that the Legislature intended for commodity boards to be exempt. In sections 46-17-20 and 46-17-30, the Legislature makes it clear that the purpose and policy of the Marketing Act is to enable farmers, or to give them the power³, to help themselves with the aid of the State and its agencies with the marketing and sale of agricultural products. The Marketing Act is unique in that it is the farmers, and not the State, who benefit. Farmers of a specific agricultural product are only assessed and commodity boards only exist due to the consent and voluntary financial commitment of the farmers. See S.C. Code Ann. § 46-17-70 (1976 Code, as amended); S.C. Code Ann. § 46-17-190 (1976 Code, as amended).

In a prior opinion, we further explained how commodity boards and the assessments are unique:

³ "Enable" means "to make able; give power, means, competence, or ability to; authorize." See dictionary.com at <http://www.dictionary.com/browse/enable>

The Honorable Hugh E. Weathers
Page 8
April 28, 2016

[t]he unusual nature of a commodity board and its intended activities is borne out by the unusual nature of the commodity board assessments, in that, unlike other funds which flow into the state treasury through any of the State's boards, departments or institutions, these funds are not paid by the public-at-large in the form of a general income or sales tax nor are they collected from the recipients of various forms of government regulatory services such as the purchasers of permits or licenses. In fact, the commodity levy is assessed against a group of citizens engaged in a particular occupation who have by their voluntary expression of support elected to contribute to a fund established to help themselves to develop, expand and improve the market for their product.

As further evidence of the non-public nature of the funds, the General Assembly in 1968 directed the Agriculture Commission through Section 46-17-370 to deposit all monies collected pursuant to the Agricultural Commodities Marketing Act in separate accounts. This direction to handle these funds in a specific manner is bolstered by a direction in Section 46-17-350 that any funds remaining after the termination of a marketing order be withdrawn from the approved depository and then paid into the state treasury.

A third, but equally important, indication of the unique character of the collected assessments is found in the fact that a peanut producer may, as authorized by Section 46-17-350 and Regulation 5-164(5), apply for and receive a complete refund of all assessments which have been paid to the Commission and the commodity board during any marketing season.

It can be concluded on the basis of these statements of policy and other indicators of characteristics that the activities which the Peanut and other commodity boards could reasonably be expected to engage in are unique when compared with other types of activities ordinarily encountered in the course of the operations of the State government and, therefore, that the General Assembly intended that only specifically provided restraints be placed on the use of any collected commodity board assessments.

The Honorable Hugh E. Weathers
Page 9
April 28, 2016

Op. S.C. Atty. Gen., May 20, 1978 (1978 WL 22577)⁴.

Furthermore, the Legislature has in our opinion granted the commodity boards the authority to spend the assessments by giving them the powers of a corporation to purchase, make payments, and make contracts as well as the power to pay the expenses and costs arising in connection with the marketing orders and agreements. The fact that the commodity boards are required to keep financial records and be audited also indicates that the Legislative intent was for the commodity boards to have control of the assessments. We therefore concur with our May 5, 2011 opinion that the bidding process of the Procurement Code is not necessary when the Legislature imbues a particular group with the authority to expend money. We also agree with your opinion request letter that the proviso to the budget exempting commodity boards from procurement codes was not necessary, as they were already exempt under the Marketing Act.

CONCLUSION:

Our opinion is that the specific provisions of the Marketing Act prevail over the general terms of the Procurement Code. Therefore, commodity boards are exempt from the Procurement Code and have the authority to determine how and when assessments collected from farmers are spent. Please be aware that this is only an opinion as to how this Office believes a court would interpret the law in this matter and that the Legislature may wish to clarify this matter.

Sincerely,

Signature Redacted

Elinor V. Lister
Assistant Attorney General

REVIEWED AND APPROVED BY:

Signature Redacted

Robert D. Cook
Solicitor General

⁴This opinion was published prior to the enactment of the Procurement Code.

Food Safety Modernization Act (FSMA)

- Considered to be the most significant update to federal food safety laws in 70 years.
- 4,000 farms in South Carolina will be affected by Produce Safety and FSMA rules.
 - Covers produce normally consumed raw.
- SCDA will be the leading agency for outreach and compliance.
- Comprised of 7 rules:
 - 1) ***Produce Safety Rule***
 - This is SCDA's new department and where 100% of FDA grant monies go. New Law 39-26 enables SCDA to enforce.
 - 2) ***Preventive Controls for Human Food***
 - Adopted by reference in SC Food & Cosmetic Act.
 - 3) ***Preventive Controls for Animal Food***
 - Adopted by reference in SC Food and Cosmetic Act.
 - 4) ***Sanitary Transportation of Human and Animal Food***
 - 5) ***Prevention of Intentional Contamination/Adulteration***
 - 6) ***Foreign Supplier Verification Programs***
 - 7) ***Accreditation of Third-Party Auditors/Certification Bodies***
- Implementation of Rules 2-7 will be handled by SCDA's existing Food/Feed Safety and Compliance department.
- Working in cooperation with Clemson Extension, through a memorandum of understanding, to provide outreach and educational sessions to producers.
- Compliance for Produce Safety Rule
 - ***General Compliance*** Dec 2017
 - ***Small Business*** Dec 2018
 - ***Very Small Business*** Dec 2019

Department of Agriculture's Recommendation:

In its Program Evaluation Report, the South Carolina Department of Agriculture (SCDA) recommended that it be removed from involvement in the "Cottage Law." (S.C. Code 44-1-143)

DHEC agrees with SCDA that 44-1-143 (H) should be removed.

Thank you for the opportunity to provide comments on this matter.

SCDA Recommended Statutory Changes

- Delete the Agriculture Commission's powers to establish policies for South Carolina Department of Agriculture (SCDA), and annually approve the agency's budget request; found in 46-5-20(1) and (2)
- Establish an appointment procedure of Agriculture Commission members after a seat has either been vacant the term expired for more than two years; 46-5-10
- Remove the bonding requirements of the Commissioner of Agriculture; 46-3-50
- Adopt the model feed law proposed by the American Association of Feed Control Officials (AAFCO)
- Authorize SCDA to fine businesses that habitually and willfully violate existing consumer protection labeling / quality laws
- Require businesses that dispense petroleum products to notify SCDA within 30 days of operating dispensers
- Allow a \$5 per dispenser registration fee for businesses that dispense petroleum products
- Enforce a scalable monetary penalty for habitual and willful offenders of petroleum law, when taking advantage of the consumer
- Authorize an application fee for a food business when registering for a Registration Verification Certificate (RVC)
- Authorize a tiered annual fee for RVCs
- Modernize salvage food regulations by eliminating salvage permit and covering under the RVC
- Modernize the cotton warehouse receipt law (accept Permanent Bale Identification (PBI) from a cotton gin as the universal warehouse receipt number)
- Remove the exemption registration burden, found in 44-1-143 (H) from small home-based food producers
- Revise the state egg law to exempt USDA graded facilities from state licensing, add quail eggs, and remove the licensing requirement for small producers

South Carolina Department of Agriculture

Hugh E. Weathers, Commissioner



House Legislative Oversight Committee
Economic Development, Transportation, and Natural Resources Subcommittee
June 15, 2017

SC Agriculture Commission

Delete the Agriculture Commission's powers to establish SCDA policies and annually approve SCDA's budget request

- 46-5-20 (1) and (2)
- Agriculture Commission is currently not governing SCDA or approving any budget requests
- SC Attorney General's Opinion (May 3, 1999)



SC Agriculture Commission

Make a statutory change to the election procedure, or who has appointment responsibility, of Agriculture Commission members

- 46-5-10
- Currently, vacancies take a significant amount of time to be filled
- After 1) an established period of time of a seat being vacant or term expired; 2) candidate recommendations have been provided to the legislative delegation; and 2) specified notification attempts to the legislative delegation have been made; the Commissioner of Agriculture would have authority to appoint Commission members



SC Commissioner of Agriculture

Remove the bonding requirements of the Commissioner of Agriculture

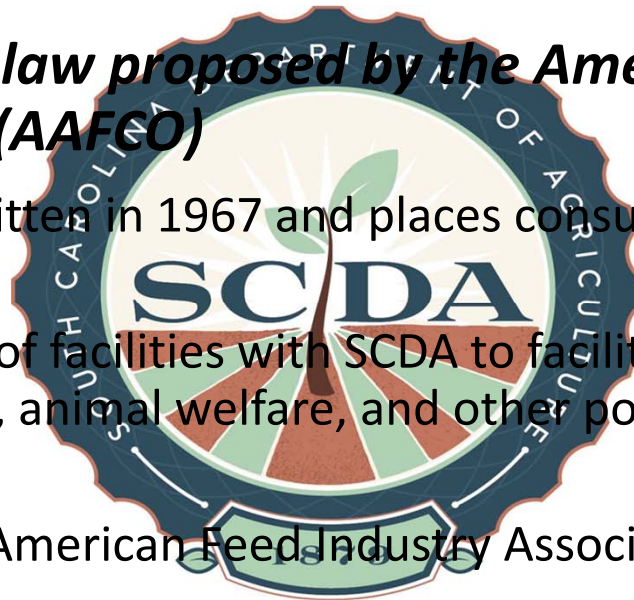
- 46-3-50
- The Insurance Reserve Fund, a Division of the State Fiscal Accountability Authority (SEAA), provides all state agencies, departments, institutions, commissions, boards, personnel, etc. with both liability and property insurance
- Grain producers, dealers, and warehouses are covered under 46-40-10, et seq. and 46-41-10, et seq.



Feed Law

Adopt the model feed law proposed by the American Association of Feed Control Officials (AAFCO)

- Current feed law was written in 1967 and places consumers and feed mills at a disadvantage
- Will require registration of facilities with SCDA to facilitate recalls and stay on top of food borne outbreaks, animal welfare, and other potential issues prior to an event
- Supported by the AFIA (American Feed Industry Association)
- Draft language provided



Labeling & Quality violations

Authorize SCDA to fine businesses that habitually violate existing consumer protection labeling / quality laws

- Fine would escalate with number of offenses and risk to public safety/health
- Willful and habitual violators should pay the costs for duplicative laboratory analyses, additional sampling, and re-inspection
- Petroleum – octane, ethanol, distillation profile, sulfur, water/sediment
- Feed – *current law allows*
- Ground meat products – fat, extenders, preservatives, color
- Frozen Desserts – butterfat content, total solids per gallon, weight per gallon



Petroleum Law

Require businesses that dispense petroleum products to notify SCDA within 30 days of operating dispensers

- LP, natural gas, gasoline, diesel, kerosene, jet A, avgas, home heating oil

Allow a \$5 per dispenser registration fee for businesses that dispense petroleum products

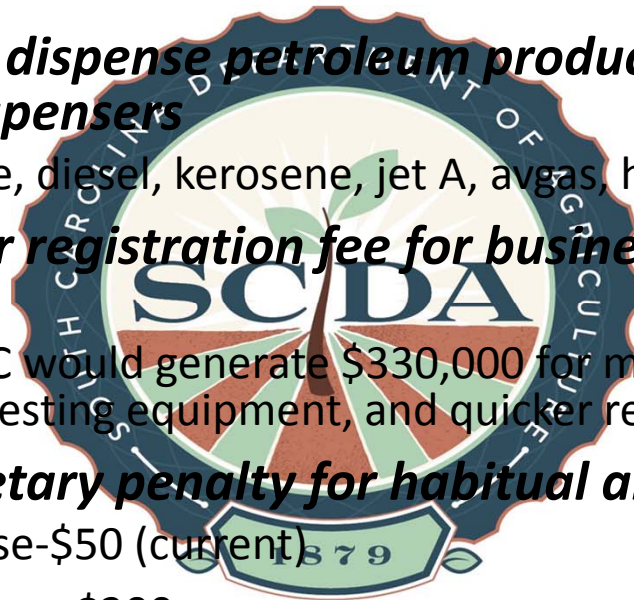
- 66,000 dispensers in SC would generate \$330,000 for more inspectors, software enhancements, more testing equipment, and quicker response time

Enforce a scalable monetary penalty for habitual and willful offenders

- Recommend: 1st Offense-\$50 (current)

2nd Offense-\$200

3rd Offense-\$500



Food Manufacturers, Wholesalers, Distributors

Authorize an application fee for a food business Registration Verification Certificate (RVC).

- With an application, SCDA reviews business plan, product analysis, certifications and training requirements, and labels.
- Recommend: \$25
- Existing businesses who hold a current RVC would be exempt.

Authorize a tiered annual fee for RVCs.

- Based on risk/length of inspection and size of firm to prevent small prospective manufacturers from being burdened.
- Will allow for more inspectors, better equipment, and faster response time.
- This is similar to the current DHEC model for retail inspections.



Salvage Permit

Modernize salvage food regulations by eliminating salvage permit and covering under the RVC

- Regulation verbiage needs updating to reflect modern language and terminology consistent with current food safety laws and regulations
- Will eliminate duplication of inspection and licensing/permitting
- Draft language provided



Electronic Warehouse Receipts

Modernize the cotton warehouse receipt law--accept Permanent Bale Identification (PBI) from a cotton gin as the universal warehouse receipt number

- **SECTION 39-22-110.** Currently requires identification tags on bales
- Allow the PBI tag to be accompanied by a sticker to assist warehouse personnel receiving cotton
- Sticker will include
 - the Brand “South Carolina”
 - palmetto tree with a bale of cotton lying at the roots
 - shield of state of SC
- Sticker must be placed in close proximity to PBI tag



“Cottage Food” Exemption

Remove the exemption registration burden, found in 44-1-143 (H), from small home-based food producers

- The new food code adopted by DHEC eliminates the need for this exemption by allowing nonhazardous home based foods to be sold retail to the end consumer and is less restrictive
- SCDA does not regulate retail food sales directly to the end consumer
- ~~(H) A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture under Section 39-25-10, et seq., if its annual sales are less than fifteen thousand dollars. Exemption forms must be provided by the South Carolina Department of Agriculture.~~

Egg Law

Revise the state egg law to exempt USDA graded facilities from state licensing, and allow small producers to sell off-farm.

- This would create more marketing opportunities for small producers
- Producers could sell up to 30 dozen per week to the end consumer away from farm without license
- Adds “quail eggs”, currently not allowed to sell in SC
- USDA-graded facilities must still comply with state law, but would not be required to get a state license
- Annual license fee would be \$10





Appendix J. June 15, 2017 Meeting Information

Appendix Includes:

- Meeting Packet
 - Agenda
 - May 2, 2017 - Meeting Minutes
 - February 28, 2017 - Proposed revision to meeting minutes
 - Department of Agriculture
 - Study status
 - Recommendations from the agency
 - Letter from Oversight Subcommittee to Department of Agriculture (May 3, 2017)
 - Letter from Department of Agriculture to Subcommittee (June 6, 2017)
 - April 28, 2016 Attorney General opinion - procurement code and commodity boards
 - Summary of federal Food Safety Modernization Act from Department of Agriculture
 - May 2017 preliminary assessment of the groundwater conditions
- Documents provided by agency during meeting
 - PowerPoint - Agency's recommended statutory changes (June 15, 2017)
 - Agency's proposed revisions to SC Code of Laws Title 39, Chapter 39 (Labeling and Marketing of Eggs)
 - Agency's proposed revisions to SC Code of Regulations 5-360 (Salvage Operations Dealing in Foods and Cosmetics)
- Correspondence after meeting
 - Letter from Oversight Subcommittee to Department of Agriculture (June 16, 2017)
 - Notes the agency has already provided draft language for some of its proposed law changes, and requests draft language for the other agency recommendations.

South Carolina
House of Representatives



Legislative Oversight Committee

*ECONOMIC DEVELOPMENT, TRANSPORTATION,
AND NATURAL RESOURCES SUBCOMMITTEE*

The Honorable Neal A. Collins

The Honorable Mandy Powers Norrell

The Honorable Robert L. Ridgeway III

Thursday, June 15, 2017

10:00 a.m.

427-Blatt Building

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming
whenever technologically feasible.*

AGENDA

- I. Approval of Minutes**
- II. Further discussion of the study of the Department of Agriculture**
- III. Adjournment**



Economic Development, Transportation and Natural Resources Subcommittee

Tuesday, May 2, 2017 at 9:00 am in Room 321

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Vice-Chair Laurie Slade Funderburk on Tuesday, May 2, 2017, in Room 321 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Representative Mandy Powers Norrell, Representative Neal A. Collins, and Representative Robert L. Ridgeway, III.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Collins moved to approve the minutes from the Subcommittee's meeting on February 28, 2017. A roll call vote was held, and the motion passed.

Rep. Collins's motion to approve the minutes from the February 28, 2017, meeting:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

Discussion of the Department of Agriculture

- I. Vice-Chair Funderburk provided an update of the Subcommittee's work related to the Department of Agriculture. She stated the purpose of this meeting is a deeper dive into how resources are allocated to each objective, performance measures, review of laws pertaining to the agency, and any agency recommendations for the subcommittee.
- II. Commissioner of Agriculture Hugh E. Weathers presented a PowerPoint presentation over the successes, challenges, emerging issues, and objectives of the agency. The agency's presentation is available on the Committee's website for the public to view.
- III. Subcommittee Members asked and Commissioner Weathers answered questions on a variety of topics including:
 - a. Federal Food Safety and Modernization Act;
 - b. Farming profession;
 - c. Surface water withdrawal;
 - d. State Farmers Market;
 - e. Procurement Code; and
 - f. Marketing and economic development.
- IV. Commissioner Weathers explained that the agency objectives were changed in 2017 to better align with divisions and to better portray and track invested resources.
- V. Commissioner Weathers discussed the agency's strategic plan. He explained the agency's goal is for by the year 2020, to be successful with the agriculture business so it flows \$50 billion through the economy each year.

Administrative Matters

- I. Vice-Chair Funderburk requested that this committee receive the water study once it is finished, and staff will follow up with a letter for any other requested committee items.
- II. There being no further business, the meeting was adjourned.



Economic Development, Transportation and Natural Resources Subcommittee

February 28, 2017

Proposed Amendment: Remove reference to Former Subcommittee Chair in letterhead and in attendance.

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Representative Laurie Slade Funderburk, Committee First Vice-Chair, on Thursday, February 28, 2017, in Room 110 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Representative Neal A. Collins, and Representative Robert L. Ridgeway, III.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Collins moved to approve the minutes from the Subcommittee's meeting on February 16, 2017. A roll call vote was held, and the motion passed.

Rep. Collins's motion to approve the minutes from the February 16, 2017, meeting:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Funderburk				✓

Discussion of the Study of the South Carolina Transportation Infrastructure Bank

- I. South Carolina Transportation Infrastructure Bank and Department of Transportation officials responded to Subcommittee Members' questions relating to:
- a) Agency's most recent audited financial statements year ended June 30, 2016; and
 - b) Relationship between the South Carolina Transportation Infrastructure Bank and the Department of Transportation in light of Act 275 of 2016.
- II. Representative Ridgeway moved that (1) staff draft a Subcommittee Report for presentation to the full Committee; (2) staff provide a copy of the Report to all Subcommittee members by Friday March 3, 2017; (3) staff include any Subcommittee member written statements pursuant to Standard Practice 12.4, which staff receives prior to 5:00 pm on Thursday March 9, 2017; and (4) unless the Committee receives an alternative request by 5:00 pm on Friday March 10, 2017, the Committee will provide notification pursuant to Standard Practice 12.5 that a study is available for consideration by the full Committee. A roll call vote was held, and the motion passed.

Rep. Ridgeway's motion:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell			✓	
Rep. Ridgeway	✓			
Rep. Funderburk				✓

- III. There being no further business, the meeting was adjourned.

Summary of key dates and actions of the study process.

House Legislative Oversight Committee's Actions

- January 28, 2016 - Approves the study of the agency
- February 2016, 2015 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor
- June 28, 2016 - Issues press release announcing public survey opportunity for the agency

Economic Development, Transportation, and Natural Resources Subcommittee's Actions

- April 28, 2016 - **(Meeting 1)** Holds introductory meeting with the agency to discuss the legislative oversight process
- July 6, 2016 - **(Meeting 2)** Holds public input meeting and receives information on agency's history, mission, and vision
- October 31, 2016 - **(Meeting 3)** Discusses South Carolina Commodity Boards structure and function
- January 26, 2017 - **(Meeting 4)** Holds work session to update members on status of study and obtain any questions Members may have for the agency at the next meeting
- February 16, 2017 - **(Meeting 5)** Discusses the agency's program structure in the General Appropriations Act; agency's goals and strategic plan; agency's operations; and agency's partners
- May 2, 2017 - **(Meeting 6)** Discusses the agency's successes; challenges; emerging issues; and objectives.

Department of Agriculture's Actions

- March 21, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- August 25, 2016 - Submits agency's Program Evaluation Report
- December 30, 2016 - Submits updated information relating to the agency's Program Evaluation Report to ensure the website information remains current

Public's Actions

- May 1, 2016 - May 31, 2016 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - www.scstatehouse.gov)
- July 6, 2016 - Opportunity for public input at subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

SCDA Recommended Statutory Changes

- Delete the Agriculture Commission's power to annually approve the South Carolina Department of Agriculture's (SCDA) budget request, found in 46-5-20(2)
- Make a statutory change to the appointment procedure, or who has appointment responsibility, of Agriculture Commission members; 46-5-10
- Remove the bonding requirements of the Commissioner of Agriculture; 46-3-50
- Adopt the model feed law proposed by the American Association of Feed Control Officials (AAFCO)
- Authorize SCDA to charge a tiered administrative fee and/or fine for habitual violators of existing consumer protection laws (food, petroleum, weights and measures)
- Allow a \$5 registration fee for businesses that dispense petroleum products
- Authorize a \$25 application fee, along with a tiered annual renewal fee, for a food business Registration Verification Certificate (RVC)
- Modernize the cotton warehouse receipt law (accept Permanent Bale Identification (PBI) from a cotton gin as the universal warehouse receipt number)
- Remove SCDA regulatory responsibility from "cottage foods" governed by DHEC in state Regulation 61-25
- Revise the state egg law to exempt USDA graded facilities from state licensing
- Modernize salvage food regulations by eliminating salvage permit and covering under the RVC

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May 3, 2017

**The Honorable Hugh E. Weathers
Commissioner, Department of Agriculture
Post Office Box 11280
Columbia, South Carolina 29211-1280**

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, thank you for your recent presentation to the Subcommittee on May 2, 2017. During this meeting, Subcommittee Members noted they would like additional information on two issues:

- A brief outline of the federal Food Safety Modernization Act and the areas of new regulation; and
- Any recommendation the agency may have for revision to the code of laws to clarify that commodity boards are exempt from the State Procurement Act.

Thank you for your service to the citizens of South Carolina and for your cooperation with the legislative oversight process.

Sincerely,

A handwritten signature in dark ink, appearing to read "L. Slade Funderburk", is written over a horizontal line.

**Laurie Slade Funderburk
First Vice-Chair, House Legislative Oversight Committee**

cc: Economic Development, Transportation and Natural Resources Subcommittee Members

State of South Carolina
Department of Agriculture



Hugh E. Weathers
Commissioner

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June 6, 2017

The Honorable Laurie Slade Funderburk
SC House of Representatives
Legislative Oversight Committee
PO Box 11867
Columbia, SC 29211

Dear Representative Funderburk,

This letter is in response to your request for additional information following the May 2, 2017 meeting of the Economic Development, Transportation, and Natural Resources Subcommittee.

Please see the enclosed document providing a brief outline of the federal Food Safety Modernization Act (FSMA) and the areas of new regulation.

With regards to the agency's recommendation for revisions to the code of laws to clarify that commodity boards are exempt from the State Procurement Act, I request that the subcommittee issue a finding noting the related opinion by the South Carolina Attorney General, dated April 28, 2016. The Department of Agriculture has no further request at this time.

Thank you for your work and commitment to the legislative oversight process. Please do not hesitate to contact my office if you have any additional questions or if I can be of assistance.

Sincerely,

p.p. Stefanie Kithan

Hugh E. Weathers

Enclosure



ALAN WILSON
ATTORNEY GENERAL

April 28, 2016

The Honorable Hugh E. Weathers
South Carolina Department of Agriculture
PO Box 11280
Columbia, SC 29211

Dear Commissioner Weathers:

We have received your opinion request inquiring whether commodity boards are exempt from the South Carolina Consolidated Procurement Code ("Procurement Code"), S.C. Code Ann. § 11-35-10 *et seq.* (1976 Code, as amended). Specifically, you ask whether the Agricultural Commodities Marketing Act ("Marketing Act"), S.C. Code Ann. § 46-17-10 *et seq.* (1976 Code, as amended), authorizes commodity boards to determine how and when assessments collected from farmers are spent. In your opinion request letter, you provide a thorough analysis of the Marketing Act:

[t]he South Carolina Department of Agriculture (SCDA), on behalf of all Agricultural Commodity Boards operating in South Carolina, needs an opinion from the Attorney General in regards to the powers of boards created under the Code of Laws governing the Marketing Act.

The South Carolina Commodities Marketing Act (Act) was passed by the General Assembly in the South Carolina Code of Laws in 1976, under Title 46, Agriculture, Chapter 17. The Act created the Agriculture Commission of South Carolina and charged it to oversee all aspects of Agricultural Commodity Boards. Duties assigned to the Agriculture Commission included a broad scope of responsibilities – managing legal requirements for individual board creation, hearings, referendums, election of directors, collections of assessments, and general oversight of board activities. These duties were to ensure that all business by the Commodity Boards was conducted as outlined under the Act and the by-laws of each individual board.

Commodity Board policy and procedure development goes through a rigorous process involving all producers affected. In the

The Honorable Hugh E. Weathers
Page 2
April 28, 2016

case of determining producer interest in a marketing order for a particular crop, a referendum must be held for producers of that crop. Marketing orders are thus created for each specific commodity per the wishes and voluntary financial commitment of impacted farmers. The sole purpose of marketing orders for all crops is to fund specific activities in promotion, research, and education through a farmer paid assessment. Decisions regarding these funds are granted to boards and board members as outlined in Section 46-17-290 and stated in by-laws of each commodity board. They are also provided specific powers in Section 46-17-260 and are also clearly provided the powers and authority conferred by law upon corporations.

The Agriculture Commission collects assessments for the Commodity Board and SCDA provides financial accounting services in holding funds in individual accounts and dispersing as directed by the Board of Directors. These are not state funds and they are never co-mingled with state funds. Neither the SCDA nor the State of South Carolina can expend, transfer, or use any of these funds, except as expressed under the Act and by-laws of each commodity board under the specific direction of the Commodity Boards.

Upon passage of the Act in 1976 and the creation of the Agriculture Commission, Commodity Boards were considered exempt from State Procurement Codes, as all money collected was from farm producer assessments with no public dollars appropriated to support individual commodities. Again, these are grower funded and managed commodity boards, and are provided specific powers under the Act. The Commodities Boards are also audited annually.

In the mid 1980's legislation was enacted to govern how state agencies managed funds under specific, transparent guidelines outlined under state procurement codes. At that time a proviso to the budget was passed to exempt commodity boards from procurement codes. That proviso remained in force until 2012, when it was deleted from the state budget. As a result, Commodity Boards are now treated like a state agency in terms of how they can direct the farmers' dollars. Given the responsibility of stewardship of these funds, board members from all seven active

The Honorable Hugh E. Weathers
 Page 3
 April 28, 2016

Commodity Boards have taken exception to the procurement rule. Rightfully so, they say it usurps their authority as outlined under the Act, and are seeking an opinion on the matter.

In hindsight, it appears that the original proviso exempting Commodity Boards from procurement rules was not necessary, as they were already exempt when the Act was passed. However, with that proviso no longer in effect, the State Procurement Office and State Auditor do not consider them exempt. Growers are adamant that these are not state dollars, and that they are provided specific powers, with checks and balances in place outlined in the Act, to ensure transparency and compliance with their by-laws.

SCDA requests a review of the Code of Laws, Title 46, Agriculture, Chapter 17, pertaining to the powers provided to Commodity Boards and their Directors. Please provide an opinion regarding an individual commodity board's authority to determine how and when assessment dollars are spent in the conduct of business. SCDA agrees that the Boards should be exempt from state procurement guidelines when they are not dealing with state dollars. SCDA has discussed with members of the General Assembly and need clarification to resolve the matter.

LAW/ANALYSIS:

We begin our analysis with a brief background on statutory interpretation. In prior opinions, we have discussed the principles of statutory construction and they are:

“[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” Hodges v. Rainey, 341 S.C. 79, 86, 533 S.E.2d 578, 581 (2000) . . . “[C]ourts will reject a statutory interpretation that would lead to an absurd result not intended by the legislature or that would defeat plain legislative intention.” State v. Johnson, 396 S.C. 182, 189, 720 S.E.2d 516, 520 (Ct. App. 2011). . . .

Op. S.C. Atty. Gen., September 18, 2013 (2013 WL 5494616).

Our Office has also determined that:

‘[s]ections which are part of the same statutory law of the State must be construed together. In construing statutory language, the

The Honorable Hugh E. Weathers
 Page 4
 April 28, 2016

statute must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect, if it can be done by any reasonable construction. Statutes pertaining to the same subject matter must be harmonized if at all possible.’ In Interest of Doe, 318 S.C. 527, 531-32, 458 S.E.2d 556, 559 (Ct. App. 1995) (citations omitted). However, ‘[w]here there is one statute addressing an issue in general terms and another statute dealing with the identical issue in a more specific and definite manner, the more specific statute will be considered an exception to, or a qualifier of, the general statute and given such effect.’ Capco of Summerville, Inc. v. J.H. Gayle Constr. Co. Inc., 368 S.C. 137,142, 628 S.E.2d 38, 41 (2006).

Op. S.C. Atty. Gen., July 28, 2014 (2014 WL 3886690) (quoting Op. S.C. Atty. Gen., July 11, 2008 (2008 WL 3198122)). We stated more succinctly in Op. S.C. Atty. Gen., March 20, 2006 (2006 WL 981695) (citing Criterion Insurance Company v. Hoffman, 258 S.C. 282, 188 S.E.2d 459 (1972); Op. Atty. Gen. dated August 5, 1986) that “[i]t is a rule of statutory construction that general and specific statutes should be harmonized if possible. However to the extent of any conflict between the two, the special statute usually prevails.”

We will now review the language of the Procurement Code and the Marketing Act. The pertinent section of the Procurement Code describes its application. Section 11-35-40(2) states:

[t]his code applies to every procurement or expenditure of funds by this State under contract acting through a governmental body as herein defined irrespective of the source of the funds, including federal assistance monies, except as specified in Section 11-35-40(3) (Compliance with Federal Requirements) and except that this code does not apply to gifts, to the issuance of grants, or to contracts between public procurement units, except as provided in Article 19 (Intergovernmental Relations). It also shall apply to the disposal of state supplies as provided in Article 15 (Supply Management). . . .

S.C. Code Ann. § 11-35-40(2) (1976 Code, as amended).

The purpose and policy of the Marketing Act are described in sections 46-17-20 and 46-17-30. Section 46-17-20 states:

[i]t is declared to be the purpose of this chapter to promote the general welfare of the State by enabling producers of agricultural

The Honorable Hugh E. Weathers
Page 5
April 28, 2016

commodities¹ to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading and standardizing of the commodities they produce and in promoting and increasing the sale and proper use of such commodities. . . .

S.C. Code Ann. § 46-17-20 (1976 Code, as amended). Section 46-17-30(b) provides:

[i]t is hereby declared to be the policy of this chapter:

(b) To enable agricultural producers of this State, with the aid of the State:

(1) To develop, and engage in research and educational programs to develop better and more efficient marketing and utilization of agricultural products;

(2) To establish orderly marketing of agricultural commodities;

(3) To provide for uniform grading and proper preparation of agricultural commodities for market;

(4) To provide methods and means including, but not limited to, public relations and promotion for the maintenance of present markets and for the development of new or larger markets, both domestic and foreign, for agricultural commodities produced within this State and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of such agricultural commodities to market;

(5) To eliminate or reduce economic waste in the marketing or use of agricultural commodities;

(6) To restore and maintain adequate purchasing power for agricultural producers.

¹ “‘Agricultural commodity’ means a distinctive type of agricultural, horticultural, viticultural, floricultural, aquacultural, vegetable, or animal product, either in its natural or processed state. . .” S.C. Code Ann. § 46-17-40 (1976 Code, as amended).

The Honorable Hugh E. Weathers

Page 6

April 28, 2016

S.C. Code Ann. § 46-17-30 (1976 Code, as amended).

We have also reviewed the powers provided to commodity boards under the Marketing Act. The Marketing Act is to be administered under the direct control and supervision of the Agriculture Commission, including such administrative requirements of marketing orders and agreements not specifically assigned to commodity boards. See S.C. Code Ann. § 46-17-50 (1976 Code, as amended). However, the Marketing Act grants commodity boards many powers. Commodity boards can exercise the powers and authority conferred by law upon corporations.² S.C. Code Ann. § 46-17-260 (1976 Code, as amended). Commodity boards have the powers assigned to them by marketing orders and agreements, such as preparing and enforcing plans for promoting and advertising the sale of agricultural commodities; establishing research programs for control of insects or disease, economic causes and effects, harvesting, storing, transporting, handling, processing, or any other research which would benefit a commodity; and establishing educational programs designed to acquaint producers, handlers, processors, and other interested persons with the results of research. See S.C. Code Ann. § 46-17-270 (1976 Code, as amended); S.C. Code Ann. § 46-17-290 (1976 Code, as amended). Commodity boards can appoint or utilize committees and individuals to advise them or the Agriculture Commission and can fix the compensation for such services, which may be paid from the funds of the board. S.C. Code Ann. § 46-17-250 (1976 Code, as amended).

It should be noted that commodity boards and the Agriculture Commission can only use the assessments collected from farmers to pay the expenses and costs arising in connection with the administration, amendment or termination of the marketing orders and agreements. S.C. Code Ann. § 46-17-340 (1976 Code, as amended). Additionally, both the commodity boards and the Agriculture Commission are required to keep accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid-outs, monies, and other financial

² Under the South Carolina Business Corporation Act of 1988, S.C. Code Ann. § 33-1-101 *et seq.* (1976 Code, as amended), corporations have the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power to . . .

(4) purchase, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal with real or personal property, or any legal or equitable interest in property, wherever located. . .

(7) make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations (which may be convertible into or include the option to purchase other securities of the corporation), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income. . .

(15) make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the corporation.

S.C. Code Ann. § 33-3-102 (1976 Code, as amended).

The Honorable Hugh E. Weathers
 Page 7
 April 28, 2016

transactions made pursuant to an order or agreement, and the records must be audited at least annually in accordance with generally accepted auditing standards. S.C. Code Ann. § 46-17-380 (1976 Code, as amended).

In a prior opinion of our Office, one of the issues was whether it was a violation of the State Procurement Code for section 23-9-430 for the South Carolina State Firemen's Association to receive a percentage of money received from the one percent tax on fire insurance for the purpose of the betterment and maintenance of skillful and efficient fire departments within the county. We determined that:

[i]t is the opinion of this Office that the State Procurement Code is inapplicable in this situation. The Legislature has mandated that the funds are to be spent through the use of the [Firemen's] Association by virtue of creating the statutory provisions that allowed the S.C. State Firemen's Association to spend the money as instructed in Title 23, Chapter 9, Article 3. The Legislature has precisely determined what must be done and specified in the statutes guidelines for how the money should be allocated. See, e.g., S.C. Code § 23-9-430. Therefore, no bidding process is necessary. One legislature is not bound by another.

Op. S.C. Atty. Gen., May 5, 2011 (2011 WL 2214073).

In that opinion, we also stated that "the Legislature, pursuant to its plenary powers, may expressly authorize the [Firemen's] Association's duties and powers, irrespective of other statutes, such as the State Procurement Code. . . ." Id.

The Legislature may exempt certain functions from the Procurement Code and we believe that the Legislature intended for commodity boards to be exempt. In sections 46-17-20 and 46-17-30, the Legislature makes it clear that the purpose and policy of the Marketing Act is to enable farmers, or to give them the power³, to help themselves with the aid of the State and its agencies with the marketing and sale of agricultural products. The Marketing Act is unique in that it is the farmers, and not the State, who benefit. Farmers of a specific agricultural product are only assessed and commodity boards only exist due to the consent and voluntary financial commitment of the farmers. See S.C. Code Ann. § 46-17-70 (1976 Code, as amended); S.C. Code Ann. § 46-17-190 (1976 Code, as amended).

In a prior opinion, we further explained how commodity boards and the assessments are unique:

³ "Enable" means "to make able; give power, means, competence, or ability to; authorize." See dictionary.com at <http://www.dictionary.com/browse/enable>

The Honorable Hugh E. Weathers
Page 8
April 28, 2016

[t]he unusual nature of a commodity board and its intended activities is borne out by the unusual nature of the commodity board assessments, in that, unlike other funds which flow into the state treasury through any of the State's boards, departments or institutions, these funds are not paid by the public-at-large in the form of a general income or sales tax nor are they collected from the recipients of various forms of government regulatory services such as the purchasers of permits or licenses. In fact, the commodity levy is assessed against a group of citizens engaged in a particular occupation who have by their voluntary expression of support elected to contribute to a fund established to help themselves to develop, expand and improve the market for their product.

As further evidence of the non-public nature of the funds, the General Assembly in 1968 directed the Agriculture Commission through Section 46-17-370 to deposit all monies collected pursuant to the Agricultural Commodities Marketing Act in separate accounts. This direction to handle these funds in a specific manner is bolstered by a direction in Section 46-17-350 that any funds remaining after the termination of a marketing order be withdrawn from the approved depository and then paid into the state treasury.

A third, but equally important, indication of the unique character of the collected assessments is found in the fact that a peanut producer may, as authorized by Section 46-17-350 and Regulation 5-164(5), apply for and receive a complete refund of all assessments which have been paid to the Commission and the commodity board during any marketing season.

It can be concluded on the basis of these statements of policy and other indicators of characteristics that the activities which the Peanut and other commodity boards could reasonably be expected to engage in are unique when compared with other types of activities ordinarily encountered in the course of the operations of the State government and, therefore, that the General Assembly intended that only specifically provided restraints be placed on the use of any collected commodity board assessments.

The Honorable Hugh E. Weathers
Page 9
April 28, 2016

Op. S.C. Atty. Gen., May 20, 1978 (1978 WL 22577)⁴.

Furthermore, the Legislature has in our opinion granted the commodity boards the authority to spend the assessments by giving them the powers of a corporation to purchase, make payments, and make contracts as well as the power to pay the expenses and costs arising in connection with the marketing orders and agreements. The fact that the commodity boards are required to keep financial records and be audited also indicates that the Legislative intent was for the commodity boards to have control of the assessments. We therefore concur with our May 5, 2011 opinion that the bidding process of the Procurement Code is not necessary when the Legislature imbues a particular group with the authority to expend money. We also agree with your opinion request letter that the proviso to the budget exempting commodity boards from procurement codes was not necessary, as they were already exempt under the Marketing Act.

CONCLUSION:

Our opinion is that the specific provisions of the Marketing Act prevail over the general terms of the Procurement Code. Therefore, commodity boards are exempt from the Procurement Code and have the authority to determine how and when assessments collected from farmers are spent. Please be aware that this is only an opinion as to how this Office believes a court would interpret the law in this matter and that the Legislature may wish to clarify this matter.

Sincerely,



Elinor V. Lister
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General

⁴This opinion was published prior to the enactment of the Procurement Code.

Food Safety Modernization Act (FSMA)

- Considered to be the most significant update to federal food safety laws in 70 years.
- 4,000 farms in South Carolina will be affected by Produce Safety and FSMA rules.
 - Covers produce normally consumed raw.
- SCDA will be the leading agency for outreach and compliance.
- Comprised of 7 rules:
 - 1) ***Produce Safety Rule***
 - This is SCDA's new department and where 100% of FDA grant monies go. New Law 39-26 enables SCDA to enforce.
 - 2) ***Preventive Controls for Human Food***
 - Adopted by reference in SC Food & Cosmetic Act.
 - 3) ***Preventive Controls for Animal Food***
 - Adopted by reference in SC Food and Cosmetic Act.
 - 4) ***Sanitary Transportation of Human and Animal Food***
 - 5) ***Prevention of Intentional Contamination/Adulteration***
 - 6) ***Foreign Supplier Verification Programs***
 - 7) ***Accreditation of Third-Party Auditors/Certification Bodies***
- Implementation of Rules 2-7 will be handled by SCDA's existing Food/Feed Safety and Compliance department.
- Working in cooperation with Clemson Extension, through a memorandum of understanding, to provide outreach and educational sessions to producers.
- Compliance for Produce Safety Rule
 - ***General Compliance*** Dec 2017
 - ***Small Business*** Dec 2018
 - ***Very Small Business*** Dec 2019

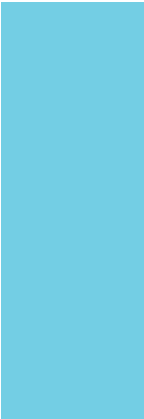


A Preliminary Assessment of the Groundwater Conditions

in Aiken, Allendale, Bamberg, Barnwell, Calhoun,
Lexington, and Orangeburg Counties, South Carolina



MAY 2017



Contents

Executive Summary	1
Introduction	2
Western Region Climate	3
Geohydrologic Framework.....	4
Historical Problems.....	6
Floridan and Gordon Aquifers	6
Crouch Branch Aquifer.....	10
McQueen Branch Aquifer	15
Population and Water Use Increases	18
Conclusions and Recommendations	20
Bibliography	21

Figures

Figure 1: Existing Capacity Use Areas and proposed Western Capacity Use Area.	3
Figure 2: Yearly precipitation totals for South Carolina Region 6, National Climate Data Center.	4
Figure 3: Hydrogeologic framework of South Carolina (Campbell, et al., 2010).	5
Figure 4: Barnwell County, BRN-0352 Gordon aquifer average daily groundwater levels.....	7
Figure 5: Orangeburg County, ORG- 0430 Gordon aquifer average daily groundwater levels.	7
Figure 6: Allendale County, ALL-0375 Gordon aquifer average daily groundwater levels.....	8
Figure 7: Floridan/Gordon aquifer potentiometric map (Wachob, Hockensmith, Luciano, & Howard, 2014).....	9
Figure 8: Aiken County, AIK-0344 Crouch Branch aquifer average daily groundwater levels.	10
Figure 9: Aiken County, AIK-0824 Crouch Branch aquifer average daily groundwater levels.....	11
Figure 10: Aiken County, AIK-0847 Crouch Branch aquifer average daily groundwater levels.	11
Figure 11: Aiken County, AIK-2379 Crouch Branch aquifer average daily groundwater levels.	12
Figure 12: Allendale County, ALL-0367 Crouch Branch aquifer average daily groundwater levels.	12
Figure 13: Orangeburg County, ORG-0393 Crouch Branch aquifer average daily groundwater levels.	13
Figure 14: Black Creek/Crouch Branch aquifer potentiometric map (Wachob & Czwartacki, 2016).	14
Figure 15: Aiken County, AIK- 0817 McQueen Branch aquifer average daily groundwater levels.	15
Figure 16: Aiken County, AIK-0826 McQueen Branch aquifer average daily groundwater levels.....	16
Figure 17: Lexington County, LEX-0844 McQueen Branch aquifer average daily groundwater levels.....	16
Figure 18: Middendorf/McQueen Branch potentiometric map (Wachob, 2015).	17
Figure 19: Reported public water supply use (groundwater) in the designated Western Region counties.....	18
Figure 20: Reported agricultural groundwater use in Allendale, Bamberg, and Barnwell Counties.	19
Figure 21: Reported agricultural groundwater use in Aiken, Calhoun, and Orangeburg Counties.	19

Executive Summary

The South Carolina Department of Health and Environmental Control (Department), in cooperation with the South Carolina Department of Natural Resources (SCDNR), has been evaluating groundwater conditions in the western Coastal Plain region of South Carolina in a series of investigations. SCDNR has previously recommended (SCDNR, 2004) the entire Coastal Plain province should be designated a Capacity Use Area in order to protect aquifer systems and ensure long-term sustainability of the groundwater resources. On July 19, 2016, Aiken County Council requested that portions of Aiken County be designated as a Capacity Use Area.

The Department has reviewed previously published reports on local groundwater conditions by the SCDNR and USGS in conjunction with reported groundwater withdrawal data for the counties of this region (Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg) to assess the current groundwater conditions in the area. This review indicates that water level declines in the aquifer systems of concern have been influenced by an increase in population, public water supply use and agricultural activities using groundwater and a series of long-standing droughts that have reduced recharge to the aquifer systems.

The preliminary data compiled in this report indicates that the entire Western Region (Figure 1 on page 3) meets the statutory requirements to be designated as a Capacity Use Area as shown in Figure 1 (the whole of Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg Counties) based on the following:

- The aquifers are interconnected beneath the counties in this region (Figure 3 on page 5).
- There is current documented increased demand and potential increases in future demand.
- Estimated declines in groundwater levels as follows:
 - Since 1998, in the Floridan/Gordon aquifers: Allendale and Barnwell Counties (8 feet).
 - Since 2001, in the Black Creek/Crouch Branch aquifer: Aiken County (< 5 feet), Allendale, Barnwell and Lexington Counties (5 feet), Bamberg County (10 feet), Calhoun and Orangeburg Counties (12 feet).
 - Since 2001, in the Middendorf/McQueen Branch aquifer: Aiken County (5 feet), Barnwell and Lexington Counties (10 feet), Allendale County (12 feet), Bamberg, Calhoun and Orangeburg Counties (15 feet).

Based on the preliminary data available to the Department, which have been summarized in this report, Aiken County along with Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg counties have developed and utilized groundwater to the degree that coordination and regulation of groundwater supplies may be needed pursuant to the Groundwater Use and Reporting Act, Section 49-5-60. As such, this preliminary data is provided to facilitate the gathering of public input and any additional data or information that will help inform the potential designation of these counties as the Western Capacity Use Area.

Introduction

The South Carolina Department of Health and Environmental Control (Department) received a formal request on July 19, 2016 from Aiken County Council to investigate and designate a Capacity Use Area within eastern Aiken County, South Carolina. Section 49-5-60 of the Groundwater Use and Reporting Act states in part that... *"In the state where excessive groundwater withdrawal present potential adverse effects to the natural resources or poses a threat to public health, safety, or economic welfare or where conditions pose a significant threat to the long-term integrity of a groundwater source... the board, after notice and public hearing...shall designate a capacity use area."* The notice and public hearing must be conducted such that local government authorities, groundwater withdrawers, or the general public may provide comments concerning the capacity use designation process. A Capacity Use Area must be designated by the board based on scientific studies and evaluation of groundwater resources and may or may not conform to political boundaries. Designation as a Capacity Use Area requires groundwater withdrawers within the Capacity Use Area to apply for and obtain a permit from the Department.

A groundwater user is defined as *"a person withdrawing groundwater in excess of three million gallons during any one month from a single well or from multiple wells under common ownership within a one-mile radius from any one existing or proposed well."* The permitting process is intended to allow the Department to coordinate and work with users of the groundwater resource to more effectively manage withdrawals to control and minimize adverse effects on the local aquifers. Withdrawals are permitted on reasonable use requirements as outlined in the regulation and demonstrated need(s) of a particular activity or industry. Mandatory reporting of groundwater use ensures permit compliance and allows the Department, local government agencies, and all interested stakeholders to determine historical use trends and establish criteria for future planning decisions.

Figure 1 (on the next page) shows the proposed Western Capacity Use Area which covers Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg Counties.

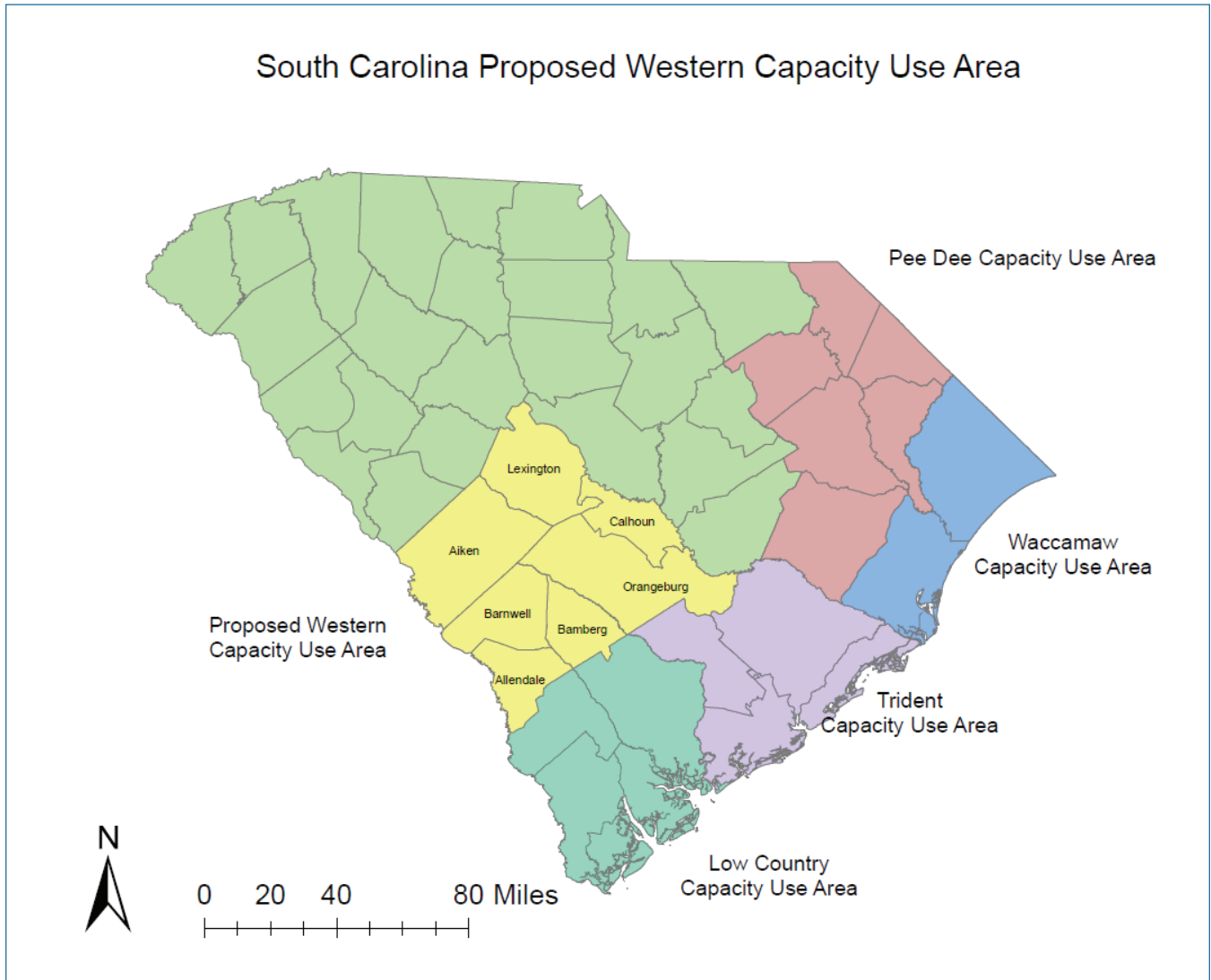


Figure 1: Existing Capacity Use Areas and proposed Western Capacity Use Area.

Western Region Climate

The general climate of South Carolina is influenced by a number of factors, including its location in the mid-latitudes and proximity to the Atlantic Ocean. The mid-latitude location provides for varying intensities of solar radiation during the year, resulting in four distinct seasons (summer, fall, winter, spring). The Western Region of the state is classified as humid subtropical. Average temperature in the region is 60-65 degrees Fahrenheit. According to the State Climatologist's office, the normal annual precipitation for the Western region of the Coastal Plain is between 45-50 inches. However, this area of the State has experienced periods of drought where significantly less precipitation has occurred, in particular, 2001, 2007 and more recently 2011. Figure 2 (on the next page) shows total yearly precipitation for this area of the State from 1980 to 2015.

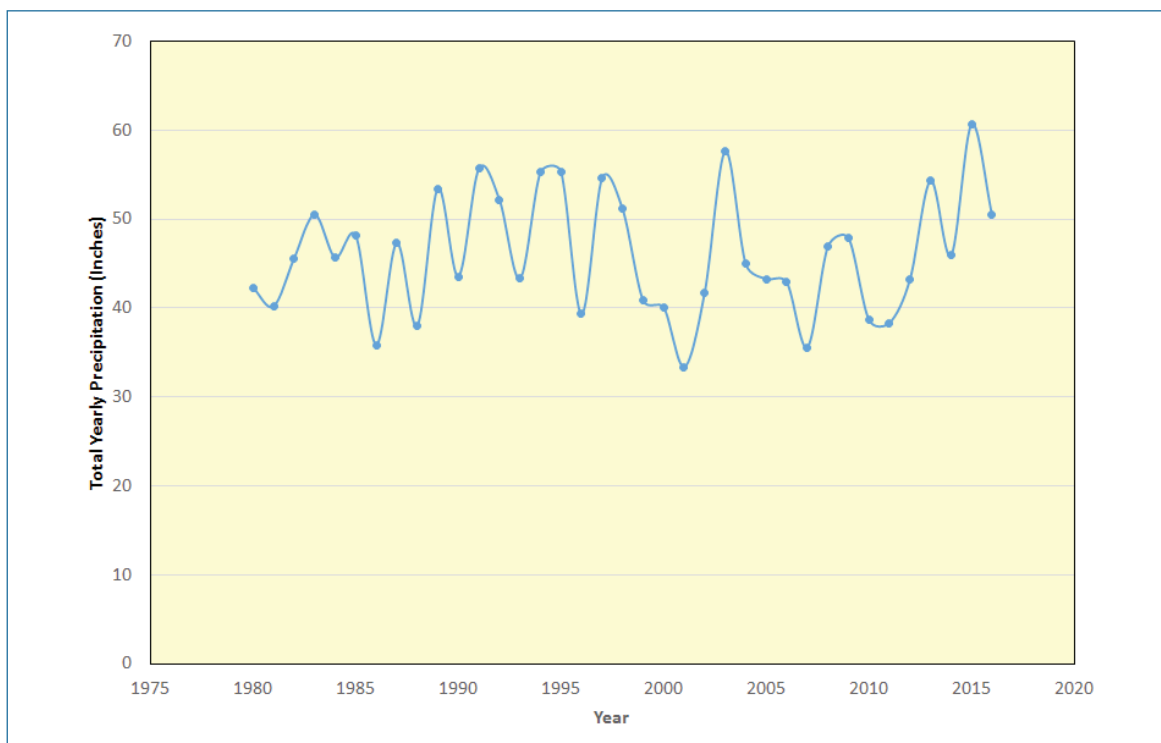


Figure 2: Yearly precipitation totals for South Carolina Region 6, National Climate Data Center.

Geohydrologic Framework

The geology and hydrogeology of the proposed Western Capacity Use Area of South Carolina is described in detail by United States Geological Survey (USGS) professional paper (pp) by Bruce Campbell et al. (2010), which incorporated 38 core holes and 68 water wells across the South Carolina Coastal Plain. In general terms, the aquifer systems range in age from Late Cretaceous to Tertiary (McQueen Branch, Crouch Branch, Gordon, Floridan, and Surficial) and overlay crystalline bedrock between Paleozoic and Triassic age. Overall, the lithologies of the aquifers are predominantly composed of sands and silts/muds, with some limestone. These are described as being formed in a transitional depositional environment, ranging from continental to marine (Campbell, et al., 2010). The units form a sedimentary wedge that thickens from a feather edge at the Fall Line to greater than 4000 feet down dip at the coastline (**Figure 3**).

The identified confining units separating the aquifer systems are not as well defined in the proposed Capacity Use Area (i.e. little or no distinct separation between aquifer systems), while the McQueen Branch and Crouch Branch aquifers are reported to be the more productive units in this area (Campbell, et al., 2010). The recharge zone for these aquifers is at the Fall Line and the surficial aquifer discharges to surface water. Specific annual groundwater recharge rates have been calculated by USGS to be in the range of approximately 13 to 15 inches per year. In 2004, the Crouch Branch and McQueen Branch are reported to have had withdrawal rates of 1.27 and 5.41 million gallons per day (MGD), respectively, and surface discharge of the surficial aquifer at around 6.1 MGD (Campbell, et al., 2010).

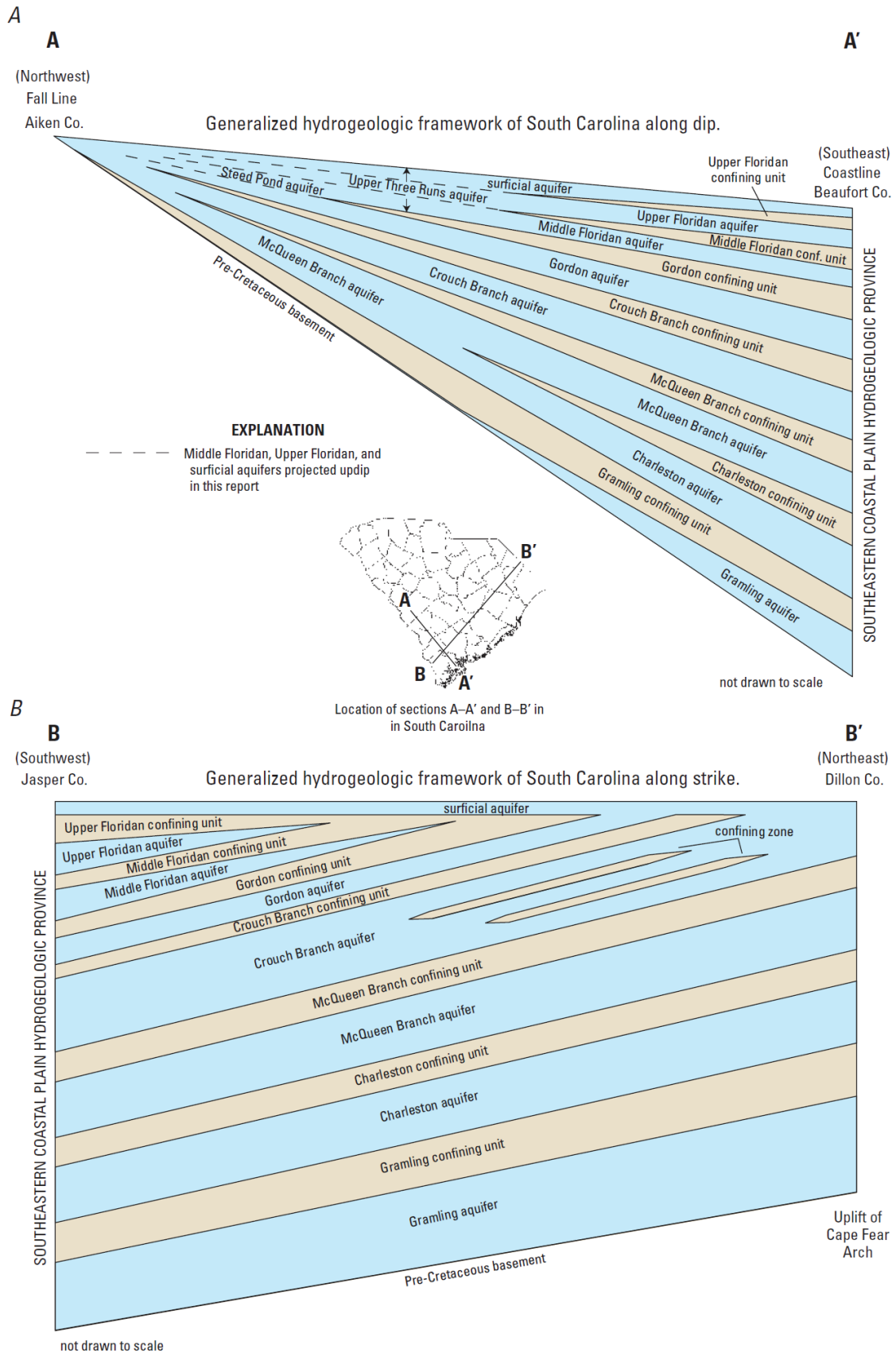


Figure 3: Hydrogeologic framework of South Carolina (Campbell, et al., 2010).

Historical Problems

Floridan and Gordon Aquifers

The shallower aquifer systems are hydrologically connected in the up-dip region of the proposed Capacity Use Area (see **Figure 3**), and therefore respond as unconfined aquifers in this region. Precipitation events generate the greater portion of recharge for the aquifer systems in the area, with the majority subsequently discharged through evapotranspiration and to the numerous creeks, streams, and rivers which dissect the geographical area. The groundwater flow paths in the shallow system are typically short, which in turn generate relatively high groundwater flow rates (Aucott W. R., 1988). Specific annual groundwater recharge rates have been calculated by USGS to be in the range of approximately 13 to 15 inches per year. Employing a porosity of 30 to 35 percent for the aquifers produces a water level rise (instantaneous) in the saturated thickness of the aquifer(s) of approximately 3.6 to 4.1 feet (Harrelson, Falls, & Prowell, 2002). The aquifers in the proposed Capacity Use Area respond more quickly to variations in recharge (precipitation and evapotranspiration rates) over time due to their relative shallow nature and relatively high transmissivities (Aucott W. R., 1988). Seasonal fluctuations in groundwater levels in the various aquifers are common due to increased use of groundwater for public consumption and irrigation during summer months. As use increases through spring into summer, groundwater levels decline. As use decreases in the fall and winter, the groundwater levels typically recover. An example of this response to seasonal fluctuations in groundwater demand is shown in Figure 8. While this well (AIK-0344) is screened in the Crouch Branch aquifer, this is a common response seen in the Coastal Plain aquifer systems to seasonal fluctuations in groundwater demand.

The South Carolina Department of Natural Resources (SCDNR) has collected long-term groundwater level from several locations in the Western region of the State. These include several monitoring wells in the Gordon aquifer, BRN-0352, ORG-0430, and ALL-0375. Water levels can be seen in Figures 4, 5, and 6, and all 3 of these wells indicate some degree of water level decline imprinted on seasonal variability. Previous work by SCDNR has shown water levels in the Gordon aquifer have declined in Allendale by approximately 8 feet and up to approximately 7 feet in Barnwell Counties since the mid-1990s (Harder, Gellici, & Wachob, 2012).

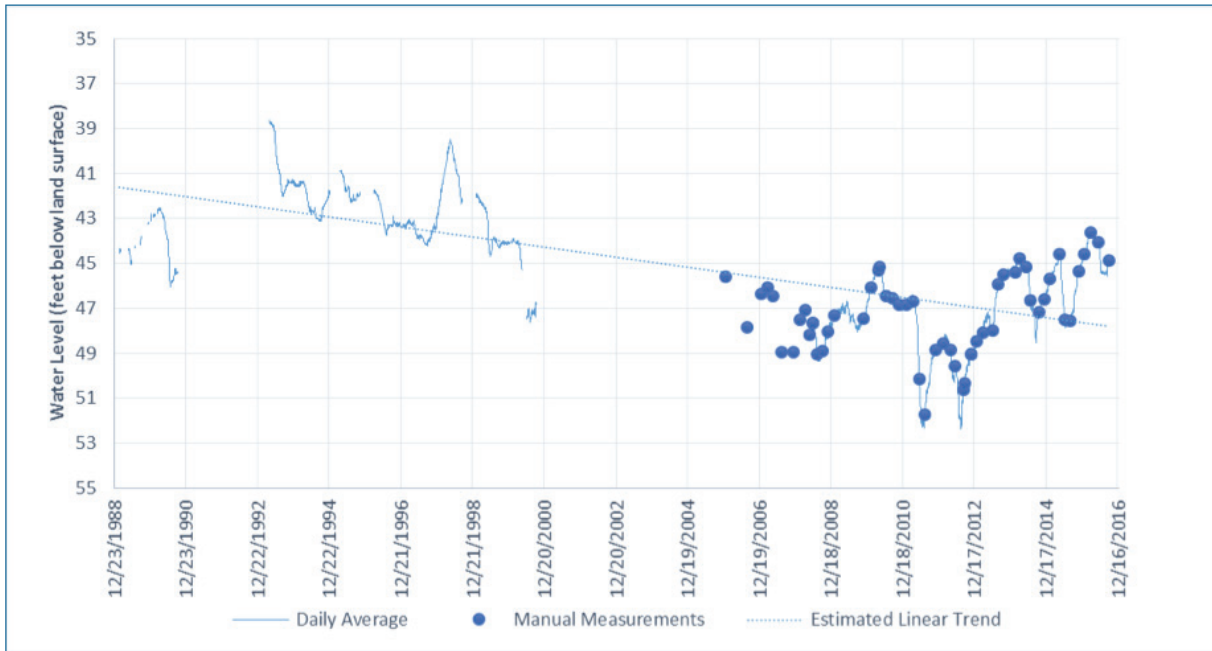


Figure 4: Barnwell County, BRN-0352 Gordon aquifer average daily groundwater levels.

ORG-0430 (**Figure 5**) water levels indicate temporal fluctuations which may be seasonally influenced, with measured levels from 81.53 to 97.7 feet below land surface. The probable seasonal fluctuation is observed as lows in the late summer early fall months (August-October) and its highest levels in the spring months (March-May).

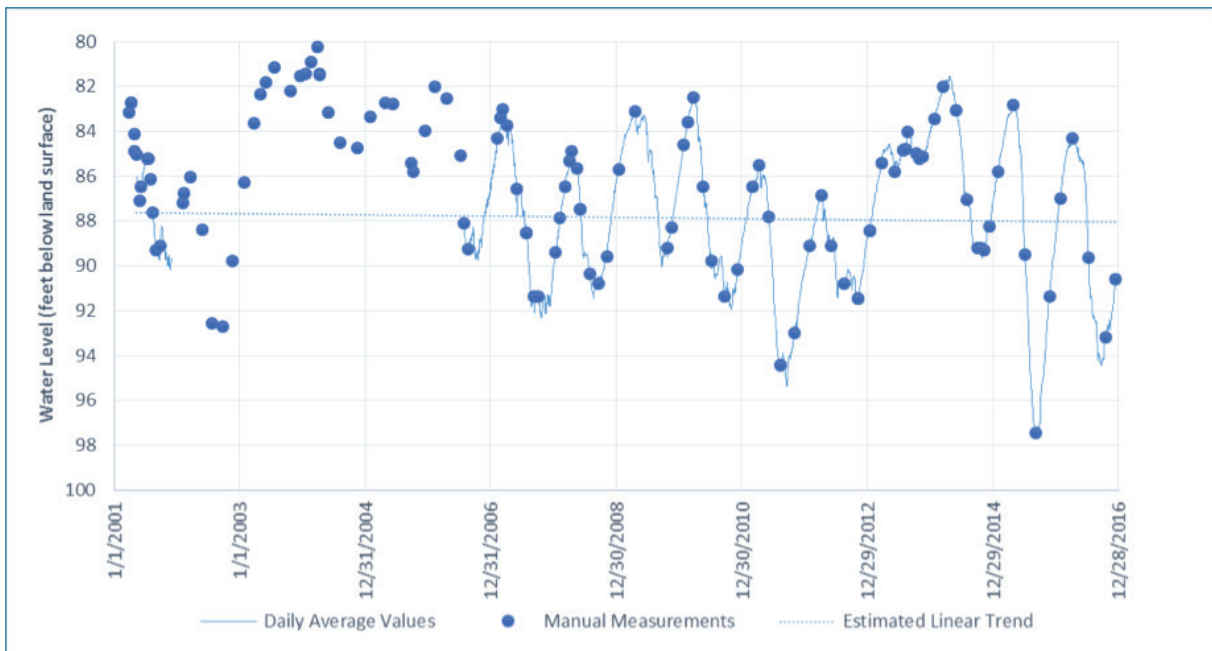


Figure 5: Orangeburg County, ORG- 0430 Gordon aquifer average daily groundwater levels.

ALL-0375 (**Figure 6**) water levels indicate a decline from June 1998 through October 2002, some recovery through May of 2004, and then another decline from December 2012 through present. The water levels range from 145.97 to 160.14 feet below land surface.

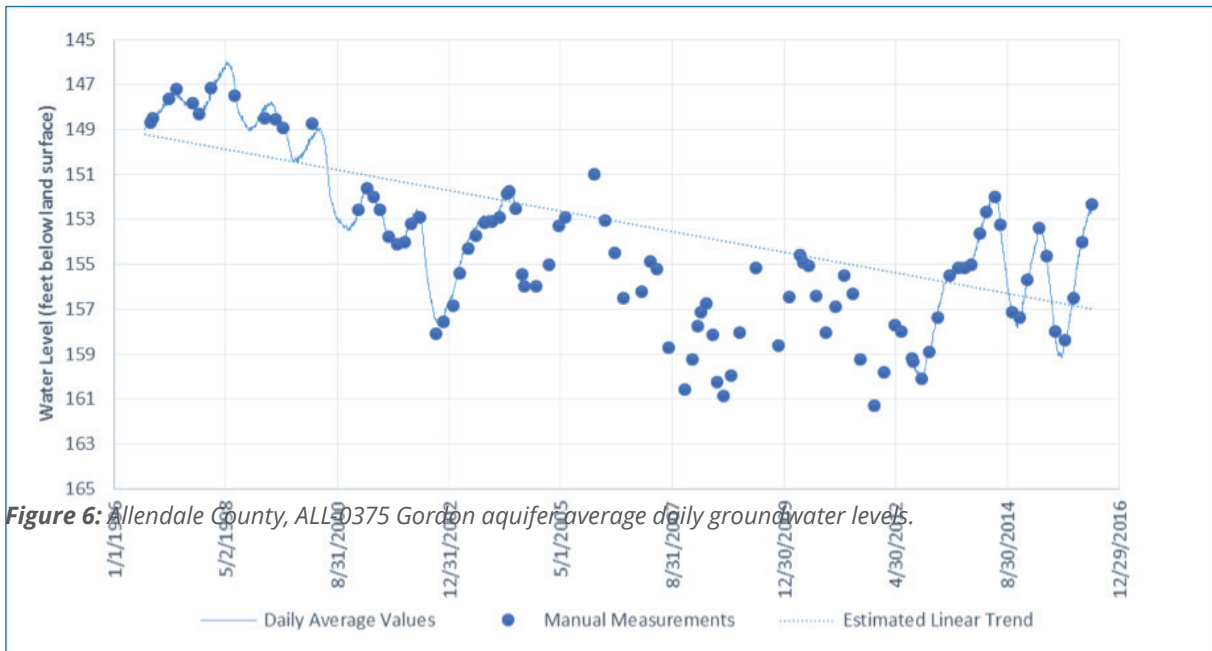


Figure 6: Allendale County, ALL-0375 Gordon aquifer average daily groundwater levels.

Figure 7 shows the most recent potentiometric map produced by DNR of the water level elevations for the Floridan and Gordon aquifers. In general, in the counties of concern, there are no real cones of depression in groundwater elevations in these upper aquifers (Wachob, Hockensmith, Luciano, & Howard, 2014). This is likely due to little use as a resource, its access to recharge, and connectivity with surface water.

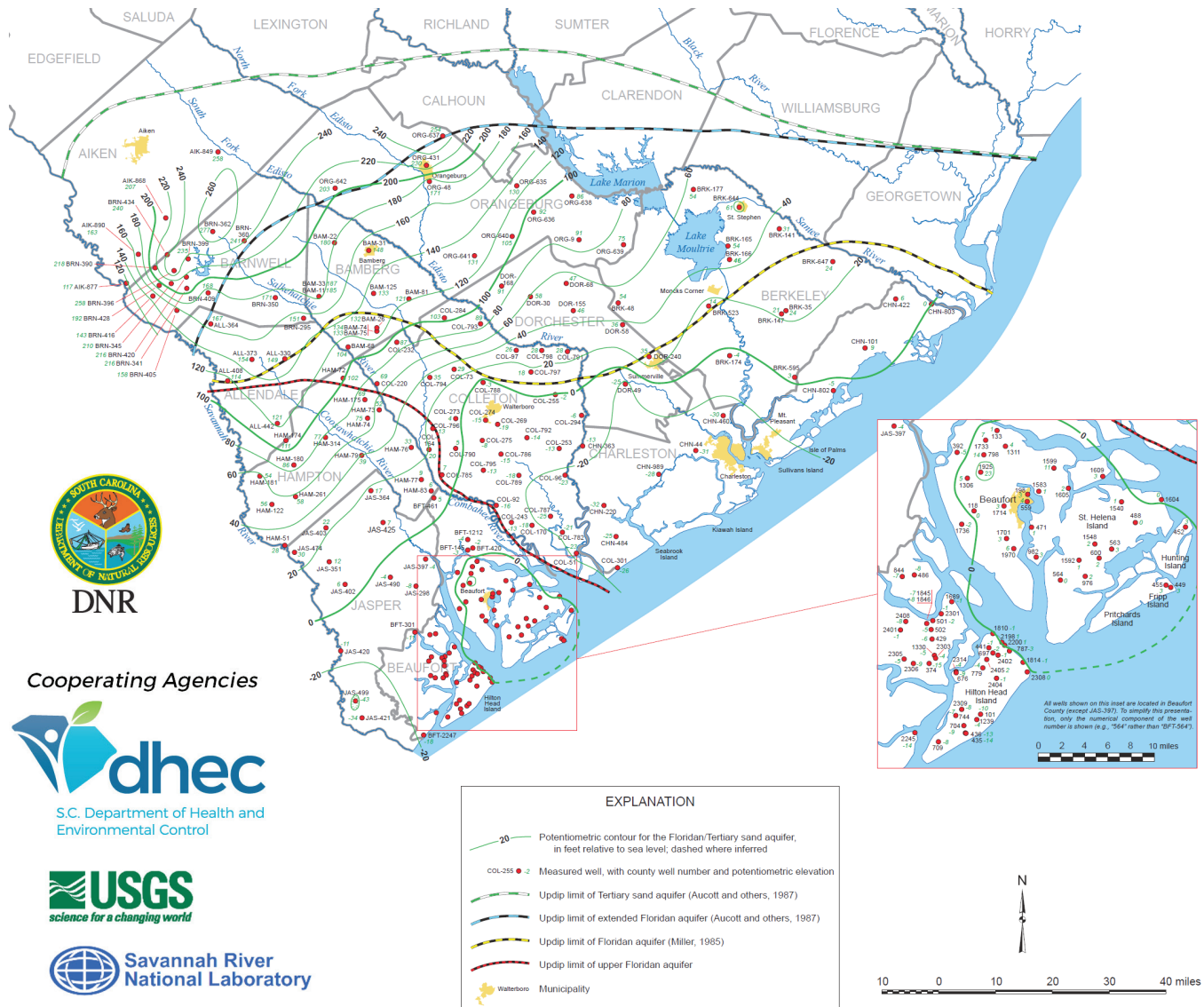


Figure 7: Floridan/Gordon aquifer potentiometric map (Wachob, Hockensmith, Luciano, & Howard, 2014).

Crouch Branch Aquifer

The Crouch Branch aquifer, formerly Black Creek aquifer, is one of the most developed aquifers in the proposed Capacity Use Area (Campbell, et al., 2010). The Crouch Branch forms the uppermost regional Cretaceous aquifer (Aucott, Davis, & Speiran, 1987). It is characterized by fine-grained, sandy clay and calcareous clay beds in the eastern sections and is poorly sorted (Campbell, et al., 2010), but fairly uniform in permeability in the eastern region (Aucott, Davis, & Speiran, 1987). Lateral groundwater flow due to recharge is approximately 1.39 MGD (Campbell, et al., 2010). In 2004, withdrawals in the Aiken area from the Crouch Branch were approximately 1.27 MGD (Campbell, et al., 2010). Based on changes in groundwater elevations between the 2001 (Hockensmith, 2003a) and 2015 (Wachob and Czwartacki, 2016) potentiometric maps for the Black Creek/Crouch Branch Aquifer produced by SCDNR, the following declines in groundwater levels have been estimated: up to 5 feet in Aiken County, up to 5 feet in Allendale County, between 5 and 10 feet in Bamberg County, up to 5 feet in Barnwell County, up to 10 feet in Calhoun County, up to 5 feet in Lexington County and up to approximately 12 feet in Orangeburg County.

AIK-0344 (**Figure 8**) shows the seasonal fluctuations in groundwater levels in the Montmorenci area of Aiken County. While this is not long-term data, it does show the typical drop in groundwater levels during the summer months (a time of increased water use for drinking water, irrigation, etc.) and the recovery of groundwater levels towards the fall months as groundwater use declines.

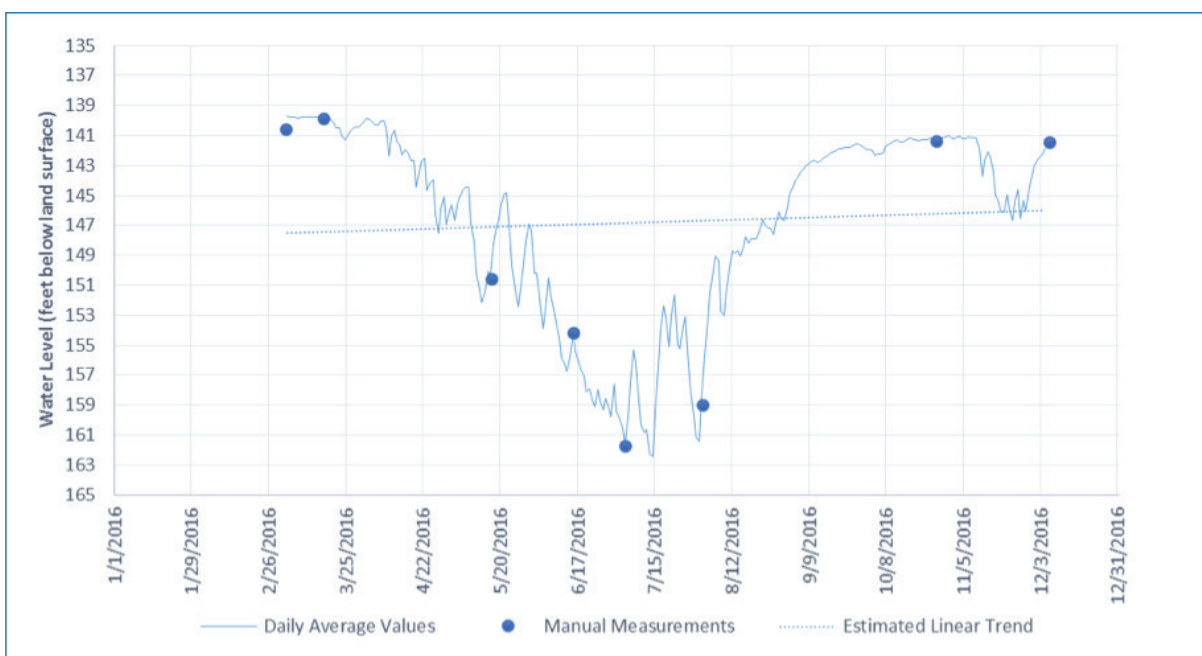


Figure 8: Aiken County, AIK-0344 Crouch Branch aquifer average daily groundwater levels.

AIK-0824 (**Figure 9**) water levels indicate moderate fluctuations from May 1993 through February 1999, whence it begins a steady decline. Note a data gap exists from September 2000 to October 2012, with overall groundwater decline of 5.32 feet (179.94 feet to 185.26 feet). Beginning September 2012 water levels appear to be relatively stable.

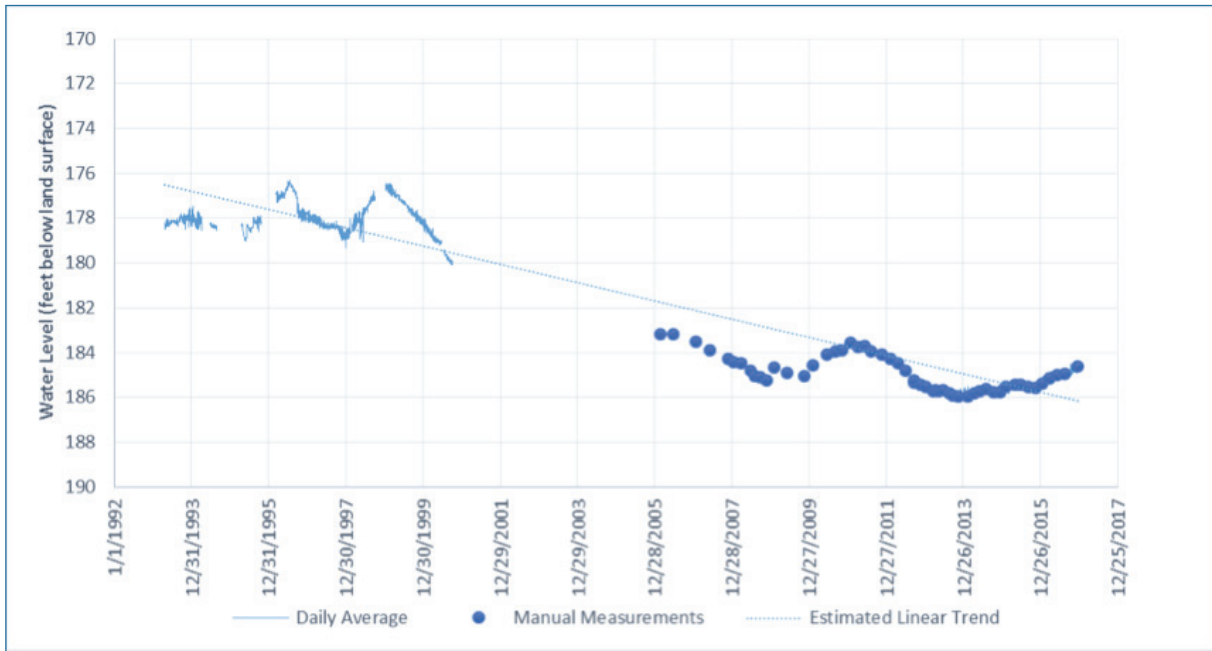


Figure 9: Aiken County, AIK-0824 Crouch Branch aquifer average daily groundwater levels.

AIK-0847 (**Figure 10**), as with AIK-0824, water levels indicate moderate fluctuations with an overall downward trend from May 1993 to September 2000 (23.31 feet to 26.91 feet). Note a data gap exists until January 2013, where the water level was 30.65 feet. The most recent data indicate greater annual variability, with a final measured depth of 28.86 feet in December 2015.

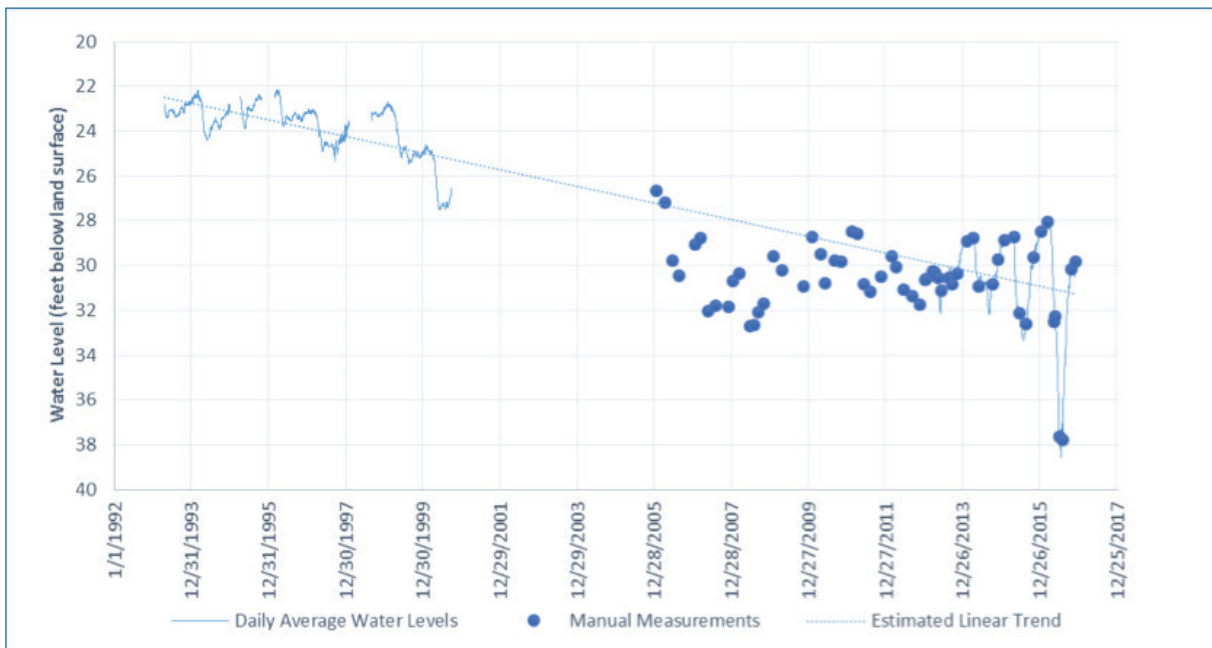


Figure 10: Aiken County, AIK-0847 Crouch Branch aquifer average daily groundwater levels.

AIK-2379 (**Figure 11**) measured water levels indicate a moderate decline through September 1997 with recovery reaching maximum in April 1998. Subsequently the measured water level has declined, with a minimum measured water level in August 2015 at 62.26 feet below land surface. This is a difference of approximately 4.4 feet from the minimum water level measured prior the noted data gap (57.91 in July 2001).

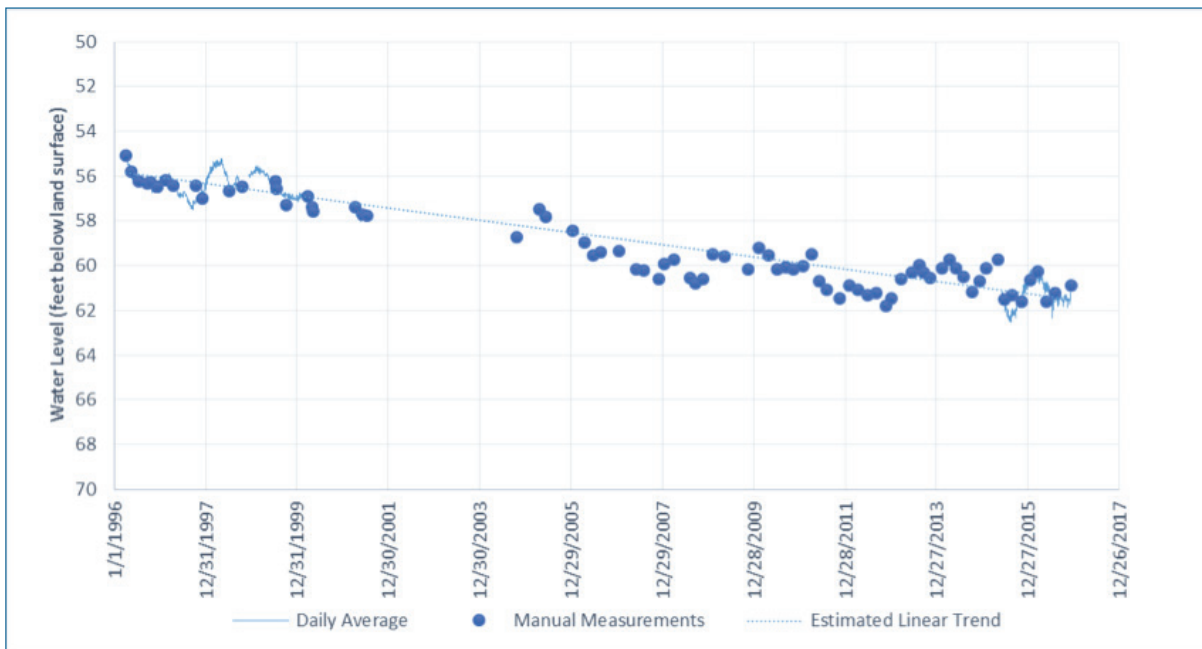


Figure 11: Aiken County, AIK-2379 Crouch Branch aquifer average daily groundwater levels.

ALL-0367 (**Figure 12**) has measured water levels which appear to mimic the response measured in ALL-0375. Data indicate a decline from April 1999 (82.69 feet) to May 2002 (91.21 feet). The overall trend stabilizes after 2002, but seasonal fluctuations are more exaggerated (up to 5.57 foot difference between April 2014 and October 2014).

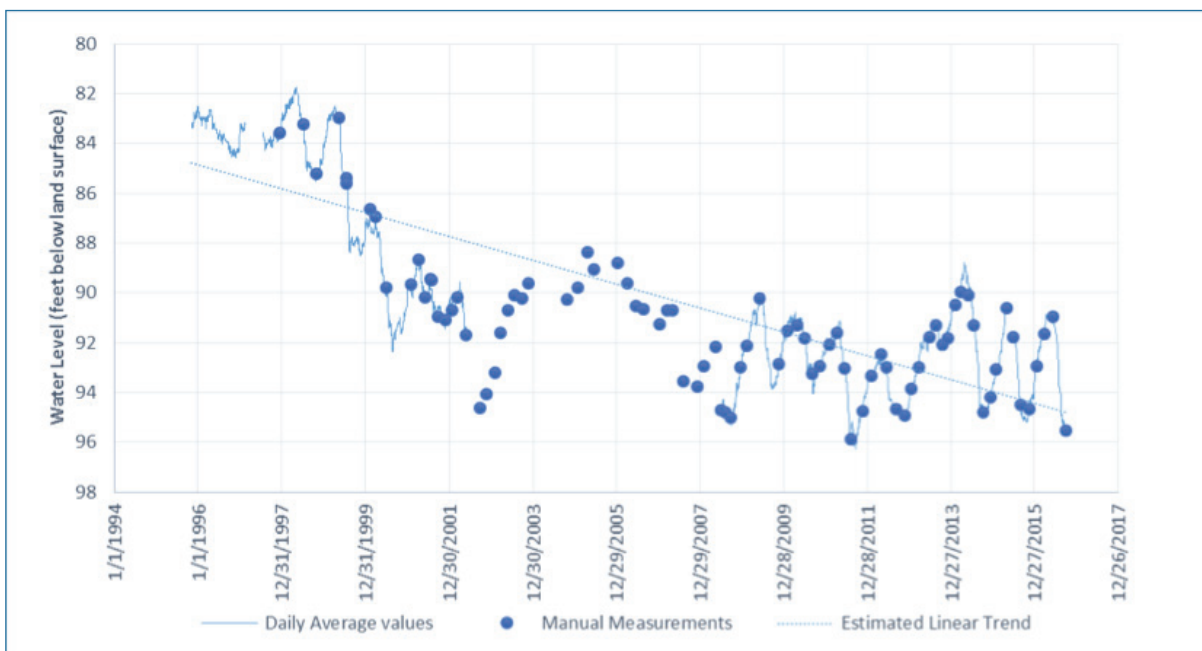


Figure 12: Allendale County, ALL-0367 Crouch Branch aquifer average daily groundwater levels.

ORG-0393 (**Figure 13**) measured water levels decline over time. Seasonal fluctuations become more magnified over time with a measured range of 5.2 feet in 2001 to a measured range of over 30 feet in 2015.

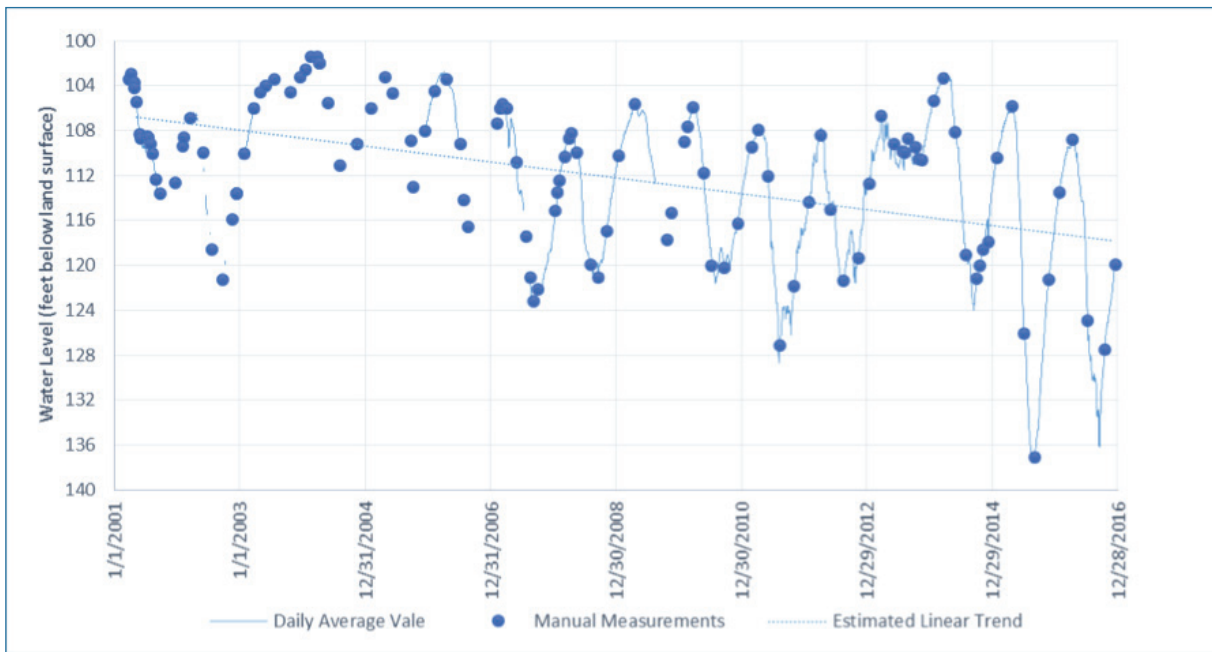


Figure 13: Orangeburg County, ORG-0393 Crouch Branch aquifer average daily groundwater levels.

Figure 14 shows the most recent potentiometric map produced by DNR, showing the groundwater elevations in late 2015 in DNR monitoring wells for the Crouch Branch aquifer (Wachob & Czwartacki, 2016). There is one major cone of depression (sustained declines in groundwater levels centered on areas of pumping) in Georgetown County but none identified in the Western Region of the state.

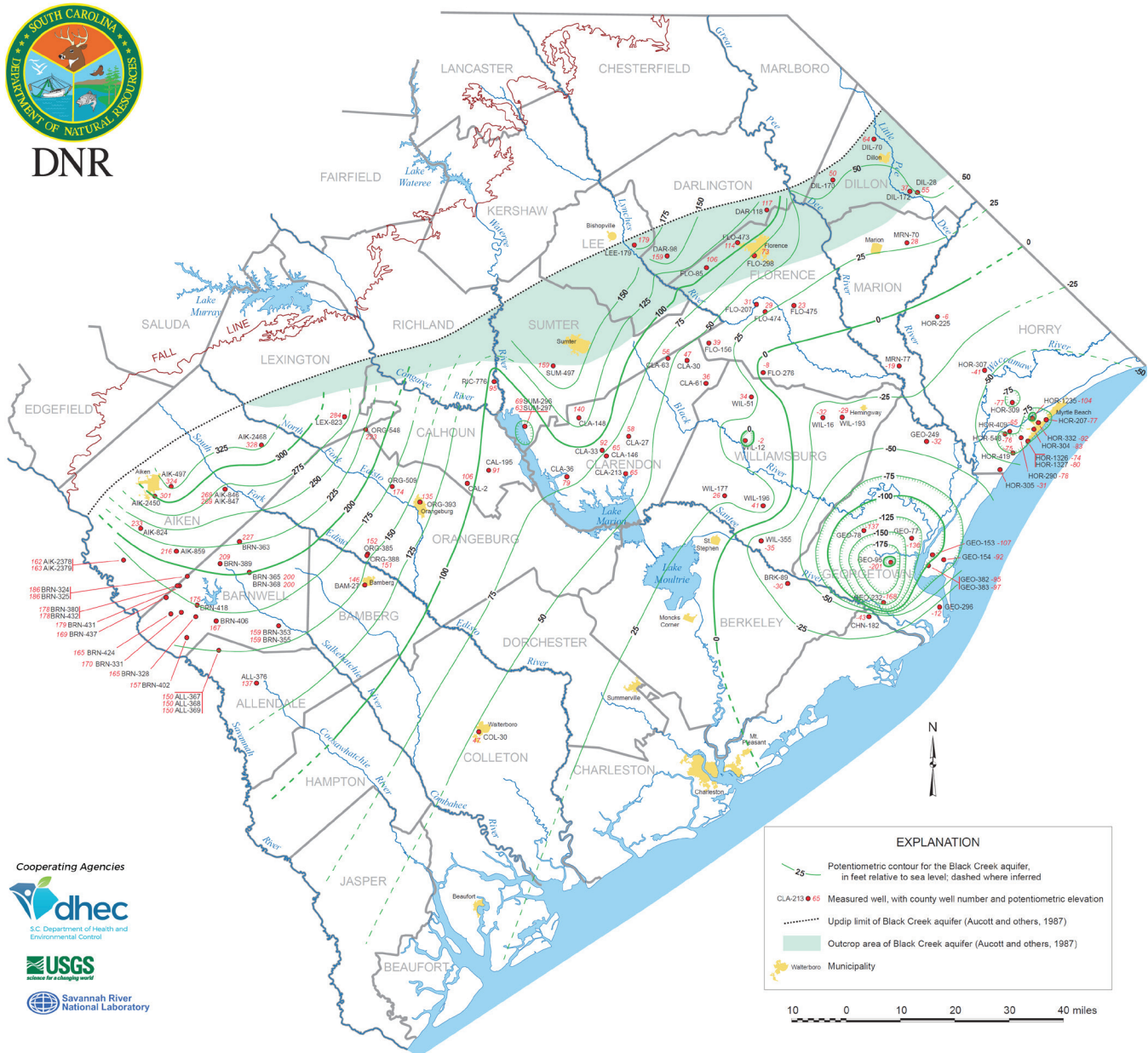


Figure 14: Black Creek/Crouch Branch aquifer potentiometric map (Wachob & Czwartacki, 2016).

McQueen Branch Aquifer

The McQueen Branch aquifer, formerly the Middendorf, along with the Crouch Branch aquifer, is the most developed aquifer in the Western Region of the state (Campbell, et al., 2010). It is characterized as unconsolidated, poorly sorted fine to coarse grained sand, and clayey sand, with some local gravel, which provides relatively constant hydraulic conductivity in the upper coastal plain area (Aucott W. R., 1988). In down-dip areas, it is confined from the top by the McQueen Branch confining unit, made up of clay beds (Campbell, et al., 2010). The confining unit is not as prevalent in the up-dip sections close to the fall line, causing the McQueen Branch and Crouch Branch aquifers to be combined in this region. Due to the coarse grained lithology, the McQueen Branch aquifer has produced wells with yields upwards of 1,500 gallons per minute, with reported withdrawals in the Aiken area of 5.41 MGD. Due to its productivity and relatively shallow nature, the McQueen Branch is an important water resource for this region, and is therefore important to preserve the integrity of the water resources within it. Based on changes in groundwater elevations between the 2001 (Hockensmith, 2003b) and 2014 (Wachob, 2015) potentiometric maps for the Middendorf/McQueen Branch aquifer produced by SCDNR, the following declines in groundwater levels have been estimated: up to 5 feet in Aiken County, up to 12 feet in Allendale County, up to 15 feet in Bamberg County, up to 10 feet in Barnwell County, up to 15 feet in Calhoun County, up to 10 feet in Lexington County and up to 15 feet in Orangeburg County.

AIK-0817 (**Figure 15**) measurements from May 1988 to April 1991 indicate a slight decline from 181.46 feet to 183.84 feet. In May 1993 water levels had recovered to original levels with subsequent measurements indicating slight temporal fluctuations and a steady measured decline until May 2000 (note data gap), whence water levels appear fairly constant, with temporal fluctuations measured.

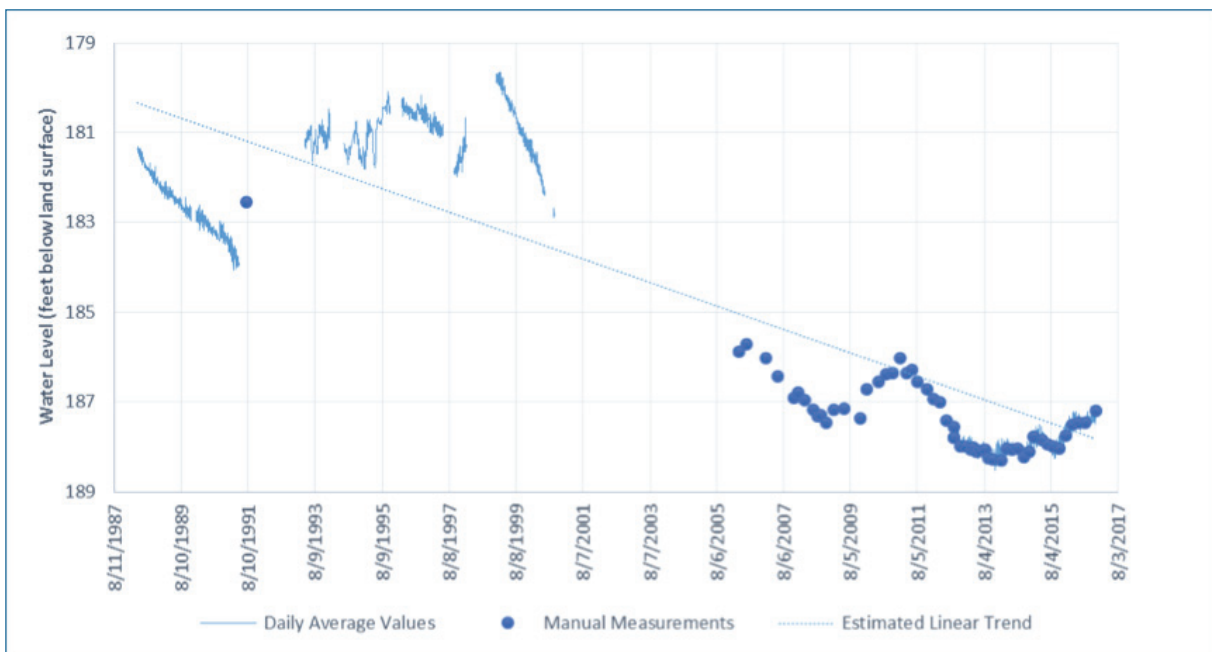


Figure 15: Aiken County, AIK- 0817 McQueen Branch aquifer average daily groundwater levels.

AIK-0826 (**Figure 16**) indicates an overall decline in measured water level from original data generated in October 1989 from 22.66 feet to 33.29 feet in July 2016.

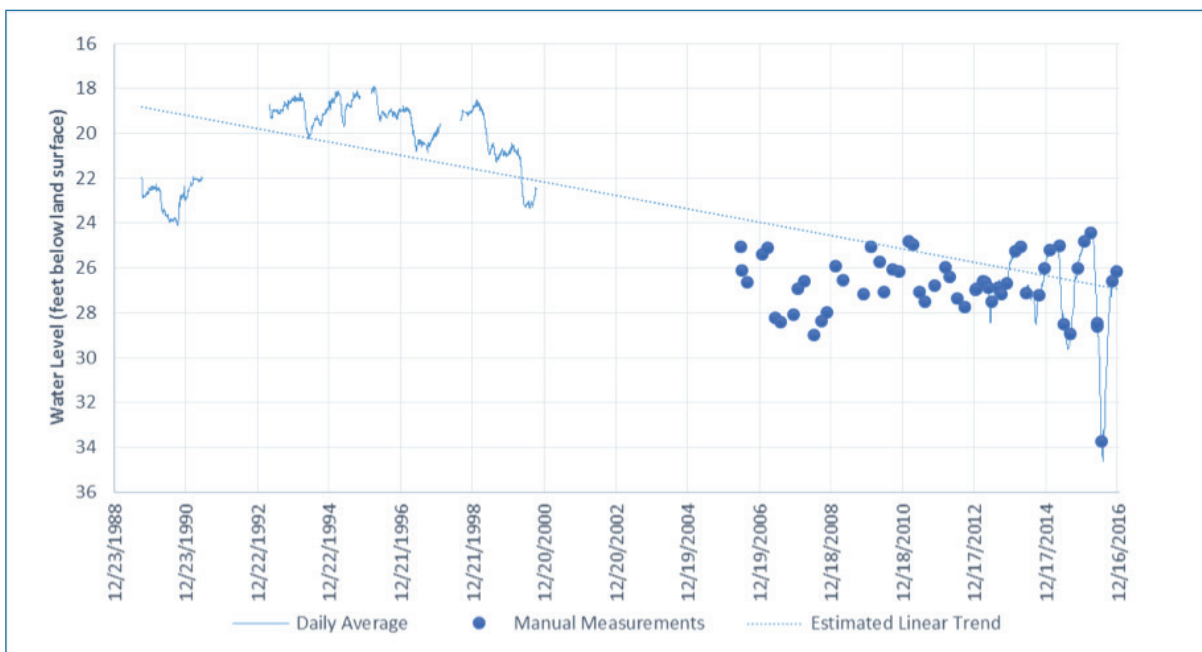


Figure 16: Aiken County, AIK-0826 McQueen Branch aquifer average daily groundwater levels.

LEX-0844 (**Figure 17**) indicates an overall decline in measured water level from original data generated in November 1999 from 69.12 feet to 75.61 feet in January 2003. Measured water levels appear relatively stable from January 2003 through April 2012, with a slight decline until August 2015. The most recent data indicates a gradual recovery in this well.

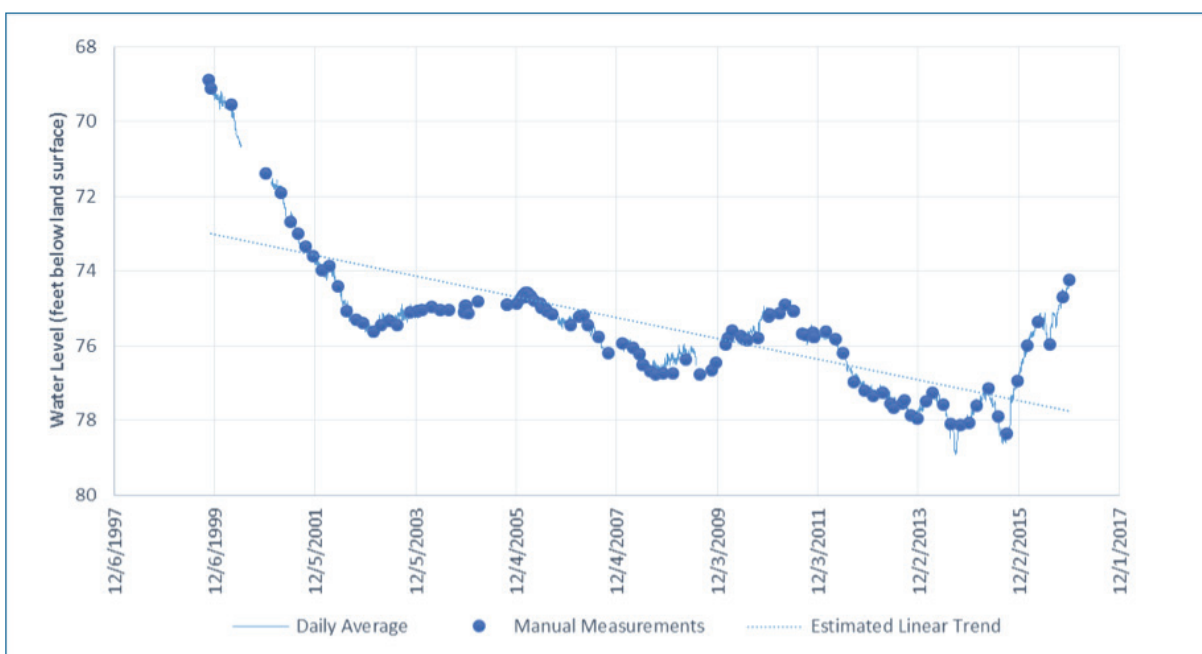


Figure 17: Lexington County, LEX-0844 McQueen Branch aquifer average daily groundwater levels.

Figure 18 shows a potentiometric map constructed by SCDNR in late 2014 for the McQueen Branch aquifer (Wachob, 2015) and is a representation of the regional groundwater elevations in the McQueen Branch aquifer. In the eastern part of the state and near the coast, cones of depression (sustained declines in groundwater levels centered around areas of pumping) have developed, but no major cones of depression have been identified in the Western Region of the state. However, across Aiken, Allendale, and Barnwell Counties, groundwater elevation declines have been noted between 3 and 10 feet since the mid-1990s, with little to no recovery after drought conditions in southern Lexington County (Harder, Gellici, & Wachob, 2012).

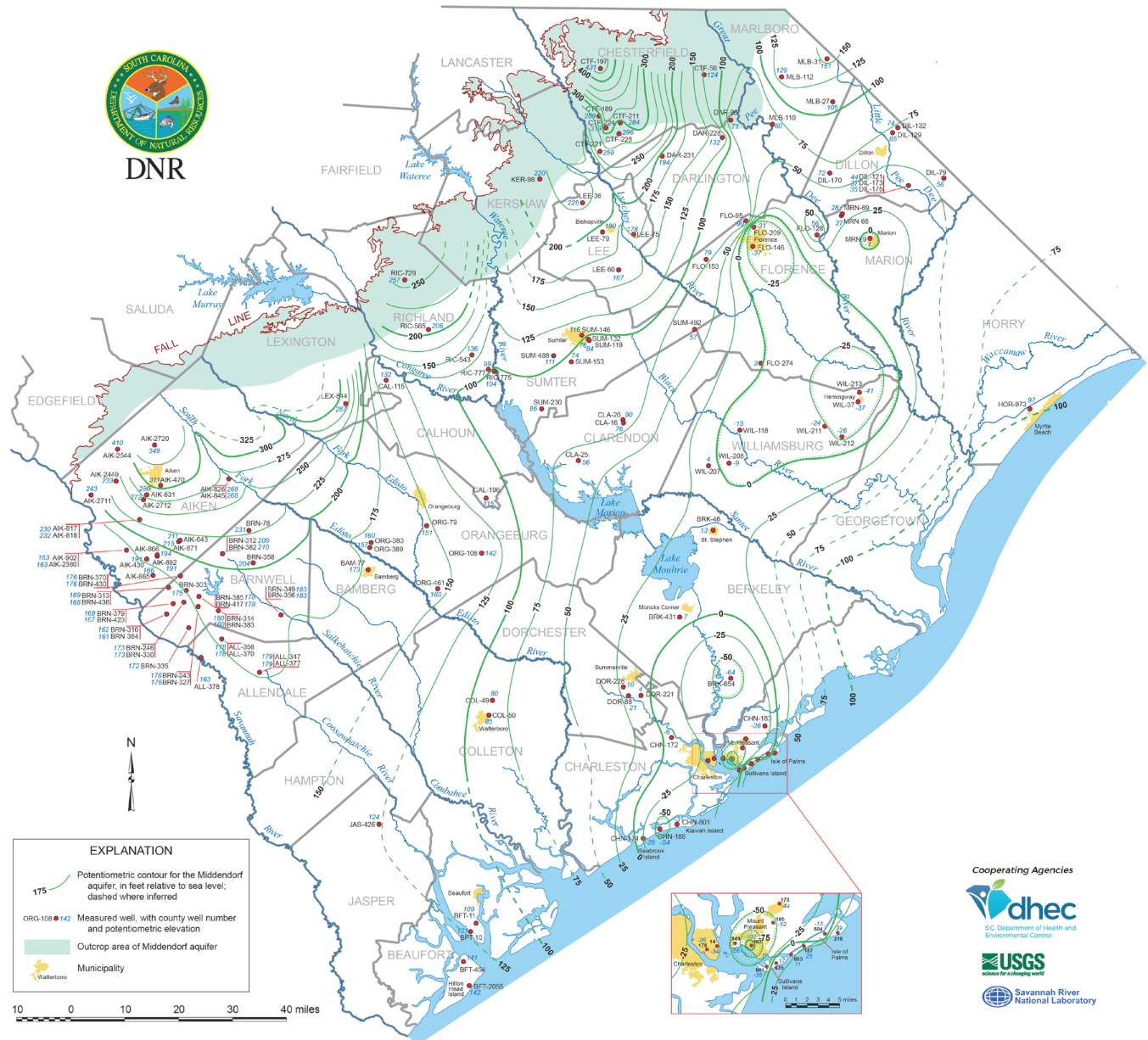


Figure 18: Middendorf/McQueen Branch potentiometric map (Wachob, 2015).

Population and Water Use Increases

Currently Aiken County utilizes groundwater wells as the main source for drinking water supplies, but due to increasing concerns over the viability of the aquifers over time, some utilities have begun developing surface water as a supplement to the groundwater source. The population of Aiken County in 2010 was 160,099 and is expected to increase to approximately 182,500 by 2030, a 14% increase. The reported groundwater use for public water supply increased from 947.14 million gallons a year (MGY) in 1983 to 5,177.56 MGY in 2015. Lexington County is projected to increase in population by 27% between 2010 and 2030 (262,391 to 333,200). The increasing demand on water utilities to serve the expanding population will create increasing pressure on the groundwater resource in some areas of the county. Measured groundwater levels in monitor wells maintained by SCDNR have typically declined in most of the aquifers that are developed in this region of the state. Reported groundwater use by county is shown in Figure 19.

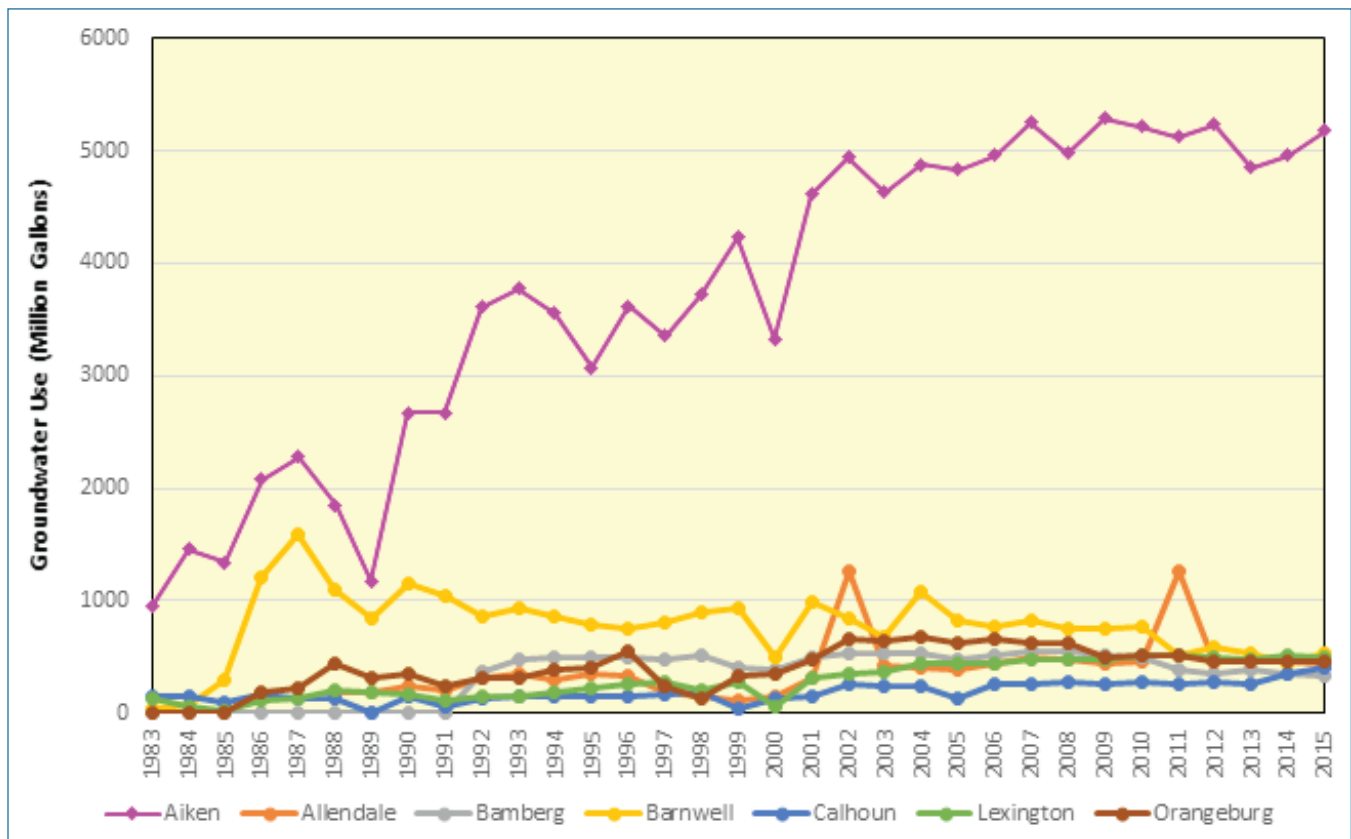


Figure 19: Reported public water supply use (groundwater) in the designated Western Region counties.

Although the population of Allendale, Bamberg, and Barnwell Counties are projected to decrease in the near future, it is anticipated that development of the aquifer systems will increase as agricultural use, as has been the case in Aiken, Calhoun, Lexington and Orangeburg Counties, which have seen upward trends in reported water use since 2009 (**Figures 20 and 21**).

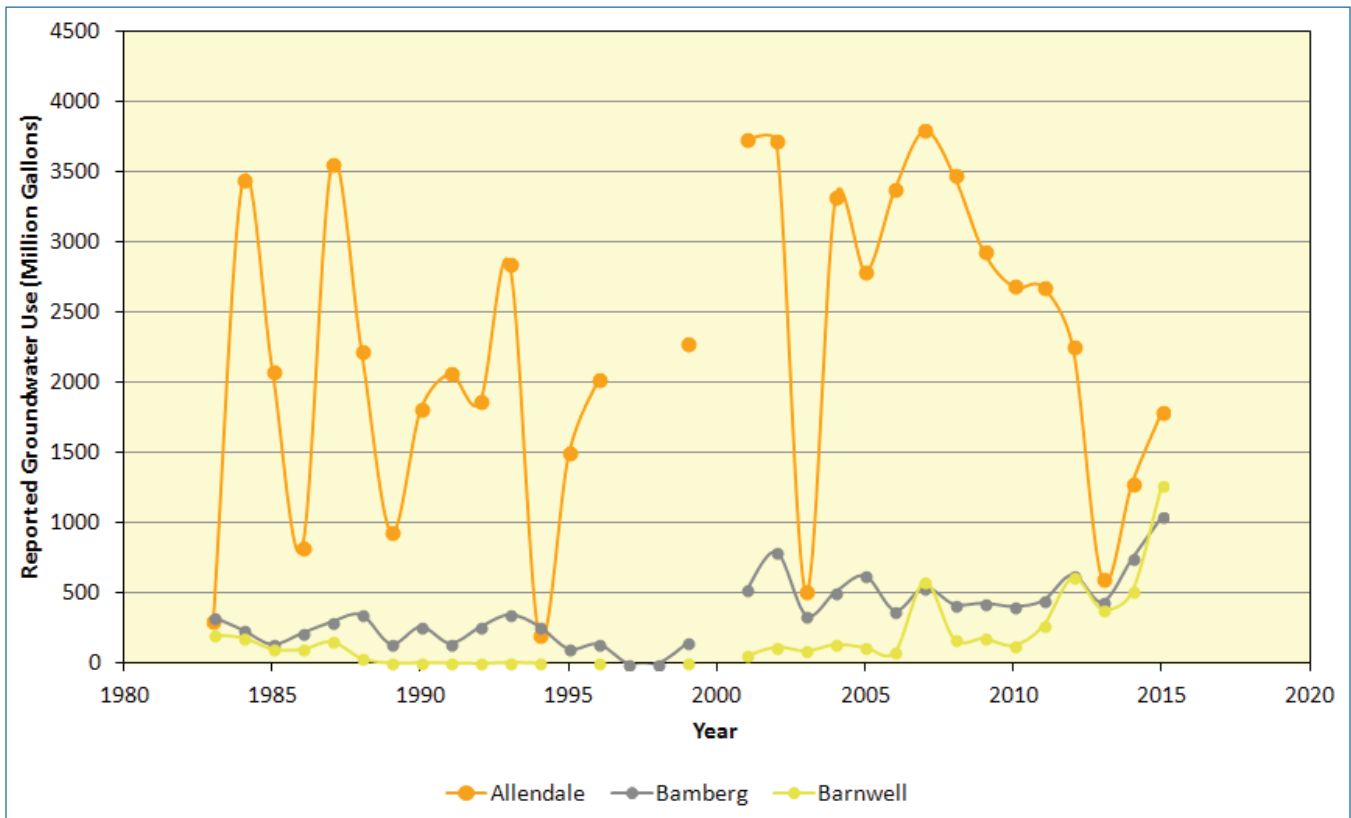


Figure 20: Reported agricultural groundwater use in Allendale, Bamberg, and Barnwell Counties.

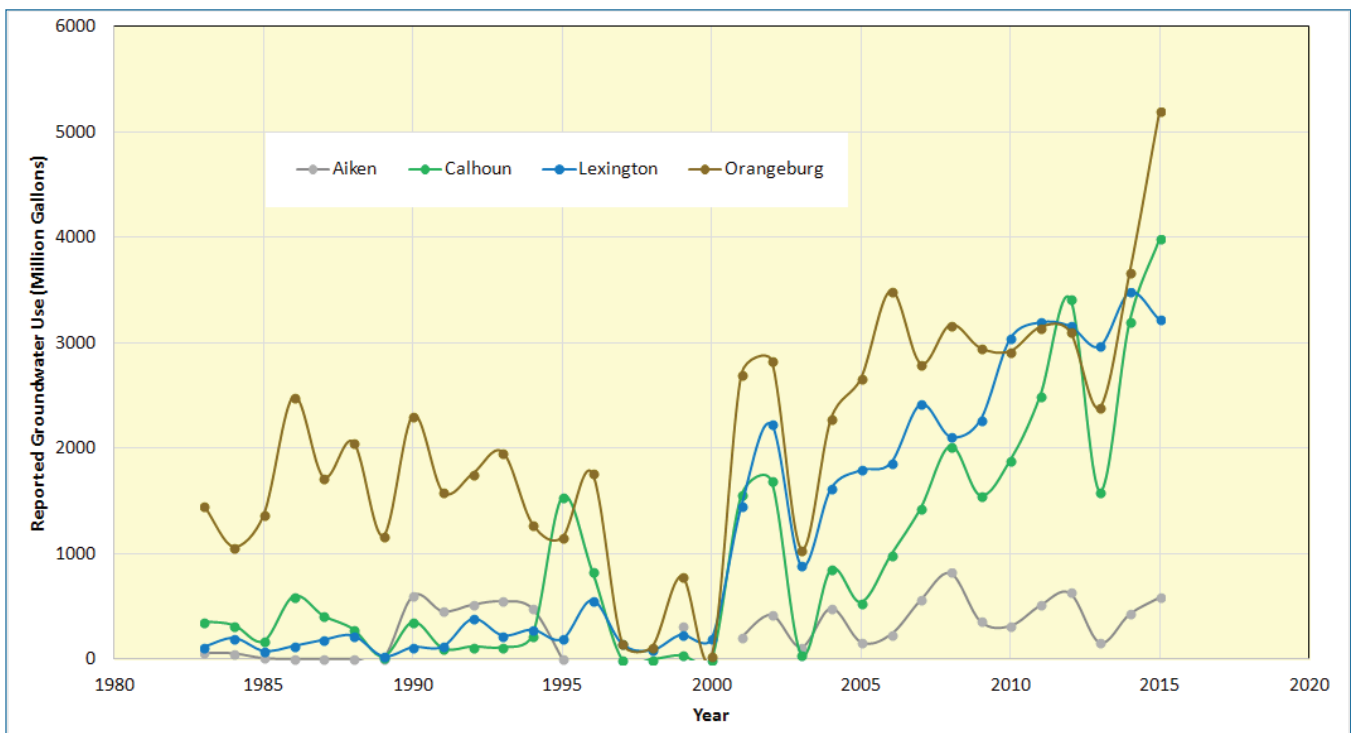


Figure 21: Reported agricultural groundwater use in Aiken, Calhoun, and Orangeburg Counties.

Conclusions and Recommendations

The aquifers in large portions of the Western Region of South Carolina are hydrologically interconnected, indicating groundwater users within the proposed Western Capacity Use Area are utilizing the same resource. Reported groundwater withdrawals in the region have steadily increased and groundwater level declines have been observed in monitoring wells across the counties of concern. Demands on the groundwater resource will continue to increase with a growing population. As the development of the groundwater resource continues, further water level declines will be expected and the potential for adverse impacts to current and future groundwater users will become more frequent and serious over time.

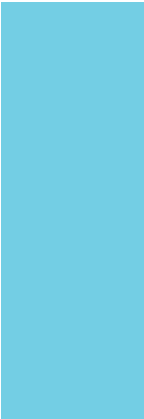
As the proposed counties share the same resource in conjunction with portions of the Low Country Capacity Use Area and the Trident Capacity Use Area, it is appropriate to incorporate the counties of Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg as the Western Capacity Use Area. If designated, the Western Capacity Use Area, in conjunction with the previously designated areas of the Low Country, Pee Dee, and Trident will place three quarters of the coastal plain counties under one reasonable and consistent regulatory program, thereby providing greater measures to prevent, mitigate, and abate potential unreasonable effects on the resource and those entities relying on that resource. Further, if designated, inclusion of the Western Capacity Use Area will, in part, address previous water management studies and reports produced by SCDNR requesting that the entire coastal plain become a Capacity Use Area (Badr, Wachob, and Gellici, 2004).

Based on the preliminary data available to the Department, which have been summarized in this report, Aiken County along with Allendale, Bamberg, Barnwell, Calhoun, Lexington, and Orangeburg counties have developed and utilized groundwater to the degree that coordination and regulation of groundwater supplies may be needed pursuant to the Groundwater Use and Reporting Act, Section 49-5-60. As such, this preliminary data is provided to facilitate the gathering of public input and any additional data or information that will help inform the potential designation of these counties as the Western Capacity Use Area.

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CHAPTER 39
Eggs and Baby Chicks

ARTICLE 1
Sale of Eggs and Baby Chicks Generally [Repealed]

SECTIONS 39-39-10 to 39-39-40. Repealed by 1994 Act No. 379, Section 2, eff May 10, 1994.

ARTICLE 3
Provisions for the Labeling and Marketing of Eggs

SECTION 39-39-110. Definitions.

As used in this chapter:

- (1) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs.
- (2) "Candle" means to determine the interior quality of eggs based on the use of a candling light as defined in the federal standards.
- (3) "Consumer" means a person using eggs for food and includes restaurants, hotels, cafeterias, hospitals, state institutions, and other establishments serving food to be consumed or produced on the premises but does not include the armed forces or other federal agency or institution.
- (4) "Eggs" means the shell eggs of a domesticated chicken, turkey, duck, quail, goose, or guinea hen.
- (5) "Label" means the display of any printed, graphic, or other method of identification on the shipping container or on the immediate container including, but not limited to, an individual consumer package of eggs.
- (6) "South Carolina eggs" means eggs produced in this State.
- (7) "Producer" means a person engaged in the business of producing and marketing eggs laid on his farm.
- (8) "Retailer" means a person, firm, or corporation selling or offering for sale eggs to consumers in this State, or who engages in repacking, relabeling or handling loose eggs in this State.
- (9) "Distributor" means a person offering for sale or distributing eggs in this State to a retailer, cafe, restaurant, or other establishment serving eggs to the public or to an institutional user. It includes a person distributing eggs to his own retail outlet but does not include a person engaged to haul or transport eggs nor a producer.
- (10) "Wholesaler" means a person engaged in the business of buying or receiving eggs from producers or other persons on his own account and selling or transferring eggs to other wholesalers, processors, retailers, or other persons and consumers. A wholesaler further means a person engaged in producing eggs from his own flock and disposing of a portion of this production on a graded basis.
- (11) "Person" means any individual, partnership, association, business trust, corporation, or organized group of persons, whether incorporated or not.
- (12) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.
- (New) "License" means the certificate issued by the department.
- (New) "Egg-Grading Manual" refers to the United States Department of Agriculture Handbook 75
- (New) "Qualified End User" means the consumer of the food (where the term consumer does not include a business).

HISTORY: 1962 Code Section 66-621; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-120. Egg seller licenses; information to be included on application.

All wholesalers, distributors, commission merchants, **producers**, brokers, and dealers who desire to sell or offer eggs for sale in this State shall first file for a license with the Commissioner of Agriculture, upon forms furnished by the commissioner, stating the name of the firm or person desiring to offer eggs for sale either by themselves or by their agent, together with the address of the firm or person and the type or kind of eggs to be offered for sale. **The license must be issued at no cost and in a form prescribed by regulations promulgated by the department. The egg license may involve an administrative fee collected by the department for administrative purposes and shall be renewed annually. The licensing fee shall not exceed \$10 annually.**

HISTORY: 1962 Code Section 66-622; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-121. Wholesaler and distributor licenses; grounds for suspension or revocation; transfer; exception.

(A) A person may not engage in business as a wholesaler or as a distributor without first obtaining a license from the commissioner. A license issued pursuant to this article must not be suspended or revoked except for health and sanitation reasons or for violations of this article and until the affected licensee is provided with reasonable notice and an opportunity for hearing, pursuant to the South Carolina Administrative Procedures Act. Licenses issued pursuant to this article are valid until suspended or revoked and are not transferable with respect to persons or location. **There is no fee for this license.**

(B) Shell egg handlers registered under the United States Department of Agriculture Egg Surveillance Inspection Program are exempt from the provisions of subsection (A) of this section.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-122. Maintenance of records and invoices of egg purchases and sales; facility inspections.

Wholesalers, distributors, and retailers shall maintain records and invoices of their egg purchases for a period of at least ninety days. These records and invoices must show the person or firm to whom the sale was made, the address of the person or firm, and the kind and quantity of eggs involved in the sale, except that this section does not require the filing of a copy of the invoice of a sale to a consumer. The commissioner or his authorized representative may enter, during regular business hours, the place of any producer, wholesaler, retailer, retail establishment, institution, institutional user, warehouse, cold storage house, or other storage places, trucks, or carriers where eggs are stored and inspected.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-130. Shell egg standards, grades and weight classes.

The South Carolina standards, grades, and weight classes for shell eggs are the same as the United States standards, grades, and weight classes for shell eggs and their supplements and revisions as published by the United States Department of Agriculture, except as modified or rejected by regulations promulgated by the Commissioner of Agriculture.

HISTORY: 1962 Code Section 66-623; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-135. Refrigeration.

(A) Shell egg producers shall refrigerate eggs upon gathering the eggs. Eggs must be washed, sanitized, sized, graded and packed within a reasonable period of time from gathering as defined in the USDA Egg-Grading Manual.

(B) After washing, processing, and packaging, eggs must be transported, stored, and displayed at ambient temperatures not to exceed forty-five degrees Fahrenheit until sold at retail or used by a commercial establishment or public institution.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-140. Labeling requirements; conformity to U.S. Department of Agriculture standards; classification to be included in advertising.

(A) In order to protect the producer, the distributor, and the consumer, all eggs sold in this State must be labeled so as to designate their quality, size, and weight class.

(B) The department shall establish standards for the grading, classification, and marking of shell eggs bought and sold by a person in this State.

(C) The standards, on the date of the sale to the consumer, must conform to the minimum standards promulgated by the United States Department of Agriculture as defined in the "United States Standards, Grades and Weight Classes for Shell Eggs", authorized pursuant to 7 U.S.C. Section 1624.

(D) The standards of quality of the United States Department of Agriculture are adopted as the standards of quality for the enforcement of this article. An egg described by the United States Department of Agriculture as being inedible is considered inedible pursuant to the provisions of this article.

(E) At the time of packing and candling of each case of eggs, the producer or dealer shall affix a label in compliance with the Fair Labeling and Packaging Act not less than two inches by four inches or not less than eight square inches on one end of each case. On this label must be printed or stamped, legibly in letters not less than one-fourth of an inch in size, the date when the eggs were packed and candled or the expiration date, which may not exceed forty-five days from the date packed, the size and grade of the eggs, and either the name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. The name of the state of origin may be given. If eggs are sold in cartons, the cartons must show the date packed or the expiration date, which may not exceed forty-five days from the date packed, and the grade and size, together with either the name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. The state of origin also may be given.

(F) Abbreviations of words in the classification or in designating the grade and size are prohibited. The information pertaining to the grade and size must be shown in legible letters not less than one-fourth of an inch in size. The information pertaining to the name and address of the packer or the USDA assigned plant number or a state approved plant identification code and the date packed or expiration date must be given legibly. All wording on egg cases and egg cartons must be in English and must be approved by the Department of Agriculture before using.

(G) Words or phrases tending to obscure or nullify the proper classification of eggs are prohibited. Each word of the classification, including the name of the state of origin, must appear in the same size type and color in a printed advertisement. Abbreviations of a word in the classification or in designating the size and grade to which eggs belong are prohibited. A person advertising eggs for sale, at retail or wholesale, in newspapers, by window displays, or otherwise shall set forth in the advertisement the classification as to size and grade of the eggs offered for sale. The classification must be set forth in letters equal in size to those advertising the eggs for sale.

HISTORY: 1962 Code Section 66-624; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-141. Bulk retail sales; display of placards and information thereon; exceptions as to eggs in cartons; placards in restaurants.

(A) All eggs offered for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers must be classified properly in accordance with this subsection. A heavy cardboard or placard, not less than eight by eleven inches, must be displayed conspicuously at all times on or over each receptacle containing eggs offered for sale, setting forth in letters not less than one inch in height, plainly and legibly, the classification as to the quality, size, weight, and the expiration date or packed on date.

(B) The name and address of the packer or and the USDA assigned plant number or a state approved plant identification code. ~~The name of the state of origin of eggs may appear on the placard.~~

(C) The placard is not required if eggs are packed in properly labeled cartons. The eggs are required to meet the standard as noted on the placard.

(D) Restaurants, hotels, or other eating places shall ~~display conspicuously a placard at all times on or over each receptacle containing eggs to be used in food preparation~~ provided to SC Department of Health and Environmental Control proof of department's licensed source.

HISTORY: 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-150. Unlawful acts.

It is unlawful to:

- (1) (a) offer eggs for sale at retail in open cases, boxes, or other containers from which eggs are sold in bulk to consumers and fail to display conspicuously on the case, box, or other container a plainly written designation showing the correct grade and weight class to which the eggs conform. The designation must be of the kind and in the manner required by regulations of the Department of Agriculture;
(b) offer eggs without proper labeling 39-39-140 to include size, grade, producer's address, packed on or expiration by date and department's license information or USDA assigned plant number.
- (2) use the word "nulaid", "country", "hennerly", "day-old", "select", "selected", ~~"certified"~~, "best", "nearby", "fresh-laid", or a similar descriptive term which the Commissioner of Agriculture, by regulation, prohibits in connection with the advertising or selling of eggs;
- (3) use the words "South Carolina" in connection with the advertisement and sale of eggs not produced in this State;
- (4) use the word "fresh" in connection with the advertisement and sale of eggs not produced in this State unless those eggs meet or exceed the quality standard designated "Grade A";
- (5) offer eggs for sale that are not stored properly in a refrigerated state or at the temperature specified in Section 39-39-135.

HISTORY: 1962 Code Section 66-626; 1955 (49) 316; 1972 (57) 2820; 1977 Act No. 128 Sections 1, 2; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-160. Enforcement; promulgation of rules and regulations.

The Commissioner of Agriculture is charged with the enforcement of this chapter and is authorized to promulgate regulations necessary to carry out its provisions and purposes.

HISTORY: 1962 Code Section 66-627; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-170. Exemptions.

The following are exempt from this chapter:

- (1) persons who buy or sell eggs to be used exclusively for hatching purposes;
- (2) shipments of eggs in interstate commerce;
- (3) producer who sell eggs at a roadside stand near the farm on which the eggs were produced.

(4) producer selling eggs from their farms directly to end consumers of their production offsite when egg sales do not exceed 30 dozen per week.

(5) retailers, wholesalers, distributors who do not repack or relabel but only engage in purchasing from USDA shielded/SCDA licensed egg producers.

(6) A farm/ producer eligible for an exemption under this section may complete forms made available by the department. The department shall issue the farm an exemption certificate as an official acknowledgement of the farm's exemption status.

HISTORY: 1962 Code Section 66-628; 1955 (49) 316; 1972 (57) 2820; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SECTION 39-39-180. Penalties.

(A) A civil action may be brought by the Commissioner of Agriculture in a court of competent jurisdiction to recover a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(B) The commissioner or his designee may conduct an administrative hearing and, upon notice and an opportunity to be heard, may assess a civil penalty of not less than:

- (1) one hundred nor more than two hundred dollars for a first violation;
- (2) two hundred fifty nor more than five hundred dollars for a second violation within two years from the date of the first violation;
- (3) one thousand nor more than five thousand dollars for a third violation within two years of the first violation.

(C) A person found willfully violating this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than ninety days, or both, in the discretion of the court.

HISTORY: 1962 Code Section 66-629; 1955 (49) 316; 1994 Act No. 379, Section 1, eff May 10, 1994; 2005 Act No. 23, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005).

SUBARTICLE 6

SALVAGE OPERATIONS DEALING IN FOODS AND COSMETICS

5–360. Definitions.

The definitions and interpretations contained in § 39-25-20 of the South Carolina Food and Cosmetic Act are applicable to such terms when used in these Regulations. The following definitions shall also apply:

- (1) “Act” means the South Carolina Food and Cosmetic Act.
- (2) “Department” shall mean the South Carolina Department of Agriculture.
- (3) “Commissioner” shall mean the Commissioner of Agriculture and/or his designated representative.
- (4) “Cosmetic” shall mean (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles, except that such term shall not include soap.
- (5) “Food” shall mean (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.
- (6) “Salvager” shall mean a person, firm or corporation engaged in the business of reconditioning, labeling, ~~relabeling~~, sorting, cleaning, culling or by other means salvaging and who sells, offers for sale, or distributes for human or animal consumption any salvaged food, feed, any salvaged cosmetic or any other products of similar nature that may have been contaminated by fire, water, smoke, chemicals, transit, or by any other means.
- (7) “Salvage Auction Firm” means a person engaged in the business of selling salvaged food or salvaged cosmetics for his own account or for others, irrespective of the manner in which he is compensated or receives consideration with respect to such sale.
- (8) “Salvage Distributor” means a person engaged in the business of selling, storing, offering for

sale, distributing, peddling, or otherwise trafficking in salvaged food, feed, or cosmetic or unsalvageable food

or cosmetics.

(9) "Hazardous substances" is a substance or mixture of substances which is toxic, corrosive, an irritant, flammable, or which generates pressure through heat, decomposition or other means; or which has been designated by the United States Product Safety Commission as a strong sensitizer, or a radioactive material or which "may cause substantial personal injury or substantial illness during or as a proximate result of any reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children."

(10) "Perishable" shall mean any food or cosmetic of such type or in such condition or physical state as it may spoil or otherwise become unfit for human consumption or use.

(11) ~~"Potentially hazardous food"~~ "Time/Temperature Control for Safety (TCS) Food" shall mean any perishable food which consists in whole or in part

of milk or milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

(12) "Safe temperatures" as applied to potentially hazardous food means an air temperature of 45°F. or below and 140°F. or above.

(13) "Salvageable merchandise" is any food, feed, or cosmetic which can be reconditioned, labeled, ~~re-labeled~~, repackaged, ~~re-coopered~~, sorted, cleaned, culled, trimmed, or by any other means salvaged and which brings such item into compliance with requirements of the Act and Regulations under this Act and its amendments, to the satisfaction of the Commissioner, and which is not deleterious to the health of the consumer.

(14) "Salvaged merchandise" means any food or feed item or cosmetic which (or the container or label of

which) may have been subject to damage, contamination, deterioration, or other adverse effect by fire, water, smoke, chemicals, impact, exposure to the elements, temperature change, or any other forces or means which may cause the same to fail to be in compliance with the South Carolina Food and

Cosmetic Act and its Regulations.

(15) “Wholesome” shall mean food, feed, or cosmetics in sound condition, clean, free from adulteration and otherwise suitable for human or animal consumption or use.

5-361. ~~Permits.~~ Registration

(1) No person shall act as a salvager in South Carolina unless he has a ~~permit~~ Registration Verification Certificate (RVC) as provided in these

Regulations issued by the Commissioner.

(2) There shall be five ~~permit~~ registration classifications for salvagers. These shall be designated as follows:

(a) **General Salvager**—The General Salvager is required to have proper facilities for cleaning and sanitizing food, feed, and cosmetic containers that are salvageable.

~~(b) **Railroad Salvager Only**—The Railroad Salvager may segregate and clean soiled containers resulting from unit breakage or damage, which may be done with a cloth dampened with potable water.~~

(c) **Out-of-State Salvage Distributor**—The Out-of-State Salvage Distributor may do general salvaging provided adequate facilities are made available and the salvage work is done under the supervision of the Permitting, Licensing, or regulatory agency of said state. ~~Department.~~ The Out-of-State Salvage Distributor must possess a permit, license, or certificate from the state of origin verified by the Department.

(d) **Salvage Distributor**—The Salvage Distributor may only distribute and sell salvaged food, feed, and cosmetics after they have been reconditioned. In addition, the Salvage Distributor may do a minimal amount of segregating and cleaning soiled containers resulting from unit breakage or damage, which may be done with a cloth dampened with potable water.

(e) **Salvage Auction Firm**—The Salvage Auction Firm must have a business location and address from which business is conducted. An auction firm may not recondition or reprocess foods, feeds, or cosmetics unless it also holds a General Salvager ~~Permit~~ Registration Verification Certificate.

(3) Applications for ~~permits~~ Registration Verification Certificates shall be made upon a form provided by the Commissioner. A person subject to inspection pursuant to chapter **SECTION 39-25-210** may not engage in the business in any manner without first registering with the department. Registration must

be renewed annually thereafter on or before the first day of January on forms provided by the department.

(f) – Salvage Warehouse/Storage Facility

~~Application for permit renewal shall be made on or before June the first in each year for the permit year beginning~~

~~the following July the first. There shall be no charge for this application.~~

(4) The applicant shall satisfy the Commissioner that he has adequate physical facilities for salvaging Food, feed, and cosmetic products. If so satisfied, the Commissioner shall issue to the applicant a ~~permit~~ Registration Verification Certificate which shall be nontransferable. Where a person has more than one salvage operation, a separate ~~permit~~ Registration Verification Certificate is required for each location.

(5) The Commissioner may decline to grant a ~~permit~~ Registration Verification Certificate or may suspend or revoke a ~~permit~~ Registration Verification Certificate already granted, after due notice to the applicant by mail or otherwise, when it appears (1) that any statement in the application or upon which it was issued is or was false or misleading, (2) that the applicant or ~~permit~~ Registration Verification Certificate holder does not have adequate physical facilities for salvaging food, feed, and cosmetic products, or

(3) that the applicant has failed to comply with any of the provisions of these Regulations.

(6) The ~~permit~~ Registration Verification Certificate shall be displayed conspicuously in the place of business.

5-362. Notification.

A ~~permit~~ Registration Verification Certificate holder shall immediately notify the Department of any purchase of salvageable or distressed foods, feeds or cosmetics. Such notification shall be made prior to the beginning of any salvage operations. ~~Telephone numbers will be furnished to all salvagers upon request.~~

5-363. Records.

A record or receipt of damaged merchandise, merchandise found to be unfit, and salvaged merchandise shall be kept by salvagers and shall be kept open for inspection by the Commissioner. These records shall be kept on the premises of the salvager for a period of not less than one year following the completion of transactions involving a lot of merchandise.

5-364. Movement of Seized Foods and Cosmetics.

(1) It shall be unlawful for foods, feeds, or cosmetics held under seizure or embargo by the Commissioner to be moved to a different location without prior permission by the Commissioner.

(2) All movements of seized or embargoed foods, feeds, or cosmetics are to be made only under the supervision of the Commissioner.

(3) Food, feed, and cosmetic products shall be moved from the site of a fire, flood, wreck or other cause as expeditiously as possible so as not to become putrid, unwholesome, rodent or insect harborage, or otherwise a menace to public health.

(4) All seized or quarantined foods, feeds, or cosmetics, prior to reconditioning and release from seizure, shall be transported only in vehicles provided with devices to render them capable of being locked and sealed. Where highly perishable foods, feeds, or cosmetics are transported, this is to be done in vehicles provided with adequate refrigeration for product maintenance.

5-365. Labeling and Relabeling.

(1) All salvaged merchandise must display a proper label on the packaging unless otherwise exempted by the South Carolina Food and Cosmetic Act. Cans or packages without full labeling information shall not be sold individually or by any multiple can, package, or case sale.

(2) All labels on a closed container or package of food, whether printed, embossed, or stamped thereon, shall be easily and clearly readable and legible and shall show all data or information required under the "General Regulations for the Enforcement of the South Carolina Food and Cosmetic Act, Article IV-FOOD." Cosmetics shall comply with "Article V-COSMETICS" of the Regulations.

~~(3) Where original labels are removed from containers which are to be resold, salvager replacement labels must show the name of the salvager as the distributor.~~

5-366. Building Exterior and Grounds.

The grounds around a salvage operation under the control of the operator or owner shall be free from conditions which may result in the contamination of food including, but not limited to, the following:

(1) Improperly stored equipment, litter, waste, refuse, and uncut weeds or grass within the

immediate vicinity of the operation which may constitute an attractant breeding place, or harborage for rodents, insects, or other vermin.

(2) Inadequately drained areas and excessively dusty roads, yards, or parking lots which may constitute a source of contamination to food products by providing a breeding place for insects, microorganisms, or other vermin.

(3) Inadequate and open garbage bins, containers, pits, or cans used for disposal which may allow pilferage or which may be an attraction for insects, rodents, or other animals.

5-367. Building Construction.

All salvage operations shall be performed in buildings or structures with facilities, equipment and procedures which meet the following requirements:

(1) The exterior shall be so designed, fabricated, and finished as to ~~minimize the easy~~ prevent the entrance of

insects, birds, rodents, and other vermin.

(2) All necessary ventilation openings shall be effectively screened against insects, rodents, and birds.

(3) All service connections through the exterior wall including water, gas, electrical, and refrigerator connections, shall be grommeted or sealed to prevent the entrance of insects, birds, and rodents.

5-368. Physical Layout Requirements.

All General Salvagers must have at least the following rooms for normal operation: (1) Receiving room, (2) Reconditioning (cleaning) room and (3) Storage room for reconditioned merchandise. If retail sales are made on the premises, a separate room shall be provided for this purpose. Where frozen or refrigerated foods are handled, refrigerators, freezer rooms and/or freezer cabinets shall be provided.

(1) The Salvage Receiving room shall be separated from other rooms by a solid wall divider. All

Foods, feeds, and cosmetics which are known to be unsalvageable shall be disposed of and removed from the

receiving room as soon as possible.

(2) The Reconditioning room shall be suitably arranged and equipped, providing for the actual cleaning and reworking of the salvageable merchandise. Effective bactericidal treatment of salvageable merchandise shall be done by a method approved by the Commissioner as being effective in destroying microorganisms.

(3) The Storage room shall be used only for storage of reconditioned and undamaged foods, feeds, or cosmetics.

5-369. Sanitation Requirements for Receiving, Reconditioning, and Storage Areas.

(1) Floors shall be easily cleanable, smooth and of tight construction. Floors shall be of nonabsorbent material or shall be covered with a nonabsorbent coating.

(2) The joints at floor-wall junctures shall be tight and without cracks and tunnels.

(3) The floors shall be kept clean and in good repair.

(4) The surface of walls and ceilings shall be reasonably smooth and easily cleanable.

(5) All walls and ceilings shall be kept clean and in good repair.

(6) All openings to the outside shall have tight fitting doors and windows.

(7) If doors or windows are left open for ventilation, they shall be properly screened or protected to prevent ~~easy~~ entry of birds, rodents, insects, or other vermin.

(8) Reconditioning areas shall be adequately lighted so as to permit the activity for which the premises are used to be carried on safely and to permit effective cleaning and inspection of reconditioned goods.

(9) Light bulbs, fixtures, skylights, or other glass suspended over exposed foods shall be of safety type or otherwise protected to prevent food contamination in case of breakage.

(10) The water supply shall be adequate, of a safe and sanitary quality, and from a source approved by the Department.

(11) All apparatus, utensils and appurtenances used in the handling and reconditioning of salvage goods shall be so constructed and placed that they can be thoroughly cleaned. Such equipment shall be

kept clean and sanitary and in good repair.

(12) No person shall live or sleep in any building used as a salvaging plant. ~~unless the salvaging plant or work room of such salvaging plant is separated by impervious walls without doors or windows or other openings from the parts of the building used for living or sleeping quarters.~~

(13) Vats, sinks and other washing equipment, provided with hot and cold running water and proper drains, shall be available for cleaning, rinsing, and bactericidal treatment of food containers to be reconditioned. Necessary equipment for drying, buffing, relabeling and repacking shall be provided where required.

(14) All employees shall be clean at all times and shall wear clean, washable clothing and hair restraints, where the operation requires. They shall not smoke or chew tobacco where unpackaged foods, feeds, or cosmetics are handled.

(15) No person suffering from or afflicted with a contagious or infectious disease shall be employed in or about any part of a salvaging plant.

(16) The General Salvager shall provide a conveniently located toilet which shall be kept clean and in good repair. The toilet room shall be completely enclosed and well lighted. A hand washing facility shall be provided adjacent to or in the toilet room and shall be kept clean and in good repair. A sign directing employees to wash their hands before returning to work shall also be placed in all toilet rooms.

5-370. General Requirements for Sales Areas.

All foods, feeds, and cosmetics displayed in the sales area (whether for sale on a retail basis or wholesale

basis) shall be wholesome and unadulterated. The following shall also apply:

(1) Packed foods for human consumption in cloth or paper containers and packages shall not be stored directly on the floor.

(2) Canned and packaged food and cosmetic display racks and shelving shall be kept clean and in good repair.

(3) ~~All~~ No unwrapped cereal, bakery, meat and candy products shall be on displayed in a sanitary container or showcased and as to protected from handling by the public.

(4) Metal food containers shall be free of seam, rim, and severe distortions and body dents as well as leaks.

(5) Cereal products, including but not limited to grits, flour, meal and breakfast cereals, as well as other food items packaged in paper or cloth containers, shall be free from open tears, rips, insects, and water damage.

(6) Animal foods shall be displayed separately from human food products.

~~(7) Any article of food normally used for human consumption but intended by the establishment to be used other than for human consumption shall be marked by the owner in accordance with methods described by the Department in such a way as to indicate plainly that the article is not to be sold as human food.~~

(8) Perishable and ~~potentially hazardous foods~~ Time/Temperature Control for Safety (TCS) Foods shall be stored and/or displayed at a safe temperature in keeping with good trade practices to insure that when the food reaches the consumer it is safe and fit for human consumption.

(9) All refrigerated food shall be held at an air temperature of 45°F or lower and display cases, food storage refrigerators and walk-in coolers shall be equipped with an accurate visible thermometer located in the warmest storage area. All coolers shall be kept clean and in good repair.

(10) All frozen food shall be held at an air temperature of 0°F. or lower. The internal product temperature shall not exceed 10°F. at any time.

(11) If both salvaged and **non-salvaged** merchandise are offered for sale on the same premises, all salvaged merchandise must be displayed in a section separate and apart from **non-salvaged** merchandise

or the salvaged merchandise must be stamped or marked plainly to indicate to the consumer that

it is salvaged or the non-salvage merchandise must be stamped or marked plainly to indicate to the consumer that it is non-salvage merchandise. If salvaged merchandise is displayed in a separate section, such section must be designated by a placard or sign with the following wording "Salvaged Merchandise" of sufficient size and contrast to be readily seen by the consumer.

5-371. Waste Disposal.

- (1) All liquid wastes resulting from cleaning equipment and floors, toilets, hand washing facilities, refrigeration devices, and air conditioners, shall be disposed of in a public sewage system or other approved method.
- (2) All garbage and rubbish containing food wastes prior to disposal, shall be kept in leak-proof, nonabsorbent, easily cleanable containers so as to be inaccessible to rodents, insects, and other vermin.
- (3) All areas in a salvage operation shall be free from unnecessary litter, rubbish, paper, empty containers and other material which might serve as a harborage for rodents, insects, or other vermin.
- (4) All garbage and rubbish shall be disposed of at regular intervals of sufficient frequency and in such a manner as to prevent objectionable conditions.
- (5) All unsalvageable merchandise must be denatured or disposed of in a manner approved by the Commissioner.

5-372. Rodents, Insects, and Other Vermin.

- (1) All reasonable measures shall be taken to protect against the entrance, breeding or presence of rodents, birds, flies, roaches, weevils, and other vermin in a salvage operation or establishment.
- (2) ~~Unwrapped~~ protected foods or cosmetics shall be covered or adequately protected when using aerosol or fogging methods for applying approved pesticides for vermin control.
- (3) Rodent control poisons shall be placed in covered bait boxes to prevent spillage or possible contamination of food and danger to employees. The bait boxes shall be properly labeled with a warning notice. Bait boxes containing loose poison shall not be used in the General Sales Area.
- (4) Pesticides and rodenticides used shall be subject to approval by the Department and shall be applied in accordance with the manufacturer's labeled instructions.

5-373. Miscellaneous.

The provisions of these Regulations are in addition to and are not in lieu of the provisions of law or regulations which otherwise or also apply to a Salvager. The Department shall take any other action or

procedure necessary to insure that only wholesome food, feed, and cosmetics are held for sale and are sold by such establishment.

Chair Wm. Weston J. Newton

*First Vice-Chair:
Laurie Slade Funderburk*

Legislative Oversight Committee

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June 16, 2017

The Honorable Hugh E. Weathers
Commissioner, Department of Agriculture
Post Office Box 11280
Columbia, South Carolina 29211-1280

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, we thank you and your staff for your recent presentation to the Subcommittee on June 15, 2017.

During this meeting, we discussed the agency's recommendations for law changes. It was helpful to view the draft language you kindly provided for three of the agency's recommendations: (1) model feed law proposed by the American Association of Feed Control Officials; (2) proposed revisions to Title 39, Chapter 39 (Provisions for the Labeling and Marketing of Eggs); and (3) proposed revisions to Regulation 5-360 (Salvage Operations Dealing in Foods and Cosmetics). To assist discussion of the other agency recommendations, please provide the Subcommittee with similar draft language (i.e., strike through and underline format).

Thank you for your service to the citizens of South Carolina and for your cooperation with the legislative oversight process.

Sincerely,


Signature Redacted

Laurie Slade Funderburk
First Vice-Chair, House Legislative Oversight Committee

cc: Economic Development, Transportation and Natural Resources Subcommittee Members

Appendix K. June 22, 2017 Meeting Information

Appendix Includes:

- Meeting Packet
 - Agenda
 - June 15, 2017 - Meeting Minutes
 - Department of Agriculture
 - Letter from Oversight Subcommittee to Department of Agriculture (June 16, 2017)
 - Study status
 - Agency's recommended statutory changes (June 15, 2017)
 - PowerPoint - Agency's recommended statutory changes (June 15, 2017)
 - Human Affairs Commission
 - Study status
 - PowerPoint - Agency history and operations (June 22, 2017)
 - Fact Sheet - History, mission, goals, and deliverables
- Correspondence after meeting
 - Letter from Oversight Subcommittee to Department of Agriculture (June 27, 2017)
 - Follows up to the June 22, 2017, work session, by requesting additional information from the agency relating to its recommendations.
 - Email from Department of Agriculture about the agency's recommendations (July 10, 2017)
 - Provides information in response to the Subcommittee's June 27, 2017 letter.

South Carolina
House of Representatives



Legislative Oversight Committee

*ECONOMIC DEVELOPMENT, TRANSPORTATION,
AND NATURAL RESOURCES SUBCOMMITTEE*

The Honorable Neal A. Collins

The Honorable Mandy Powers Norrell

The Honorable Robert L. Ridgeway III

Thursday, June 22, 2017

10:00 a.m.

108-Blatt Building

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming
whenever technologically feasible.*

AGENDA

- I. Approval of Minutes**
- II. Discussion of the study of the Department of Agriculture**
- III. Discussion of the study of the Human Affairs Commission**
- IV. Adjournment**



Economic Development, Transportation and Natural Resources Subcommittee

Thursday, June 15, 2017 at 10:00 am in Room 427

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Vice-Chair Laurie Slade Funderburk on Thursday, June 15, 2017, in Room 427 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Representative Mandy Powers Norrell, and Representative Neal A. Collins.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Norrell moved to approve the minutes from the Subcommittee's meeting on May 2, 2017, and to approve the minutes as corrected (scrivener's error) from the February 28, 2017, meeting. A roll call vote was held, and the motion passed.

Rep. Norrell motions to approve the minutes from the May 2, 2017 meeting, and to approve minutes as corrected (scrivener's error) for the February 28, 2017 meeting minutes:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway			✓	
Rep. Funderburk	✓			

Discussion of the Department of Agriculture

- I. Vice-Chair Funderburk provides an update of the Subcommittee's work related to the Department of Agriculture. She stated the purpose of this meeting is to discuss any agency recommendations the agency may have for the Subcommittee's consideration.
- II. Vice-Chair Funderburk reminds everyone that has previously been sworn in that they remain under oath for any testimony before this Subcommittee or the full Committee. Vice-Chair Funderburk swears in Derrick Michael Underwood, Assistant Commissioner for the Department of Agriculture.
- III. Commissioner of Agriculture, Hugh E. Weathers, presents the agency's thoughts on recommendations for law changes for the Subcommittee to consider. The agency's presentation to the Subcommittee is available online for the public to view.
- IV. Members ask questions, which different representatives of the agency answer: Commissioner Weathers; Assistant Commissioner Underwood (Consumer Protection); and Assistant Commissioner Aaron Wood (Agency Operations).
- V. There being no further business, the meeting was adjourned.

Chair Wm. Weston J. Newton

*First Vice-Chair:
Laurie Slade Funderburk*

Legislative Oversight Committee

*Katherine E. (Katie) Arrington
Gary E. Clary
MaryGail K. Douglas
Phyllis J. Henderson
Joseph H. Jefferson Jr.
Mandy Powers Norrell
J. Todd Rutherford
Tommy M. Stringer
Bill Taylor*



*William K. (Bill) Bowers
Neal Collins
Raye Felder
William M. "Bill" Hixon
Robert L. Ridgeway III
James E. Smith Jr.
Edward R. Tallon Sr.
Robert Q. Williams*

South Carolina House of Representatives

*Jennifer L. Dobson
Research Director*

*Cathy A. Greer
Administration Coordinator*

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Columbia, South Carolina 29211
Telephone: (803) 212-6810 • Fax: (803) 212-6811
Room 228 Blatt Building**

*Charles L. Appleby IV
Legal Counsel*

*Carmen J. McCutcheon Simon
Research Analyst/Auditor*

June 16, 2017

The Honorable Hugh E. Weathers
Commissioner, Department of Agriculture
Post Office Box 11280
Columbia, South Carolina 29211-1280

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, we thank you and your staff for your recent presentation to the Subcommittee on June 15, 2017.

During this meeting, we discussed the agency's recommendations for law changes. It was helpful to view the draft language you kindly provided for three of the agency's recommendations: (1) model feed law proposed by the American Association of Feed Control Officials; (2) proposed revisions to Title 39, Chapter 39 (Provisions for the Labeling and Marketing of Eggs); and (3) proposed revisions to Regulation 5-360 (Salvage Operations Dealing in Foods and Cosmetics). To assist discussion of the other agency recommendations, please provide the Subcommittee with similar draft language (i.e., strike through and underline format).

Thank you for your service to the citizens of South Carolina and for your cooperation with the legislative oversight process.

Sincerely,

A handwritten signature in cursive script, appearing to read "L. Funderburk".

Laurie Slade Funderburk
First Vice-Chair, House Legislative Oversight Committee

cc: Economic Development, Transportation and Natural Resources Subcommittee Members

Key Dates and Actions of the Study Process for the **Department of Agriculture**

House Legislative Oversight Committee's Actions

- January 28, 2016 - Approves the study of the agency
- February 2016, 2015 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor
- June 28, 2016- Issues press release announcing public survey opportunity for the agency

Economic Development, Transportation, and Natural Resources Subcommittee's Actions

- April 28, 2016 - **(Meeting 1)** Holds introductory meeting with the agency to discuss the legislative oversight process
- July 6, 2016 - **(Meeting 2)** Holds public input meeting and receives information on agency's history, mission, and vision
- October 31, 2016 - **(Meeting 3)** Discusses South Carolina Commodity Boards structure and function
- January 26, 2017 - **(Meeting 4)** Hold work session to update members on status of study and obtain any questions Members may have for the agency at the next meeting
- February 16, 2017 - **(Meeting 5)** Discusses the agency's program structure in the General Appropriations Act; agency's goals and strategic plan; agency's operations; and agency's partners
- May 2, 2017 - **(Meeting 6)** Discusses the agency's successes; challenges; emerging issues and objectives
- June 15, 2017 - **(Meeting 7)** Discusses the agency's recommendations for law changes

Department of Agriculture's Actions

- March 21, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- August 25, 2016 - - Submits agency's Program Evaluation Report
- December 30, 2016 - - Submits updated information relating to the agency's Program Evaluation Report to ensure the website information remains current

Public's Actions

- May 1, 2016 - May 31, 2016 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - www.scstatehouse.gov)
- July 6, 2016 - Opportunity for public input at subcommittee meeting
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

SCDA Recommended Statutory Changes

- Delete the Agriculture Commission's powers to establish policies for South Carolina Department of Agriculture (SCDA), and annually approve the agency's budget request; found in 46-5-20(1) and (2)
- Establish an appointment procedure of Agriculture Commission members after a seat has either been vacant the term expired for more than two years; 46-5-10
- Remove the bonding requirements of the Commissioner of Agriculture; 46-3-50
- Adopt the model feed law proposed by the American Association of Feed Control Officials (AAFCO)
- Authorize SCDA to fine businesses that habitually and willfully violate existing consumer protection labeling / quality laws
- Require businesses that dispense petroleum products to notify SCDA within 30 days of operating dispensers
- Allow a \$5 per dispenser registration fee for businesses that dispense petroleum products
- Enforce a scalable monetary penalty for habitual and willful offenders of petroleum law, when taking advantage of the consumer
- Authorize an application fee for a food business when registering for a Registration Verification Certificate (RVC)
- Authorize a tiered annual fee for RVCs
- Modernize salvage food regulations by eliminating salvage permit and covering under the RVC
- Modernize the cotton warehouse receipt law (accept Permanent Bale Identification (PBI) from a cotton gin as the universal warehouse receipt number)
- Remove the exemption registration burden, found in 44-1-143 (H) from small home-based food producers
- Revise the state egg law to exempt USDA graded facilities from state licensing, add quail eggs, and remove the licensing requirement for small producers

South Carolina Department of Agriculture

Hugh E. Weathers, Commissioner



House Legislative Oversight Committee
Economic Development, Transportation, and Natural Resources Subcommittee
June 15, 2017

SC Agriculture Commission

Delete the Agriculture Commission's powers to establish SCDA policies and annually approve SCDA's budget request

- 46-5-20 (1) and (2)
- Agriculture Commission is currently not governing SCDA or approving any budget requests
- SC Attorney General's Opinion (May 3, 1999)



SC Agriculture Commission

Make a statutory change to the election procedure, or who has appointment responsibility, of Agriculture Commission members

- 46-5-10
- Currently, vacancies take a significant amount of time to be filled
- After 1) an established period of time of a seat being vacant or term expired; 2) candidate recommendations have been provided to the legislative delegation; and 2) specified notification attempts to the legislative delegation have been made; the Commissioner of Agriculture would have authority to appoint Commission members



SC Commissioner of Agriculture

Remove the bonding requirements of the Commissioner of Agriculture

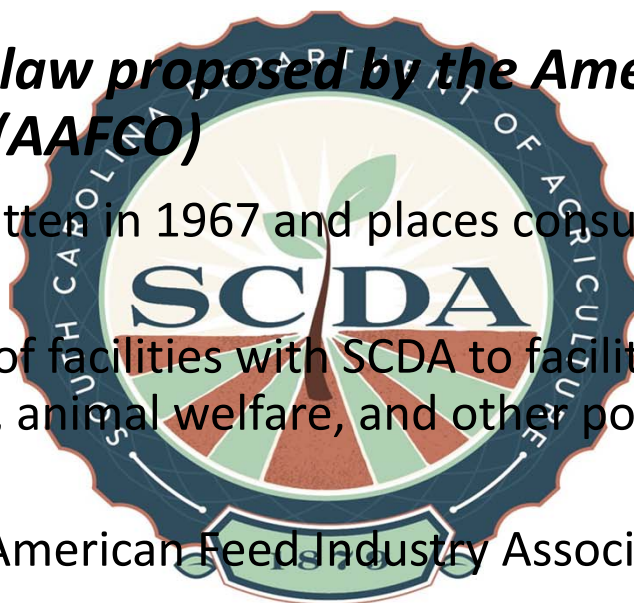
- 46-3-50
- The Insurance Reserve Fund, a Division of the State Fiscal Accountability Authority (SEAA), provides all state agencies, departments, institutions, commissions, boards, personnel, etc. with both liability and property insurance
- Grain producers, dealers, and warehouses are covered under 46-40-10, et seq. and 46-41-10, et seq.



Feed Law

Adopt the model feed law proposed by the American Association of Feed Control Officials (AAFCO)

- Current feed law was written in 1967 and places consumers and feed mills at a disadvantage
- Will require registration of facilities with SCDA to facilitate recalls and stay on top of food borne outbreaks, animal welfare, and other potential issues prior to an event
- Supported by the AFIA (American Feed Industry Association)
- Draft language provided



Labeling & Quality violations

Authorize SCDA to fine businesses that habitually violate existing consumer protection labeling / quality laws

- Fine would escalate with number of offenses and risk to public safety/health
- Willful and habitual violators should pay the costs for duplicative laboratory analyses, additional sampling, and re-inspection
- Petroleum – octane, ethanol, distillation profile, sulfur, water/sediment
- Feed – *current law allows*
- Ground meat products – fat, extenders, preservatives, color
- Frozen Desserts – butterfat content, total solids per gallon, weight per gallon



Petroleum Law

Require businesses that dispense petroleum products to notify SCDA within 30 days of operating dispensers

- LP, natural gas, gasoline, diesel, kerosene, jet A, avgas, home heating oil

Allow a \$5 per dispenser registration fee for businesses that dispense petroleum products

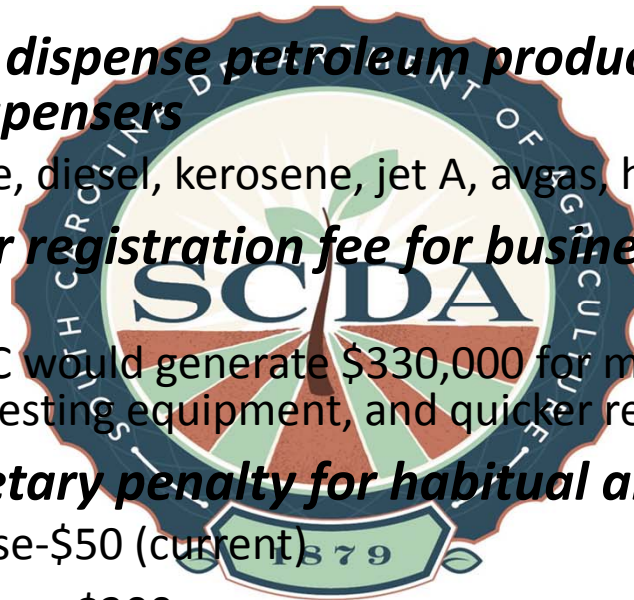
- 66,000 dispensers in SC would generate \$330,000 for more inspectors, software enhancements, more testing equipment, and quicker response time

Enforce a scalable monetary penalty for habitual and willful offenders

- Recommend: 1st Offense-\$50 (current)

2nd Offense-\$200

3rd Offense-\$500



Food Manufacturers, Wholesalers, Distributors

Authorize an application fee for a food business Registration Verification Certificate (RVC).

- With an application, SCDA reviews business plan, product analysis, certifications and training requirements, and labels.
- Recommend: \$25
- Existing businesses who hold a current RVC would be exempt.

Authorize a tiered annual fee for RVCs.

- Based on risk/length of inspection and size of firm to prevent small prospective manufacturers from being burdened.
- Will allow for more inspectors, better equipment, and faster response time.
- This is similar to the current DHEC model for retail inspections.



Salvage Permit

Modernize salvage food regulations by eliminating salvage permit and covering under the RVC

- Regulation verbiage needs updating to reflect modern language and terminology consistent with current food safety laws and regulations
- Will eliminate duplication of inspection and licensing/permitting
- Draft language provided



Electronic Warehouse Receipts

Modernize the cotton warehouse receipt law--accept Permanent Bale Identification (PBI) from a cotton gin as the universal warehouse receipt number

- **SECTION 39-22-110.** Currently requires identification tags on bales
- Allow the PBI tag to be accompanied by a sticker to assist warehouse personnel receiving cotton
- Sticker will include
 - the Brand “South Carolina”
 - palmetto tree with a bale of cotton lying at the roots
 - shield of state of SC
- Sticker must be placed in close proximity to PBI tag



“Cottage Food” Exemption

Remove the exemption registration burden, found in 44-1-143 (H), from small home-based food producers

- The new food code adopted by DHEC eliminates the need for this exemption by allowing nonhazardous home based foods to be sold retail to the end consumer and is less restrictive
- SCDA does not regulate retail food sales directly to the end consumer
- ~~(H) A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture under Section 39-25-10, et seq., if its annual sales are less than fifteen thousand dollars. Exemption forms must be provided by the South Carolina Department of Agriculture.~~

Egg Law

Revise the state egg law to exempt USDA graded facilities from state licensing, and allow small producers to sell off-farm.

- This would create more marketing opportunities for small producers
- Producers could sell up to 30 dozen per week to the end consumer away from farm without license
- Adds “quail eggs”, currently not allowed to sell in SC
- USDA-graded facilities must still comply with state law, but would not be required to get a state license
- Annual license fee would be \$10





Key Dates and Actions of the Study Process for the **Human Affairs Commission**

Figure. Key Dates and Actions of the Study Process for the Human Affairs Commission

House Legislative Oversight Committee's Actions

- January 10, 2017 - Approves the study of the agency
- January 17, 2017 - Provides the agency with notification about the start of its oversight study as well as the Speaker of the House, committee chairs in the House, members of the House, Clerk of the Senate, and Governor
- March 9, 2017 - Meeting is to hear public testimony regarding the State Election Commission, **Human Affairs Commission**, and Law Enforcement Training Council and Criminal Justice Academy

Economic Development, Transportation, and Natural Resources Subcommittee's Actions

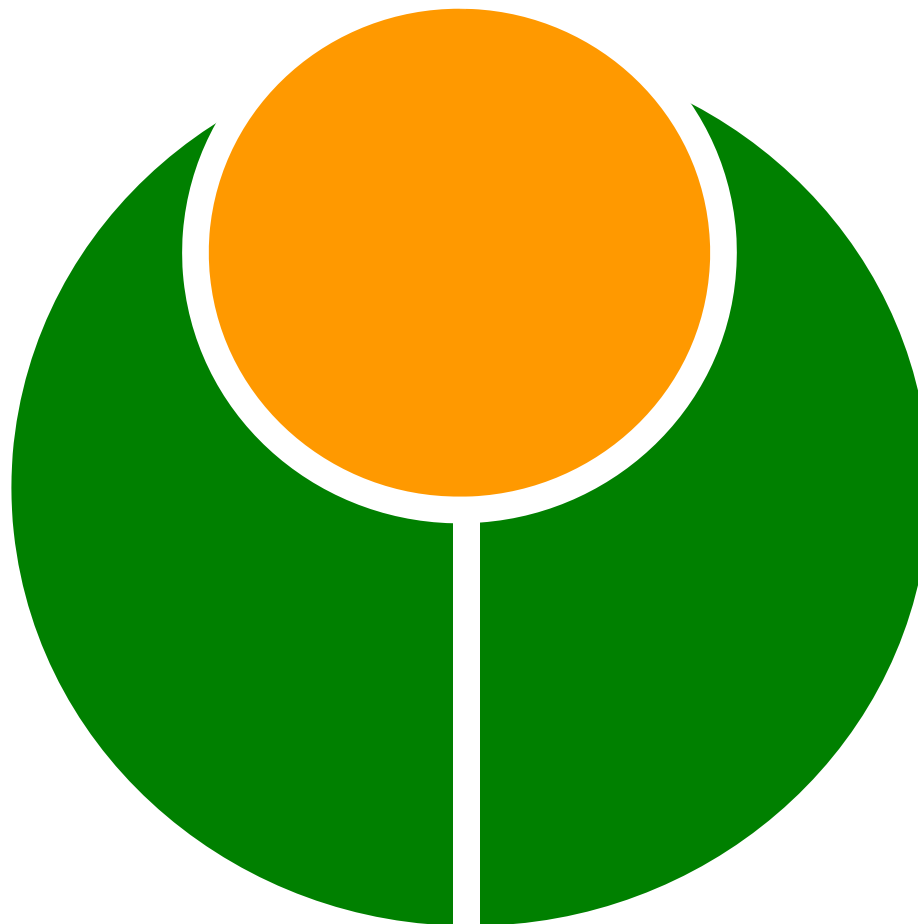
Human Affairs Commission Actions

- April 14, 2015 - Submits its Restructuring and Seven-Year Plan Report to the Committee
- January 12, 2016 - Submits its Annual Restructuring Report to the Committee
- April 13, 2017 - Submits its Agency Program Evaluation Report

Public's Actions

- February 9, 2017 - March 13, 2017 - Survey about the agency is available online for the public to provide input (complete responses are available for review on the Oversight Committee's webpage on the General Assembly's website - www.scstatehouse.gov)
- March 9, 2017 - Opportunity for public testimony at Legislative Oversight Committee
- Ongoing - Public may submit written comments on the Oversight Committee's webpage

South Carolina Human Affairs Commission



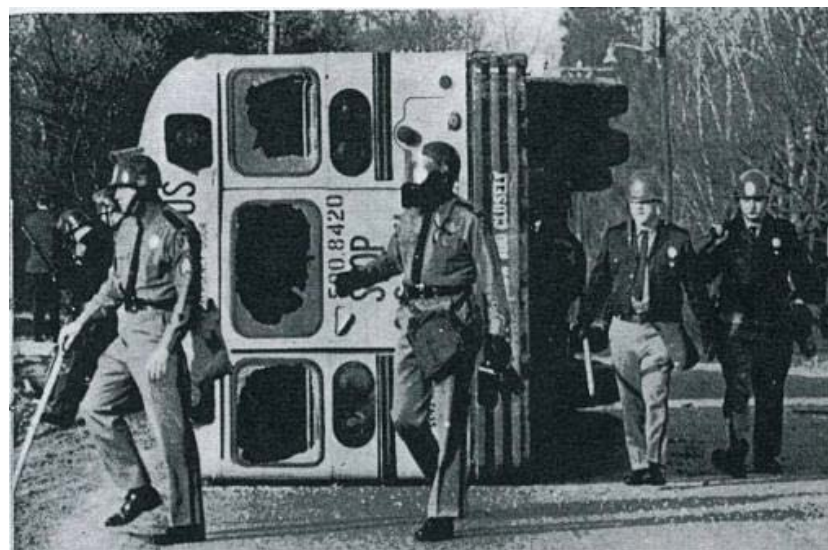
Presentation to the House Legislative Oversight Committee

Declaration of Independence

- “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness...”



1972 SC HUMAN AFFAIRS COMMISSION





Legislative Mandate and Mission



SECTION 1-13-40

“There is hereby created in the executive department the South Carolina Human Affairs Commission, to encourage fair treatment for, and to eliminate and prevent discrimination against, any member of a group protected by this chapter, and to foster mutual understanding and respect among all people in this State.”



SCHAC's Mission



To eliminate and prevent unlawful discrimination in:

Employment -- on the basis of race, color, national origin, religion, sex, age and disability;

Housing-- on the basis of race, color, national origin, religion, sex, familial status and disability;

Public Accommodations-- on the basis of race, color, national origin and religion.

and... Other Allegations of individual or institutional discrimination not considered unlawful (90(e))



SCHAC's Vision



To be well known with a positive image and a mission that is understood and accepted by the public. SCHAC is a fully resourced, customer-friendly agency with a diverse, well-trained and efficient team working together effectively in a safe and supportive work environment in fulfillment of the agency's mission.



SCHAC Values

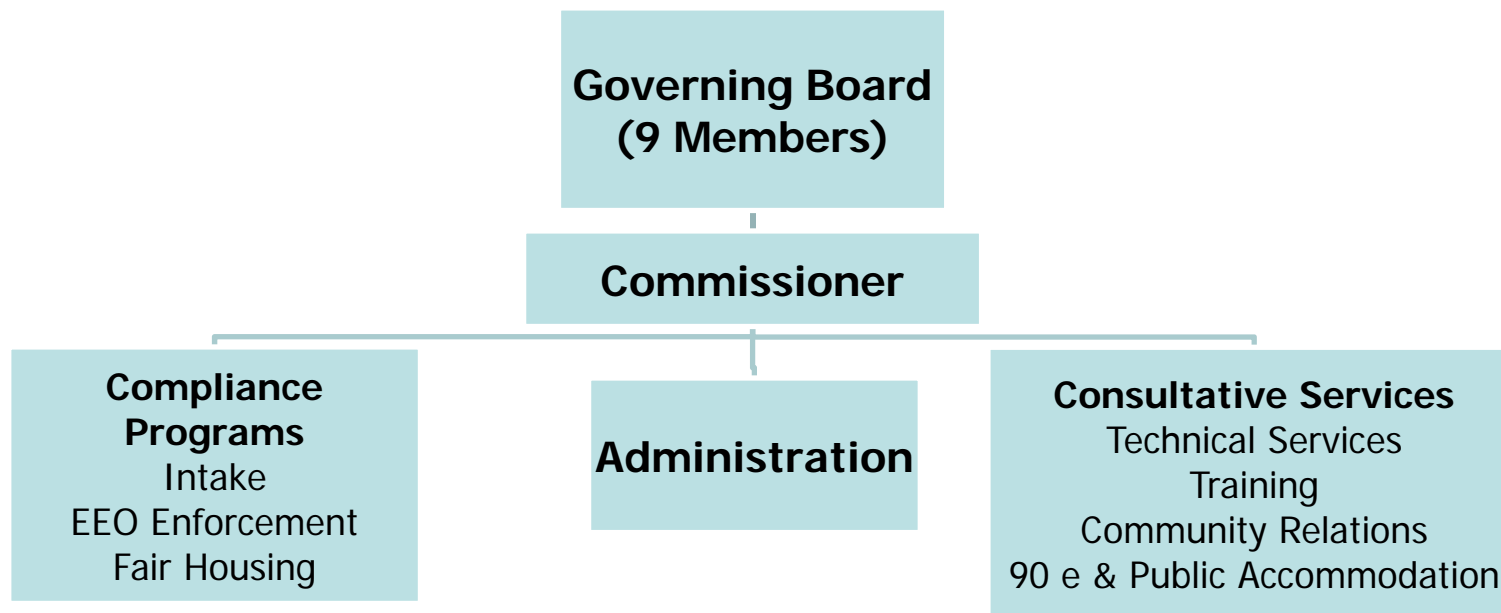


- *Accountability*
- *Customer Service*
- *Integrity*
- *Loyalty*
- *Fairness*
- *Professionalism*
- *Teamwork*



South Carolina Human Affairs Commission

Organization Structure Overview





Laws Enforced by the Human Affairs Commission



- South Carolina Human Affairs Law
- South Carolina Fair Housing Law
- South Carolina Equal Enjoyment and Privileges to Public Accommodations
- Federal Laws Prohibiting Discrimination



Federal Laws Enforced by The Human Affairs Commission

- Equal Employment Opportunity Commission (EEOC)

Employment Discrimination

- US Department of Housing and Urban Development (HUD)

Housing Discrimination



EEOC LAWS ENFORCED



Title VII of the 1964 Civil Rights Act

Bans discrimination in employment because of race, color, religion, sex, or national origin.

Age Discrimination in Employment Act (ADEA)

Makes unlawful employment discrimination because of age against anyone 40 years of age and older.

Pregnancy Discrimination Act

Amends Title VII and states that employment discrimination is prohibited when based on pregnancy, childbirth, and related medical conditions.

The Americans with Disabilities Act (ADA)

Prohibits employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments.



HUD LAWS ENFORCED



- **Title VIII of the Civil Rights Act**

Prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.

- **The American with Disability Act (ADA)**

Prohibits discrimination against persons with disabilities including private housing, housing that receives federal financial assistance, and state and local government housing.

- **Section 504 of the Rehabilitation Act of 1973**

Prohibits discrimination based on disability in any program or activity receiving federal financial assistance.



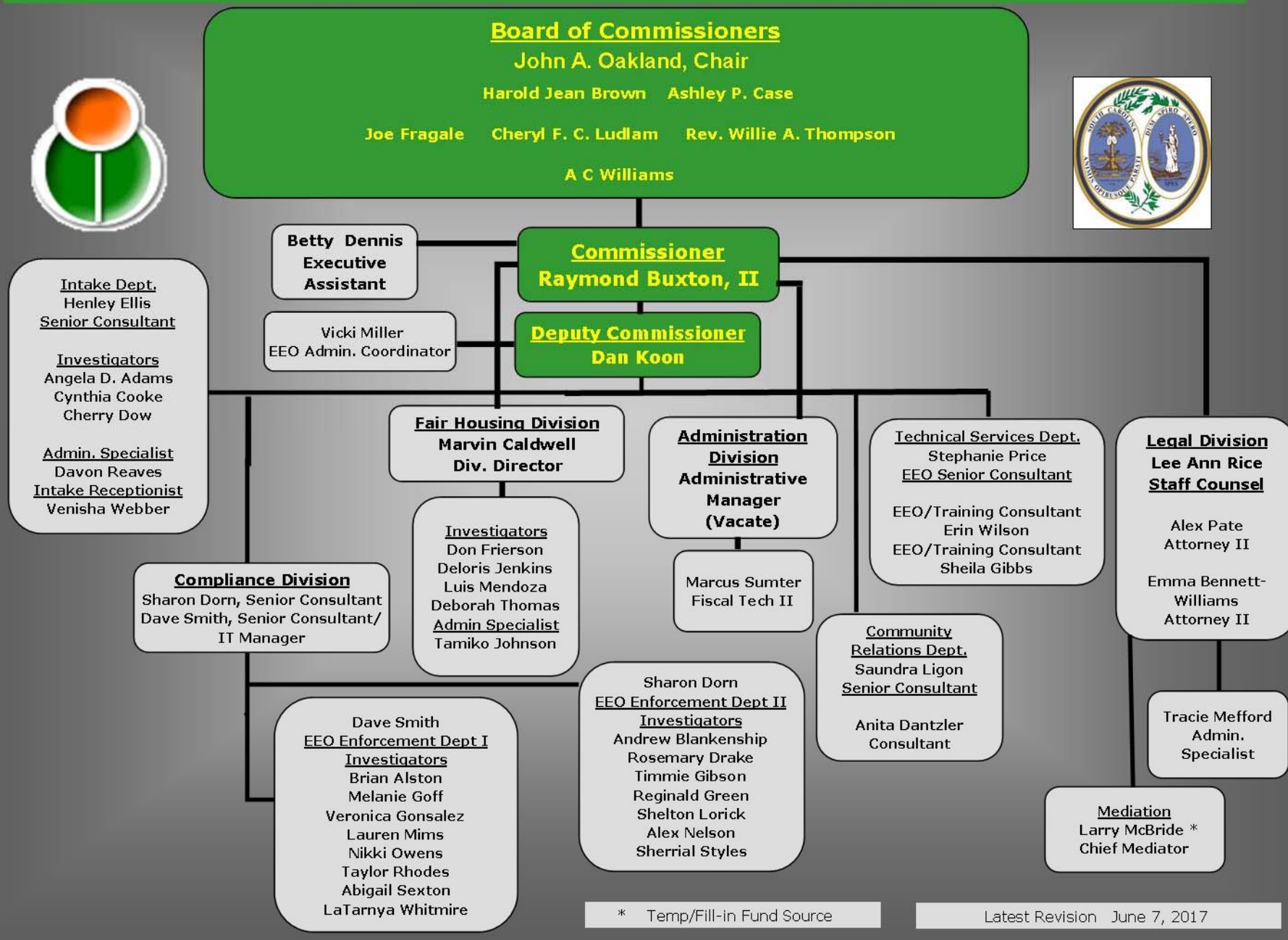
Authority of the Commission

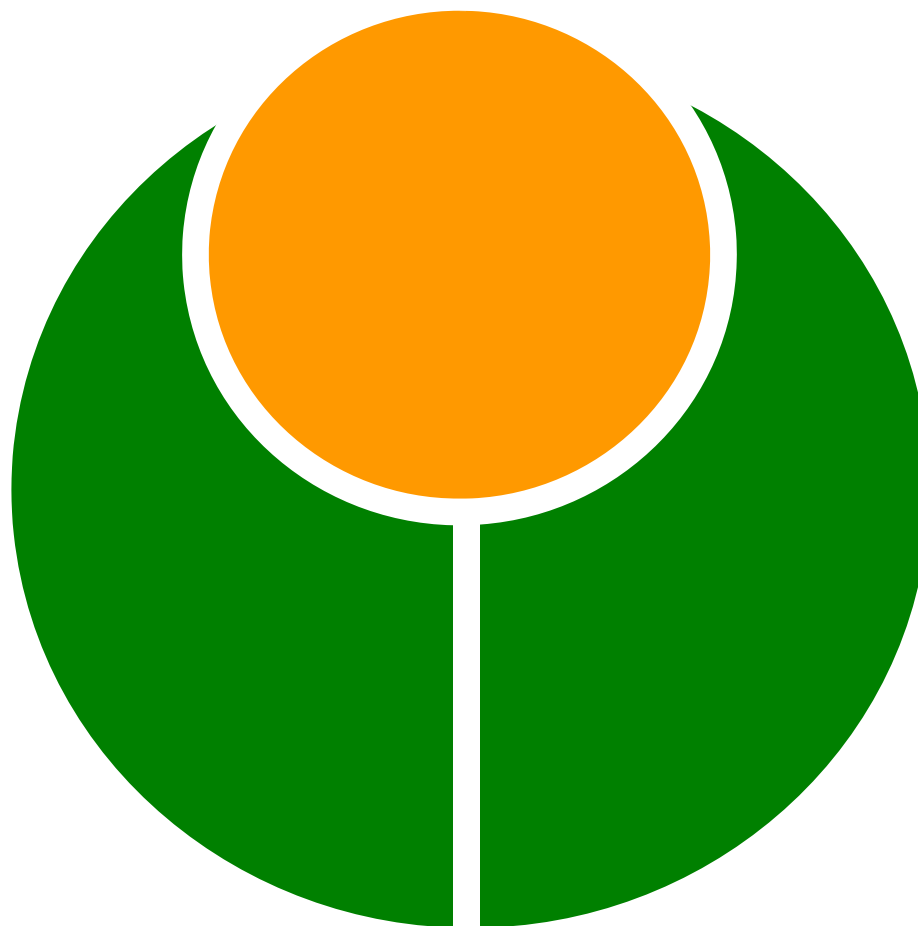


- Contract with EEOC & HUD to investigate complaints
- Seek injunctive relief for a pending complaint
- Issue subpoenas to parties in an investigation
- Hold administrative hearings to adjudicate 'cause' cases, awarding damages and assessing penalties
- Litigate cases in court following completion of a 'cause' investigation
- Conciliate or mediate complaints
- Promulgate Regulations

South Carolina Human Affairs Commission

Organizational Chart FY 2015-2016

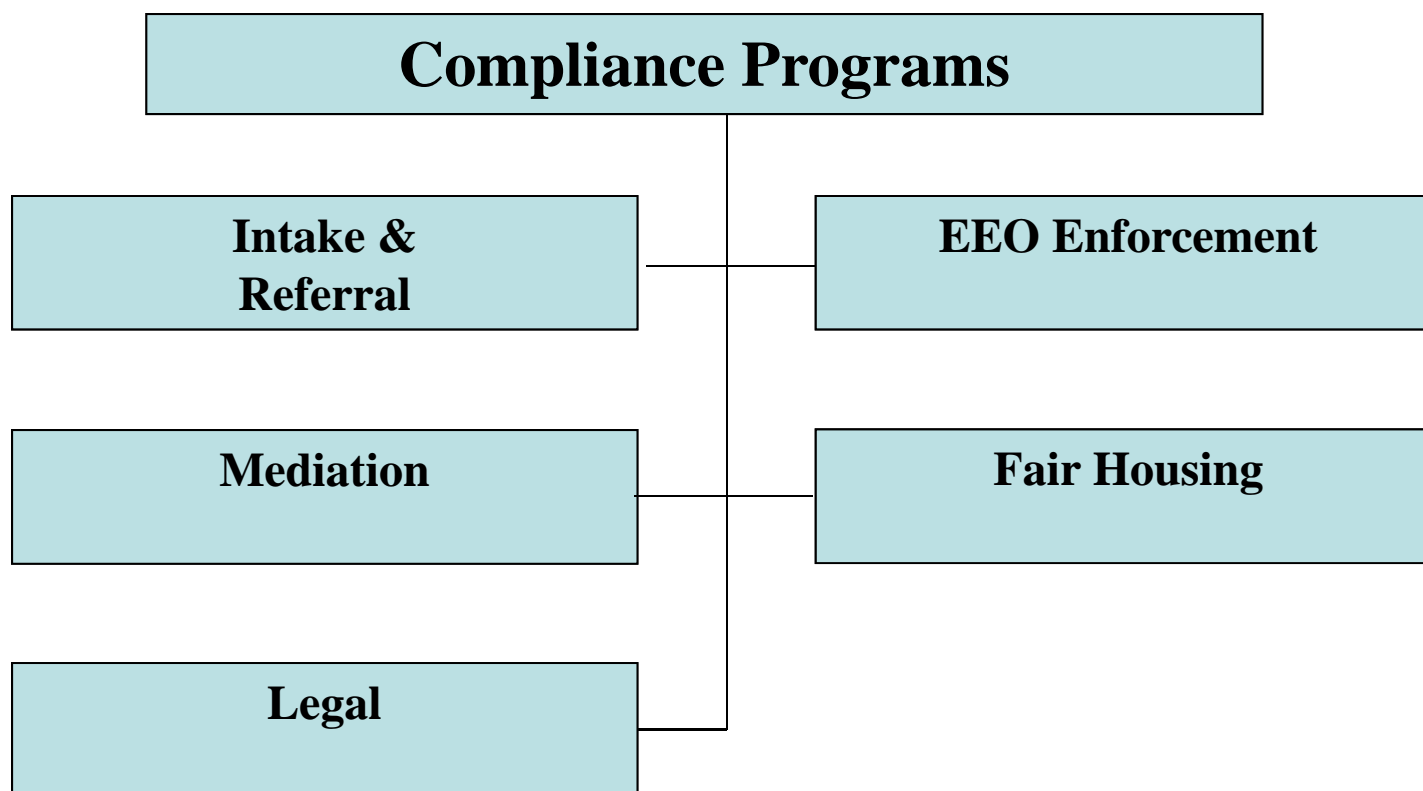


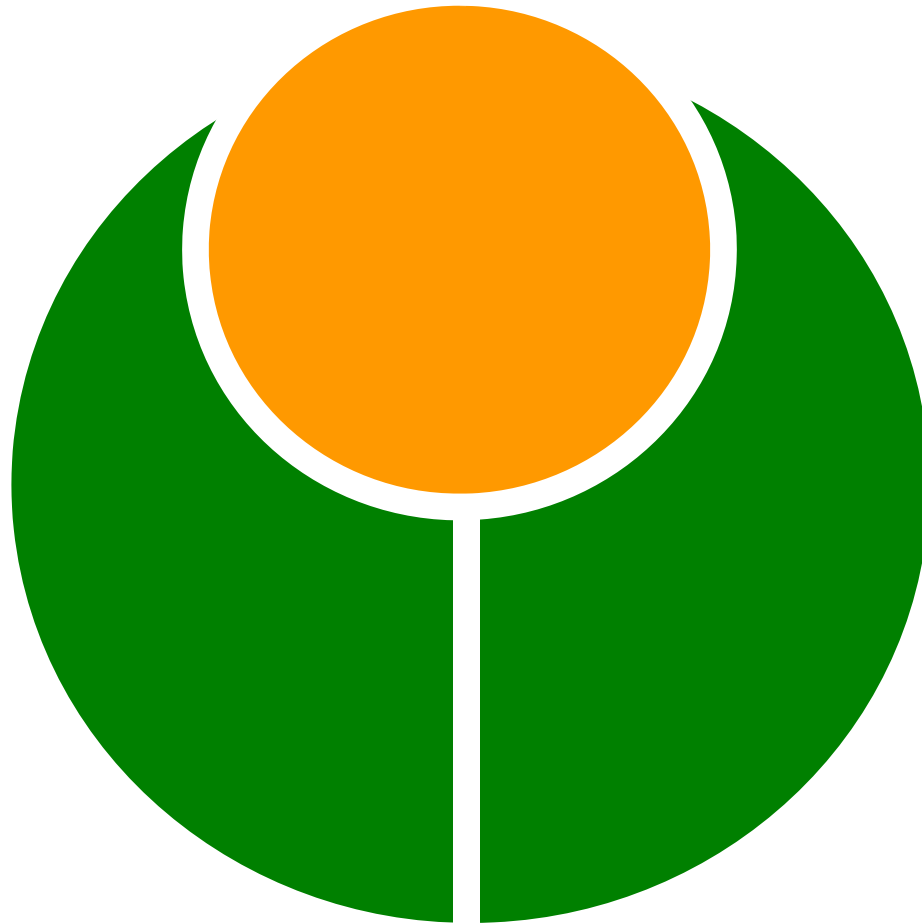


COMPLIANCE PROGRAMS



Organizational Overview: Compliance Programs





INTAKE



Receiving Citizen Complaints of Discrimination (Intake)



Complaints received regarding...

- Employment
- Housing
- Public Accommodations, and,
- Other individual and institutional allegations of discrimination (90(e))

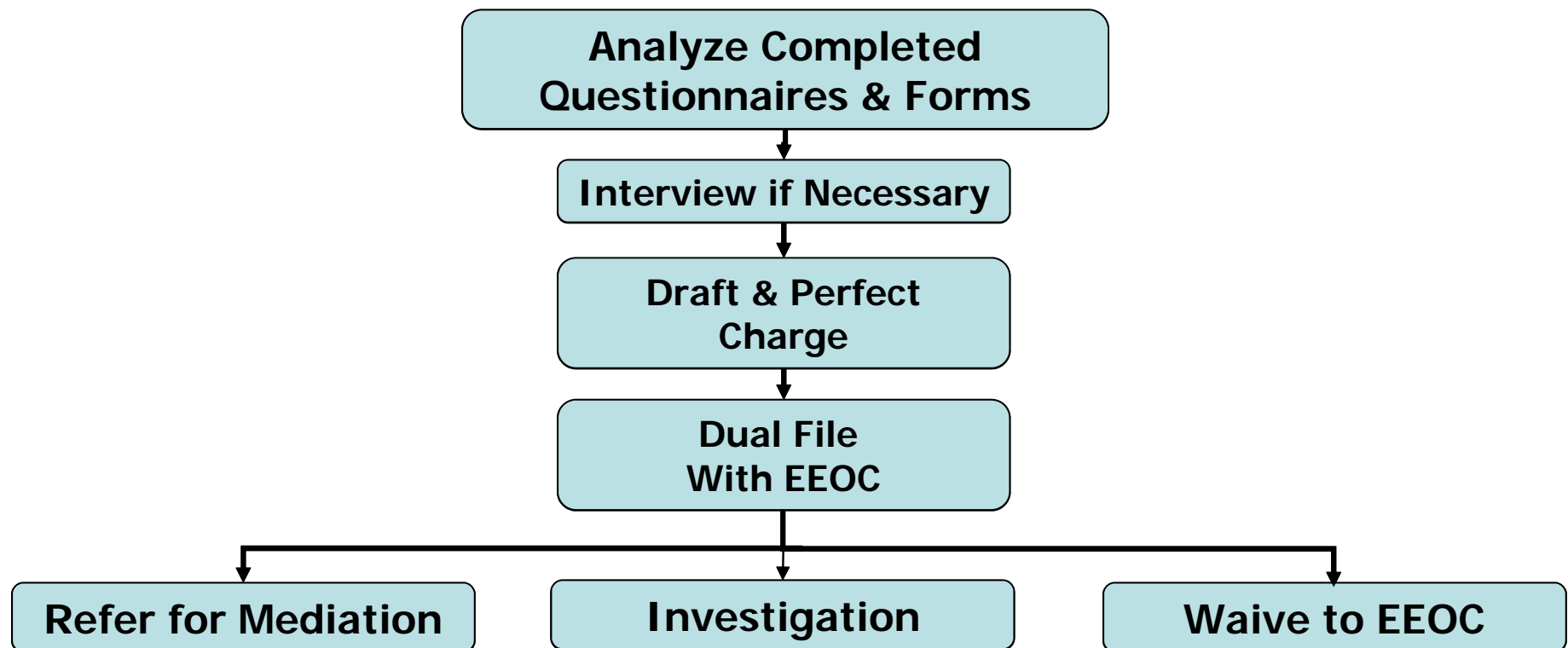


South Carolina Human Affairs Commission



Discrimination Complaint Intake Process

(Analysis of Accepted Complaint)





Jurisdictional information

Complainant contact information

Respondent Information

Basis of Complaint and date occurred

Issue prompting Complaint

Respondent's apparent reason for adverse action

Complainant's allegations

Complainant's declaration of discrimination and laws violated

Complainant Certifications; sworn statement, notarization and signature

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> FEPA <input type="checkbox"/> EEOC	
<u>S. C. Human Affairs Commission</u> State or local Agency, if any		and EEOC	
NAME (Indicate Mr., Ms., Mrs.) <u>Ms. Jane Doe</u>		HOME TELEPHONE (Include Area Code) <u>(803) 737-7800</u>	
STREET ADDRESS <u>2611 Forest Drive, Columbia, SC 29204</u>		CITY, STATE AND ZIP CODE <u>2611 Forest Drive, Columbia, SC 29204</u>	
DATE OF BIRTH <u>10/10/1931</u>			
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME <u>L & J Cafeteria</u>		NUMBER OF EMPLOYEES, MEMBERS <u></u>	TELEPHONE (Include Area Code) <u>(803) 333-3333</u>
STREET ADDRESS <u>2611 Forest Drive, Columbia, SC 29204</u>		CITY, STATE AND ZIP CODE <u>2611 Forest Drive, Columbia, SC 29204</u>	COUNTY <u>079</u>
NAME <u></u>		TELEPHONE NUMBER (Include Area Code) <u></u>	
STREET ADDRESS <u></u>		CITY, STATE AND ZIP CODE <u></u>	COUNTY <u></u>
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input checked="" type="checkbox"/> OTHER (Specify) <u>Fepa</u>		EARLIEST <u>08/31/2004</u> LATEST <u></u>	
		<input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
I. PERSONAL HARM: Through August 31, 2004 and continuing, I have been denied equal wages.			
II. RESPONDENT'S REASON(S) FOR ADVERSE ACTION(S): The Respondent has given no reason for the denial of equal wages.			
III. COMPLAINANT'S CONTENTION(S): I am employed with the Respondent as a Cook. I contend that I am being paid less than similarly-situated male employees even though we perform the same duties.			
IV. DISCRIMINATION STATEMENT: I, therefore, believe that I have been discriminated against because of my sex (female) in violation of the South Carolina Human Affairs Law, as amended, and Title VII of the United States Civil Rights Act of 1964, as amended.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date <u></u>		SIGNATURE OF COMPLAINANT <u></u>	
Charging Party (Signature) <u></u>		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Month, day and year) <u></u>	

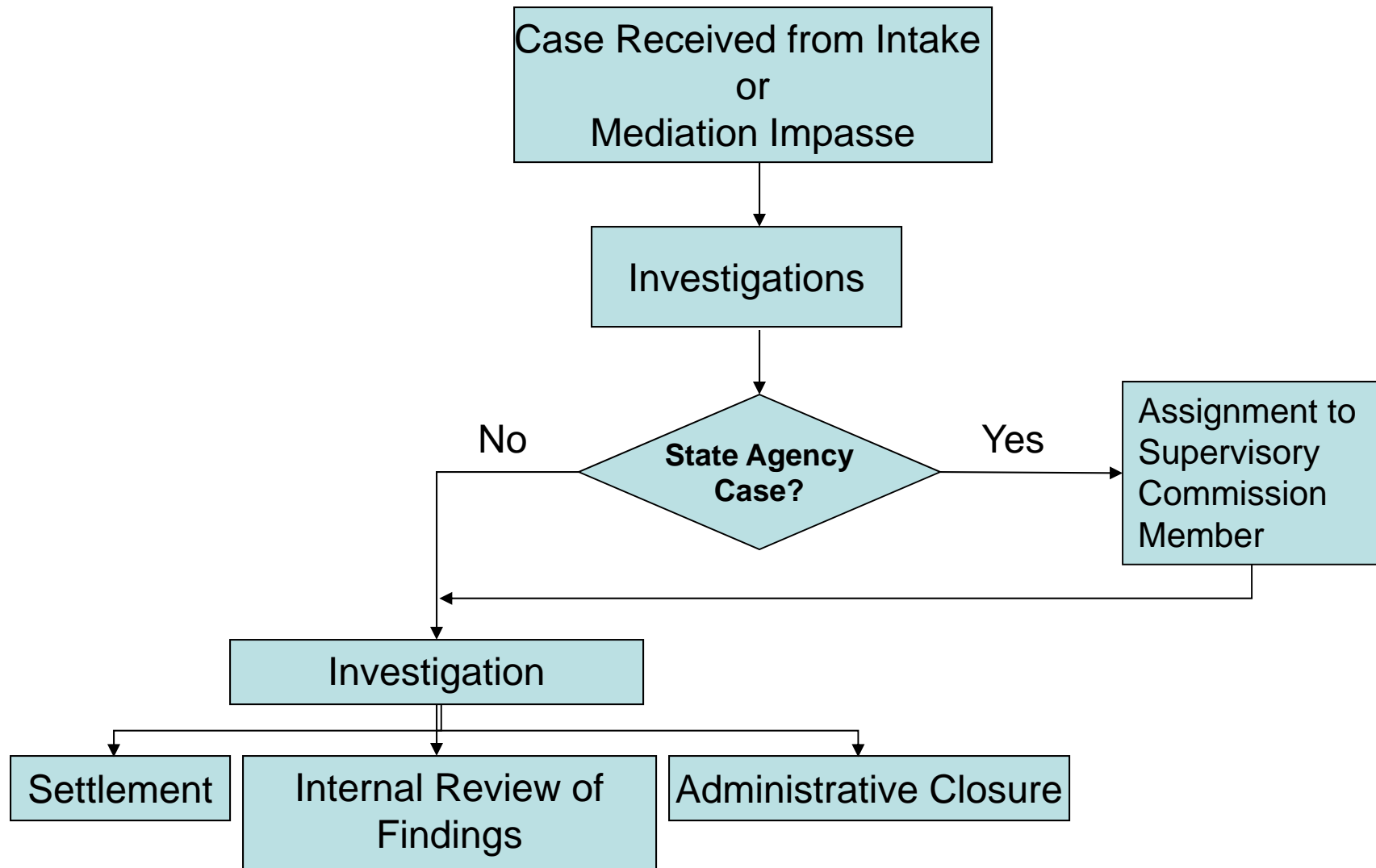
Matters subject to investigation to determine if laws were violated

FILE COPY



The Investigative Process

Tracking a case from filing to final agency action

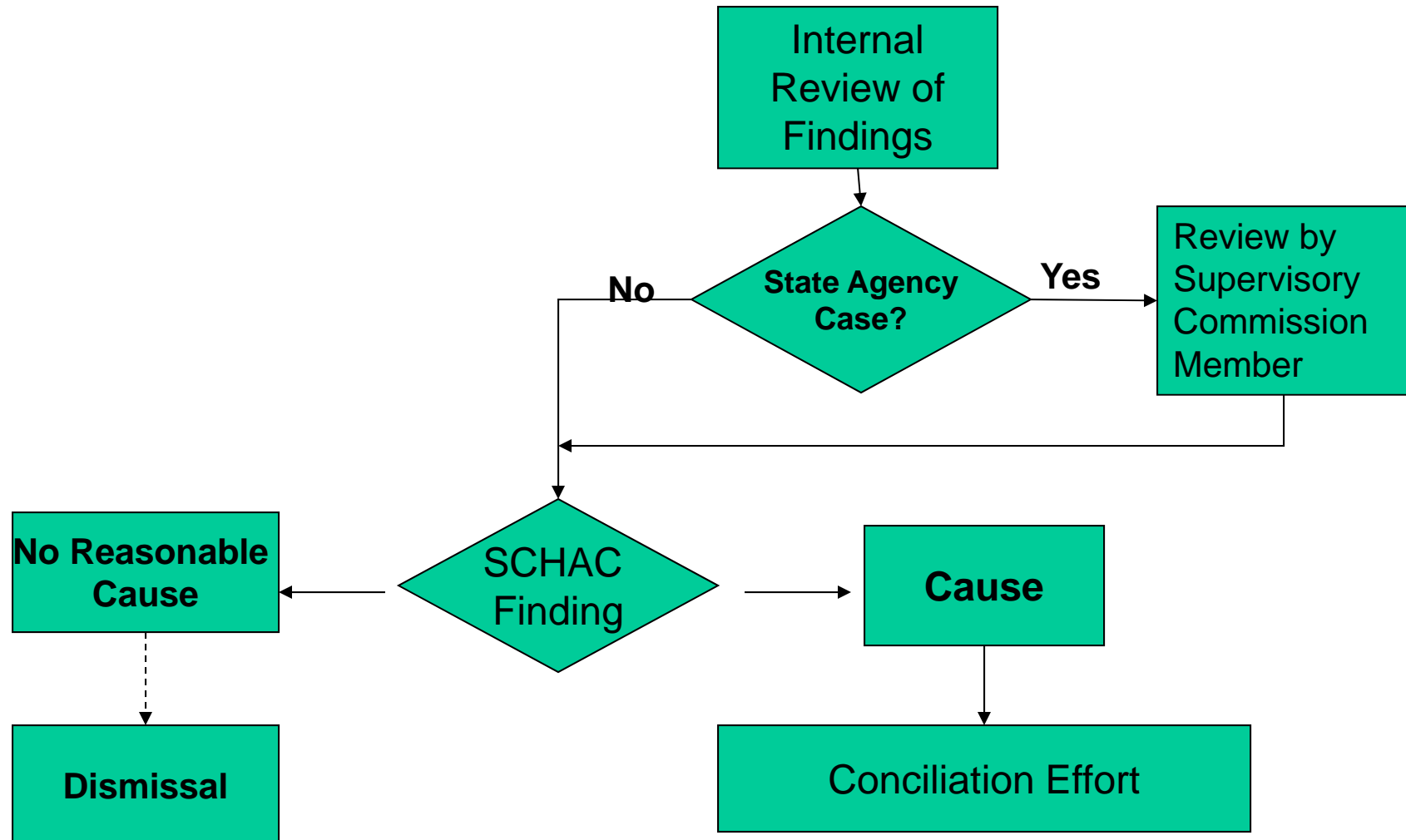




The Investigative Process (Con't)



Investigation Is Concluded

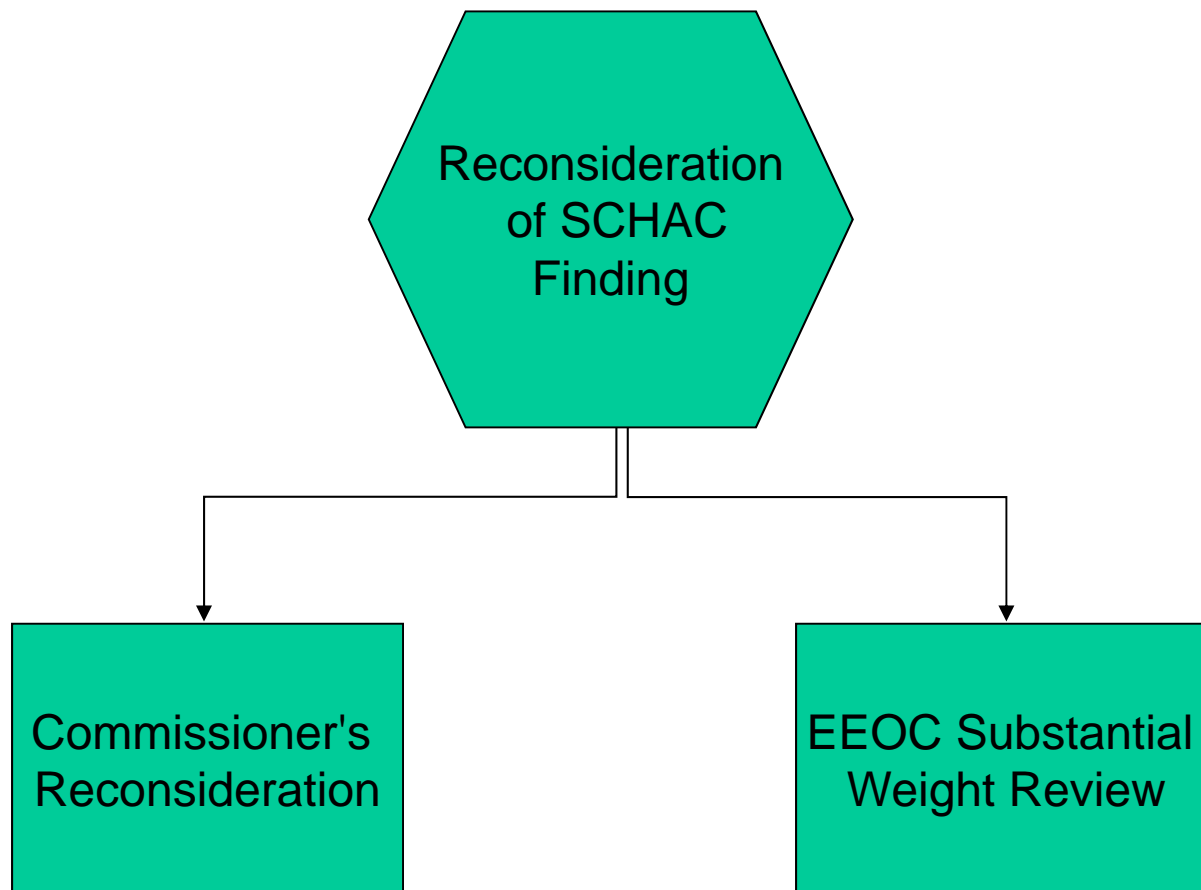




The Investigative Process (Con't)

No Reasonable Cause Finding

Reconsideration Rights of Parties



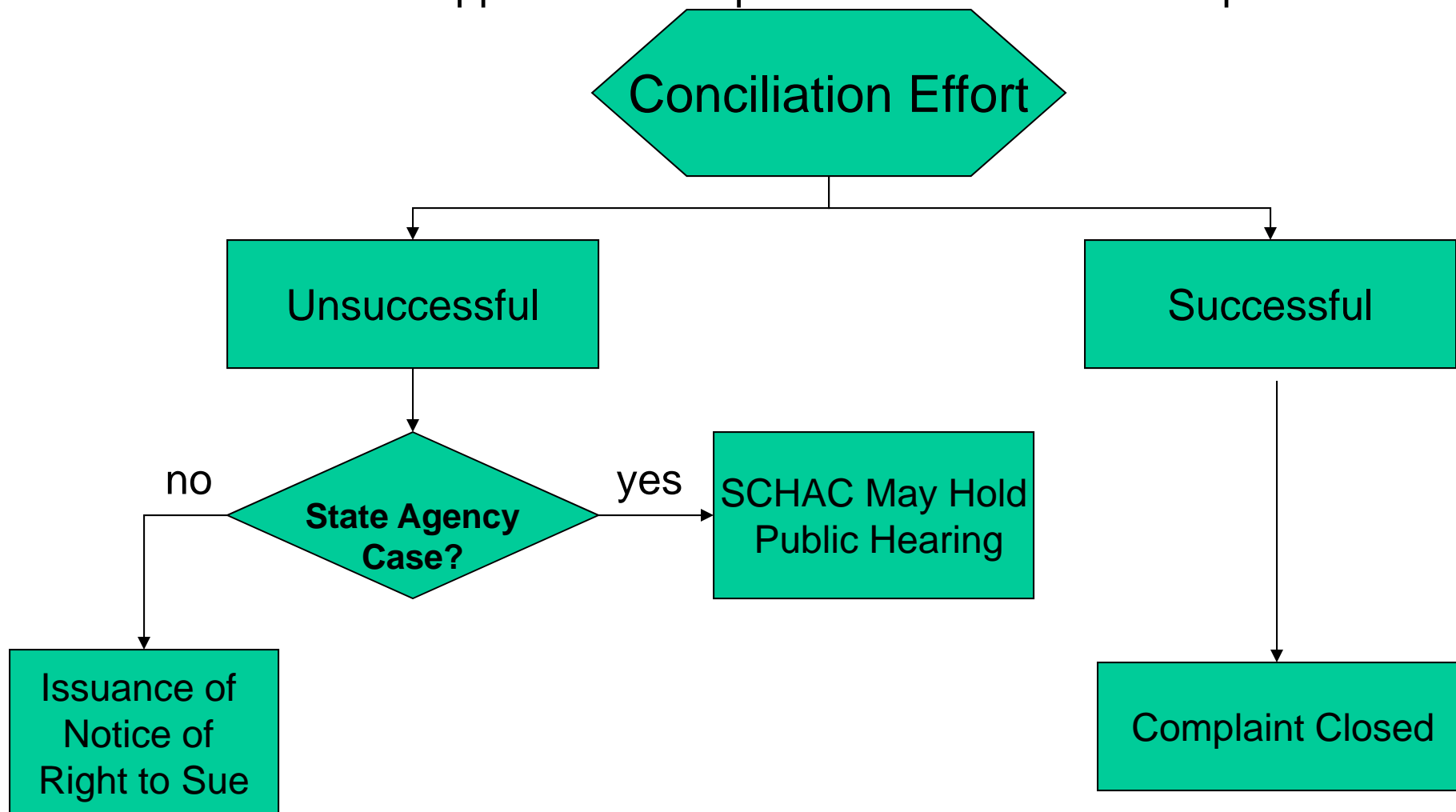


The Investigative Process (Con't)



Reasonable Cause Finding

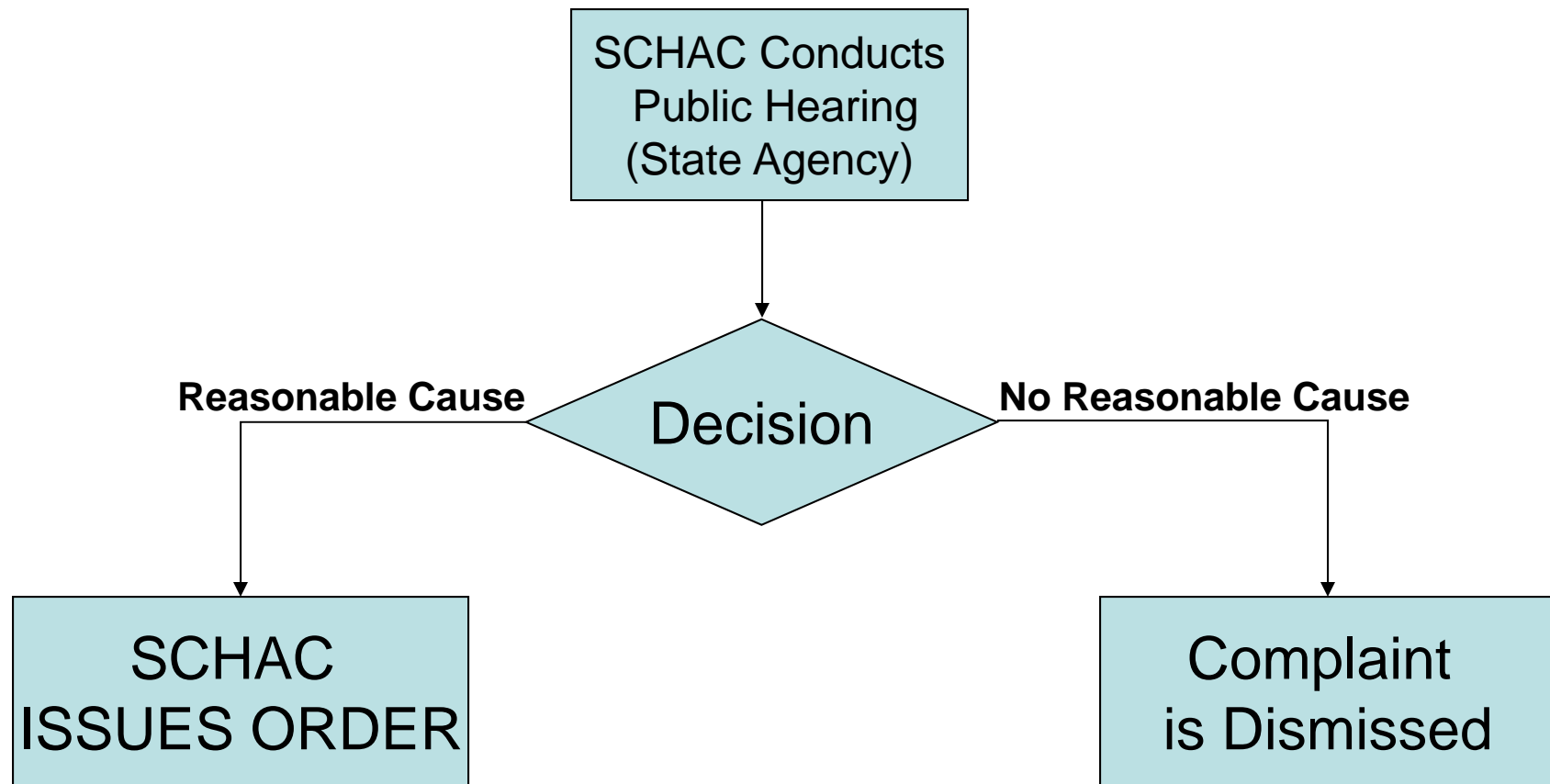
Discrimination apparent: Attempts made to reconcile the parties

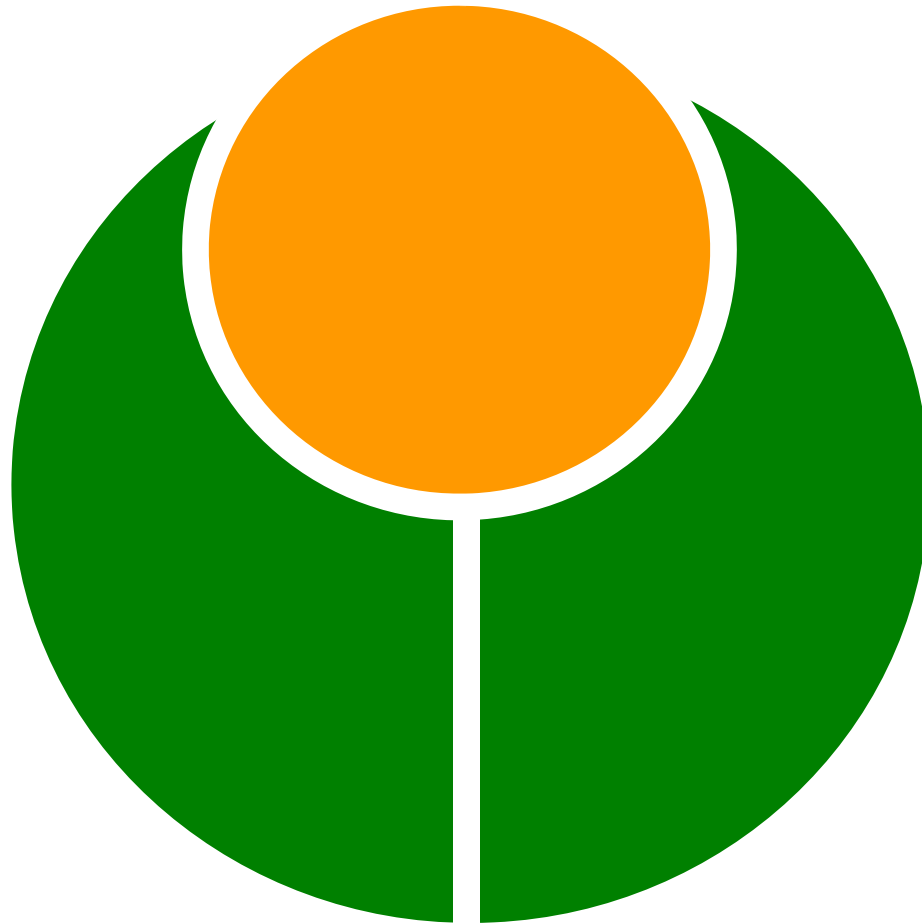




The Investigative Process (Con't)

SCHAC Public Hearing





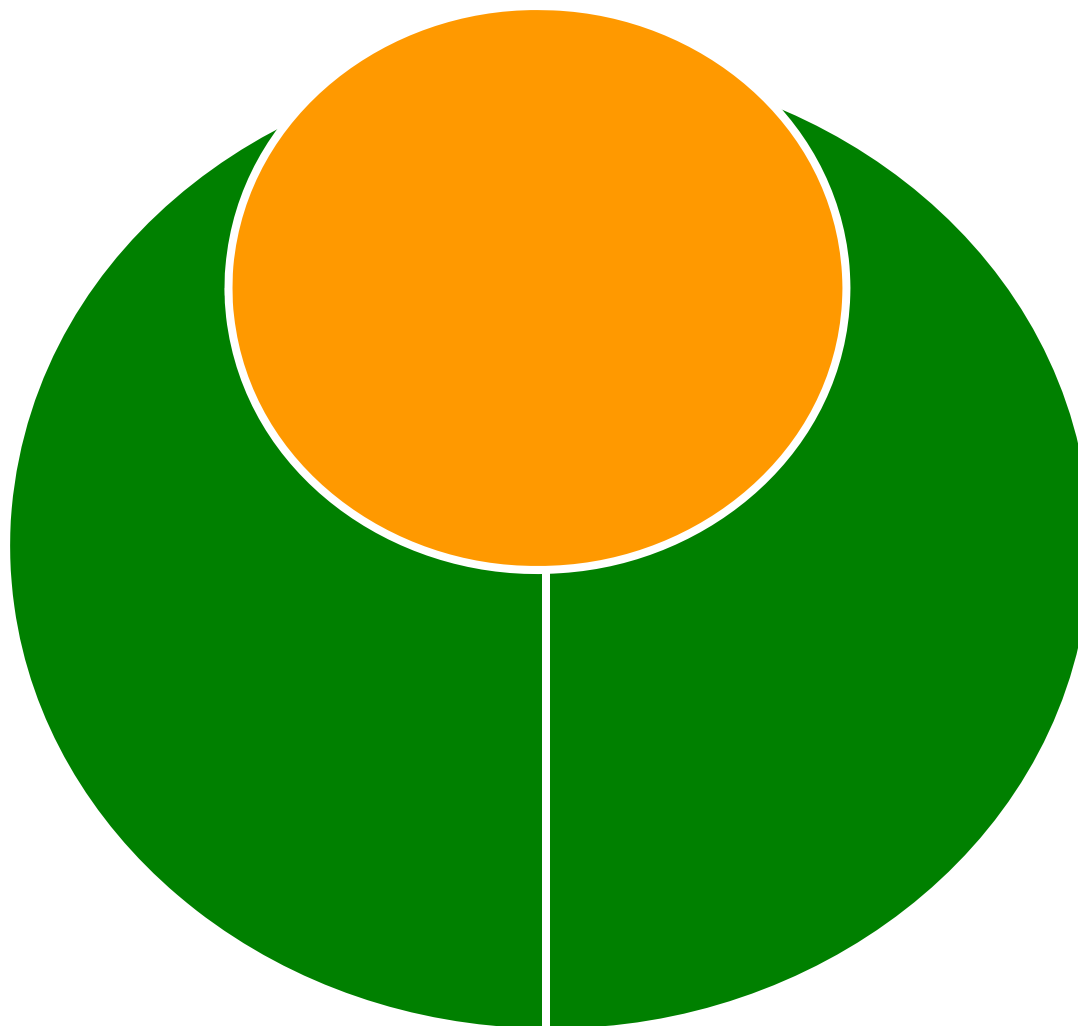
MEDIATION



Benefits to Mediation



- A notice of Right to Sue is not issued
- The case does not go to court
- Saves time
- Saves money
- Resolves a complaint so that all parties are content
- Discussion can result in solving other problems and issues



EEO Enforcement



State Human Affairs Law

Prohibits Employment Discrimination Based On:



RACE

COLOR

RELIGION

NATIONAL ORIGIN

SEX

AGE

DISABILITY

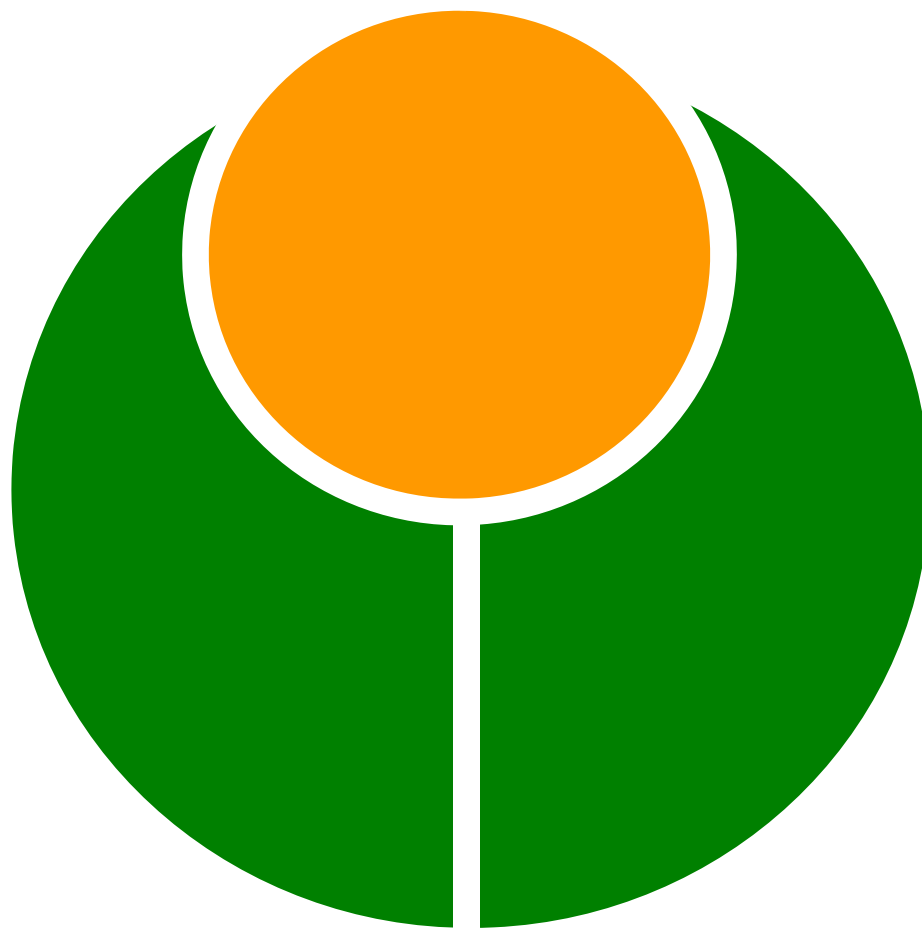


SCHAC AND EEOC TIPS TO KEEP IN MIND



- South Carolina is divided between EEOC Districts:
- Atlanta District Office – Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Hampton, Jasper, Williamsburg
- Charlotte District Office – the other 34 counties





HOUSING



SCHAC is a FHAP Agency



- FHAP is a Fair Housing Assistance Program.
- The South Carolina Fair Housing Law was enacted in 1989 and gave the Commission jurisdiction to investigate all fair housing complaints in the State. HUD recognized SHAC as substantially equivalent state agency in 1995.
- HUD provides FHAP funding annually on a noncompetitive basis to State and local agencies that enforce fair housing laws that are substantially equivalent to the Fair Housing Act.



SCHAC and FHIP Agencies



- FHIP is a Fair Housing Initiatives Program.
- FHIP organizations assist people who believe they have been victims of housing discrimination.
- FHIP organizations partner with HUD to help people identify government agencies that handle complaints of housing discrimination.
- There are a number of FHIP agencies throughout SC that forward complaints to SCHAC for investigations.



Housing Discrimination Basis



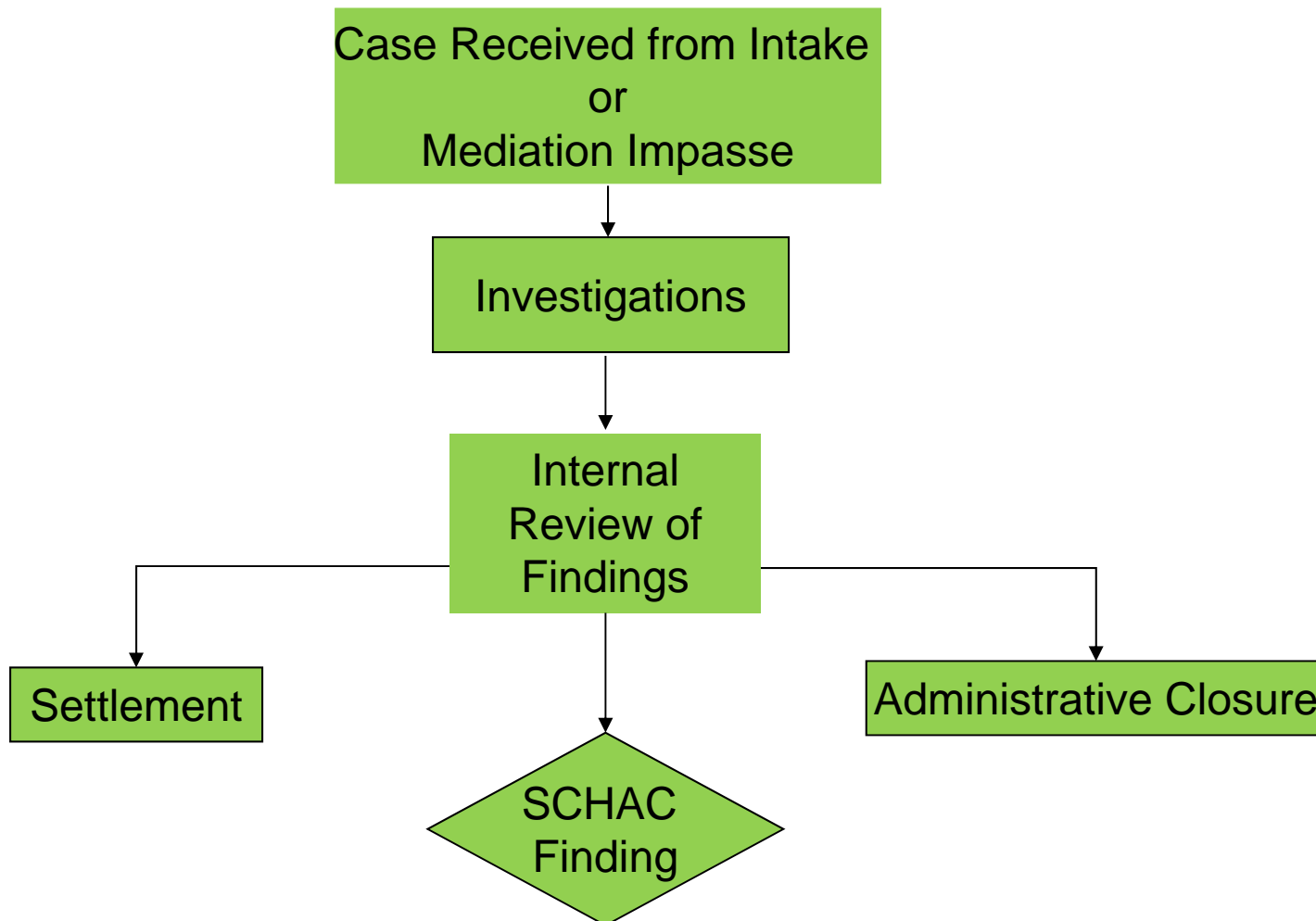
- Race
- Color
- Religion
- Sex
- National Origin
- Mental or Physical Handicap (Disability)
- Familial Status (families with children)



The Investigative Process



Tracking a case from filing to final agency action

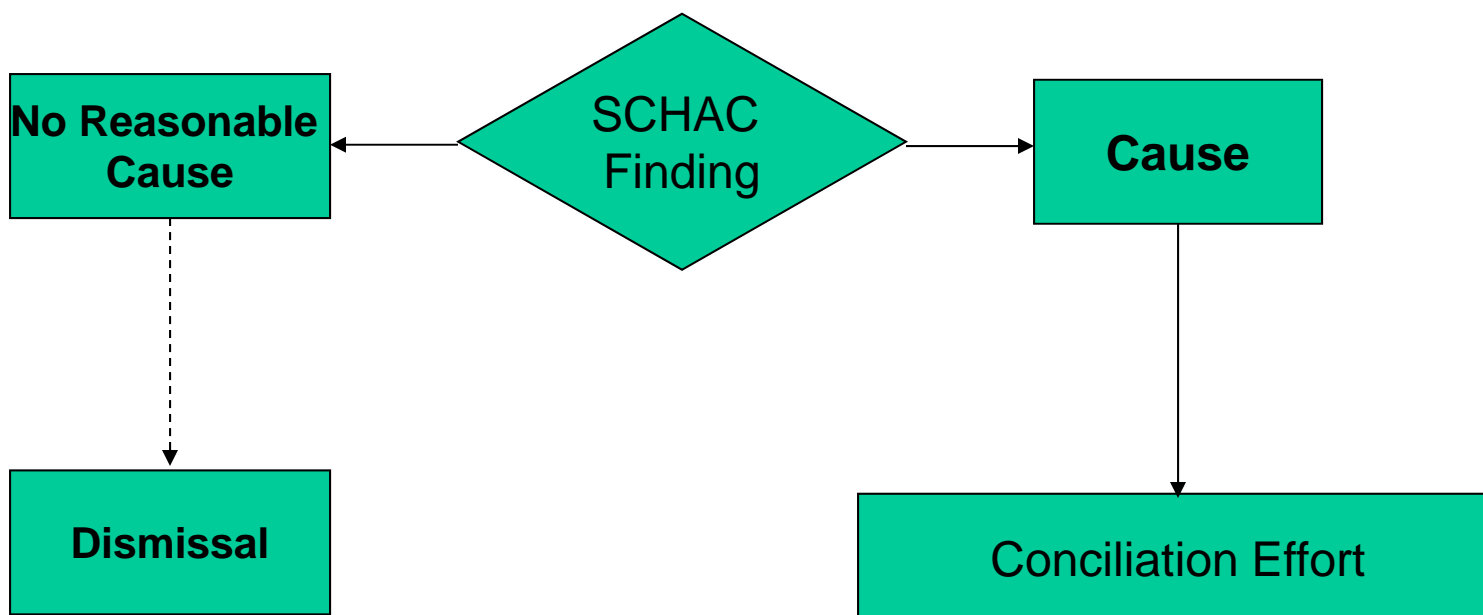




The Investigative Process (Con't)



Agency Finding

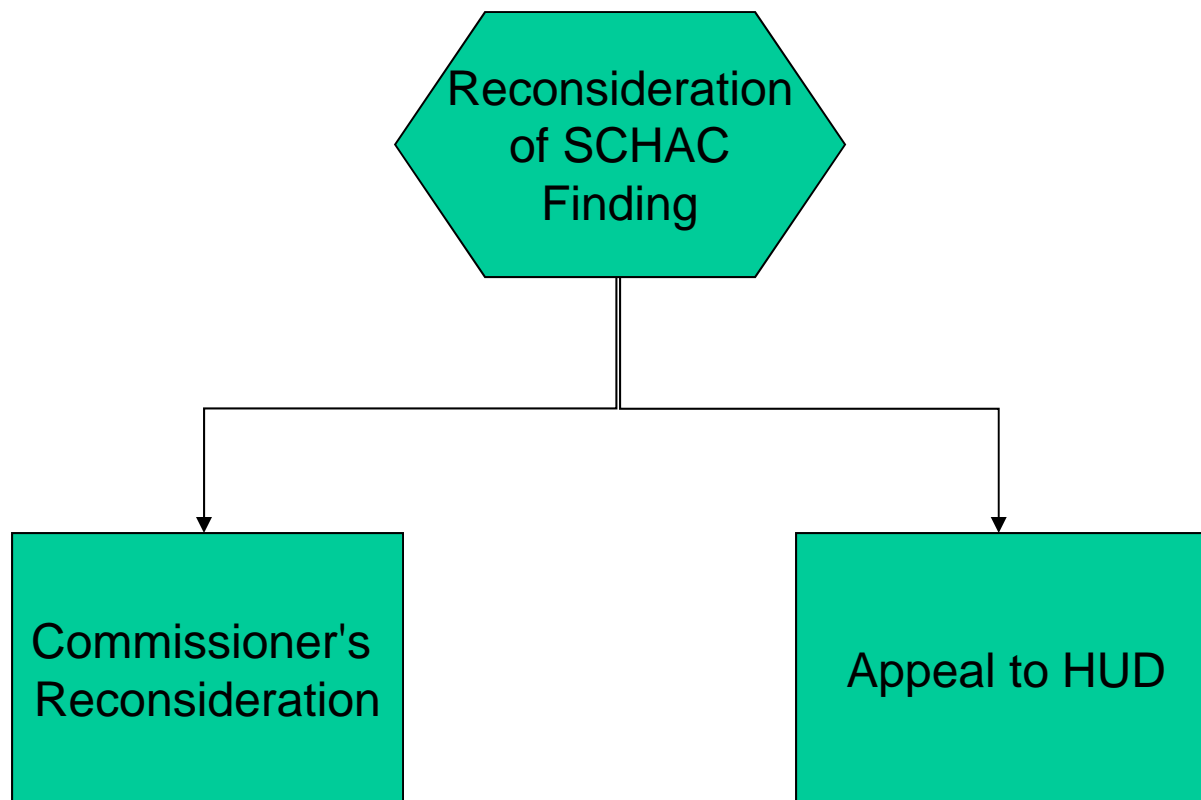




The Investigative Process (Con't)

No Reasonable Cause Finding

Reconsideration Rights of Parties

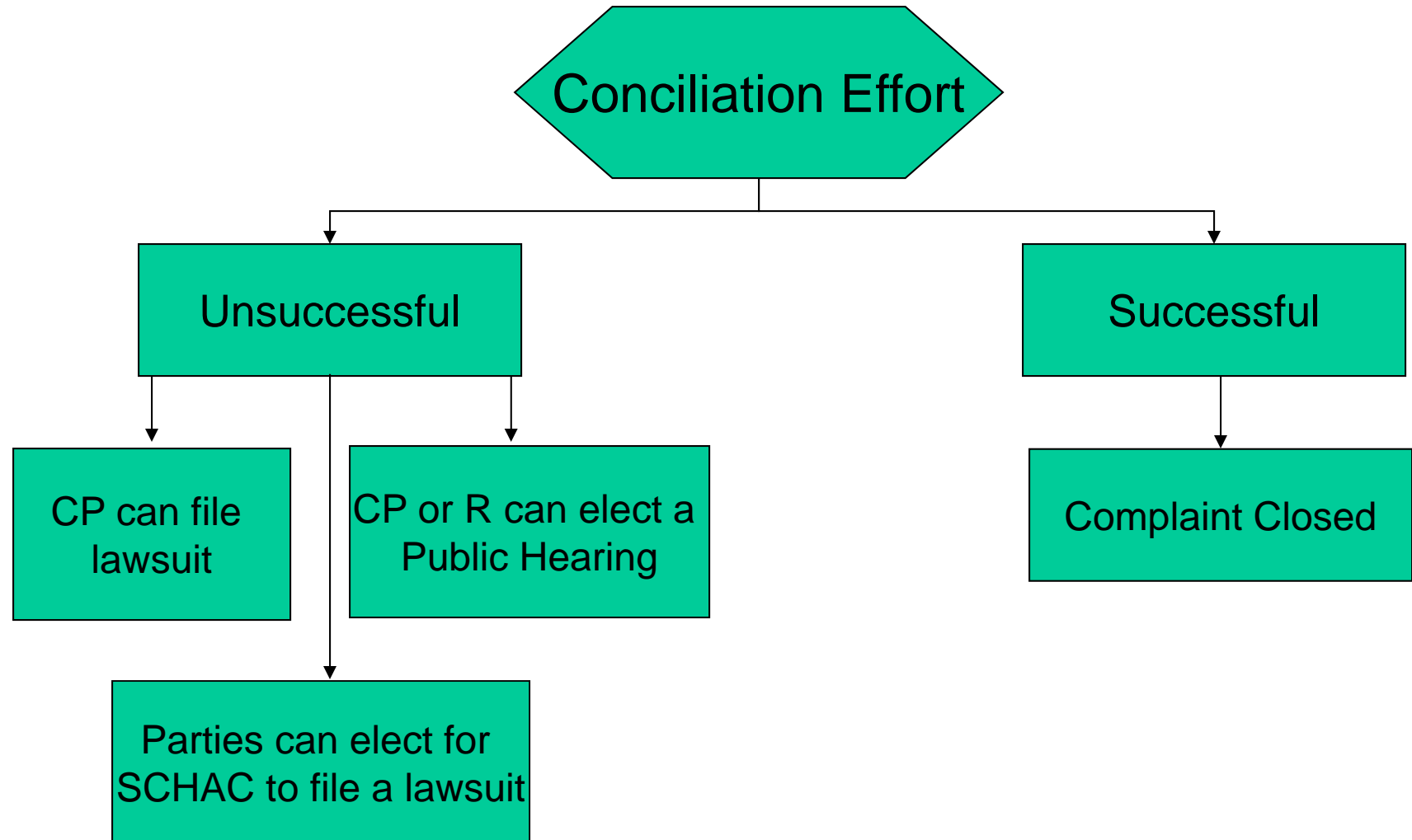




The Investigative Process (Con't)

Reasonable Cause Finding

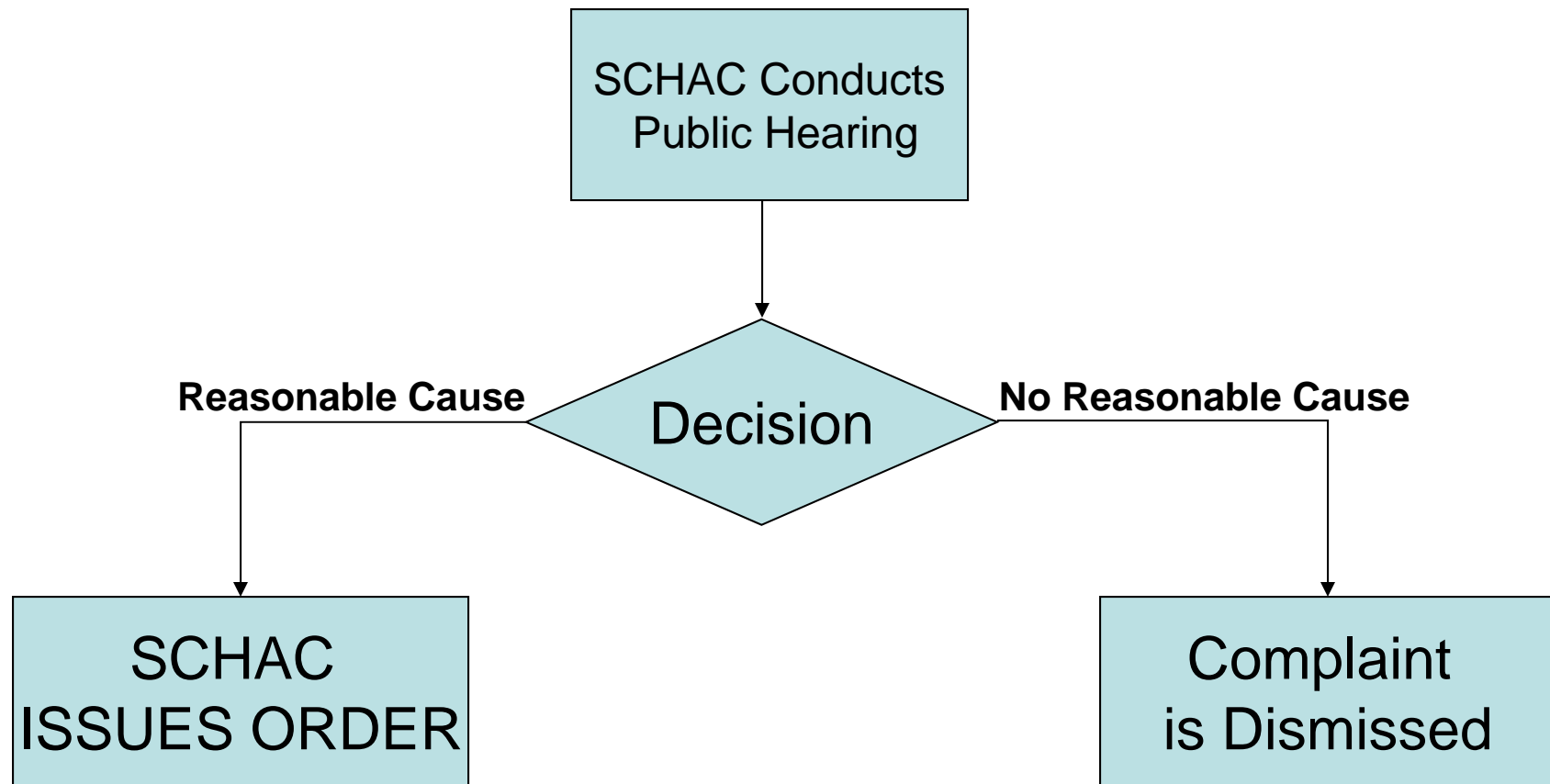
Discrimination apparent: Attempts made to reconcile the parties

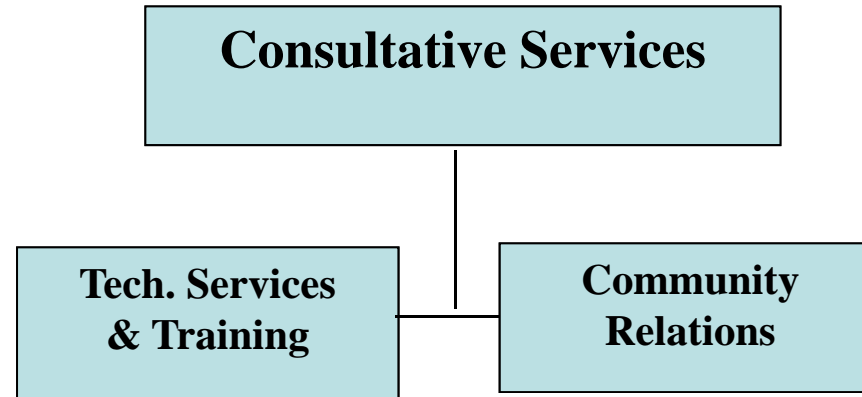




The Investigative Process (Con't)

SCHAC Public Hearing





Consultative Services provides technical assistance to state agencies and organizations in developing programs to promote the agency's legislative mandate as well as monitoring and diffusing ethnic / race relationship strife wherever it may occur in the state of South Carolina.





Development of State Agency Affirmative Action Plans



- Review the Workforce Composition of State Agencies based on data describing employment trends by race and sex during the year
- Assist State Agencies in identifying areas in their workforce where race and sex groups are disproportionate (**Underutilization**)
- Assist State Agencies (*and other organizations who request services*) to identify action steps to reach goals designed to eliminate underutilization (**Affirmative Action Plan**)



Annual Report to the South Carolina General Assembly



“The Status of Equal Employment Opportunity in South Carolina State Government”

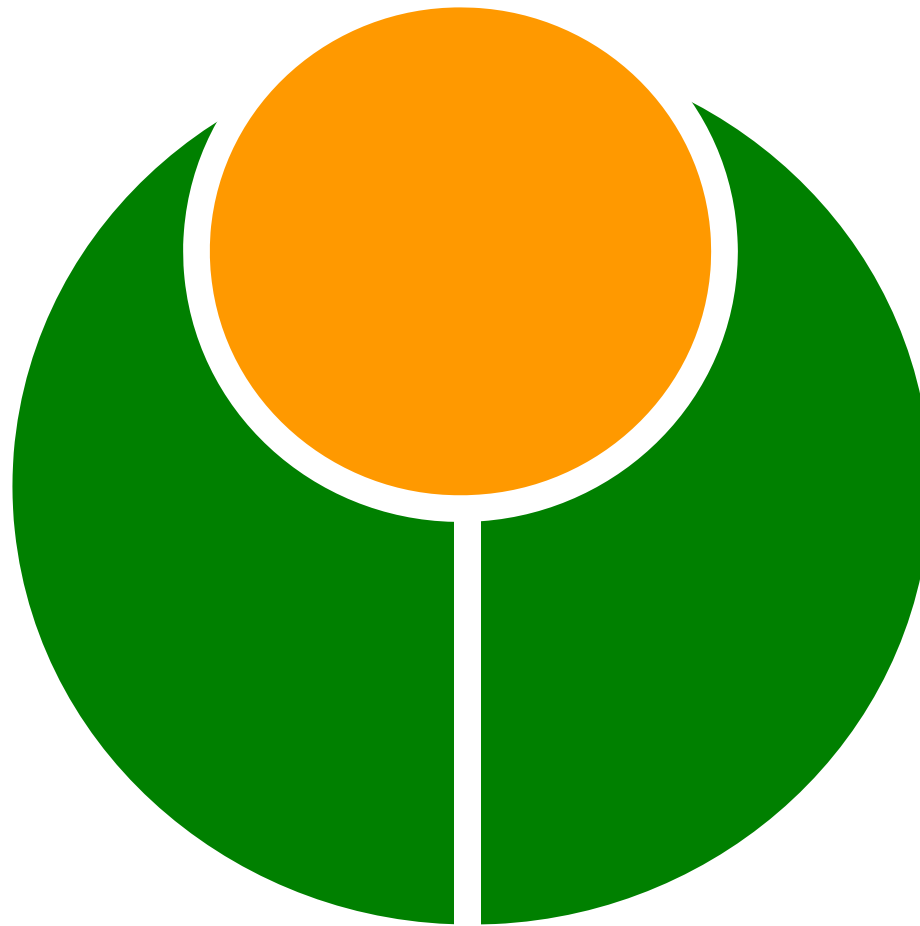
South Carolina Code of Laws SECTION 1-13-110.

“Each State agency shall develop an Affirmative Action Plan to assure equitable employment for members of minorities (race and sex) and shall present such Plans to the Human Affairs Commission. On or before February 1 of each year, the Human Affairs Commission shall submit a report to the General Assembly concerning the status of the Affirmative Action Plans of all State agencies. If any Affirmative Action Plans have been disapproved, the report shall contain the reasons for such disapproval. If the General Assembly takes no action within sixty (60) days on those Plans which have been disapproved, the action of the Human Affairs Commission shall be final.”



SCHAC Training

- Equal Employment Opportunity
- Sexual Harassment
- Diversity
- Fair Housing
- Affirmative Action



Community Relations



What is Community Relations?

“Community Relations” is the fostering of better relationships within a community through organized efforts to bring together cross- sections of people to resolve mutual issues which include, but are not limited to, law enforcement, education, business practices, government, and public accommodations.

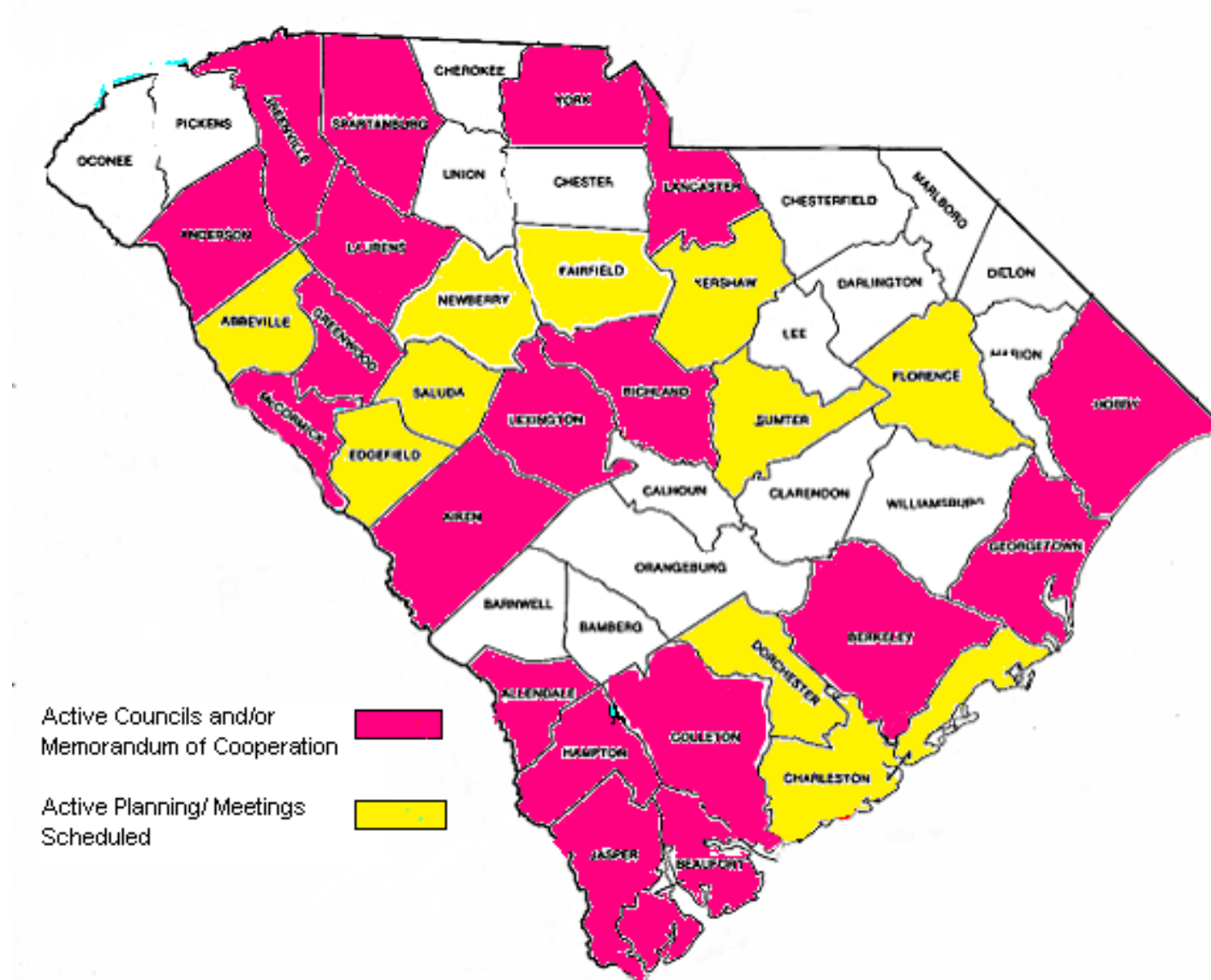


Community Relations Councils

- Established throughout the state at local community levels to resolve problems locally
- Mission of Human Affairs Commission is to work through these councils to carry out its mandate to improve relationships among the citizens of South Carolina
- Counties considered geographical boundaries for operation of local councils



Community Relations Councils Statewide (FY 16-17)





There still remains the unfinished goals of the civil rights movement and the civil rights movement is a critical part of the American movement and the American story. It's a movement in which every person, regardless of their skin color is treated equally under the law.

*-Former SC Governor Nikki Haley
speech at the National Press Club*

How to Contact the Commission

Monday—Friday
8:30 am—5:00 pm
Call: (803) 737-7800 or
(800) 521-0725

Web Address: www.schac.sc.gov 1026 Sumter Street, Suite 101 (29201)
Email: Information@schac.sc.gov Post Office Box 4490
Fax: (803) 737-7835 Columbia, SC 29240
Raymond Buxton, II, **Commissioner**

Human Affairs Fact Sheet***History:***

The South Carolina Human Affairs Law, **enacted in 1972**, created the South Carolina Human Affairs Commission.

- Its primary activities include investigating and attempting to resolve charges alleging unlawful discrimination; monitoring the employment practices and affirmative action efforts of state government agencies; providing training and technical assistance to employers and others who seek to comply with the Human Affairs Law; and conducting a study of problems which threaten the objectives of the Law, in order to promote better community relations and interracial harmony.

The South Carolina Fair Housing Law was **enacted in 1989** and gave the Commission jurisdiction to investigate all fair housing complaints in the State.

- Under the Fair Housing Law, it is unlawful to refuse to sell or rent a dwelling on the basis of

race, color, religion, sex, familial status, national origin, or handicapping condition.

The Equal Enjoyment and Privileges to Public Accommodations Act was **enacted by the State General Assembly in 1990**.

- This historic legislation provides that all persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodations without discrimination or segregation on the basis of race, color, religion or national origin.

In 2013, the agency moved locations from Forest Drive to 1026 Sumter Street.

In 2012, Raymond Buxton, II, becomes the **Sixth and current Commissioner** of the agency.

As of 2016, the Agency has investigated approximately 40,000 Discrimination complaints since inception.

Mission:

The Mission of the South Carolina Human Affairs Commission is to eliminate and prevent unlawful discrimination in: employment on the basis of race, color, national origin, religion, sex, age, and disability; housing on the basis of race, color, national origin, religion, sex, familial status, and disability; and public accommodations on the basis of race, color, national origin, and religion.

Information:

Employees: 42 FTEs

S.C. Human Affairs Laws and Regs: Title 1, Chapter 13 / Chapter 65, Subchapter 1

S.C. Fair Housing Law: Title 31, Chapter 21

Services: Public Accommodations, Non-Employment Complaints, Employment Discrimination, Housing Discrimination, Mediation, Community Relations, Technical Services, and Training

Filing a Complaint: Telephone, Mail, Walk-In, Fax, Internet

Timeliness: Employment Discrimination: 180-300 days; Housing Discrimination: 180 days; and Public Accommodation: 3 years

Training Programs: Affirmative Action, Equal Employment, Sexual Harassment, and Americans with Disabilities Act

Governing Board: John A. Oakland, **Chair**, Aiken County; Reverend Willie Albert Thompson, **Vice-Chair**, Greenville County; Harold Jean Brown, Georgetown County; Ashley Case, Laurens County; Joe F. Fragale, Beaufort County; Cheryl F. C. Ludlam, Charleston County; and Andrew Williams, York County

Commissioner: Raymond Buxton, II

Divisions: Administrative Division, Compliance Division, Fair Housing Division, Technical Services and Community Relations, and Legal Division

*****all information received from SCHAC website or Program Evaluation Report**

History

- 1968
 - Social Unrest erupts in the state with 1)1968-Orangeburg Massacre, three young African American Male students killed, 2) 1969-MUSC- Charleston Area Hospital Strike, places city of Charleston on curfew for a long period of time where unrest begins in March and issue not settled until June, 3) March, 1970- Lamar, SC- White parents turn over school buses in protest of desegregation of public schools.
- March 4, 1971
 - John C. West signs Executive Order establishing the Governor's Advisory Commission on Human Relations on March 4, 1971. JW. (Bill) Travis, CEO of Southern Bell is appointed as Chairman.
 - State Director: George Hamilton appointed as Executive Director on April 2, 1971.
- March 29, 1972
 - Through the work of the Commission, The Breger Study released a report entitled: "Black Employment in South Carolina State Government, A Study of State Employment Practices". The Study showed that there were many state agencies where Blacks were not fairly represented and notes: "Implicit discrimination in employment does not result from malicious intent, nor does it necessarily reflect racist attitudes. Instead, it is the product of decades, perhaps centuries, of social psychological conditioning to a racial environment that has always set whites before black. Its manifestations in the employment system are many and varied, often subtle and deeply ingrained."
- June 23, 1972
 - Governor West signed the bill into law creating the State Human Affairs Commission protecting citizens on the basis of race, color, religion, sex, national origin and age. The legislation gives the Commission the authority to enforce employment law and the responsibility of assisting various state agencies in setting up for affirmative action programs and equal hiring policies.
 - State Director George D. Hamilton is appointed the first Commissioner (1972-1974)
 - The SHAC Law creates a Commission made up of a 15 member board appointed by the Governor with consent and approval by the SC Senate. The Board Chair is appointed by the Governor and the Agency's Executive Director is chosen by the Board in conjunction with the approval by the Governor.
- January, 1973
 - All State Agencies with more than 15 employees are required to submit Affirmative Action Plans on an annual basis.
- October 4, 1974
 - State Director: James E. Clyburn becomes the new Commissioner (1974-1990)
 - Agency is structured in three program areas: 1)Compliance-Employment, 2) Technical Services-monitoring of State Agency Affirmative Action, 3) Community Relations
- 1975
 - Agency enters into first Contract with the US Equal Employment Opportunity Commission and becomes a Fair Employment Practicing Agency (FEPA).
- 1981
 - The Commission publishes "The Blueprint" which is a technical compliance manual that contains all the information necessary to develop and monitor Affirmative Action Plans and becomes one of the most widely used affirmative action planning manuals in the nation.

- 1983
 - The SC Bill of Rights for Handicapped Persons though weak in enforcement becomes law and is a precursor to the American with Disabilities Act.
- May 9, 1989
 - Governor Carroll A. Campbell signed into law the South Carolina Fair Housing Law that allows Human Affairs Commission for deferral status with the US Department of Housing and Urban Development. The law was amended on May 3, 1990 to enhance the deferral status with HUD and HUD Grants the agency its first contract in November 1994 and recognizes the agency for substantial equivalency status in January, 1995. The law protects citizens on the basis of race, color, religion, national origin, sex, familial status, and disability.
- April 25, 1990
 - The Equal Enjoyment of and Privileges to Public Accommodations Law is passed and signed into law by Governor Carroll Campbell as a result of an Attorney General investigation into a restaurant in September of 1989 that refused to serve black men. The law protects the rights of citizens on the basis of Race, Color, Religion and National Origin.
- 1991
 - The first Computerized Affirmative Action Management System is purchased to enhance State Agency reporting and the Commission's monitoring of all state agency plans.
- July 2, 1992
 - State Director: Willis C. Ham, PhD, becomes the new Commissioner (1992-2000)
- November, 1993
 - The Fair Housing Department is formed under Compliance-Enforcement Division
- June 13, 1996
 - Legislation is passed that allows Disability as a protected class to the Human Affairs Law, and the Human Affairs Commission is removed from any responsibility for enforcement of the SC Bill of Rights for Handicapped persons.
 - 1996- South Carolina Human and Community Relations Association (SCHACRA) was formed under the auspices of the Commission where thirteen active Community Relations Councils in the state have the goal of improving human and community relations in the state.
 - 1996- Alternative Dispute Resolution (Mediation) program is formed to provide rapid resolution to complaints without the necessity of an investigation, determination or Notice of Right to Sue being issued in a complaint.
- December, 2000
 - State Director Jesse Washington, Jr. becomes the Commissioner (2000-2010)
- 2000-2004
 - SC Human Affairs Commission from FY 1999-2000 until fiscal year 2003-2004 sustains budget cuts culminating to over 43% of the agencies state appropriations.
 - As a result, programs such as Community Relations were cut to the bare bone, reduction in staff and furloughs occurred.
- 2005-2006
 - The agency lost 9 of 43 employees to retirement. SHAC had a historically low rate of turnover of employees, now began a natural attrition of employees seeking to retire.
 - The loss of senior staff has an impact on the agency, but dedicated employees continue to keep up the pace of work to accomplish agency goals.

- 2006-2007
 - The Commission's staffing levels remain substantially below what is legitimately required to continue to deliver the services required by the legislature at qualitative and quantitative levels expected.
- 2008-2009
 - 38 FTEs are filled but in order to stay within budget, the agency endures a 10 day furlough for each employee. Employment Investigation case-loads jump from an average of 45-50 to 70 employment cases per investigator.
- 2010
 - The agency budget is cut in half. State Appropriations from 1999 to the end of the 2009- 2010 fiscal year are cut by 70%. Agencies 38 FTEs falls to 17 full time employees and one temp employee. Remaining employees all go on a 90 day voluntary furlough in order to keep the agency operating.
 - No FTEs in Community Relations Department. 90 (e) and Public Accommodation cases are no longer investigated. Technical Services Department is reduced to one FTE
- 2011
 - State Director Ralph Haile, Agency General Council, is named the fifth Commissioner, (Interim Commissioner) (2011-2012)
 - Dedicated employees at times, work without being paid and keep the agency afloat.
 - The legislature believing that State Government and not the Federal Government should be handling the problems and issues involving discrimination in South Carolina, and \$600,000 is restored to the budget to the agency budget for FY 2011-2012.
 - After Interim Commissioner Haile resigns, John Wilson, Compliance Director, takes over the leadership of the agency until a new Commissioner is hired.
- June- 2012
 - SHAC Board changes from a 15 Member Board to a 9 Member Board
- July-2012
 - State Director Raymond Buxton, II, becomes the sixth Commissioner of the agency. (2012-Present)
 - From 2012 until 2016, Funding for filled FTE positions increases from 17 to 43.
 - Community Relations Department is reinstituted to create and sustain Community Relations Councils around the State.
 - 90 (E) and Public Accommodation complaints are once again investigated.
- 2013
 - Under direction from the Department of Administration, oversaw the physical move of the agency from location of agency since 1978 on Forest Drive to 1026 Sumter Street.
- 2014
 - Major upgrade for CAAMS occurs to include data from the 2010 US Census
- 2015
 - Agency increased outreach and educational activities through improvements to WEB Site, advertising, reinstituting Agency Newsletter, developing a CRC Newsletter and distribution of agency brochures.
 - Increased training for the newly hired investigators to ensure better customer service for citizens and businesses in SC.
- 2016
 - SHAC entered into a contract with the College of Charleston to develop a systematic approach to create and sustain Community Relations Councils.

- SHACRA is reinstituted as a no- profit group.
- As a result of the Emanuel 9 tragedy in Charleston, SC, the Commission began a three event series per year to include recognizing: a) International Day on March 21 of each year to “End Racism”, b) Began to sponsor a “Remembering the Emanuel 9 Day” for all State Agencies in SC, C) sponsoring a dialogue on race relations in late summer.
- Increased attorneys on staff to three so that the laws of the agency can be enforced and enhanced in a manner that the Commission can hold public hearings as the legislation intended.
- Agency has investigated approximately 40,000 Discrimination complaints since its inception.

Deliverables

[illegible]

										Does the agency know...		
Item #	Deliverable	Applicable Laws	Does the law(s)... A) Specifically REQUIRE the agency provide it (must or shall)? B) Specifically ALLOW the agency to provide it (may)? C) Not specifically address it?	Optional - Service/Product (If deliverable is too broad to complete the remaining columns, list each product/service associated with the deliverable, and complete the remaining columns)	Does the agency evaluate customer satisfaction? (Y/N)	Greatest potential negative impact on the public if not provided	1-3 recommendations to the General Assembly, other than \$ and providing the deliverable, for how the General Assembly can help avoid the greatest potential negative impact	Other state agencies whose mission the deliverable may fit within	Is the agency permitted by statute, regulation, or proviso to charge for it? (Y/N)	cost per unit? (Y/N)	annual # of potential customers? (Y/N)	annual # of customers served? (Y/N)
12	The Commission shall hold an administrative hearing before a panel of three commission members, and shall render a decision related to the claims, when an employment investigation against a state agency has resulted in a reasonable cause determination.	1-13-70. Powers of the Commission; 1-13-90. Complaints, investigations, hearings, and orders; 65-8 Procedure for Hearing as Provided by Section 1-13-90 (c)	Require		No	Viable claims of employment discrimination against state agencies would not be adjudicated in a cost-effective, timely way, and would instead result in lawsuits being filed in circuit of federal court, adding cost to the state.	More individuals need to be identified for serving on the Board at the pleasure of the Governor and the Senate.	None	No	No	No	Yes
13	The Commission shall, at the completion of an employment investigation regarding a non-state agency employer, either order that the matter be dismissed despite evidence that reasonable cause exists to believe discrimination occurred; order that the complaint be dismissed for no reasonable cause; or recommend that a lawsuit be filed in equity in circuit court against the respondent due to a cause determination.	1-13-70. Powers of the Commission; 1-13-90. Complaints, investigations, hearings, and orders; 65-2 Complaints; 65-6 Reasonable Cause Determination: Procedure and Authority; 65-9 Procedure for the Institution of Civil Actions as Provided in Section 1-13-90(d) of the Act	Require		No	Complaints of unlawful discrimination would be incomplete, and the federal government would likely intervene.	Consider statutory revisions in order to streamline the process and minimize costs to the Agency when court action is required.	None	No	No	No	Yes
14	The Agency and Commission may initiate a lawsuit on behalf of an aggrieved party when an employment investigation against a non-state agency has resulted in a reasonable cause determination.	1-13-70. Powers of the Commission; 1-13-90. Complaints, investigations, hearings, and orders; 65-9 Procedures for the Institution of Civil Actions as Provided in Section 1-13-90(d) of the Act	Allow		No	Viable claims of discrimination against non-state agencies in the employment context would not be adjudicated in a cost-effective, timely way and would instead result in personal lawsuits being filed in circuit of federal court.	Consider statutory revisions in order to streamline the process and minimize costs to the Agency when court action is required.	None	No	No	No	Yes
15	The Agency shall attempt to conciliate allegations of discrimination outside of the employment context.	1-13-90. Complaints, investigations, hearings, and orders	Require		No	Public would not have a neutral state entity to resolve discrimination matters and without an outlet of expression and means to resolve a complaint, this could lead to social unrest and harm economic progress.	Maintain compliance and legal departments at current levels. Communicate with the Department of Administration regarding building and parking facilities in order to allocate adequate office and parking spaces for the agency, maximize security, and minimize health hazards.	None	No	No	No	Yes
16	The Commission shall submit a report to the General Assembly each year concerning the status of the Affirmative Action Plans of all state agencies, and will work with all Agency Equal Employment Officers for preparing reports, to include each Agency's Equal Employment Opportunity Report.	1-13-110. Affirmative action plans by State agencies; approval by Commission; action by General Assembly; 65-20 Submission of Equal Employment Opportunity Reports; 65-21 Equal Employment Officer to be Designated; Proviso 117.13 (GP: Discrimination Policy)	Require		No	Not monitoring State Agency AAPs would lead to more complaints of employment discrimination being filed against State Agencies and would erode the tremendous progress that State Government has made in terms of hiring and promoting qualified individuals to State employment positions where the agency employment staff looks similar to the makeup of qualified citizens in the general population.	Continue to support the proviso that if agencies are not in compliance with the law that funding can be withheld from their agency.	None	No	No	No	No
17	The Agency shall not make public information contained within an employment investigation file unless it is being entered as evidence at a Commission hearing or court proceeding.	65-3 Complaint	Require		No	File contents would be readily available to anyone, which would include matters regarding conciliation, trade secrets, personnel data, anonymous witnesses, attorney-client privileged data, and work product, among other types of confidential information.	Assist the agency with establishing a better physical location for our office that already has sufficient privacy protections in place.	None	No	No	No	No
18	The Agency shall make certain portions of employment investigation files available to the parties involved in the investigation.	65-3 Complaint	Require		No	Parties to investigations would not be able to obtain data provided to the agency following their assistance with those investigations.	Allow the Commission to promulgate and amend its regulations, as needed.	None	Yes	Yes	No	Yes
19	In employment investigations, the Commissioner shall provide the parties the opportunity to seek reconsideration of a final determination regarding the investigation.	65-7 Reconsideration of Order of Dismissal or Order to Initiate Suit;			No	The parties would not be afforded a fresh, objective opinion following the dismissal or closure of a matter.	Maintain the legal department within the agency at its current level of staffing.	None	No	No	No	Yes
20	The Chairman or the Commissioner (Agency Head) may authorize or certify all documents or records which are a part of the files and records of the Commission.	65-10 Certification; 65- 236 Certification	Allow		No	Commission documents would not be certified.	More individuals need to be identified for serving on the Board at the pleasure of the Governor and the Senate.	None	No	No	No	No
21	The Agency shall make rules and regulations of the Commission available to the public at its office and per the APA.	65-11 Availability of Rules; 65-237 Availability and Construction of Rules	Require		No	The public may not have access to Agency rules and regulations.	Allow the Commission to promulgate and amend its regulations, as needed.	None	No	No	No	No
22	The Agency may conduct general investigations into the problems of discrimination not related to housing, employment, or public accommodations, and may study and report upon the problems of the effect of discrimination on any field of human relationships.	65-13 General Investigations	Allow		No	Public would not have a neutral state entity to resolve discrimination matters, and without an outlet of expression and ability to resolve sensitive matters regarding discrimination, this could lead to social unrest and harm economic progress.	Maintain the compliance and legal departments at current levels. Communicate with the Department of Administration regarding building and parking facilities in order to allocate adequate office and parking spaces for the agency, maximize security, and minimize health hazards.	None	No	No	No	No

Item #	Deliverable	Applicable Laws	Does the law(s)... A) Specifically REQUIRE the agency provide it (must or shall)? B) Specifically ALLOW the agency to provide it (may)? C) Not specifically address it?	Optional - Service/Product (If deliverable is too broad to complete the remaining columns, list each product/service associated with the deliverable, and complete the remaining columns)	Does the agency evaluate customer satisfaction? (Y/N)	Greatest potential negative impact on the public if not provided	1-3 recommendations to the General Assembly, other than \$ and providing the deliverable, for how the General Assembly can help avoid the greatest potential negative impact	Other state agencies whose mission the deliverable may fit within	Is the agency permitted by statute, regulation, or proviso to charge for it? (Y/N)	Does the agency know...		
										cost per unit? (Y/N)	annual # of potential customers? (Y/N)	annual # of customers served? (Y/N)
23	The Agency shall prepare and distribute notices for other State Agencies to post in conspicuous locations for employees, which set forth excerpts from pertinent provisions of the Human Affairs Law, to include information regarding filing a complaint.	65-24 Notices to be Posted	Require		No	State employees will not be aware of their rights under the Human Affairs Law.	Provide the agency with a punishment mechanism if other State Agencies fail to comply with the requirement.	SC Dept. of Employment and Workforce, South Carolina Dept. of Consumer Affairs, SC Division of Human Resources	No	No	Yes	No
24	The Commission shall administer the provisions of the Fair Housing Law of South Carolina, but may delegate responsibilities to its paid staff.	31-21-90. Administration of Chapter.	Require		No	Fair Housing would not be enforced statewide.	The Statute specifically requires this, so there is no other possibility than funding.	None	No	No	No	No
25	The Agency shall accept and investigate (within 100 days) formal complaints against housing providers contending the a provider has engaged in unlawful discrimination based on race, color, religion, sex, disability, familial status, or national origin.	31-21-90. Administration of Chapter; 31-21-100. Powers of the Commission; 31-21-110. Investigations by the commission; subpoenas; 31-21-120. Complaints; process and handling; conciliation; effect of local laws; civil action.; 65-220 Complaints; 65-223 Investigation Procedures	Require		No	Complaints of unlawful discrimination would either be investigated by the HUD, would be filed immediately in a lawsuit, or would not be investigated.	Maintain the fair housing and legal departments within the agency at current level of staffing. Communicate with the Department of Administration regarding building and parking facilities in order to allocate adequate office and parking spaces for the agency, maximize security, and minimize health hazards.	None	No	No	No	Yes
26	The Agency shall attempt to conciliate or mediate complaints against housing providers alleged to have engaged in unlawful housing discrimination.	31-21-120. Complaints; process and handling; conciliation; effect of local laws; civil action.; 65-225 Conciliation Procedures	Require		No	More complaints would likely result in a lawsuit in federal or state court.	Maintain the fair housing and legal departments within the agency at current level of staffing. Communicate with the Department of Administration regarding building and parking facilities in order to allocate adequate office and parking spaces for the agency, maximize security, adn minimize health hazards	None	No	No	Yes	Yes
27	The Commission may petition a court of competent jurisdiction seeking injunctive relief regarding an employment discrimination complaint pending with the agency.	31-21-90. Administration of Chapter; 31-21-100. Powers of the Commission	Allow		No	An Aggrieved Party that is not represented by a private attorney and who does not know they can file for an injunction, could potentially suffer irreparable harm.	Consider statutory revisions in order to streamline the process and minimize costs to the Agency when court action is required.	None	No	No	No	Yes
28	The Agency shall issue a subpoena or subpoena duces tecum to compel the attendance of witnesses or the production of evidence in fair housing investigations, and the Commission shall enforce the subpoena through a court of competent jurisdiction.	31-21-90. Administration of Chapter; 31-21-100. Powers of the Commission; 31-21-110. Investigations by the commission; subpoenas; 65-223 Investigation Procedures	Require		No	Complaints of unlawful discrimination would not be investigated, and the federal government would likely intervene.	Consider statutory revisions in order to streamline the process and minimize costs to the Agency when court action is required, to include providing access to using SC Law Enforcement Officers for free process service.	None	No	No	No	Yes
29	The Commission shall issue an order at the completion of a fair housing investigation, which shall state that either that the complaint be dismissed, or that a panel of commission members be designated to hear the matter based on a new complaint consisting of a short and plain written statement of the facts upon which the Commission found reasonable cause to believe that a discriminatory housing practice had occurred.	31-21-90. Administration of Chapter; 31-21-130. Investigator's report and recommendation; dismissal of or hearing on complaint; civil action; amending of complaint; subpoenas; hearing by commission; opinion and order; review; court appeals; enforcement orders.; 65-223 Investigation Procedures; 65-227 Issuance of Complaint.	Require		No	Complainants would not have the opportunity to be heard in an administrative proceeding and would not be awarded relief if their claims are meritorious.	More individuals need to be identified for serving on the Board at the pleasure of the Governor and the Senate.	None	No	No	No	Yes
30	The Commission shall hold an expeditious administrative hearing before a panel of three commission members, and shall render a decision related to the claims, in the event that a fair housing investigation results in a reasonable cause determination, and after conciliation has failed, provided that no party has elected to have the matter be litigated in circuit court.	31-21-90. Administration of Chapter; 31-21-130. Investigator's report and recommendation; dismissal of or hearing on complaint; civil action; amending of complaint; subpoenas; hearing by commission; opinion and order; review; court appeals; enforcement orders.; ; 65-230 General Information; 65-231 Hearing Panel; 65-232 Parties; 65-233 Pleadings, Motions and Discoveries; 65-234 Dismissal and Decisions; 65-235 Hearing Procedures	Require		No	Viable claims of discrimination in the housing context would not be adjudicated in a cost-effective, timely way and would instead result in private lawsuits being filed in circuit of federal court, adding cost to the state.	More individuals need to be identified for serving on the Board at the pleasure of the Governor and the Senate.	None	No	No	No	Yes

Item #	Deliverable	Applicable Laws	Does the law(s)... A) Specifically REQUIRE the agency provide it (must or shall)? B) Specifically ALLOW the agency to provide it (may)? C) Not specifically address it?	Optional - Service/Product (If deliverable is too broad to complete the remaining columns, list each product/service associated with the deliverable, and complete the remaining columns)	Does the agency evaluate customer satisfaction? (Y/N)	Greatest potential negative impact on the public if not provided	1-3 recommendations to the General Assembly, other than \$ and providing the deliverable, for how the General Assembly can help avoid the greatest potential negative impact	Other state agencies whose mission the deliverable may fit within	Is the agency permitted by statute, regulation, or proviso to charge for it? (Y/N)	Does the agency know...		
										cost per unit? (Y/N)	annual # of potential customers? (Y/N)	annual # of customers served? (Y/N)
31	The Commissioner shall maintain a civil action in the Court of Common Pleas on behalf of an aggrieved party in a fair housing matter (in lieu of holding an administrative hearing) when any party has elected to have the matter be litigated in court, following a reasonable cause determination and after conciliation efforts have failed.	31-21-90. Administration of Chapter; 31-21-130. Investigator's report and recommendation; dismissal of or hearing on complaint; civil action; amending of complaint; subpoenas; hearing by commission; opinion and order; review; court appeals; enforcement orders.; 31-21-140. Civil action; damages.; 65-227 Issuance of Complaint; 65-234 Dismissal and Decisions	Require		No	Viable claims of discrimination in the housing context would not be adjudicated in a cost-effective, timely way and would instead result in private lawsuits being filed in circuit of federal court.	Consider statutory revisions in order to streamline the process and minimize costs to the Agency when court action is required.	None	No	No	No	Yes
32	Before accepting a complaint, the Agency shall determine if the complainant has filed a similar complaint with the Federal Home Loan Bank Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, The Department of Housing and Urban Development, or any other agency with authority to investigate and shall avoid multiple investigations of the same complaint.	31-21-150. Coordination regarding complaint filed with multiple agencies	Require		No	Duplicate complaints would be reviewed by multiple agencies at the same time unnecessarily.	Maintain the fair housing and legal departments within the agency at current level of staffing.	None	No	No	No	Yes
33	When a fair housing complaint is received that is within the jurisdiction of a substantially equivalent local agency, the Commission will notify the agency of the filing of the housing complaint, and if a case is referred, the Commission will notify the parties to the investigation of the referral.	65-221 Referral of Complaints to State and Local Agencies	Require		No	Duplicate complaints may otherwise be filed which would be reviewed by multiple agencies at the same time unnecessarily	Currently, there are no equivalent local agencies authorized to investigate housing discrimination complaints.	None	No	No	No	Yes
34	The Commission shall notify interested agencies of a reasonable cause fair housing determination, and any enforcement proceeding related thereto.	65-229 Other Action	Require		No	Partner agencies would be unaware of our Agency's efforts and decision to prosecute a claim of discrimination.	Maintain the fair housing and legal departments within the agency at current level of staffing.	None	No	No	No	Yes
35	After receiving a complaint from the Attorney General or an investigation from SLED, a three-commissioner panel shall conduct a review of the investigation to determine whether there is reasonable cause to believe a place of public accommodations has discriminated against an individual due to race, color, religion or national origin, and the Agency shall attempt to conciliate the complaint received.	45-9-40. Processing of complaints; review by State Human Affairs Commission; complaint by Attorney General.; 45-9-110. Prerequisites to action for damages; conciliation.	Require		No	Complaints of unlawful discrimination would either be investigated by the DOJ, or would not be investigated.	Encourage the Attorney General's Office and SLED to engage more with this law.	SC Attorney General's Office, SC Law Enforcement Division	No	No	No	Yes
36	If the commission panel reviewing the public accommodation complaint determines there is reasonable cause, then a panel of at least five Commission members will be designated by the chairman as a panel to hold a hearing on the allegations contained in the Attorney General's complaint within 60 days of its filing.	45-9-50. Hearing on complaint by Attorney General; notice of hearing.	Require		No	More complaints would likely result in a lawsuit in federal or state court.	Encourage the Attorney General's Office and SLED to engage more with this law.	SC Attorney General's Office, SC Law Enforcement Division	No	No	No	Yes
37	The Commission may establish rules and procedures for public accommodations hearings, to include permitting intervention by parties, and the Commission may revoke a business license from an establishment if it has violated the law.	45-9-60. State Human Affairs Commission may establish rules of procedure for hearings; subpoenas; rights of persons charged; rules of evidence; scope of hearing; deliberations of panel; remedies for violation.;45-9-65. Liability of employer for acts of employee; conditions under which revocation of license not required for pattern or practice of discriminatory conduct.; 45-9-70. Right to Intervene in Action	Allow		No	Consumers would not have sufficient guidance on the Agency's process or legal interpretations if the Commission did not issue additional reports, policies, or regulations.	Encourage the Attorney General's Office and SLED to engage more with this law.	SC Attorney General's Office, SC Law Enforcement Division	No	No	No	Yes
38	The Commission panel must issue a written Order which includes findings of fact and conclusions of law, following a hearing under the chapter.	45-9-75. Final decision of panel; appeals.	Require		No	Commission decisions would not be able to withstand appellate review	Encourage the Attorney General's Office and SLED to engage more with this law.	SC Attorney General's Office, SC Law Enforcement Division	No	No	No	Yes
39	In both employment and housing investigations, the Commission shall determine if jurisdiction exists and shall dismiss a complaint for lack of jurisdiction, and may also dismiss a complaint at the request of the complainant or if the complainant files a private lawsuit during the course of the investigation.	1-13-90. Complaints, investigations, hearings and orders. 65-2. Complaints; 65-220. Complaints; 65-223 Investigation Procedures	Require		No	The Commission would investigate cases that are not within its jurisdiction to investigate.	The Statute specifically requires this, so there is no other possibility than funding.	None	No	No	No	Yes

Agency Responding	Human Affairs Commission
Date of Submission	4/17/2017

Mission: "The mission of the South Carolina Human Affairs Commission is to eliminate and prevent unlawful discrimination in:

- employment on the basis of race, color, national origin, religion, sex, age and disability;
- housing on the basis of race, color, national origin, religion, sex, familial status and disability; and
- public accommodations on the basis of race, color, national origin and religion, thereby promoting harmony and the betterment of human affairs for all citizens."

Legal Basis: S.C. Code Ann. § 1-13-20; S.C. Code Ann. § 31-21-20 et. seq.; S.C. Code Ann. § 45-9-10

Vision: The vision of the South Carolina Human Affairs Commission is to be well-known with a positive image that is understood and accepted by the public. SCHAC is a fully resourced, customer-friendly agency with a diverse, well-trained, and efficient team working together effectively in a safe and supportive environment to prevent unlawful discrimination for the citizens

Legal Basis: Legal Basis: S.C. Code Ann. § 1-13-20 et seq.; S.C. Code Ann. § 31-21-20 et. seq.; S.C. Code Ann. § 45-9-10 et seq

		2015-16		2016-17						
		Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend					
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48					
		2015-16		2016-17						
Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)	Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	# of FTE equivalents utilized	Total amount spent	# of FTE equivalents planned to utilize	Total amount budgeted	Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
Goal 1 - Prevent and Eliminate Employment Discrimination										
Strategy 1.1. - Implement a process of hiring and training employment Investigators	Agency will be able to efficiently investigate complaints of employment investigations	DNE	\$ -	3	\$ 179,488.00	See below		Lori Dean (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years)	Lori Dean - Yes John Dave Smith - No Sharon Dorn - No	State Government
Objective 1.1.1 - Provide monthly training sessions related to employment law for 15 employment investigators in FY 2016-2017	Ensure staff is properly trained to complete timely investigations	DNE	\$ -	3	\$ 195,150.00	Intake Calls and Initial Inquiries; Intake Calls Formalized into charges; Employment Cases Received; Employment Cases Closed; Employment: Monetary Value of Settlements; Training - Internal	Compliance	Dan Koon (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years)	Dan Koon - No John Dave Smith - No Sharon Dorn - No	Federal Government
Objective 1.1.2 - Institute a workplace mentoring program for Investigator I employees during FY 2016-2017	Ensure staff is properly trained to complete timely investigations	3	\$ 183,329.52	3	\$ 195,150.00	Employment Cases Received; Employment Cases Closed; Employment: Monetary Value of Settlements	Compliance	Dan Koon (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years)	Dan Koon - No John Dave Smith - No Sharon Dorn - No	Federal Government
Strategy 1.2 - Implement a reliable and measurable tracking system for the time it takes to process and investigate an employment discrimination complaint	Agency will decrease time it takes to process charges to meet the goal of 180 days	3	\$ 173,873.60	3	\$ 175,310.12	See below	Compliance	Dan Koon (responsible more than 3 years) Vicki Miller (responsible more than 3 years) Margaret H Ellis (responsible more than 3 years)	Dan Koon - No Vicki Miller - No Margaret H Ellis - No	Federal Government
Objective 1.2.1 - Decrease the average amount of case processing time of 263 days to investigate a charge of discrimination from the date of filing by 20% or 210 days by June 30, 2017	Agency will decrease time it takes to process charges to meet the goal of 180 days	5	\$ 342,107.14	6	\$ 410,930.39	Employment Cases Received; Employment Cases Closed; Employment Cases Successfully Mediated; Funds Collected at Mediation; Employment: Monetary Value of Settlements	Compliance	Commissioner Raymond Buxton, II (responsible more than 3 years) Dan Koon (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years) Lee Ann Rice (responsible less than 3 years) Emma Bennett-Williams (responsible less than 3 years)	Commissioner Raymond Buxton - No Dan Koon - No John Dave Smith - No Sharon Dorn - No Lee Ann Rice - No Emma Bennett-Williams - No	Federal Government
Goal 2 - Prevent and Eliminate Housing Discrimination										
Strategy 2.1 - Enhance the awareness of the Housing Division to include the awareness of the Agency in under-served counties	To prevent and eliminate housing in underserved counties	1	\$ 44,042.94	1	\$ 59,273.00	See below	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
Objective 2.1.1 - Finalize a Fair Housing Outreach Plan by December 31, 2016	Education and Outreach	1	\$ 44,042.94	1	\$ 59,273.00	Housing Cases Received	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
Objective 2.1.2 - Hire a Fair Housing Outreach Liaison by December 16, 2016	Education and Outreach	1	\$ 4,519.35	1	\$ 18,077.40	Housing Cases Received	Compliance/Fair Housing	Luis Mendoza (responsible less than 3 years (hired 10/17/16)	No	Federal Government
Strategy 2.2 - Implement an efficient processing system for Housing Discrimination Complaints	Agency will be able to efficiently investigate complaints of housing complaints	1	\$ 44,042.94	1	\$ 59,273.00	See below	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
Objective 2.2.1 - Process 60% of all Housing cases within 100 days during FY 2016-17	Agency will decrease time it takes to process charges to meet the goal of 100 days	DNE	\$ -	7	\$ 269,514.61	Housing Cases Closed; Housing Cases Conciliated	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years) Donald Frierson (responsible less than 3 years) Constance Jenkins (responsible more than 3 years) Tamiko Johnson (responsible more than 3 years) Anthony Sellers (responsible less than 3 years) Deborah Thomas (responsible more than 3 years) Luis Mendoza (responsible less than 3 years) Deloris Jenkins (responsible less than 3 years)	Marvin Caldwell - Yes Donald Frierson - No Constance Jenkins - No Tamiko Johnson - No Anthony Sellers - No Deborah Thomas - No Luis Mendoza - No Deloris Jenkins - No	Federal Government

		2015-16		2016-17						
		Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend					
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48					
Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)	Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	# of FTE equivalents utilized	Total amount spent	# of FTE equivalents planned to utilize	Total amount budgeted	Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
Objective 2.2.2 - Conduct on-site investigations for all cases identified as problematic cases during FY 2016-2017	Agency will be able to efficiently investigate complaints of housing investigations	DNE	\$ -	6	\$ 243,649.61	Housing Cases Closed	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years) Donald Frierson (responsible less than 3 years) Constance Jenkins (responsible more than 3 years) Anthony Sellers (responsible less than 3 years) Deborah Thomas (responsible more than 3 years) Luis Mendoza (responsible less than 3 years) Deloris Jenkins (responsible less than 3 years)	Marvin Caldwell - Yes Donald Frierson - No Constance Jenkins - No Anthony Sellers - No Deborah Thomas - No Luis Mendoza - No Deloris Jenkins - No	Federal Government
Goal 3 - Educate Citizens about the use of Legal Remedies to Achieve Justice and Fairness										
See below										
Strategy 3.1 - Empower the Legal and Mediation Departments with authority as provided by law.	Provide recourses provided to charging parties	1	\$ 54,708.22	1	\$ 59,368.00	See below	Administration/Legal	Lee Ann Rice (responsible less than 3 years)	No	Federal Government
Objective 3.1.1 - Litigate probable cause cases that cannot be conciliated in the Fair Housing Division during FY 2016-17	Hold accountable discriminating respondents in SC	2	\$ 67,280.68	2	\$ 111,292.00	None	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Randy A Pate (responsible less than 3 years)	No	Federal Government
Objective 3.1.2 - Hold an administrative hearing for an employment or housing case by June 30, 2017	Holding accountable discriminators in Employment or Housing	DNE	\$ -	3	\$ 161,292.00	None	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Randy A Pate (responsible less than 3 years) Emma Williams-Bennett (responsible less than 3 years)	No	Federal Government
Objective 3.1.3 - Increase the number of mediated cases from the current level of 20% to 25% during FY 2016-17	Efficiently resolve more cases filed with the agency	2	\$ 87,538.41	2	\$ 88,905.00	Employment Cases Successfully Mediated; Funds Collected at Mediation; Housing Cases Conciliated; Public Accommodation / 90 e Cases Investigated	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Tracie Mefford (responsible less than 3 years)	No	Federal Government
Strategy 3.2 - Promote legislation to update and standardize the laws and regulations of the Commission	Mandatory mediations will increase the number of complaints that we serve	1	\$ 104,070.00		\$ 104,070.00	See below	Administration/Legal	Commissioner Raymond Buxton, II (responsible more than 3 years)	Yes	No
Objective 3.2.1 - Continue to engage and educate members of the General Assembly for proposed changes to existing statues during FY 2016-17	Mandatory mediations will increase the number of complaints that we serve	1	\$ 104,070.00	1	\$ 104,070.00	None	Administration/Legal	Commissioner Raymond Buxton, II (responsible more than 3 years)	Yes	No
Goal 4 - Foster Culturally Sensitive and Socially Inclusive Communities State Wide										
See below										
Strategy 4.1 - Create and sustain existing Community Relations Councils in 46 counties	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	DNE	\$ -	2	\$ 88,042.00	See below	Consultative Services/Community Relations	Saundra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Saundra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.1.1 - Increase the number of counties with Community Relations Councils from 17 to 22 during FY 2016-17	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	DNE	\$ -	2	\$ 88,042.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Saundra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Saundra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.1.2 - Sustain the current leadership in existing Community Relations Councils per minimum requirement during FY 2016-17	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	2	\$ 81,174.16	2	\$ 88,042.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Saundra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Saundra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Strategy 4.2 - Implement technology platform and external Communication campaign to expand the network of Community Relations Councils	Promote best practices among Community Relations Councils	1	\$ 30,698.32	1	\$ 36,137.00	See below	Consultative Services/Community Relations	Anita Dantzler (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.2.1 - Distribute an electronic newsletter devoted to Community Relations Councils on a monthly basis during FY 2016-17	Promote best practices among Community Relations Councils	1	\$ 51,919.52	1	\$ 55,086.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Betty Dennis (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.2.2 - Develop the agency web page to communicate periodic updated information to all Community Relations Councils during FY 2016-17	Promote best practices among Community Relations Councils	1	\$ 30,698.32	1	\$ 36,137.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Anita Dantzler (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other

		2015-16		2016-17						
		Total # of FTEs available; and filled	Total amount appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount appropriated and Authorized to Spend					
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48					
Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)	Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	# of FTE equivalents utilized	Total amount spent	# of FTE equivalents planned to utilize	Total amount budgeted	Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
Strategy 4.3 - Promote the Quality of Life Initiative in all Community Relations Councils	Promote best practices among Community Relations Councils	1	\$ 50,475.84	1	\$ 51,905.00	See below	Consultative Services/Community Relations	Saundra Ligon (responsible more than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.3.1 - Conduct Quality of Life Initiative meetings with 5 Community Relations Councils during FY 2016-17	Promote best practices among Community Relations Councils	DNE	\$ -	1	\$ 51,905.00	None	Consultative Services/Community Relations	Saundra Ligon (responsible more than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Goal 5 - Advocate the compliance of Agency Affirmative Action Policies within all State Agencies										
See below										
Strategy 5.1 - Partner with all State Agencies to better monitor agency Affirmative Action policies	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	1	\$ 48,851.00	See below	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years)	No	State Government
Objective 5.1.1 - Conduct a computer analysis of each agency's hiring and promotion practices during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	State Agency AA Plans Monitored	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government
Objective 5.1.2 - Review all State Agency Affirmative Action Reports and provide necessary recommendations to state agencies in developing and implementing non-discriminatory employment systems during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	State Agency AA Plans Monitored; Training - External	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government
Strategy 5.2 - Provide affirmative action and employment law training to all State Agencies	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	2	\$ 131,481.00	See below	Consultative Services/Technical Services	Dan Koon (responsible more than 3 years) Stephanie Price (responsible more than 3 years)	Dan Koon - No Stephanie Price - No	State Government
Objective 5.2.1 - Conduct one statewide training program for all Affirmative Action (EEO) Officers during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	1	\$ 48,851.00	None	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years)	No	State Government
Objective 5.2.2 - Provide 12 EEO Employment Law training sessions for supervisors of state agencies requesting assistance during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	2	\$ 131,481.00	None	Consultative Services/Technical Services	Dan Koon (responsible more than 3 years) Stephanie Price (responsible more than 3 years)	Dan Koon - No Stephanie Price - No	State Government
Objective 5.2.3 - Organize one state-wide Affirmative Action Forum for all State Agencies during FY 2016-17.	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	None	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government

Agency Mission and Vision**AGENCY MISSION**

The mission of the South Carolina Human Affairs Commission is to eliminate and prevent unlawful discrimination in:

- Employment on the basis of race, color, national origin, religion, sex, age and disability;
- Housing on the basis of race, color, national origin, religion, sex, familial status and disability;
- Public accommodations on the basis of race, color, national origin and religion; thereby promoting harmony and the betterment of human affairs for all citizens.

AGENCY VISION

The Vision of the South Carolina Human Affairs Commission is to be well-known with a positive image that is understood and accepted by the public. SCHAC is a fully resourced, customer-friendly agency with a diverse, well-trained, and efficient team working together effectively in a safe and supportive environment to prevent unlawful discrimination for the citizens of SC.

Chair Wm. Weston J. Newton

*First Vice-Chair:
Laurie Slade Funderburk*

Legislative Oversight Committee

*Katherine E. (Katie) Arrington
Gary E. Clary
MaryGail K. Douglas
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James E. Smith Jr.
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Research Analyst/Auditor*

June 27, 2017

Commissioner Huge E. Weathers
South Carolina Department of Agriculture
P.O. Box 11280
Columbia, SC 29211

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, we appreciate the agency's continued cooperation during the oversight process. The Subcommittee is scheduled to meet again on Monday, July 10 at 2:00 p.m. As it is my understanding you are unable to attend the meeting on July 10, the Subcommittee will hold another work session with regards to its study of the Department of Agriculture. Please have an agency representative available to answer any potential questions. In preparation for the next work session, the Subcommittee seeks additional information from the agency, pertaining to its recommendations, on or before Friday, July 7, 2017.

Recommendation #4 - Adopt the model feed law proposed by the American Association of Feed Control Officials

- Please explain the difference in the tonnage fee versus the registration fee and how the agency will be able to make this change budget neutral?
- Please explain the facility registration fees.
- Please explain any other fees and if the proposed changes adds or keeps these the same.

Recommendation #10 - Authorize an application fee (\$25) for a food business when registering for a registration verification certificate

Recommendations #11 - Authorize a tiered annual fee for a registration verification certificate

- How much revenue does the agency anticipate this fee will generate?
- How many inspectors, if any, will this revenue enable the agency to hire?

Commissioner Weathers
June 27, 2017

Previously, the Subcommittee requested draft language (i.e., strike through and underline format) of agency recommendations. We appreciate the suggested language already provided for many of the agency recommendations. It would be helpful to have that language for the remaining agency recommendations:

- Recommendation #5 - Authorize agency to fine businesses that habitually and willfully violate existing consumer protection labeling/quality laws
- Recommendation #6 - Requires businesses that dispense petroleum products to notify the agency within 30 days of operating dispensers
- Recommendation #7 - Authorize a \$5 per dispenser registration fee for business that dispense petroleum products
- Recommendation #8 - Enforce a scalable money penalty for habitual and willful offenders of petroleum law, when taking advantage of the consumer

In your responses to these questions, please provide the Subcommittee with any relevant, necessary context information. As a reminder, testimony during meetings and written information from agencies are considered sworn testimony and subject to S.C. Code of Laws Sections 2-2-70 through 2-2-120. Thank you for your service to the citizens of South Carolina.

Sincerely,



Laurie Slade Funderburk
Committee First Vice-Chair

cc: Economic Development, Transportation, and Natural Resources Subcommittee Members

Jennifer Dobson

From: Kitchen, Stefanie <skitchen@scda.sc.gov>
Sent: Monday, July 10, 2017 10:48 AM
To: Jennifer Dobson
Cc: Wood, Aaron
Subject: SCDA Additional Information Pertaining to Recommendations
Attachments: Amended Petroleum Law Draft 2017 7-10-17.doc; Amended Warehouse Law 7-10-17.doc; South Carolina Commercial Feed Act a bill to amend 6-20-17.docx

Jennifer,

Please see the additional information below and attached. Please let me know if you need anything else before this afternoon.

Recommendation #4:

- *Tonnage vs. Registration fees.* Currently law requires each and every feed/pet food product sold in SC to be registered. This is tedious to manufacturers and feed producers. A simple tonnage fee would create same revenue but allow businesses to not file multiple fees. Richard Sellers, Richard Sellers, PAS, Dipl., ACAN Sr. Vice President, Public Policy and Education American Feed Industry Association (AFIA), has a formula used in other states (¾ of the states in USA including Ga and NC use tonnage vs. product registration) that well calculate tonnage fee amount to maintain current revenue stream. AFIA is seeking tonnage information from their members to gain an idea of how much feed is distributed in SC. This information will show how the change will be revenue neutral.

- *Facility Registration Fee.* Similar to Food Facility Registration recommendation (#11). Food and Feed are now referred to as Human Food and Animal Food and new laws and requirements (FSMA) require more detailed and specific inspections. Firms need to be in SC Official Inventory and must register with the state prior to operation.

- *Other fees.* Included in the draft AAFCO Model Feed Law Section 46-27-840 supported by AFIA attached.

Recommendation #10 and #11:

- *Revenue to generate:* Application fee (\$25) would generate approximately \$5,000 annually. Average of 200 new businesses apply yearly.

- *Revenue generated by annual registration fee would be \$157,400 total.*

- o Tier 1 - 346 firms at \$100 = 34,600
- o Tier 2 – 395 firms at \$200 = \$79,000
- o Tier 3 – 146 firms at \$300 = \$43,800

- *A total of 3 to 4 inspectors can be hired at entry level salaries (including fringe) with this new revenue source. Our current inspection staff is 5 and this would bring us to 9.*

Recommendation #5-Draft language still in process.

Recommendations #6-8-Amended Petroleum Law Draft 2017 attached.

Amended Warehouse law is attached as well.

Thank you,

Stefanie Kitchen

Commissioner's Office Director

South Carolina Department of Agriculture

1200 Senate Street | Wade Hampton Building, 5th Floor

Columbia, South Carolina 29201

Office: 803-734-2179

skitchen@scca.sc.gov | agriculture.sc.gov | [Facebook](#)

CHAPTER 41.

GASOLINE, LUBRICATING OILS AND OTHER PETROLEUM PRODUCTS

ARTICLE 1.

PETROLEUM PRODUCTS GENERALLY

SECTION 39-41-5. Short title; purpose.

This chapter is known as the “South Carolina Gasoline, Lubricating Oils, and Other Petroleum Products Act”. This chapter promotes and protects the public health, safety, and welfare by ensuring that petroleum products:

- (1) are labeled and posted in a manner consistent with the principal of truth-in-labeling;
- (2) meet or exceed minimum standards of quality as set out in the American Society of Testing and Materials Manual.

SECTION 39-41-10. “Petroleum” and “petroleum product” defined.

“Petroleum” or “petroleum product” as used in this article means gasoline, gasohol, kerosene, diesel fuels, jet fuels, fuel oil no. 1 through 4, or a similar product of petroleum or a product which may be acceptable for use as a petroleum product or oxygenated compound blends of the products but does not include compressed natural gas or propane when dispensed or sold as a motor vehicle fuel.

A. Every retail fuel business must notify the South Carolina Department of Agriculture Consumer Protection Division in writing when a petroleum dispensers has been installed for use, within 30 days of beginning operation. Failure to provide proper notification will result in a penalty assessment in the amount of \$500.

B. One dispenser registration permit shall be issued to each location for all liquid measuring devices at that location based on the total number of devices at that location. The permit shall expire one year following the date of issuance and must be renewed annually. The annual permit renewal fee shall be five dollars per dispenser, regardless of the number of products or hoses on that dispenser.

SECTION 39-41-20. [1962 Code SECTION 66-402; 1952 Code SECTION 66-402; 1942 Code SECTION 6577; 1932 Code SECTION 6577; Civ. C. ‘22 SECTION 3487; 1913 (28) 204; 1915 (29) 145; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 2][1994 Act No. 469, SECTION 3] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-20 was entitled: Commissioner shall appoint analysts, chemists and inspectors; powers of inspectors; stop-sale orders.

SECTION 39-41-30. [1962 Code SECTION 66-403; 1952 Code SECTION 66-403; 1942 Code SECTION 6584; 1932 Code SECTION 6584; Civ. C. ‘22 SECTION 3494; 1913 (28) 204] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-30 was entitled: Inspectors shall not be interested in products manufactured or sold.

SECTION 39-41-40. [1962 Code SECTION 66-404; 1952 Code SECTION 66-404; 1942 Code SECTION 6585-1; 1933 (38) 267; 1934 (38) 1398; 1936 (39) 1615; 1941 (42) 119][1993 Act No. 181, SECTION 848] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-40 was entitled: Department of Public Safety may assist in enforcement of laws relating to inspection of petroleum products.

SECTION 39-41-50. [1962 Code SECTION 66-405; 1952 Code SECTION 66-405; 1942 Code SECTION 6575; 1932 Code SECTION 6575; Civ. C. '22 SECTION 3485; 1913 (28) 204; 1933 (38) 257; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 3][1994 Act No. 469, SECTION 4] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-50 was entitled: Manufacturers, wholesalers and jobbers shall file information as to petroleum products and distributors; fine for noncompliance.

SECTION 39-41-60. [1962 Code SECTION 66-406; 1952 Code SECTION 66-406; 1942 Code SECTION 6578; 1932 Code SECTION 6578; Civ. C. '22 SECTION 3488; 1913 (28) 204; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 4] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-60 was entitled: Notice of shipments of petroleum products.

SECTION 39-41-70. Inspection of petroleum products.

All petroleum products sold or offered for sale in this State and to be used in this State for power, illuminating or heating purposes, shall be subject to inspection and testing to determine their safety and value for power, illuminating or heating purposes. The Department of Agriculture may at any time or place have collected samples of any petroleum product offered for sale and have them tested and analyzed. The inspection of petroleum products as authorized in this article shall be under the direction of the Commissioner of Agriculture, who may make all necessary regulations for the inspection of such petroleum products, employ all necessary chemists and enforce standards as to safety, purity, value for power and heating purposes or absence of objectionable substances and luminosity, when not in conflict with the provisions of this article, and which he may deem necessary to provide the people of the State with satisfactory petroleum products.

SECTION 39-41-80. Promulgation of rules and regulations as to standards and testing methods.

The Commissioner of Agriculture is authorized to promulgate rules and regulations prescribing standards for petroleum products and methods for testing same.

SECTION 39-41-90. Tests of safety and value of petroleum products complained of; sale forbidden of petroleum product found unsafe or of inferior quality.

Whenever a complaint is made to the Department of Agriculture in regard to power, illuminating or heating qualities of any petroleum product sold in this State, the Commissioner shall cause a sample of such petroleum product complained of to be procured and have it thoroughly analyzed and tested as to safety or value for power or heating purposes or illuminating qualities. If such analysis or other tests shall show that the petroleum product is either unsafe or of inferior quality for power, heating or illuminating purposes, its sale shall be forbidden and reports of the result shall be sent to the person making the complaint and to the manufacturer of such petroleum product.

SECTION 39-41-100. [1962 Code SECTION 66-410; 1952 Code SECTION 66-410; 1942 Code SECTION 6585; 1932 Code SECTION 6585; Civ. C. '22 SECTION 3495; 1913 (28) 204; 1933 (38) 267; 1934 (38) 1398; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 7] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-100 was entitled: Sellers to keep records of shipments; delivery manifests; alteration of shipping documents a misdemeanor; penalty.

SECTION 39-41-110. [1962 Code SECTION 66-411; 1952 Code SECTION 66-411; 1942 Code SECTION 6585; 1932 Code SECTION 6585; Civ. C. '22 SECTION 3495; 1913 (28) 204; 1933 (38) 267; 1934 (38) 1398; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 8] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-110 was entitled: Inspection of records.

SECTION 39-41-120. [1962 Code SECTION 66-412; 1952 Code SECTION 66-412; 1942 Code SECTION 6578; 1932 Code SECTION 6578; Civ. C. '22 SECTION 3488; 1913 (28) 204; 1936 (39) 1615; 1941 (42) 119; 1959 (51) 144; 1981 Act No. 130, SECTION 9] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-120 was entitled: Fee on petroleum products for funding inspection and other purposes; surety bond as prepayment pending reports and payment.

SECTION 39-41-130. [1962 Code SECTION 66-413; 1952 Code SECTION 66-413; 1942 Code SECTION 6585; 1932 Code SECTION 6585; Civ. C. '22 SECTION 3495; 1913 (28) 204; 1933 (38) 267; 1934 (38) 1398; 1936 (39) 1615; 1941 (42) 119; 1959 (51) 144; 1981 Act No. 130, SECTION 10] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-130 was entitled: Refund of inspection fees.

SECTION 39-41-140. [1962 Code SECTION 66-414; 1952 Code SECTION 66-414; 1942 Code SECTION 6579; 1932 Code SECTION 6579; Civ. C. '22 SECTION 3489; 1913 (28) 204; 1915 (29) 145; 1936 (39) 1615; 1941 (42) 119; 1981 Act No. 130, SECTION 11] Repealed by 1995 Act No. 136, SECTION 4A, eff September 1, 1995.

Former SECTION 39-41-140 was entitled: Payment of fees; disposition.

SECTION 39-41-150. Issuance of rules and regulations.

The Commissioner of Agriculture may issue such rules and regulations as may be necessary for carrying out the provisions of this article and such rules and regulations shall have the effect of law.

(A) Any person or motor fuel retailer that knowingly or willfully violates the petroleum law or a habitual offender of the petroleum law will be subject to a penalty. First Offense -\$50, Second Offense \$200, Third and each subsequent Offenses will be subject to a penalty of \$500. Penalties will be determined, assessed, and made payable to the SC Department of Agriculture.

Commented [WA1]: We need to either include a definition of habitual offender; or list here, "over a XXX period." We were thinking twenty four months, but could go down to twelve.

SECTION 39-41-160. Penalties for fraudulent violations of article or regulations.

A person who fraudulently commits the following violations is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred nor more than one thousand dollars or imprisoned not less than thirty nor more than sixty days for each offense:

- (1) brands or labels a package, a barrel, a pump, a tank, or other vessel;
- (2) uses a label a second time;
- (3) keeps a petroleum product used for illuminating, heating, or power purposes not marked and branded in accordance with the regulations of the Commissioner of Agriculture;
- (4) violates this article or a regulation adopted by the Commissioner of Agriculture for its enforcement.

SECTION 39-41-170. Penalties for selling petroleum product without a label.

If any person shall sell or offer for sale any petroleum product used for illuminating, heating or power purposes, before first having it labeled and tagged as required by the regulations adopted by the Commissioner of Agriculture, he shall be guilty of a misdemeanor and, on conviction, be fined not exceeding three hundred dollars and such oils and fluids shall be forfeited and sold and the proceeds thereof shall go to the common school fund of the State.

SECTION 39-41-180. Penalties for altering or erasing labels.

If any manufacturer or dealer of such gasoline, illuminating or heating fluids shall, with intent to deceive or defraud, alter or erase the label or tag to indicate a different flash test, specific gravity or quantity than is indicated by the label or stamp attached to the vessel, he shall, on conviction, be fined not exceeding fifty dollars for every such offense.

SECTION 39-41-185. Labeling of petroleum product dispensers.

(A) A motor fuel retail dealer may not transfer, sell, dispense, or offer petroleum products for sale in South Carolina unless every dispenser is posted clearly with the complete registered brand name for the petroleum products being dispensed including the amount of alcohol, ethanol, and methanol, if any, and the octane number. The dispenser labeling must be in the same size and type lettering for all parts of the brand name including that portion of the brand name disclosing alcohol content and amount.

(B) The labeling must be conspicuous and legible to a customer when viewed from the driver's position of a motor vehicle positioned in front of the dispenser.

(C) Kerosene dispensers must be labeled as either 1-K or 2-K. 2-K dispensers must display the following in lettering at least one inch in height: "Not suitable for use in nonflue-connected heaters".

SECTION 39-41-190. General penalties for violation of article or rules and regulations.

A person who fails to comply with this article for which no other penalty is provided specifically, fails to comply with regulations authorized by Section 39-41-150, or hinders or obstructs the Commissioner of Agriculture or his authorized representative in the enforcement of this article is guilty of a misdemeanor and, upon conviction in a court of competent jurisdiction, must be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned not less than thirty nor more than sixty days.

SECTION 39-41-195. Penalties for conveyance of motor fuel in violation of this chapter.

(A) If a person or his agent or employee conveys, or offers to convey, motor fuel in violation of this chapter, the person is subject to an administrative fine or a stop-sale order, or both, in the discretion of the Commissioner of Agriculture.

(B) An administrative fine must not be assessed for an amount greater than one thousand dollars unless the violation:

- (1) threatens public health or safety;
- (2) is committed knowingly or intentionally; or
- (3) reflects a continuing and repetitive pattern of disregard for the requirements of this article.

(C) An administrative fine fully assessed by the commissioner for an amount greater than one thousand dollars may be assessed for an amount not in excess of ten thousand dollars.

SECTION 39-41-200. Applicability of article to retailers.

The provisions of this article shall not apply to a retail dealer in petroleum products, unless such retail dealer shall sell or offer to sell petroleum products of a manufacturer, wholesaler or jobber who refuses to comply with the provisions of this article.

SECTION 39-41-210. Reports.

The Commissioner of Agriculture shall include in his report to the General Assembly an account of the operations and expense under this article.

SECTION 39-41-220. Inspection of alcohol sold as motor fuel or sold for purpose of producing motor fuel.

Ethyl, methyl, and any other alcohol sold or offered for sale as motor fuel or to be blended with gasoline for the purpose of producing motor fuel are subject to inspection, sampling, and testing by the Department of Agriculture. Gasohol is defined as a blend of gasoline and at least ten percent ethyl alcohol. The department may limit the total oxygenates in the motor fuel blends consistent with industry practices and acceptable consumer motoring performance.

SECTION 39-41-230. Regulations as to alcohol used in motor fuels; alcohol to be anhydrous.

The Department of Agriculture shall promulgate regulations under the provision of SECTIONS 1-23-10 et seq. to ensure the quality of methyl or ethyl alcohol used as motor fuels or in blends with other motor fuel. Alcohol blended with gasoline to produce gasohol shall be anhydrous.

SECTION 39-41-240. Standards for testing petroleum products.

Quality and safety standards for testing of gasoline, gasohol, diesel fuel, kerosene, fuel oil and petroleum products shall be the specifications promulgated by the American Society for Testing and Materials unless other standards are promulgated by the Commissioner of Agriculture in accordance with SECTION 39-41-80.

SECTION 39-41-250. Registration of gasoline, gasohol and alcohol-gasoline mixtures by octane index; forms; use of index; octane standards.

All gasoline, gasohol and alcohol-gasoline mixtures for gasoline type engines that are sold, offered or exposed for sale or distribution in South Carolina shall be registered by each identifying brand name or grade designation and the corresponding minimum guaranteed Octane Index. Prescribed registration forms will be provided by the Department of Agriculture. The Octane Index, the average of the Research Octane Number and the Motor Octane Number, $(R+M)/2$, shall be the designated number for registration, delivery invoices, bills of lading, delivery tickets, posting on dispensing pumps and for advertising purposes, when so stated. The minimum Octane Index guarantee for premium grade gasoline, gasohol

and alcohol-gasoline mixtures shall be ninety-one. The minimum Octane Index guarantee for regular grade gasoline, gasohol and alcohol-gasoline mixtures shall be eighty-seven. Gasoline, gasohol and alcohol-gasoline mixtures having Octane Indices below eighty-seven must be registered and labeled as sub-standard or sub-regular.

SECTION 39-41-255. Retail outlets shall post self-service pump gasoline prices.

Every retail motor fuel outlet shall post in a conspicuous place the self-service pump price for each type of gasoline it has available; provided, that such posted price must include either the cash or the credit price but need not include both such prices. The manner in which the prices are posted must not conflict with any state or local laws or ordinances that regulate the size, use, or placement of billboards or signs. The posting on the pump price mechanism of the price of the type of gasoline available at that pump shall satisfy the requirement of this section.

SECTION 39-41-260. Aboveground storage of flammable and combustible liquids.

(A) The storage, handling, and use of flammable and combustible liquids shall comply with the applicable provisions of the National Fire Protection Association Pamphlet No. 30, 1987 Edition, and all referenced publications in this pamphlet and the National Fire Protection Association Pamphlet No. 30A, 1987 Edition, and all referenced publications in this pamphlet except for the aboveground storage of flammable and combustible liquids at service stations as provided by this section.

(B) A maximum of thirty thousand gallons aggregate capacity of flammable or combustible liquids, or both, may be stored aboveground at service stations. No single storage tank shall exceed twelve thousand gallons liquid capacity. Service stations with an aboveground storage tank in excess of twelve thousand gallons liquid capacity on June 12, 1990 are exempt from this section.

(C) All aboveground storage tanks located at service stations must be enclosed by an eight-foot high industrial type chain link fence with barbed wire barricade with a minimum of two means of emergency access located at opposite ends of the enclosure. Each access must be at least thirty-six inches wide and must be locked at all times except when entering or exiting. There must be a minimum working distance of at least five feet between the tank and the fence. The area inside the fence and diked area must at all times be clear of trash, combustible storage, and vegetation. Existing service stations on the effective date of this provision with aboveground storage tanks that are enclosed with a fence constructed as referenced above are allowed to continue operating with the existing working distance between the tanks and the fence.

(D) All aboveground storage tanks located at service stations with thirty thousand gallons aggregate storage capacity must be located a minimum of fifty feet from the nearest occupied building on the property, a minimum of fifty feet from a dispenser, a minimum of fifty feet from the nearest side of a public way, and a minimum of one hundred feet from a property line which is or can be built upon including the opposite side of a public way. All aboveground storage tanks located at service stations with twelve thousand gallons aggregate storage capacity must be located a minimum of thirty-seven feet from the nearest occupied building on the property, a minimum of thirty-seven feet from a dispenser, a minimum of thirty-seven feet from the nearest side of a public way, and a minimum of forty feet from a property line which is or can be built upon including the opposite side of a public way. Service stations with twelve thousand gallons aggregate storage capacity shall not have a storage tank in excess of four thousand gallons liquid capacity.

(E) All service stations that have aboveground storage tanks that contain flammable or combustible liquids, or both, shall have a minimum of three hundred thousand dollars of public liability insurance.

(F) Scaled plans for the renovation or construction of a service station that utilizes aboveground storage of flammable or combustible liquids, or both, must be submitted to the State Fire Marshal or his designee by registered receipt mail for approval before beginning construction. The State Fire Marshal or his designee

shall approve or deny the plans within sixty calendar days or they are automatically considered approved. The plans must contain the following information:

- (1) site plan;
- (2) spill containment plan;
- (3) piping layout with valves and fitting details;
- (4) normal and emergency ventilation design;
- (5) tank capacity and design standard;
- (6) electrical plan;
- (7) tank and piping support details;
- (8) on site fire protection equipment; and
- (9) tank location with respect to other tanks and dike.

(G) All feeder lines from aboveground tanks to dispensers located at service stations must be located underground and covered with a minimum of three feet of earth cover or eighteen inches of well tamped earth cover plus six inches of reinforced concrete or eight inches of asphaltic concrete.

(H) Piping must be equipped with a fifty-two valve that cuts off the flow of liquid when the dispensing pump is not operating, as well as a quick shut-off device at the tank that will shut off the flow of product.

(I) All horizontal tanks located at service stations must be installed on steel supports welded to the tank not to exceed six inches in height or placed on concrete support cradles, and all vertical tanks must be installed on gravel with a minimum of six inches reinforced concrete footing. Footing is to be larger than the diameter of the tank.

(J) Two single portable tanks of six hundred sixty gallon capacity or less of Class II or Class III combustible liquid are allowed at service stations and are exempt from the requirements of this section.

(K) All aboveground tanks located at service stations must be clearly labeled with appropriate placards as to the contents of volume and kept free of scale and painted.

(L) A means must be provided to enable determination of liquid level in aboveground tanks located at service stations without requiring a person to climb atop the tank. Provisions must be made to either automatically shut off fuel delivery into the aboveground tank when the liquid level in the tank reaches ninety-five percent of capacity or to sound an audible alarm. This provision shall not apply to horizontal tanks of four thousand gallons or less and vertical tanks of two thousand gallons or less which must be filled with a hand held hose.

(M) Regardless of whether a suction or submersible pump system is used, a listed emergency shut-off valve must be installed in accordance with Section 4-3.6 of the National Fire Protection Association Pamphlet No. 30A, 1987 Edition, at each dispenser connected to an aboveground storage tank located at a service station.

(N) Fill connections located at service stations for tank vehicle unloading operations must be located at least twenty-five feet from aboveground tanks, dispensers, building, and property lines. A check valve, gate valve, and quick connector or a dry break valve must be installed in the piping at a point where connection and disconnection is made for remote tank vehicle unloading. The devices must be protected from tampering and physical damage. Means must be provided to prevent or contain spillage during fuel delivery operations. This provision shall not apply to horizontal tanks of four thousand gallons or less, and vertical tanks of two thousand gallons or less. Fill connections at existing service stations on the effective date of this provision are exempt from the distance requirement referenced above.

(O) Unattended service station installations in accordance with Section 8-5 of the National Fire Protection Association Pamphlet No. 30A, 1987 Edition, are permitted only when the dispensing device is a card lock or key lock type dispenser.

(P) Aboveground storage of flammable or combustible liquids at service stations is prohibited in municipalities with a population of twenty-five thousand persons or greater as determined by the most recent official United States Census, except as otherwise provided in subsection (J) of this section.

SECTION 39-41-270. Application of aboveground storage provisions.

The provisions of Section 39-41-260 of the 1976 Code, as amended by Section 1 of Act No. 582 of 1990, apply to all service stations constructed on or after the effective date of this act (June 12, 1990). Also, all existing service stations on the effective date of this act must comply with the revised provisions of Section 39-41-260 within two years of the effective date of this act, except that existing service stations with aboveground storage tanks are not required to comply with the provisions of Section 39-41-260(D) and existing service stations with an aboveground storage tank in excess of twelve thousand gallons liquid capacity on the effective date of this act are exempt from the provisions of Section 39-41-260(B). An imminent hazard to life shall be addressed immediately as referenced in Section 23-9-150 of the 1976 Code. For the purposes of this section and of Section 39-41-260, the term "service station" does not include any utility storage tank facilities which service utility operations, including vehicles, locomotives, or equipment.

SECTION 39-41-280. Enforcement of aboveground storage provisions.

The Division of State Fire Marshal or his designee shall enforce the provisions of Section 39-41-260 of Act 582 of 1990.

SECTION 39-41-290. Dispensing gasoline to disabled persons at self service gas stations.

(A) An owner or operator shall conduct the operations of a motor vehicle fuel service station so that the holder of a placard or disabled person's license plate provided for in Section 56-3-1960 shall have, upon request, gasoline or other motor vehicle fuel dispensed by an employee of the station at the self-service pump and be allowed to purchase the gasoline or other fuel at the price otherwise charged for gasoline or other fuel purchased on a self-service basis if the holder of the placard or license plate is driving the motor vehicle into which the gasoline is to be dispensed.

(B) This section applies to an owner or operator of a station which sells gasoline or other fuel at one price when an employee of the station dispenses the gasoline or other fuel into a motor vehicle and at a lower price when the customer dispenses the gasoline or other fuel on a self-service basis.

(C) This section does not apply to any motor vehicle fuel station, convenience store, or other facility that offers gasoline or other fuel for sale to the public solely by means of remotely controlled pumps operated by a cashier and does not offer refueling service or to any such facility during those business hours when the facility does not offer refueling service to the public as a continuing business practice.

(D) An owner or operator who violates this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than one hundred dollars or imprisoned for a period not to exceed thirty days.

ARTICLE 3.

SALE OF LUBRICATING OILS

SECTION 39-41-310. Unauthorized substitution of type of lubricating oil from that ordered for motor vehicles.

It shall be unlawful for any person to fill with a spurious or substitute article an order for lubricating oil for internal combustion engines of automobiles, autotrucks or tractors, if such oil ordered is designated by a trademark or distinctive trade name unless and until it is explained to the person giving the order that the article offered is not the article that he ordered and the purchaser shall thereupon elect to take the substitute article that is being offered to him.

SECTION 39-41-320. Display of false trademark or trade name of lubricating oil.

It shall be unlawful for any person to display on any can, drum or other container in which lubricating oil for internal combustion engines of automobiles, autotrucks or tractors is kept for sale, or from which it is poured or drawn for sale, a trademark or trade name which is not the distinctive designation of the oil actually contained therein.

SECTION 39-41-330. Sale of oil specially designated from container not containing trademark or trade name.

It shall be unlawful for any person to fill any order from a consumer for a lubricating oil for internal combustion engines of automobiles, autotrucks or tractors that is designated by a trademark or distinctive trade name unless, at the time of sale, the oil is poured, drawn or taken for delivery from a can, drum or other container or bottle rack marked in such a manner as to be legible and clearly visible to the purchaser with the trademark or distinctive trade name by which the oil is designated.

SECTION 39-41-340. Sale of oil without trademark or trade name and which is not labeled as unbranded.

It shall be unlawful for any person to fill an order from a consumer for lubricating oil for internal combustion engines of automobiles, autotrucks or tractors with oil that is not designated by a trademark or distinctive trade name unless, at the time of sale, the oil is poured, drawn or taken for delivery from a can, drum or other container or bottle rack marked in such manner as to be legible and clearly visible to the purchaser with the words "Unbranded Lubricating Oil."

SECTION 39-41-350. Display of name of oil unless oil is for sale.

It shall be unlawful for any person to display any sign, label or other designating mark which describes any lubricating oil for internal combustion engines of automobiles, autotrucks or tractors not actually on sale in bona fide quantities at the place of business where such sign, label or other designated mark is displayed.

SECTION 39-41-360. Penalties.

Any person violating any of the provisions of this article shall, for each offense, be guilty of a misdemeanor and punishable, for the first offense, by a fine of not less than twenty dollars nor more than one hundred dollars or by imprisonment for not less than ten days nor more than thirty days, and for any subsequent offense, by a fine of not less than one hundred dollars nor more than three hundred dollars or by imprisonment for not less than thirty days nor more than ninety days.

ARTICLE 5.

DECEPTION IN SALE OF LIQUID FUELS, LUBRICATING OILS AND GREASES

SECTION 39-41-510. Deception in storage or sale.

No person shall store or sell, offer or expose for sale any liquid fuels, lubricating oils, greases or other similar products in any manner whatsoever which may deceive, tend to deceive or have the effect of deceiving the purchaser of such products as to the nature, quality or quantity of the products so sold, exposed or offered for sale.

SECTION 39-41-520. Use of distributing devices of one manufacturer for products of another.

No person shall keep, expose, offer for sale or sell any liquid fuels, lubricating oils, greases or other similar products from any container, tank, pump or other distributing device other than those manufactured or distributed by the manufacturer or distributor indicated by the name, trademark, symbol, sign or other distinguishing mark or device appearing upon such tank, container, pump or other distributing device in which such products are sold, offered for sale or distributed.

SECTION 39-41-530. Imitation of recognized buildings or equipment of another.

No person shall disguise or camouflage his buildings or equipment by imitating the design, symbol or trade name of equipment under which recognized brands of liquid fuels, lubricating oils and similar products are generally marketed.

SECTION 39-41-540. Sale under false trademark or trade name.

No person shall expose or offer for sale or sell under any trademark, trade name, name or other distinguishing mark any liquid fuels, lubricating oils, greases or other similar products other than those manufactured or distributed by the manufacturer or distributor marketing such products under such trade name, trademark, name or other distinguishing mark.

SECTION 39-41-550. Mixing, blending or compounding products.

No person shall mix, blend or compound the liquid fuels, lubricating oils, greases or similar products of a manufacturer or distributor with the products of any other manufacturer or distributor or adulterate them and expose or offer for sale or sell such mixed, blended or compounded products under the trade name, trademark, name or other distinguishing mark of either of such manufacturers or distributors or as the adulterated products of either such manufacturer or distributor. But nothing herein shall prevent the lawful owner thereof from applying its own trademark, trade name or symbol to any such product or material.

SECTION 39-41-560. Aiding or assisting in violations of article.

No person shall aid or assist any other person in violating any of the provisions of this article by depositing or delivering into any tank, pump, receptacle or other container any liquid fuels, lubricating oils, greases or other like products other than those intended to be stored therein, as indicated by the name of the manufacturer or distributor or the trademark, trade name, name or other distinguishing mark of the product displayed in the container itself, or on the pump or other distributing device used in connection therewith or shall by any other means aid or assist another in the violation of any of the provisions of this article.

SECTION 39-41-570. Penalties.

Every person violating any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars and by imprisonment not to exceed twelve months or by either or both in the discretion of the trial judge.

SOUTH CAROLINA
DEPARTMENT OF AGRICULTURE

STATE WAREHOUSE SYSTEM
LAW AND REGULATIONS

SOURCE: CODE OF LAWS OF SOUTH CAROLINA, 1976
(REVISED 1998)

TITLE 39. TRADE AND COMMERCE
CHAPTER 22
State Warehouse System

SECTION:

39-22-10.	Licensing.
39-22-15.	"Loss" defined.
39-22-20.	Warehouseman's bond.
39-22-30.	Promulgation of rules and regulations.
39-22-40.	Storage of products other than cotton.
39-22-50.	"Linters" shall not be stored.
39-22-60.	Federal standards and classifications shall be authoritative.
39-22-70.	Issuance and contents of receipts for stored cotton.
39-22-80.	Requirements for warehouse receipt forms; electronic warehouse receipts exempt; notice to depositor; consent for transfers to other parties.
39-22-90.	Unlawful acts; penalties.
39-22-100.	Extent of State's guarantee of weight, class and grade.
39-22-110.	Cotton stored shall be tagged.
39-22-120.	Insurance.
39-22-130.	Inspection of warehouses.
39-22-140.	Disposition of sums collected.
39-22-150.	Reimbursement of depositors against losses.
39-22-160.	Annual report of Commissioner.
39-22-170.	No debt or liability of State shall be created by warehouse system.
39-22-180.	Warehousemen may make contracts to secure support prices for certain stored commodities.
39-22-190.	Records to be maintained by warehouse.
39-22-200.	Issuance of State warehouse receipt.

REGULATIONS:

5-490.	Definitions.	5-494.	Scale Tickets.
5-491.	Inspectors.	5-495.	Daily Records.
5-492.	Warehouses.	5-496.	General.
5-493.	Receipts.	5-497.	Filing Claims.

CHAPTER 22.

STATE WAREHOUSE SYSTEM

Similar provisions were formerly contained in Chapter 21.

SECTION 39-22-10. Authority to grant licenses; minimum requirements to be met and maintained.

The department may license a qualified warehouse facility for the storage of cotton and grain or other nonperishable agricultural products as defined by regulation. A license must be granted only to those applicants who have met the minimum requirements of this chapter and whose warehouse facility is suitable for the storage of agricultural commodities for which it is intended. A license may be revoked or suspended at any time the warehouseman does not meet the minimum standards as required by this chapter.

SECTION 39-22-15. “Loss” defined.

For purposes of this chapter, “loss” means any monetary loss over and beyond the amount protected by a warehouseman’s bond sustained as a result of storing a commodity in a state-licensed warehouse including, but not limited to, any monetary loss over and beyond the amount protected by a warehouseman’s bond sustained as a result of the warehouseman’s bankruptcy, embezzlement, or fraud.

SECTION 39-22-20. Bonding or security requirements of applicants for warehouse license.

To safeguard the interest of holders of warehouse receipts issued under this chapter, Chapter 19 of this title, and Chapter 7 of Title 36, the department shall require a surety bond or equivalent security from the applicant for a warehouse license for the faithful performance of his duties. The bond or other security must be in an amount of twenty-five thousand dollars for each warehouse. The bond must provide that the warehouseman personally shall account for and pay over, according to law, all money and property received by him and, in cases of default, the surety shall pay all damages, costs, and expenses resulting from the default. In the event of a default, the holder of the warehouse receipt may proceed directly against the warehouseman or surety or both on the bond to recover the loss and a surety or other insurer who has been required to respond financially upon the action must be subrogated to all rights of the holder of the warehouse receipt.

The department shall assist the warehousemen in obtaining their individual bonds at the best available rate under a group plan, when possible.

SECTION 39-22-30. Department to promulgate regulations.

The department shall promulgate regulations to implement the provisions of this chapter.

SECTION 39-22-40. Term “cotton” to refer to all nonperishable farm products.

The provisions of this chapter referring to cotton also refer to all nonperishable farm products as defined by the Commissioner of Agriculture.

SECTION 39-22-50. Chapter inapplicable to “linters” cotton.

Cotton designated as “linters” may not be received for storage under the provisions of this chapter.

SECTION 39-22-60. Department to accept federal standards and classifications of cotton.

The Department of Agriculture shall accept as authoritative the standards and classifications of cotton established by the federal government.

SECTION 39-22-70. Receipt of lint cotton.

A receipt for lint cotton must be issued under the seal and signature of the Commissioner of Agriculture or his deputy in the name of the State, stating the location of the warehouse, the name of the manager, the tag number on the bale and the weight, grade, and staple to enable delivery on surrender of the receipt of the identical cotton for which it was given. The grade and staple may be omitted at the request of the depositor. The receipt may be issued in bearer or order form.

SECTION 39-22-80. Requirements for warehouse receipt forms; electronic warehouse receipts exempt; notice to depositor; consent for transfers to other parties.

The warehouse receipt forms must be designed or otherwise approved by the commissioner. All orders for the printing of warehouse receipts and bale tags must be preapproved by the department. The receipts must be numbered and the warehouse receiving the forms shall account for each receipt. The receipts may have the lithographed or engraved signature of the commissioner but they must be signed with pen and ink, indelible pencil, or mechanical device approved by the commissioner, by the authorized manager of the licensed warehouse. However, the Commissioner of Agriculture is authorized to accept and process Electronic Warehouse Receipts (EWR) from qualified providers, as defined by pertinent federal regulations governing EWR, and in so doing, is further authorized to exempt EWR from the provisions of this chapter to the extent these provisions are in conflict with pertinent federal regulations governing EWR, or to the extent that application of the provisions of this chapter renders acceptance and processing of EWR by the department impracticable. If a warehouseman elects to utilize electronic warehouse receipts, he must provide written notice to the depositor that the EWR have been issued to the depositor, the numbers of the EWR so issued and that the receipts are being held on his behalf and cannot be transferred to any other party without the depositor's written consent. The consent must be on a form approved by the commissioner and it must be signed in the presence of the warehouseman, and attested to by him. Provided, however, that a warehouseman may accept a notarized copy of the written notice form.

SECTION 39-22-90. Prohibited acts; penalties.

(A) It is unlawful for:

- (1) the manager or owner of a warehouse or an agent or employee to issue or aid in issuing a receipt for a commodity, knowing that the commodity has not been actually placed in the warehouse under the control of the manager or owner of the commodity;
- (2) a person to induce a warehouseman to issue a receipt for a commodity, knowing that the commodity has not been actually placed in the warehouse under the control of the manager or owner of the commodity;
- (3) a person to knowingly issue a warehouse receipt in a name other than that of the lawful owner of the commodity, or his designee, for which the receipt is given;
- (4) a person to knowingly deliver an agricultural commodity to a warehouse or dealer on which a lien is outstanding without giving written notice to the warehouseman or dealer of the lien;
- (5) a person to induce a warehouseman to deliver a commodity without first obtaining warehouse receipts issued for it;
- (6) a manager, owner, or employee of a warehouse to knowingly deliver a commodity without first obtaining warehouse receipts issued for it;

(7) a warehouse auditor who, upon the auditing of a warehouse in the state warehouse system, finds items (2) and (5) of this section to have been violated to fail to report the violation on his regular report of the inspection, regardless of whether or not the violation is corrected before the report is filed;

(8) a person to issue or aid in issuing a duplicate or additional receipt for cotton or other commodity, knowing that the former receipt or any part of it is outstanding unless a receipt has become lost or destroyed and the goods are delivered or a duplicate receipt is issued in accordance with the provisions of law covering those cases.

(9) a warehouseman to issue an electronic warehouse receipt without providing written notice to the depositor of such issuance, or for a warehouseman to transfer any such electronic warehouse receipt without the depositor having consented thereto in writing on a form provided by the commissioner.

(B) A person who violates the provisions of item (1), (2), (3), (4), or (9) of subsection (A) of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both. Each transfer of an electronic warehouse receipt in violation of item (9) is a separate offense.

A person who violates the provisions of item (5) or (6) of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

A person who violates the provisions of item (7) of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both, for each violation.

A person who violates the provisions of item (8) of this section is guilty of forgery and, upon conviction, must receive the penalty provided for a conviction of that crime.

SECTION 39-22-100. State guarantee; limitations.

The weights, classes, and grades of cotton, if shown on a warehouse receipt issued for the cotton, or other nonperishable farm products on storage are guaranteed by the State under this chapter only in favor of those who loan money on or buy cotton stored in warehouses. The State is not responsible for fluctuations in weight resulting from ordinary climatic conditions.

SECTION 39-22-110. Required identification tags on bales.

Each bale of cotton accepted for storage in a warehouse operated under the state warehouse system must be identified by a numbered tag affixed to the bale. The tag must be designed so that the brand "South Carolina" may be unmistakably visible. The palmetto tree, with a bale of cotton lying at the roots, and the shield of the State must be printed on the tag. The county of origin may appear on the tag. The warehouse may utilize the Permanent Bale Identification (PBI) number and tag of another gin if that tag meets above requirements. If PBI tag does not meet the above listed tag requirements, the warehouseman may affix a sticker that meets requirements as listed above, to the PBI tag or to bale of cotton adjacent to the PBI tag.

SECTION 39-22-120. Warehouse insurance requirements.

Each licensed warehouseman shall insure and keep insured against loss or damage by fire, theft, burglary, and other hazards which are commonly insured against, under "extended coverage" provisions, for its full value, all cotton and other products on storage unless requested by the depositor in writing not to insure the cotton or other products and in that instance when the cotton or other products are not insured a statement to that effect must be plainly and conspicuously inserted on the face of the receipt. In case of loss, the warehouseman shall collect the insurance due and pay it ratably to those lawfully entitled to payment. The warehouseman may accept contracts for the storage of cotton submitted by the Commodity Credit Corporation and other United States governmental agencies without being required to carry insurance on the cotton. As a condition of license, each warehouseman shall maintain on file with the

department a current certificate of insurance setting forth the policy number, the agent and underwriter, the provisions and limits of coverage, and the date the policy expires.

SECTION 39-22-130. Inspection of warehouses; inventory.

Each warehouse must be inspected, the inventory taken, and the records checked at least once in every three months.

SECTION 39-22-140. Sums collected under this chapter to be deposited annually.

All sums collected under this chapter must be transferred annually to a special account in the State Treasury according to the provisions of Section 39-22-150.

SECTION 39-22-150. Disposition of net revenues derived from operation of state warehouse system; additional fee on items for which warehouse receipts have been issued; use of funds generated by fee; guaranty fund; claims against fund.

All net revenues derived from operation of the state warehouse system must be transferred annually to a special account in the State Treasury until the sum of three million dollars accrues. When the fund reaches three million dollars, these transfers shall cease; however, all interest and investment revenue shall accrue solely to the fund and be returned annually to the fund. In order to support the increase of this fund, the funds must be invested at interest by the State Treasurer who shall credit the interest earned on the funds to the increase of the fund up to and above three million dollars. In addition to the interest, the commissioner shall assess an amount ratably against each warehouseman in this State issuing warehouse receipts a special additional fee not to exceed ten cents a bale of cotton or one cent a bushel of soybeans and one-half cent a bushel of any other stored feed grains or oil seeds for which warehouse receipts have been issued. The additional assessment may be charged not more than once for each receipt issued on a bale of cotton or bushel of grain. When the fund has reached the total sum of one million five hundred thousand dollars, the special additional assessment must be discontinued. If the fund is reduced to below one million dollars, the assessment must be resumed. The funds must be used to guarantee state warehouse receipts in excess of an amount recovered from the bonds required by this chapter, and to protect and reimburse depositors against losses as defined in Section 39-22-15. If there is an insufficient amount of money in the fund to cover all claims against the fund, payments must be made on a pro rata basis up to one hundred percent of the total loss of each claimant. If payment is not received in the amount of one hundred percent, then additional amounts must be paid as funds become available until payment of one hundred percent of the total is attained. The state's guarantee of warehouse receipts is based on monies available through the required bonds and the fund. Upon approval of a claim to the fund and before payment from the fund, the claimant shall subrogate his interest, if any, to the department in a cause of action against all parties relating to the claim. In no event may the funds be available for the reimbursement of an insurer or surety on the bonds required by this chapter, Chapter 19 of this title, or Chapter 7 of Title 36, who has paid a loss under this chapter. All income, interest, or otherwise, derived from this guaranty fund must be reinvested in the fund. Fifty thousand dollars of the income must be paid into the general fund of the State. Any of the funds not appropriated for the employment of additional auditors for the warehousemen and Dealers and Handlers Division of the Department of Agriculture must be returned to the fund.

SECTION 39-22-160. Annual report of commissioner.

The Commissioner of Agriculture shall make an annual report to the General Assembly setting forth (1) the number and location of each warehouse where cotton has been received for storage, (2) the cotton on storage and that delivered on presentation of receipts, and (3) monies received and disbursed.

SECTION 39-22-170. State's liability limited.

The extent of the state's liability is limited to the amount of monies available through the guaranty fund and, therefore, no debt or other liability may be created against the State by reason of the licensing of a warehouse under this chapter except as provided by this chapter.

SECTION 39-22-180. Warehouseman authorized to enter into agreement required by Commodity Credit Corporation; resolution of conflicting provisions.

It is lawful for a warehouseman licensed by the commissioner to operate a state warehouse to execute and enter into an agreement or contract required by the Commodity Credit Corporation or other agency of the United States government when the agreement or contract is necessary to secure the support price for certain stored commodities. Whenever the contract or agreement conflicts with the provisions of the state warehouse system or the Uniform Commercial Code - Documents of Title the conflicting provisions are suspended, but only to the extent that the suspension of the conflicting provisions is a minimum requirement of the agency of the United States government.

SECTION 39-22-190. Record keeping requirements for warehousemen.

All warehousemen licensed to store grain shall maintain current and complete records at all times with respect to all feed grains and oil seeds on forms approved by the Department of Agriculture pursuant to regulations promulgated by the department including grain owned by him as well as other feed grains or oil seeds not subject to the terms of the state warehouse system, stored in or handled through the warehouse. The records must include, but not be limited to, a daily record showing:

- (1) the total quantity of each kind and class of feed grains or oil seeds received and delivered and the quantity of each kind and class of feed grains or oil seeds remaining in the warehouse at the close of each business day;
- (2) the warehouseman's total storage obligations for each kind and class of feed grains or oil seeds at the close of each business day.

Incoming feed grains or oil seeds must be documented as to ownership and as to whether the feed grains or oil seeds are owned by the warehouseman or someone else. Feed grains or oil seeds received may be purchased by the warehouse before or upon arrival at the elevator or warehouse and after they have been in storage for a time. All operations must be documented properly to reflect ownership, quantity of feed grains, or oil seeds received, quantity delivered, and quantity in storage in the warehouse.

SECTION 39-22-200. Issuance of receipts; receipts not to be issued in name of warehouse; exceptions.

A state warehouse receipt must be issued by the warehouseman to a person storing commodities who requests it. If no receipt is issued to the storing party directly, one must be written to show ownership and held at the warehouse office properly locked and secured. No receipt may be issued in the name of the storing warehouse, or its owners, on commodities being purchased by the warehouse until the commodity has been paid for in full, even if a contract has been executed establishing that the title to the commodity has passed to the warehouse or its owners unless the buyer and seller execute an affidavit within the contract stating that the seller conveys title and ownership of the commodity and forfeits all of his rights under the Grain Producers Guaranty Fund. The affidavit must be in bold print on the face of the contract and must further state that the seller has read the contract in full, understands it, and waives all rights to contest his knowledge of any part of the contract. Those provisions do not reduce the responsibility of the warehouseman to keep proper records as required by Section 39-22-190.

REGULATIONS

5-490. Definitions.

- (a) "Commissioner" means the South Carolina Commissioner of Agriculture.
- (b) "Inspector" means the field representative duly appointed by the Commissioner and bonded for faithful performance of duty.
- (c) "Manager" means the person authorized by the warehouseman to issue warehouse receipts.
- (d) "Warehouseman" shall mean the individual, partnership or corporation which made application to place warehouse in the State System.
- (e) "Warehouse" means an individual unit in the System.
- (f) "Non-perishable farm product" means any seed, grain, or other product of agricultural endeavor which by its nature and low moisture content may be stored in a conventional type warehouse for a period of at least twelve months without deteriorating, nor having been manufactured or processed in any way other than harvesting, thrashing, shelling, ginning, curing, drying and bagging.
- (g) "Commodity" means:
 - (1) Cotton.
 - (2) "Non-perishable farm product" as defined by definition (f) or which may hereafter be included in this special definition.

5-491. Inspectors, Warehousemen.

- (a) An adequate number of inspectors shall be employed for the proper inspection of all warehouses and the commodities stored therein at least once every three months.
- (b) Each inspector shall make a thorough study of the statutes, rules and regulations relating to the administration of State Warehouses. He shall also acquaint himself with the duties and responsibilities imposed on him by law.
- (c) The inspector shall promptly render a detailed written report of inspections, inventories and physical condition of same to the Director of the Warehouse Division who shall analyze it and report any discrepancies to the Commissioner. The Director shall keep a record of the inspection dates of each warehouse which shall be available to the Commissioner at any time.
- (d) When an inspector has reason to believe that the moisture content of grain on storage is too high for safe keeping, he shall take a sample of same and submit it to the Department of Agriculture laboratory for analysis and opinion. If in the opinion of the said laboratory, the moisture of said grain is too high for safe keeping, the inspector shall advise the manager of said warehouse to recall the receipts issued therefor and send them to the office of the Commissioner for cancellation.
- (e) When an inspector has reason to believe that grain classified as seed does not come up to the standard required for such seed, he shall take a sample of same and submit it to the Department of Agriculture laboratory for analysis and opinion. If, in the opinion of the said laboratory, the sample is below the standard for seed, the inspector shall advise the manager of said warehouse to recall the receipts issued therefor and send them to the office of the Commissioner for cancellation.
- (f) When an application for license to operate a warehouse in the State System is received, it shall be referred to the appropriate inspector who shall, after investigation, make a positive YES or NO recommendation to the Commissioner in writing. He shall constantly be alert to infractions by warehousemen and immediately report in writing any violations to the Warehouse Division.

- (g) No warehouseman shall be licensed until he shall have given bond as prescribed by Section 39-22-20.
- (h) No warehouseman shall receive for storage in any warehouse any commodity upon which any mortgage or lien exists unless the owner and holder of said mortgage or lien shall agree to the same in writing, or shall release the same from the effect of lien or mortgage for the purpose of storage; in such case the receipt for the commodity so stored shall be transferred in writing thereon to the owner and holder of the lien or mortgage by the owner of the commodity in the presence of the warehouseman who shall sign such transfer as a witness before the delivery of said receipt.
- (i) It shall be the duty of every warehouseman licensed by the Commissioner to properly account for every commodity stored in his warehouse so that the same can be released to the lawful owner upon surrender of the warehouse receipt covering the commodity. He shall see to it that same is properly weighed and graded. He shall fill out all the necessary receipts and enter same upon the books furnished him for this purpose. He shall forward a copy of same to the Commissioner by depositing same in his post office on the day the transaction is made. He shall furnish such other certificates and proofs as to weighing and grading as the Commissioner shall require.
- (j) Each warehouseman must file a financial statement annually with the Commissioner. The statement must be submitted within 90 days of the company's fiscal year end. The statement must be an audited or reviewed level statement prepared by an independent accounting firm in accordance with standards established by the American Institute of Certified Public Accountants and shall include, but not be limited to, a balance sheet, a statement of income (profit or loss), a statement of retained earnings and a statement of changes in financial position. A minimum allowable net worth of twenty-five thousand dollars shall be required of each warehouseman. The allowable net worth shall not be less than twenty-five cents per bushel of capacity for grain warehouses and twelve dollars and fifty cents per bale of capacity for cotton warehouses. A deficiency in net worth may be supplied by an increase of the bond or equivalent security.
- (k) In case of fire or other hazard resulting in damage to the stored commodities, the warehouseman must immediately notify the Department.
- (l) If authorized by agreement or custom, a warehouseman may mingle fungible commodities of the same kind and grade. In such case the various depositors of the mingled commodities shall own the entire mass in common and each depositor shall be entitled to such portion thereof as the amount deposited by him bears the whole. The warehouseman shall be severally liable to each depositor for the care and delivery of his share of such mass to the same extent and under the same circumstances as if the commodities had been kept separate.
- (m) Commodities must be stored in such manner as will permit rapid and accurate count. Commodities in bags shall be clearly identified and of equal weight. Commodities in bulk shall be stored in bins of convenient size for measuring and calculation of quantity. No commodity shall be left lying in or around any warehouse in a promiscuous and careless manner.
- (n) No person shall be allowed to loiter around any warehouse and as far as possible the manager shall prevent matches or firelighting devices from being carried on the premises; and no fireworks of any kind shall be allowed about the warehouse, nor shall any intoxicated person be permitted on the grounds.
- (o) All bills presented by the Commissioner shall be paid monthly. The bond of the warehouseman and a lien against the goods on storage shall be responsible for the charges dating from the issuance of the receipt.
- (p) No warehouseman shall make partial delivery of commodities listed on a warehouse receipt. If the depositor requests partial delivery, the warehouse receipt must be surrendered and cancelled and a new receipt issued for the balance.
- (q) All licensed warehousemen storing cotton shall adopt the United States Government Standard of grades and staple to govern the grade and staple entered on each receipt and he shall be responsible for same; provided the grade and staple may be omitted from the receipt at the request of the depositor.
- (r) It shall be the duty of the warehouseman to look carefully after the physical condition of the house in which commodities evidenced by state receipts are stored so that none of the commodities will become damaged (by leaky roofs, by overflow of water or by excessive moisture, etc.). All warehousemen will be held responsible for the condition, weight and grade of the commodity while in their charge and for

delivery of same upon presentation of receipts. Provided, the weights shall not be guaranteed against fluctuations arising from climatic conditions and the grades are subject to such changes as are affected by the nature of such product during the lapse of time.

(s) No warehouseman shall allow a warehouse to remain open or doors unlocked except when receiving or delivering commodities from the warehouse and no person or persons shall have access to a warehouse except as authorized by the warehouseman.

(t) It shall be the duty of every warehouseman to insure and keep insured against loss or damage all commodities in his custody, whether receipted or not, in accordance with Section 39-22-120. If the insurance coverage is terminated, the Department shall obtain the necessary coverage to protect the depositors until such time as the commodities can be relocated to an approved facility. The Department shall proceed against the warehouseman for payment of the insurance premium and cost of transportation and any other costs involved in relocating the commodities.

5-492. Warehouses.

(a) No building shall be licensed as a State Warehouse except upon a survey duly filled out by the person in charge of the same, showing the location, nearest post office, the County and State, and giving the construction, size, approximate capacity, together with any exposures and the nature of same.

(b) No warehouse shall be licensed as a State Warehouse except upon written application by the owner thereof, upon forms provided by the Department.

(c) Every warehouseman shall file with the Commissioner a tariff of his charges to be made by the warehouse and the said tariff must be filed on or before September 1 of each year. Any revision in the tariff must be filed with the Commissioner.

(d) Each warehouseman operating under these regulations and storing commodities for the public is required to have notice posted on the outside door of the warehouse showing the telephone number and address of the warehouseman when he is not in the warehouse.

(e) Each warehouse must be equipped or have access to suitable scales approved by the Commissioner. The scales shall be inspected by the Department.

(f) Cotton received direct from the gin shall be segregated from the other cotton for at least forty-eight hours.

(g) All warehouses shall have safe and convenient access to each individual storage bin or compartment for the purpose of inspecting and counting or measuring the commodity stored therein.

(h) Cotton warehouses shall contain sprinkler systems which shall be carefully maintained in good working order. All warehouses shall contain fire extinguishers, fire hoses or other fire-fighting equipment which shall be carefully maintained in good working order. Sufficient "no smoking" signs shall be displayed and the premises generally shall be kept clean and free of trash and combustible matter so that the building and commodity stored therein shall be protected from outside fire.

(i) No commodity shall be moved from one warehouse to another without written notification and permission of the Department of Agriculture.

(j) When a shortage of inventory is detected at a warehouse or other loss or insolvency is determined, the Department, to safeguard the interests of the holders of the outstanding warehouse receipts, shall secure the warehouse and take charge of the inventory which shall be liquidated on behalf of or returned pro rata to the various lawful holders of the warehouse receipts issued therefore.

5-493. Receipts.

(a) All receipts for commodities stored in a State Warehouse shall be made out with pen and ink or indelible pencil and shall be signed by the authorized manager with pen and ink, indelible pencil or with a mechanical device approved by the Commissioner. Computer printing of the authorized manager's name is acceptable unless objected to by the depositor to whom the receipt is written.

(b) All receipts together with copies forwarded to the Commissioner for investigation and issuance shall

be accompanied in the same package or envelope by a daily report of the identical commodity covered by the receipts with a full description of same, and the totals fully carried out, and with the date and signature of the manager.

(c) No commodity shall be delivered from any warehouse until the receipt covering the same shall be presented to the manager of the warehouse and until all charges against the same shall have been paid and all receipts for commodities so delivered shall at once be forwarded by the manager to the Commissioner for cancellation, same being marked for such purpose. Provided, that in case of fire or other insured hazard, salvage from said commodity may be released to representatives of authorized salvage companies representing the insurance company or Commodity Credit Corporation.

(d) Commodities which are attractive to rats and insects shall have written or stamped on the receipt issued therefor the following: "Not responsible for ramage or insect damage." Commodities which are classified as seed shall have written or stamped on the receipt issued therefor the following: "Germination and purity not guaranteed." Provided, that this regulation shall not apply to receipts issued for commodities stored in elevators or warehouses approved as depositories for commodities eligible for United States Government loans.

(e) Any commodity that is delivered to a licensed State Warehouse for which payment is not received or a written contract issued, specifying the terms of sale, at the time of delivery shall be considered deposited for storage. The owner of such commodity shall be issued a State Receipt for his commodity upon his request or if not requested no later than 30 days from the date of delivery.

(f) The manager shall issue a State Warehouse Receipt for all stored commodities to the proper and lawful owner as required in Section 39-22-200. The manager of the licensed warehouse is not required to issue a receipt on warehouse owned commodities.

(g) A warehouse receipt shall not be issued in the name of the purchaser of any commodity being purchased on a deferred-price, delayed payment or similar credit-type sale arrangement until the seller has received payment for the commodity in full unless he has executed the affidavit relinquishing title and ownership to the buyer and forfeiting his rights under the Grain Producers Guaranty Fund and has fully complied with the requirements set out in Section 39-22-200.

5-494. Scale Tickets.

(a) The manager shall have issued a scale ticket for each movement of grain in or out of the licensed State warehouse. Where grain is received or shipment is made by rail car, ship, or other means and the issuance of weigh or scale tickets is not feasible, the warehouse manager shall estimate the amount in question and adjust all warehouse records to reflect the movement of such grain. The warehouse manager shall be required to obtain and keep on file all documents pertaining to the receiving or shipping of said grain for inspection by this Department.

(b) All scale or weigh tickets shall be on forms approved by the Commissioner of Agriculture. Each ticket shall show and include the following –

- (1) Be consecutively numbered;
- (2) Be filed numerically at the warehouse and held for inspection;
- (3) Date;
- (4) Name and address of the dealer and handler and his public weighmaster number;
- (5) Owner of commodity;
- (6) Vehicle identity;
- (7) Gross, tare and net weight or in case of hopper weighing, net weight of load;
- (8) Type commodity;
- (9) Percentage of moisture and other factors, if determined (specify);
- (10) Grade, if one is assigned;

- (11) Disposition of commodity (in or out, stored, contracted, etc.);
- (12) Signature of person weighing and/or grading;
- (13) May be used as a contract only if it meets the requirements of a contract as set forth in the Dealers and Handlers regulation 5-581-03.
- (c) A sample of the scale or weigh ticket shall be presented to the South Carolina Department of Agriculture for approval before said scale or weigh ticket shall be used.
- (d) All scale or weigh tickets shall also comply to the Public Weighmaster Law.

5-495. Daily Records.

- (a) Each warehouseman shall maintain a daily account or settlement sheet to show the movement of grain for each depositor of grain to the licensed State warehouse. Such records shall be kept on forms approved by and as directed by the South Carolina Department of Agriculture.
- (b) The warehouseman shall keep available for examination all books, records, and accounts required by this chapter and any other books, records and accounts relevant to the operation of the licensed State warehouse.
- (c) Any licensed warehouseman who desires to operate, maintain, or use a computer or other recording device as part of his normal business record keeping, shall be allowed the use of such equipment if:
 - (1) The readout or information provided as print out conforms to all record keeping requirements as stated by the State Warehouse System Law, and
 - (2) Such readout or information provided as print out is in the form or format as required by this Department.
- (d) Any manager, employee, agent, officer, partner, director, or shareholder of the licensed State warehouse who keeps or files false records or accounts, or who alters records of commodities received for storage or to mislead Department Auditors or Officials shall be grounds to void all warehouse licenses and to apply the appropriate penalty as prescribed by law.

5-496. General.

- (a) If a State Licensed Warehouse purchases or contracts for purchase any grain as it is deposited or before said grain is delivered to the warehouse, the manager or owner(s) of the licensed warehouse shall make application to the South Carolina Department of Agriculture for a Dealer and Handler of Agriculture Products License.
- (b) The manager, employees, agents, officers, partners, directors, and shareholders of the licensed State Warehouse shall cooperate and hold themselves available to assist in the examination of the warehouse.

5-497. Procedures for Filing Claims.

- (a) When the Department has been notified or otherwise determines that a default or other loss or insolvency has occurred, it shall notify all potential claimants within fifteen days of the determination of loss or default and provide them with forms and instructions for filing claims.
- (b) The claimant must file his/her claim within sixty days of notification by the Department. The warehouse receipt(s) held by the claimant must be submitted along with the claim form.
- (c) Upon approval of the claim, the claimant shall subrogate his/her interest in said claim to the Department on forms supplied by it.
- (d) The Department shall proceed against the surety on the warehouseman's bond or other security and disperse the proceeds therefrom pro rata to the various claimants. Any remaining amount will be paid from the Warehouse Receipts Guaranty Fund in accordance with Section 39-22-150.

(e) All approved claims must be paid within ninety days of the date the Department approves them either from the bond, the Guaranty Fund or a combination thereof.

CHAPTER 27
A bill to amend the
South Carolina Commercial Feed Act

ARTICLE 1
General Provisions

SECTION 46-27-10. Short title.

This chapter shall be known and cited as the "South Carolina Commercial Feed Act."

HISTORY: 1962 Code Section 3-601; 1952 Code Section 3-601; 1942 Code Section 6588; 1932 Code Section 6588; Civ. C. '22 Section 3498; Civ. C. '12 Section 2421; 1910 (26) 613; 1965 (54) 568; 1979 Act No. 155 Section 1.

SECTION 46-27-20. Definitions.

- (a) The term "brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant/licensee and distinguishing it from that of others.
- (b) The term "commercial feed" means all materials or combination of materials which are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted. Unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of Section 47-26-XXX [Adulteration] of this Act, are exempt. The Commissioner by rule may exempt from this definition, or from specific provisions of this Act, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not inter-mixed with other materials, and are not adulterated within the meaning of Section 47-26-XXX [Adulteration] of this Act.
- (c) The term "contract feeder" means a person who is an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product.
- (d) The term "customer-formula feed" means commercial feed which consists of a mixture of commercial feeds and/or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser.
- (e) The term "distribute" means to offer for sale, sell, exchange, or barter, commercial feed; or to supply, furnish, or otherwise provide commercial feed to a contract feeder.
- (f) The term "distributor" means any person who distributes.
- (g) The term "drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than commercial feed intended to affect the structure or any function of the animal body.
- (h) The term "feed ingredient" means each of the constituent materials making up a commercial feed.
- (i) The term "label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.
- (j) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon a commercial feed or any of its containers or wrapper or (2) accompanying such commercial feed.
- (k) The term "manufacture" means to grind, mix or blend, or further process a commercial feed for distribution.
- (l) The term "mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

Deleted: (1) The term "commercial feed" means all materials distributed for use as feed or for mixing in feed except (a) whole hays, straw, cottonseed hulls, corn stover and ground corn cob and shuck; (b) raw and unprocessed fresh or frozen fish, beef, horse meat, poultry and by-products of these items, together with and including limestone and granite or similar substance, when they are not mixed with other materials; (c) unmixed whole seeds or grains of cereals when not mixed with other materials and when not in such damaged condition as to be unfit for feed purposes as determined by inspection.¶

(2) The term "pet" means any domesticated animal normally maintained in or near the household of the owner.¶

(3) The term "pet food" means any commercial feed prepared and distributed for consumption by pets.

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- (m) The term “official sample” means a sample of commercial feed taken by the xxx or their agent in accordance with the provisions of Section 46-27-410 of this Act.
- (n) The term “percent” or “percentages” means percentages by weights.
- (o) The term “person” includes individual, partnership, corporation, and association.
- (p) The term “pet food” means any commercial feed prepared and distributed for consumption by dogs or cats.
- (q) The term “pet” means dog or cat.
- (r) The term “product name” means the name of the commercial feed which identifies it as to kind, class, or specific use and distinguishes it from all other products bearing the same brand name.
- (s) The term “quantity statement” means the net weight (mass), liquid measure or count.
- (t) The term, “raw milk” means any milk or milk product, exclusive of United States Department of Agriculture licensed veterinary biologics, from any species other than humans, that has not been pasteurized in accordance with processes recognized by the United States Food and Drug Administration.
- (u) The term “specialty pet” means any domesticated animal normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.
- (v) The term “specialty pet food” means any commercial feed prepared and distributed for consumption by specialty pets.
- (w) The term “ton” means a net weight of two thousand pounds avoirdupois.

HISTORY: 1962 Code Section 3-602; 1952 Code Section 3-602; 1942 Code Section 6593-1; 1932 Code Section 1367; Cr. C. '22 Section 267; Cr. C. '12 Section 480; 1910 (36) 613; 1922 (32) 843; 1936 (39) 1615; 1941 (42) 119; 1959 (51) 290; 1979 Act No. 155 Section 1.

SECTION 46-27-40. Certain sales unlawful.

It shall be unlawful for any manufacturer, importer, jobber, agent or dealer to (1) sell or offer or expose for sale or distribution in this State any commercial feed without complying with the requirements of Articles 1 to 11 of this chapter or (2) sell or offer or expose for sale or distribution any commercial feed which contains substantially a smaller percentage of guarantees as stated on the product label.

HISTORY: 1962 Code Section 3-605; 1952 Code Section 3-605; 1942 Code Section 6602-1; 1937 (40) 532; 1979 Act No. 155 Section 1.

SECTION 46-27-70. Rules and regulations of Commissioner.

(a) The Commissioner is authorized to promulgate such rules and regulations for commercial feeds (which includes pet and specialty pet foods) as are specifically authorized in this Act and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this Act. In the interest of uniformity the Commissioner may by regulation adopt, unless the Commissioner determines that they are inconsistent with the provisions of this Act or are not appropriate to conditions which exist in this State, the following:

- (1) The Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials and published in the Official Publication of that organization, and
- (2) Any regulation promulgated pursuant to the authority of the Federal Food, Drug, and

Deleted: SECTION 46-27-30. Unmixed crushed or ground ear corn is a commercial feed.¶

. Crushed or ground ear corn when sold by itself is a commercial feed and the sale thereof within this State shall be governed by the provisions of Articles 1 to 9 of this chapter and the regulations prescribed by the Commissioner of Agriculture.¶

Deleted: HISTORY: 1962 Code Section 3-603; 1952 Code Section 3-603; 1942 Code Section 6597-1; 1932 Code Section 1368; Cr. C. '22 Section 268; Cr. C. '12 Section 481; 1906 (25) 101; 1910 (26) 613; 1920 (31) 853; 1923 (33) 93; 1954 (48) 1471; 1979 Act No. 155 Section 1.¶

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Deleted: crude protein, crude fat or carbohydrates or a larger percentage of crude fiber

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Deleted: SECTION 46-27-50. Seeds shall not be treated with poisons if destined for manufacture into commercial feed.¶
It shall be unlawful for any person to offer for sale any seeds which have been treated with poisons if destined to be manufactured into commercial feeds.¶

Deleted: HISTORY: 1962 Code Section 3-607; 1952 Code Section 3-607; 1942 Code Section 6587; 1932 Code Section 6587; Civ. C. '22 Section 3497; Civ. C. '12 Section 2420; 1910 (26) 613; 1936 (39) 1592; 1979 Act No. 155 Section 1.¶

Deleted: SECTION 46-27-60. Standard weights of bags and packages.¶
All commercial feeds shall be packed in standard weight bags or packages of twenty-five, fifty, seventy-five, one hundred, one hundred twenty-five, one hundred fifty, one hundred seventy-five or two hundred pounds. The Commissioner may prescribe other standard bag or package weights if they are in the consumer's interest or if they are to promote uniformity or are consistent with good trade practices.¶

Deleted: HISTORY: 1962 Code Section 3-608; 1952 Code Section 3-608; 1942 Code Section 6596; 1932 Code Section 6596; Civ. C. '22 Section 3506; Civ. C. '12 Section 2429; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

Deleted: The Commissioner shall from time to time prescribe and publish regulations for carrying out the provisions of Articles 1 to 9 of this chapter.

Cosmetic Act: Provided, that the Commissioner would have the authority under this Act to promulgate such regulations.

(b) Before the issuance, amendment, or repeal of any rule or regulation authorized by this Act, the Commissioner shall publish the proposed regulation, amendment, or notice to repeal an existing regulation in a manner reasonably calculated to give interested parties, including all current registrants, adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the shall take appropriate action to issue the proposed rule or regulation or to amend or repeal an existing rule or regulation. The provisions of this paragraph notwithstanding, if the Commissioner pursuant to the authority of this Act, adopts the Official Definitions of Feed Ingredients and Official Feed Terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by said Association or by the United States Secretary of Health and Human Services, in the case of regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act, shall be adopted automatically under this Act without regard to the publication of the notice required by this paragraph (b), unless the by order specifically determines that said amendment of modification shall not be adopted.

(c) Federal regulations contained in Title 21, Code of Federal Regulations, part 507, not otherwise adopted herein, may also be adopted by the Commissioner.

HISTORY: 1962 Code Section 3-609; 1952 Code Section 3-609; 1942 Code Section 6597; 1932 Code Section 6597; Civ. C. '22 Section 3507; Civ. C. '12 Section 2430; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

SECTION 46-27-xx Certificates.

To facilitate continued access to markets for commercial feed and feed ingredients, the Commissioner may:

- (a) Inspect, audit or certify commercial feed manufacturer or distributor facilities at the request of the manufacturer or distributor to the extent authorized by this Act, or on the basis of other records voluntarily supplied by the manufacturer or distributor;
- (b) Issue certificates pursuant to subsection (a), such as, but not limited to, certificates of export from the state;
- (c) Promulgate, amend or adopt rules to inspect, audit or certify and issue certificates pursuant to this Section; and
- (d) Include a schedule of fees that addresses all activities required under this section. Such fees shall not duplicate those set forth in other sections of this Act.

Deleted: SECTION 46-27-80. Rules and regulations as to grading.¶
The Commissioner may prescribe regulations governing the grading of any and all commercial feeds.¶

Deleted: HISTORY: 1979 Act No. 155 Section 1.¶

ARTICLE 3

Licensing

(a) **SECTION 46-27-210.** Facilities must be licensed to distribute feed. Any person:

- 1) Who manufactures a commercial feed within the state; or
 - 2) Who distributes a commercial feed in or into the state; or
 - 3) Whose name appears on the label of a commercial feed as guarantor,
- shall obtain a license for each facility which distributes in or into the state authorizing them to manufacture or distribute commercial feed before they engage in such activity. Any person who makes only retail sales of commercial feed which bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the tonnage inspection fee due under Section 46-27-840 is not required to obtain a license.

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Each manufacturer, importer, jobber, agent or seller before selling or offering or exposing for sale in this State any commercial feed shall, for each and every feed bearing a distinct name or trademark, file for registration with the Commissioner a copy of the statement required in Section 46-27-310 and accompany the statement, on request, by a sealed container of at least one pound of the commercial feed. The sample shall correspond within reasonable limits to the feed which it represents in the percentages of crude protein, crude fat and crude fiber which it contains.¶

| [\(b\) Any person who is required to obtain a license shall submit an application on](#)

a form provided or approved by the Commissioner accompanied by a license fee of \$50 for each facility paid to the Commissioner who shall deposit it into the Department of Agriculture fund, of which the State Treasurer is the custodian, for the express purpose of enforcement of this Act. The license year shall be July 1 to June 30 of the succeeding year. Each license shall expire on the 30th day of June each year; provided that any license shall be valid through September 30th of the same year or until the issuance of the renewal license, whichever event first occurs, if the holder thereof has filed a renewal application with the Commissioner on or before June 30th of the year for which the current license was issued. Any new applicant who fails to obtain a license within fifteen working days of notification of the requirement to obtain a license, or any licensee who fails to comply with license renewal requirements, shall pay a late fee \$25 in addition to the license fee.

(c) The form and content of the commercial feed license application shall be established by a rule adopted by the Commissioner.

(d) The Commissioner may promulgate rules defining when the Commissioner may request, at any time, from a license applicant or licensee copies of labels and labeling in order to determine compliance with the provisions of this Act. The Commissioner may to refuse to issue a license to any person not in compliance with the provisions of this Act. The Commissioner may suspend or revoke any license issued to any person found not in compliance with any provision of this Act. The Commissioner may place conditions that limit production or distribution of a particular commercial feed on the license of any person found not to be in compliance with this Act. No license shall be conditionalized, suspended, refused or revoked unless the applicant or licensee shall first be given an opportunity to be heard before the Commissioner in order to comply with the requirements of this Act.

HISTORY: 1962 Code Section 3-611; 1952 Code Section 3-611; 1942 Code Section 6589; 1932 Code Section 6589; Civ. C. '22 Section 3499; Civ. C. '12 Section 2422; 1910 (26) 613; 1936 (39) 1592, 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

ARTICLE 5

Labeling, Misbranding and Adulteration

SECTION 46-27-310. Labeling of commercial feeds.

A commercial feed shall be labeled as follows:

(a) In case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information.

(1) The quantity statement.

(2) The product name and the brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis, expressed on an "as-is" basis, stated in such terms as the by regulation determines is required to advise the user of the composition of the commercial feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the AOAC International or other recognized methods.

(4) The common or usual name of each ingredient used in the manufacture of the commercial feed, provided, that the Commissioner by regulation may permit the use of a collective term for a group of ingredients which perform a similar function, or the Commissioner may exempt such commercial feeds, or any group thereof, from this requirement of an ingredient statement if the Commissioner finds that such statement is not required in the interest of consumers.

(5) The name and principal mailing address of the manufacturer or the person responsible for

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Deleted: SECTION 46-27-220. If manufacturer files statement, seller need not.¶

Whenever a manufacturer, importer or jobber of any commercial feed shall have filed a statement, as required by Section 46-27-210, no agent or seller of such manufacturer, importer or jobber shall be required to file such statement.¶

Deleted: HISTORY: 1962 Code Section 3-612; 1952 Code Section 3-612; 1942 Code Section 6590; 1932 Code Section 6590; Civ. C. '22 Section 3500; Civ. C. '12 Section 2423; 1910 (26) 613; 1979 Act No. 155 Section 1.¶

Deleted: SECTION 46-27-230. Refusal or cancellation of registration.¶

The Commissioner may refuse the registration of any commercial feed under a name which would be misleading as to the materials of which it is composed or when the names of all ingredients of which it is composed are not stated. Should any commercial feed be registered and it is afterward discovered that it does not comply with the provisions of Articles 1 to 9 of this chapter, the Commissioner shall notify the registrant of the noncompliance. The notice shall apprise the registrant that he may request a hearing within thirty days of receipt of the notice. If such request for a hearing is made within the time allowed, the Commissioner shall schedule a hearing within thirty days after receipt of the request and shall allow the registrant to refute the allegations of noncompliance. If, after the hearing, the Commissioner is still convinced that the commercial feed does not comply with the provisions of Articles 1 to 9 of this chapter he may cancel such registration.¶

¶
HISTORY: 1962 Code Section 3-613; 1952 Code Section 3-613; 1942 Code Section 6591; 1932 Code Section 6591; Civ. C. '22 Section 3501; Civ. C. '12 Section 2424; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

Deleted: Every lot or parcel of commercial feed sold or offered or exposed for sale within this State shall have affixed thereto or printed thereon in a conspicuous place on the outside a legible and plainly printed statement in the English language clearly and truly certifying:¶

(1) The weight of the package;¶

(2) The name, brand or trademark under which the article is sold;¶

(3) The name and address of the manufacturer, jobber or importer;¶

(4) The name of each and all ingredients of which the article is composed; provided, that the Commissioner by regulation may permit the use of a collective term for a group of ingredients which perform a similar function or he may exempt such commercial feeds or any group thereof from this requirement of an ingredient statement if he finds that such statement is not required in the interest of consumers;¶

(5) A statement of the minimum percentage of crude protein, the minimum percentage of crude fat and the maximum percentage of crude fiber.

distributing the commercial feed.

(6) Adequate directions for use for all commercial feeds containing drugs and for such other commercial feeds as the Commissioner may require by regulation as necessary for their safe and effective use.

(7) Such precautionary statements as the Commissioner by regulation as determines are necessary for the safe and effective use of the commercial feed.

(b) In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:

(1) Name and address of the manufacturer.

(2) Name and address of the purchaser.

(3) Date of delivery.

(4) The product name and quantity statement of each commercial feed and each other ingredient used in the mixture.

(5) Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the Commissioner may require by regulation as necessary for their safe and effective use.

(6) The directions for use and precautionary statements as required by rules promulgated by the Commissioner.

(7) If a drug containing product is used:

I. The purpose of the medication (claim statement)

II. The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with rules promulgated by the Commissioner.

HISTORY: 1962 Code Section 3-621; 1952 Code Section 3-621; 1942 Code Section 6587; 1932 Code Section 6587; Civ. C. '22 Section 3497; Civ. C. '12 Section 2420; 1910 (26) 613; 1936 (39) 1592; 1954 (48) 1696; 1971 (57) 261; 1979 Act No. 155 Section 1.

Section 46-27-XX. Misbranding.

A commercial feed shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If it is distributed under the name of another commercial feed.

(c) If it is not labeled as required by this Act or rule promulgated under this Act.

(d) If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the Commissioner.

(e) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Section 47-26-XX Adulteration.

A commercial feed shall be deemed to be adulterated:

(a)

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health; or

(2) If it bears or contains any added poisonous, added deleterious, or added non- nutritive

Deleted: SECTION 46-27-320. Labels shall not be fastened to bag by metal holders.¶

. No tags, cards or descriptive matter shall be fastened by metal holders to bags containing commercial feed, including sacked cottonseed meal and hulls.¶

Deleted: HISTORY: 1962 Code Section 3-622; 1952 Code Section 3-622; 1942 Code Section 6592; 1932 Code Section 6592; Civ. C. '22 Section 3502; Civ. C. '12 Section 2425; 1910 (26) 613; 1915 (29) 142; 1936 (39) 1592, 1615; 1937 (40) 532; 1941 (42) 119; 1948 (45) 1815; 1979 Act No. 155 Section 1.¶

Deleted: SECTION 46-27-330. Cards for sales in bulk.¶

. Whenever any commercial feed is kept for sale in bulk, stored in bins or otherwise, the manufacturer, dealer, jobber or importer keeping it for sale shall keep cards of proper size upon which the statement required by Section 46-27-310 shall be plainly printed; and if the commercial feed is sold at retail in bulk or if it is put up in packages belonging to the purchaser, the manufacturer, dealer, jobber or importer shall furnish the purchaser with one of the cards upon which is printed the statement required by Section 46-27-310.¶

HISTORY: 1962 Code Section 3-623; 1952 Code Section 3-623; 1942 Code Section 6592; 1932 Code Section 6592; Civ. C. '22 Section 3502; Civ. C. '12 Section 2425; 1910 (26) 613; 1915 (29) 142; 1936 (39) 1592, 1615; 1937 (40) 532; 1941 (42) 119; 1948 (45) 1815; 1979 Act No. 155 Section 1.¶

Deleted: SECTION 46-27-340. How percentages are determined.¶

. The percentages of crude protein, crude fat and crude fiber required to be stated under the provisions of Section 46-27-310 shall be determined by the methods in use at the time by the Association of Official Analytical Chemists of the United States.¶

HISTORY: 1962 Code Section 3-624; 1952 Code Section 3-624; 1942 Code Section 6587; 1932 Code Section 6587; Civ. C. '22 Section 3497; Civ. C. '12 Section 2420; 1910 (26) 613; 1936 (39) 1592; 1971 (57) 261; 1979 Act No. 155 Section 1.¶

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substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; or (ii) a food additive); or

(3) _____ If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act; or

(4) _____ If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; or

(5) _____ If it is, or it bears or contains any color additive which is unsafe within the meaning of Section 721 of the Federal Food, Drug, and Cosmetic Act; or

(6) _____ If it is, or it bears or contains any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act; or

(7) _____ If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for feed; or

(8) _____ If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or

(9) _____ If it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of Section 402 (a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act; or

(10) _____ If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(11) _____ If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act.

(b) _____ If any valuable constituent has been in whole or in part omitted or abstracted there from or any less valuable substance substituted therefore.

(c) _____ If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(d) _____ If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the to assure that the drug meets the requirement of this Act as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the Commissioner shall adopt the current good manufacturing practice regulations for Type A medicated Articles and Type B and Type C Medicated Feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless the Commissioner determines that they are not appropriate to the conditions which exist in this State.

(e) _____ If it contains viable weed seeds in amounts exceeding the limits which the shall establish by rule.

ARTICLE 7

Inspection, Samples and Analyses

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SECTION 46-27-410. Commissioner may inspect, take samples and perform analyses.

- (a) For the purpose of enforcement of this Act, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the Commissioner, upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, during normal business hours, any factory, warehouse, or establishment within the State in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and (2) to inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of records, and production and control procedures related to the manufacture, distribution, storage, handling, use or disposal of commercial feed as may be necessary to determine compliance with this Act.
- (b) A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.
- (c) If the Commissioner or his agent making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the inspector/ sampler shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.
- (d) If the owner of any factory, warehouse, or establishment described in paragraph (a), or their agent, refuses to admit the Commissioner, officers or employees to inspect accordance with paragraphs (a) and (b) of this section, the Commissioner is authorized to obtain from any State Court a warrant directing such owner or his agent to submit the premises described in such warrant to inspection.
- (e) For the enforcement of this Act, the Commissioner or duly designated agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.
- (f) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International, or in accordance with other generally recognized methods.
- (g) The results of all analyses of official samples shall be forwarded by the Commissioner to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within 30 days following the receipt of the analysis the Commissioner shall furnish to the licensee a portion of the sample concerned.
- (h) The Commissioner in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in (n) of Section 46-27-20 and obtained and analyzed as provided for in this Act.

HISTORY: 1962 Code Section 3-631; 1952 Code Section 3-631; 1942 Code Section 6595; 1932 Code Section 6595; Civ. C. '22 Section 3505; Civ. C. '12 Section 2428; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

SECTION 46-27-430. Publication.

The Commissioner may publish annually, in such forms as the Commissioner may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as the Commissioner may consider advisable, and a report of the results of the analyses of official

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Deleted: The Commissioner, together with his deputies, agents and assistants shall have access to all places of business, mills and storage facilities used in the manufacture, importation or sale of any commercial feed and may open any package containing or supposed to contain any commercial feed during the normal operating hours of business and upon tender and payment of the selling price of samples, take therefrom, in the manner prescribed in this article, samples for analysis.¶

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Deleted: SECTION 46-27-420. Analysis of samples; how samples are taken.¶
The Commissioner shall annually cause to be analyzed at least one sample so taken of every commercial feed that is found, sold or offered or exposed for sale in this State under the provisions of Articles 1 to 9 of this chapter. The samples, not less than one pound in weight, shall be taken from not less than ten bags or packages, or if there be less than ten bags or packages, then from each bag or package, if it be in bag or package form, or if such commercial feed be in bulk, then from ten different places of the lot.¶
HISTORY: 1962 Code Section 3-632; 1952 Code Section 3-632; 1942 Code Section 6595; 1932 Code Section 6595; Civ. C. '22 Section 3505; Civ. C. '12 Section 2428; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

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Deleted: The Commissioner may publish from time to time in reports or bulletins the results of the analyses of such samples, together with such additional information as circumstances advise; provided, however, that if such a sample as analyzed by the Commissioner differs from the statement prescribed in Section 46-27-310, then at least thirty days before publishing the results of such analysis the Commissioner shall give written notice of such results to the manufacturer, importer, agent or jobber of such stock, if the name and address of such manufacturer, jobber or importer be known; provided, further, that if the analysis of any such sample does not differ substantially from the statement prescribed by Section 46-27-310, appearing upon the goods, the manufacturer may be considered as having complied with the requirements of Articles 1 to 9 of this chapter.¶

samples of commercial feeds sold within the State as compared with the analyses guaranteed in the registration and on the label; Provided, That the information concerning production and use of commercial feed shall not disclose the operations of any person or licensee.

HISTORY: 1962 Code Section 3-634; 1952 Code Section 3-634; 1942 Code Section 6595; 1932 Code Section 6595; Civ. C. '22 Section 3505; Civ. C. '12 Section 2428; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

SECTION 46-27-450. Analysts, chemists, and inspectors.

The Commissioner may appoint such analysts, chemists and inspectors as may be required to carry out the provisions of Articles 1 to 11 of this chapter.

HISTORY: 1962 Code Section 3-636; 1952 Code Section 3-636; 1942 Code Section 6600; 1932 Code Section 6600; Civ. C. '22 Section 3510; Civ. C. '12 Section 2433; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

SECTION 46-27-460. Certificate of analyst as prima facie evidence.

In all prosecutions in the courts of this State arising under the provisions of Articles 1 to 11 of this chapter and the regulations made in accordance therewith, the certificate of the analyst or other officer making the analysis or examination when duly sworn to and subscribed by such analyst or officer shall be prima facie evidence of the facts therein certified.

HISTORY: 1962 Code Section 3-637; 1952 Code Section 3-637; 1942 Code Section 6598-1; 1932 Code Section 1372; Cr. C. '22 Section 272; Cr. C. '12 Section 485; 1906 (25) 101; 1910 (26) 613; 1979 Act No. 155 Section 1.

ARTICLE 8 Prohibited Acts

SECTION 46-27-xxx. Prohibited acts are defined.

The following acts and the causing thereof within the State of are hereby prohibited.

- (a) The manufacture or distribution of any commercial feed that is adulterated or misbranded.
- (b) The adulteration or misbranding of any commercial feed.
- (c) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of 47-26-XX [Adulteration] of this Act.
- (d) The removal or disposal of a commercial feed in violation of an order issued by the Commissioner or his agent for violations of this Act.
- (e) The failure or refusal to obtain a license in accordance with Section 46-27-210 of this Act.
- (f) The failure to pay inspection fees or file reports as required by Section 47-26-840 of this Act.
- (g) Re-use of bags or totes used for commercial feeds (including customer-formula feed) that have not been appropriately cleaned. A firm that intends to re-use bags or totes must document its cleanout procedures.
- (h) The distribution of raw milk for use as commercial feed for any species:
 - (1) If it has not been decharacterized using a sufficient quantity of food coloring as designated by Commissioner;
 - (2) If it has been decharacterized using food coloring unless the food coloring has been approved by the US Food and Drug Administration, or in the case of raw milk labeled as organic, approved by the US Department of Agriculture;
 - (3) If it has been decharacterized and the nutritive value of the milk has been adversely affected by the decharacterization;
 - (4) That is packaged in containers that are or resemble those used for the packaging of milk

Deleted: SECTION 46-27-440. Obstructing inspection of feed.¶
Any manufacturer, importer, jobber or dealer who refuses to comply with the requirements of the provisions of Articles 1 to 9 of this chapter or any manufacturer, importer, jobber or person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any chemist, inspector or other authorized agent in the performance of his duty in connection with the provisions of such articles shall be guilty of a violation of the provisions of such articles.¶

¶
HISTORY: 1962 Code Section 3-635; 1952 Code Section 3-635; 1942 Code Section 6597-3; 1932 Code Section 1370; Cr. C. '22 Section 270; Cr. C. '12 Section 483; 1906 (25) 101; 1910 (26) 613; 1979 Act No. 155 Section 1.¶

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- for human consumption;
- (5) That is stored at retail with, or in the vicinity of, milk or milk products intended for human consumption;
- (6) If it does not comply with Section 47-26-XX [Adulteration] of this Act.

ARTICLE 9

Detained Commercial Feeds and Penalties

SECTION 46-27-610. Commissioner may suspend sales of feed and seek enforcement remedies.

“Withdrawal from distribution” orders: When the Commissioner or duly authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this Act or any of the prescribed rules under this Act, the Commissioner or agent may issue and enforce a written or printed “withdrawal from distribution order,” warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the Commissioner or a court of competent jurisdiction. The Commissioner may release the lot of commercial feed so withdrawn when said provisions and rules have been complied with upon payment of all the costs or expenses incurred in any proceeding connected with such seizure and withdrawal.

(a) If compliance is not obtained within 30 days, the Commissioner may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.

(b) “Condemnation and Confiscation”: Any lot of commercial feed not in compliance with the provisions of this Act and rules promulgated pursuant to the Act may be subject to seizure on complaint to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the Court finds the said commercial feed to be in violation of this Act and orders the condemnation of said commercial feed, it shall be disposed of or sold as described in section 47-26-630: provided, that in no instance shall the disposition of said commercial feed be ordered by the Court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or re-label said commercial feed to bring it into compliance with this Act.

HISTORY: 1962 Code Section 3-653; 1952 Code Section 3-653; 1942 Code Section 6594; 1932 Code Section 6594; Civ. C. '22 Section 3504; Civ. C. '12 Section 2427; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

SECTION 46-27-630. How sales are made.

Such seizure and sale shall be made by the Commissioner or under the direction of any officer of his appointment. The sale shall be made at the courthouse door of the county in which the seizure is made; provided that whenever, for sufficient reasons appearing to the Commissioner or his representative, another place of sale is more convenient and more desirable, such place of sale may be selected. The sale shall be advertised for thirty days in a newspaper published in the county in which the seizure is made or in an internet commerce website. The advertisement shall state the brand or name of the goods, the quantity, why seized and offered for sale and the time and place of sale.

HISTORY: 1962 Code Section 3-655; 1952 Code Section 3-655; 1942 Code Section 6593; 1932 Code Section 6593; Civ. C. '22 Section 3503; Civ. C. '12 Section 2426; 1910 (26) 613; 1924 (33) 1084; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

SECTION 46-27-650. Commissioner to notify dealer and solicitor of violations; prosecution.

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Deleted: If at any time the Commissioner or his duly authorized representative shall have reason to believe that any commercial feed offered or exposed for sale in this State does not comply with the requirements of Articles 1 to 9 of this chapter, as to the ingredients or substances of such commercial feed, he shall by written order suspend the sale of it until he shall have satisfied himself that such commercial feed is made up or compounded as required by such articles. If he shall find that such commercial feed does not comply with such articles, then he is authorized to proceed with regard to it as provided in Sections 46-27-620 to 46-27-640.¶

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Deleted: SECTION 46-27-620. Forfeiture for violation of Section 46-27-40.¶

. If any manufacturer, importer, jobber, agent or dealer shall be guilty of a violation of Section 46-27-40, the lot of commercial feed in question shall be seized and condemned, sold or destroyed by the Commissioner, or his duly authorized representative, and the proceeds from such sales shall be covered into the State Treasury for the use of the Department of Agriculture.¶

¶ HISTORY: 1962 Code Section 3-654; 1952 Code Section 3-654; 1942 Code Section 6593; 1932 Code Section 6593; Civ. C. '22 Section 3503; Civ. C. '12 Section 2426; 1910 (26) 613; 1924 (33) 1084; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

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Deleted: if no newspaper is published in such county, then it shall be advertised in a newspaper published in the nearest county having a newspaper

Deleted: SECTION 46-27-640. When seized feed may be released.¶

. The Commissioner, however, may in his discretion release the commercial feeds so withdrawn when the requirements of the provisions of Articles 1 to 9 of this chapter have been complied with and upon payment of all the costs or expenses incurred in any proceeding connected with such seizure and withdrawal.¶

¶ HISTORY: 1962 Code Section 3-656; 1952 Code Section 3-656; 1942 Code Section 6593; 1932 Code Section 6593; Civ. C. '22 Section 3503; Civ. C. '12 Section 2426; 1910 (26) 613; 1924 (33) 1084; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

Whenever the Commissioner, or his duly authorized representative, becomes cognizant of any violation of the provisions of Articles 1 to 11 of this chapter, he shall immediately notify in writing the manufacturer, importer, jobber or dealer, if known.

HISTORY: 1962 Code Section 3-657; 1952 Code Section 3-657; 1942 Code Section 6598; 1932 Code Section 6598; Civ. C. '22 Section 3508; Civ. C. '12 Section 2431; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

SECTION 46-27-660. Penalties.

(a) Any person convicted of violating any of the provisions of this Act or who shall impede, hinder, or otherwise prevent, or attempt to prevent, said Commissioner or their duly authorized agent in performance of their duty in connection with the provisions of this Act, shall be adjudged guilty of a misdemeanor and shall be fined not less than \$\$ or more than \$\$ for the first violation, and not less than \$\$ or more than \$\$ for a subsequent violation.

(b) Nothing in this Act shall be construed as requiring the Commissioner or his agent to: (1) report for prosecution, or (2) institute seizure proceedings, or (3) issue a withdrawal from distribution order, as a result of minor violations of the Act, or when the Commissioner believes the public interest will best be served by suitable notice of warning in writing.

(c) It shall be the duty of each circuit attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the Commissioner reports a violation for such prosecution, an opportunity shall be given the distributor to present their view to the Commissioner.

(d) The Commissioner is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this Act or any rule or regulation promulgated under the Act notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

(e) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this Act may within 45 days thereafter bring action in the [here name the particular Court in the county where the enforcement official has his office] for judicial review of such actions. The form of the proceeding shall be any which may be provided by statutes of this State to review decisions of administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.

(f) Any person who uses to their own advantage, or reveals to other than the Commissioner, or officers of the appropriate departments of this State, or to the Courts when relevant in any judicial proceeding, any information acquired under the authority of this Act, concerning any methods, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a misdemeanor and shall on conviction thereof be fined not less than \$\$ or imprisoned for not less than XX year(s) or both; provided, that this prohibition shall not be deemed as prohibiting the Commissioner, or their duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States Government, or of other States, who are similarly prohibited by law from revealing this information.

(g) In any action to compel performance of an order of the Commissioner to enforce this Act, the Court must require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.

(h) The civil penalties and payments provided for in this section may be recovered by a civil action brought by the Commissioner in the name of the State.

HISTORY: 1962 Code Section 3-658; 1952 Code Section 3-658; 1942 Code Section 6597-4; 1932 Code Section 1371; Cr. C. '22 Section 271; Cr. C. '12 Section 484; 1906 (25) 101; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

SECTION 46-27-670. Use of fines.

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Deleted: , and after thirty days he shall notify the circuit solicitor who shall cause such person so violating any such provision to be prosecuted in the manner prescribed by law.¶

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Deleted: Any manufacturer, importer, jobber, agent or dealer who shall be convicted of violating any of the provisions of Articles 1 to 9 of this chapter or the regulations adopted by the Commissioner shall be fined not exceeding two hundred fifty dollars for the first offense nor more than five hundred dollars for each subsequent offense.¶

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The proceeds from such fines shall be covered into the State Treasury for use of the Department of Agriculture.

HISTORY: 1962 Code Section 3-659; 1952 Code Section 3-659; 1942 Code Section 6597-4; 1932 Code Section 1371; Cr. C. '22 Section 271; Cr. C. '12 Section 484; 1906 (25) 101; 1910 (26) 613; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

SECTION 46-27-840. Inspection fees and reports.

(a) An inspection fee at the rate of 15 cents per ton shall be paid on commercial feeds distributed in this State by the person whose name appears on the label as the manufacturer, guarantor or distributor, except that a person other than the manufacturer, guarantor or distributor may assume liability for the inspection fee, subject to the following:

- (1) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.
- (2) No fee shall be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.
- (3) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds which are registered. If the fee has already been paid, credit shall be given for such payment.
- (4) In the case of a commercial feed which is distributed in the State only in packages of ten pounds or less, an annual fee of \$15 shall be paid in lieu of the inspection fee specified above.
- (5) The minimum tonnage inspection fee shall be \$50 per year.
- (6) In the case of specialty pet food which is distributed in the state only in packages of one pound or less, an annual fee of \$10 per product shall be paid up to a maximum annual fee of \$250 per manufacturer in lieu of an inspection fee.
- (7) The inspection fee reporting periods shall be July 1 to December 31 and January 1 to June 30 of each year.

(b) Each person who is liable for the payment of such fee shall:

- (1) File, on or before the last day of the month following the inspection fee reporting period, setting forth the number of net tons of commercial feeds distributed in this State during the preceding reporting period; and upon filing such statement shall pay the inspection fee at the rate stated in paragraph (a) of this Section. Inspection fees which are due and owing and have not been remitted to the within 15 days following the date due shall have a penalty fee of \$25 or 10 per cent added to the amount due, whichever is greater when payment is finally made. The assessment of this penalty fee shall not prevent the Commissioner or his agent from taking other actions as provided in this chapter.
- (2) Keep such records as may be necessary or required by the Commissioner to indicate accurately the tonnage of commercial feed distributed in this State, and the Commissioner shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided in this section shall constitute sufficient cause for the cancellation of a firm's feed license.

(c) Fees collected by the Commissioner shall constitute a fund for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for administration of this Act and shall be deposited to the Department of Agriculture fund, with the State Treasurer as custodian.

(d) Records or reports maintained or filed under this section, are confidential and not subject to disclosure under applicable public records acts.

Deleted: SECTION 46-27-680. Schedule of penalties; payment.¶
If the analysis of an official sample shows a deviation from permitted analytical variation established by the Commissioner, the registrant or other responsible person shall be penalized according to the following schedule:¶

Deleted: SECTION 46-27-690. "Permitted analytical variation" defined.¶
The term "permitted analytical variation", as stated in Section 46-27-680, means allowance for the inherent variability in sampling and laboratory analysis in guaranteed components. Manufacturing variations and their effect on the guaranteed components are not included in such values.¶

HISTORY: 1979 Act No. 155 Section 1.¶

Deleted: ARTICLE 11¶
Stock or Poultry Preparations¶

SECTION 46-27-810. Declaration of purpose.¶
This article is designed to fully cover all preparations commonly known as condimental, patented, proprietary or trademarked stock or poultry tonic, stock or poultry regulators, stock or poultry conditioners, stock or poultry remedies and all similar preparations used for tonic, regulative, remedial or conditional purposes, and to protect the public from deception and fraud in the sale of these specific products.¶

HISTORY: 1962 Code Section 3-678; 1952 Code Section 3-678; 1942 Code Section 6609; 1932 Code Section 6609; Civ. C. '22 Section 3519; 1914 (28) 700; 1979 Act No. 155 Section 1.¶

SECTION 46-27-820. Prerequisites to sale of patent stock or poultry preparations.¶

Before any condimental, patented, proprietary or trademarked preparation called a "stock or poultry tonic", "stock or poultry regulator", "stock or poultry conditioner", or "stock or poultry remedy", or any similar preparation, regardless of how it may be called or the specific name or title under which it is sold, which is represented as containing tonic, remedial or other medicinal properties, is sold or offered or exposed for sale in the State, the manufacturer, importer, dealer, agent or person who causes it to be sold or offered or exposed for sale, by sample or otherwise, within this State, shall file with the Commissioner:¶

- (1) A statement that he desires to offer such preparation for sale in this State;¶
- (2) A certificate, the execution of which shall be sworn to before a notary public or other proper official for registration, stating¶
 - (a) the name of the manufacturer,¶
 - (b) the location of the principal office of the manufacturer,¶
 - (c) the name, brand or trademark under which the preparation will be sold;¶
- (3) A guaranty that¶

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Deleted: For the expense incurred in registering, inspecting and analyzing the preparations referred to in Section 46-27-820, a registration fee of ten dollars for each separate brand or, in lieu thereof, a maximum fee of fifty dollars per annum covering all brands made by a single manufacturer shall be paid by the manufacturer or seller of such preparations to the Commissioner during the month of January in each year.¶

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HISTORY: 1962 Code Section 3-673; 1952 Code Section 3-673; 1942 Code Section 6604; 1932 Code Section 6604; Civ. C. '22 Section 3514; 1914 (28) 700; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

SECTION 46-27-880. Fines and other moneys paid to general fund of state.

All money, including fines received under the provisions of this article, shall be paid to the general fund of the State. Payment to the general fund shall be made in conformance to procedures established by the State Fiscal Accountability Authority.

HISTORY: 1962 Code Section 3-677; 1952 Code Section 3-677; 1942 Code Section 6608; 1932 Code Section 6608; Civ. C. '22 Section 3518; 1914 (28) 700; 1915 (29) 155; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.

Deleted: SECTION 46-27-850. Penalty.¶
Any person who shall offer or expose for sale any package, sample or quantity of any preparation referred to in Section 46-27-820 which has not been registered or which, though registered, is subsequently found by an analysis or examination made by or under the direction of the Commissioner to contain harmful or injurious substances or to be labeled with false or misleading statements regarding its contents or curative properties shall be guilty of a misdemeanor and upon conviction shall be fined fifty dollars for the first offense and one hundred dollars for each subsequent offense.¶
HISTORY: 1962 Code Section 3-674; 1952 Code Section 3-674; 1942 Code Section 6605; 1932 Code Section 6605; Civ. C. '22 Section 3515; Cr. C. '22 Section 286; 1914 (28) 700; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

Deleted: SECTION 46-27-860. Commissioner shall enforce article.¶
Whenever the Commissioner becomes cognizant of any violation of any of the provisions of this article, he shall immediately notify in writing the manufacturer, importer, jobber or dealer, if known. Any party so notified shall be given an opportunity to be heard under such regulations as may be prescribed by the Commissioner. If it appears that any of the provisions of this article have been violated, the Commissioner shall certify the facts to the solicitor in the district in which the sample was obtained and furnish that officer with a copy of the result of the analysis or other examination of the article, duly authenticated by the analyst or other officer making such examination under the oath of such officer. In all prosecutions arising under this article the certificate of the analyst or other officer making the analysis or examination, when duly sworn to by such officer, shall be prima facie evidence of the facts therein certified.¶
HISTORY: 1962 Code Section 3-675; 1952 Code Section 3-675; 1942 Code Section 6606; 1932 Code Section 6606; Civ. C. '22 Section 3516; 1914 (28) 700; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶
SECTION 46-27-870. Solicitors shall prosecute violations.¶
Every solicitor to whom the Commissioner shall report any violation of this article shall cause proceedings to be commenced and prosecuted without delay for the fines and penalties in such cases prescribed.¶
HISTORY: 1962 Code Section 3-676; 1952 Code Section 3-676; 1942 Code Section 6607; 1932 Code Section 6607; Civ. C. '22 Section 3517; 1914 (28) 700; 1936 (39) 1615; 1941 (42) 119; 1979 Act No. 155 Section 1.¶

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Appendix L. July 10, 2017 Meeting Information

Appendix Includes:

- Meeting Packet
 - Agenda
 - June 22, 2017 - Meeting Minutes
 - Human Affairs Commission
 - Letter from Oversight Subcommittee to Human Affairs (June 27, 2017)
 - Organizational chart
 - Organizational units
 - Strategic plan summary
 - Agency recommendations
 - Department of Agriculture
 - Letter from Oversight Subcommittee to Department of Agriculture (June 27, 2017)
 - Agency recommendations
- Correspondence after meeting
 - Letter from Oversight Subcommittee to Department of Agriculture (July 12, 2017)
 - Follows up to the July 10, 2017, work session, by informing the agency the Subcommittee is in the process of drafting its study of the agency for submission to the full Committee for its consideration.

South Carolina
House of Representatives



Legislative Oversight Committee

*ECONOMIC DEVELOPMENT, TRANSPORTATION,
AND NATURAL RESOURCES SUBCOMMITTEE*

The Honorable Neal A. Collins

The Honorable Mandy Powers Norrell

The Honorable Robert L. Ridgeway III

Monday, July 10, 2017

2:00 p.m.

110-Blatt Building

*Pursuant to Committee Rule 6.8, S.C. ETV shall be allowed access for internet streaming
whenever technologically feasible.*

AGENDA

- I. Approval of Minutes**
- II. Discussion of the study of the Human Affairs Commission**
- III. Discussion of the study of the Department of Agriculture**
- IV. Adjournment**



Economic Development, Transportation and Natural Resources Subcommittee

Thursday, June 22, 2017 at 10:00 am in Room 108

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Economic Development, Transportation, and Natural Resources Subcommittee meeting was called to order by Vice-Chair Laurie Slade Funderburk on Thursday, June 22, 2017, in Room 108 of the Blatt Building. The following members of the Subcommittee were present for all or a portion of the meeting: Representative Mandy Powers Norrell, Representative Robert L Ridgeway, and Representative Neal A. Collins.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings; the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.

- II. Representative Norrell moved to approve the minutes from the Subcommittee's meeting on June 15, 2017. A roll call vote was held, and the motion passed.

Rep. Norrell motions to approve the minutes from the June 15, 2017 meeting:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

Discussion of the Human Affairs Commission

- I. Vice-Chair Funderburk provides an update of the Subcommittee's work related to the Human Affairs Commission. She stated the purpose of this meeting is to discuss the agency's history, mission, and the services it provides to citizens.
- II. Vice-Chair Funderburk reminds everyone that has previously been sworn in that they remain under oath for any testimony before this Subcommittee or the full Committee. Vice-Chair Funderburk swears in the following agency representatives:
 - a. John A. Oakland, Chair of the Governing Board, Aiken County
 - b. Lee Ann Rice, Staff Counsel
 - c. Stephanie Price, EEO Consultant
 - d. Marvin Caldwell, Director of Fair Housing Division
 - e. Dan Koon, Deputy Commissioner
- III. Chair John A. Oakland gives an overview of the functions and responsibilities of the Governing Board of Commissioners. (00:07:20)
- IV. Commissioner Raymond Buxton II presents information on the agency's history, mission, and major programs, while other agency representatives provide information on the services it provides to citizens under the major programs. (00:12:00)
- V. Lee Ann Rice, staff counsel, gives an overview of the three state laws related to the agency and the federal laws enforced by the agency (00:19:10):
 - a. South Carolina Human Affairs Law: Title 1, Chapter 13
 - b. South Carolina Fair Housing Law: Title 31, Chapter 21
 - c. South Carolina Equal Enjoyment and Privileges to Public Accommodations: Title 45, Chapter 9
 - d. Federal Laws Prohibiting Discrimination: Title VII of the 1963 Civil Rights Act, Age Discrimination in Employment Act, Pregnancy Discrimination Act, and the Americans with Disabilities Act

Further, Ms. Rice discussed the mediation process. (00:30:45)

- VI. Dan Koon, Deputy Commissioner, gives an overview of how the employment law is administered, including the intake process and the investigation process. (00:24:45)

Further, Mr. Koon discussed Community Relations. (00:40:25)

- VII. Marvin Caldwell, Director of Fair Housing Division, gives an overview of the Fair Housing Department at the Human Affairs Commission. (00:34:10)
- VIII. Stephanie Price, EEO Consultant, gives an overview of the Technical Service Department (00:38:00), including:
- a. Consultative Services
 - b. Affirmative Action Plan
 - c. Training

Discussion of the Department of Agriculture

- IX. Vice-Chair Funderburk explains that since agency representatives could not attend today's meeting, this meeting would be a work session to further identify questions Subcommittee members may have for the agency and to discuss the agency's recommendations to the Subcommittee.

- X. Various motions are made by Subcommittee members to approve agency recommendations:

- a. Vice-Chair Funderburk moved to approve the agency's recommendation, based on the draft language, to remove bonding requirements of the Commissioner of Agriculture. A roll call vote was held, and the motion passed.

Vice-Chair Funderburk motions to approve the agency's recommendation, based on the draft language, to remove bonding requirements of the Commissioner of Agriculture:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

- b. Representative Collins moved to approve the agency's recommendation, based on the draft language, to remove the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget. A roll call vote was held, and the motion passed.

Rep. Collins motions to approve the agency's recommendation, based on the draft language, to remove the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

- c. Representative Collins moved to approve the agency's recommendation, based on the draft language, to revise the appointment procedure of Commission of Agriculture to address a seat that has either been vacant or the term has expired, so that a Commissioner shall continue to serve until their successor is elected and qualified, and may only serve until their successors are elected and qualified, and provided a commissioner may only serve in a hold over capacity for a period not to exceeding six months, and to correct the scrivener's spelling error in the drafted language. A roll call vote was held, and the motion passed.

Rep. Collins motions to approve the agency's recommendation, based on the draft language, to revise the appointment procedure of Commission of Agriculture to address a seat that has either been vacant or the term has expired, so that a Commissioner shall continue to serve until their successor is elected and qualified, and may only serve until their successors are elected and qualified, and provided a commissioner may only serve in a hold over capacity for a period not to exceeding six months, and to correct the scrivener's spelling error in the drafted language:	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

- d. Representative Collins moved to approve the agency's recommendation, based on the draft language, to modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number). A roll call vote was held, and the motion passed.

Rep. Collins motions to approve the agency's recommendation, based on the draft language, to modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number):	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

- e. Rep. Collins moved to approve the agency's recommendation, based on the draft language, to remove the agency involvement with the "cottage bill" - (i.e., remove the exemption registration burden from small home-based food produces). A roll call vote was held, and the motion passed.

Rep. Collins motions to approve the agency's recommendation, based on the draft language, to remove the agency involvement with the "cottage bill" - (i.e., remove the exemption registration burden from small home-based food produces):	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

- f. Rep. Collins moved to approve the agency's recommendation, based on the draft language, to revise state egg law (i.e., Exempt United State Department of Agriculture graded facilities from state licensing; add quail eggs; and remove the licensing requirements for small producers). A roll call vote was held, and the motion passed.

Rep. Collins motions to approve the agency's recommendation, based on the draft language, to revise state egg law (i.e., Exempt United State Department of Agriculture graded facilities from state licensing; add quail eggs; and remove the licensing requirements for small producers):	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. Collins	✓			
Rep. Norrell	✓			
Rep. Ridgeway	✓			
Rep. Funderburk	✓			

XI. There being no further business, the meeting was adjourned.

HUMAN AFFAIRS COMMISSION



June 27, 2017

Chairman John Oakland
Commissioner Raymond Buxton, II
South Carolina Human Affairs Commission
1026 Sumter Street
Columbia, SC 29201

Dear Chairman Oakland and Commissioner Buxton:

On behalf of the entire Economic Development, Transportation, and Natural Resources Subcommittee, we thank you and your staff for your presentation to the Subcommittee on June 22, 2017. In preparation for the next meeting scheduled for July 10, 2017, at 2:00 p.m., the Subcommittee seeks additional information from the agency. To allow the Subcommittee time to review the information prior to the next meeting, please provide the information requested below on or before Friday, July 7, 2017.

Discrimination Complaints

For calendar years 2016 and 2017, please provide a statistical breakdown, each month statewide and by county of the complaints the agency has received through its intake division including: (a) category of alleged discrimination, (b) number of cases dismissed without investigation overall and by category of alleged discrimination, and (c) number of cases investigated overall and by category of alleged discrimination. For the number of cases investigated, please note how many have resulted in a finding and how many are still under investigation. Please coordinate with Committee staff to determine an appropriate format to provide this information.

Interaction with Federal Government

- What percentage of the agency's budget is federal funds?
- Please explain how the agency is reimbursed by the federal government for both housing and employment cases

Chairman Oakland
Commissioner Buxton
June 27, 2017

- Please provide a list of agencies required to provide the state with an affirmative action plan and annotate this list to indicate which agencies are required to provide the federal government with an affirmative action plan.

Finances

- Please provide the Subcommittee with the amount of the agency's carryforward funds for fiscal year 2016-17.

If the agency has any concerns about the format of these questions yielding answers that do not provide an accurate reflection of the agency, please express those concerns, prior to the meeting, in a written letter to me with a copy to Committee staff. In your responses to these questions, please provide the Subcommittee with any relevant, necessary context information. As a reminder, testimony during meetings and written information from agencies are considered sworn testimony and subject to S.C. Code of Laws Sections 2-2-70 through 2-2-120. Thank you for your service to the citizens of South Carolina and for your cooperation with the legislative oversight process.

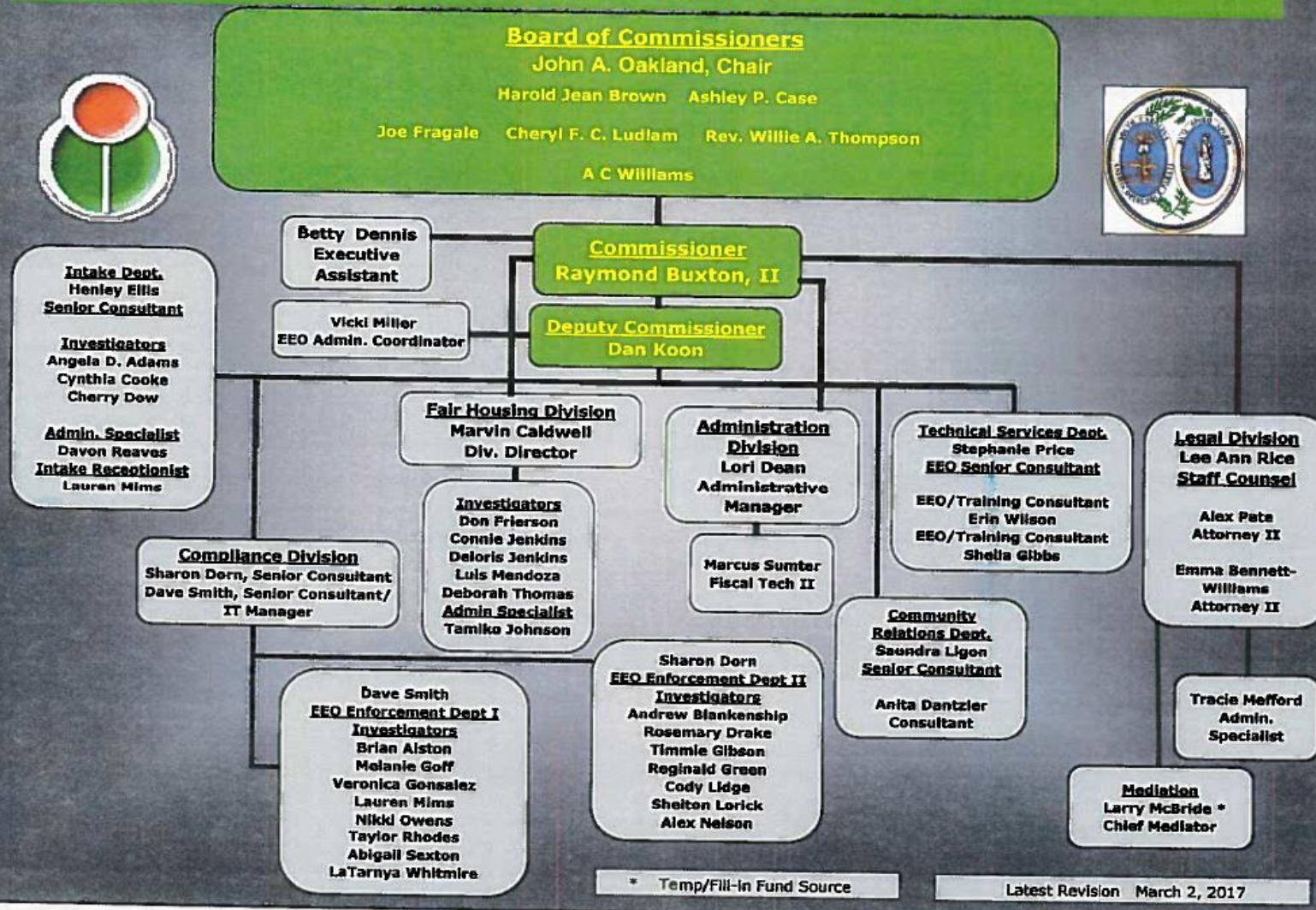
Sincerely,

A handwritten signature in cursive script, reading "L. Funderburk".

Laurie Slade Funderburk
Committee First Vice-Chair

cc: Economic Development, Transportation, and Natural Resources Subcommittee

South Carolina Human Affairs Commission Organizational Chart FY 2015-2016



Organizational Units

(Study Step 1: Agency Legal Directives, Plan and Resources)

Agency Responding	Human Affairs Commission					
Date of Submission	4/17/2017					
Did the agency have an exit interview and/or survey, evaluation, etc. when employees left the agency in 2013-14; 2014-15; or 2015-16? (Y/N)	2013-2014: No 2014-2015: No 2015-2016: Yes					
Organizational Unit	Purpose of Unit	Turnover Rate in the organizational unit in 2013-14; 2014-15; and 2015-16 (DNE = Unit did not exist)	Did the agency evaluate and track employee satisfaction in the organizational unit in 2013-14; 2014-15; and 2015-16? (Y/N)	Did the agency allow for anonymous feedback from employees in the organizational unit in 2013-14; 2014-15; and 2015-16? (Y/N)	Did any of the jobs in the organizational unit require a certification (e.g., teaching, medical, accounting, etc.) in 2013-14; 2014-15; and 2015-16? (Y/N)	If yes, for any years in the previous column, did the agency pay for, or provide in-house, classes/instruction/etc. needed to maintain all, some, or none of the required certifications?
Administration	To provide administrative direction, control, and support of the agency	2013-2014: DNE 2014-2015: 2% 2015-2016: 2%	2013-2014: N 2014-2015: N 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	All
Consultative Services	To provide technical services, training, and equal opportunity, community relations and consulting services	2013-2014: DNE 2014-2015: DNE 2015-2016: DNE	2013-2014: N 2014-2015: N 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	None
Compliance Programs	To enforce state laws prohibiting employment, housing and public accommodation discrimination	2013-2014: 6% 2014-2015: 17% 2015-2016: 3%	2013-2014: N 2014-2015: N 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	2013-2014: Y 2014-2015: Y 2015-2016: Y	Some

Agency Responding	Human Affairs Commission
Date of Submission	4/17/2017

Mission: "The mission of the South Carolina Human Affairs Commission is to eliminate and prevent unlawful discrimination in:

- employment on the basis of race, color, national origin, religion, sex, age and disability;
- housing on the basis of race, color, national origin, religion, sex, familial status and disability; and
- public accommodations on the basis of race, color, national origin and religion, thereby promoting harmony and the betterment of human affairs for all citizens."

Legal Basis: S.C. Code Ann. § 1-13-20; S.C. Code Ann. § 31-21-20 et. seq.; S.C. Code Ann. § 45-9-10

Vision: The vision of the South Carolina Human Affairs Commission is to be well-known with a positive image that is understood and accepted by the public. SCHAC is a fully resourced, customer-friendly agency with a diverse, well-trained, and efficient team working together effectively in a safe and supportive environment to prevent unlawful discrimination for the citizens

Legal Basis: Legal Basis: S.C. Code Ann. § 1-13-20 et seq.; S.C. Code Ann. § 31-21-20 et. seq.; S.C. Code Ann. § 45-9-10 et seq

		2015-16		2016-17						
		Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend					
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48					
		2015-16		2016-17						
Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)	Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	# of FTE equivalents utilized	Total amount spent	# of FTE equivalents planned to utilize	Total amount budgeted	Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
Goal 1 - Prevent and Eliminate Employment Discrimination										
Strategy 1.1. - Implement a process of hiring and training employment Investigators	Agency will be able to efficiently investigate complaints of employment investigations	DNE	\$ -	3	\$ 179,488.00	See below		Lori Dean (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years)	Lori Dean - Yes John Dave Smith - No Sharon Dorn - No	State Government
Objective 1.1.1 - Provide monthly training sessions related to employment law for 15 employment investigators in FY 2016-2017	Ensure staff is properly trained to complete timely investigations	DNE	\$ -	3	\$ 195,150.00	Intake Calls and Initial Inquiries; Intake Calls Formalized into charges; Employment Cases Received; Employment Cases Closed; Employment: Monetary Value of Settlements; Training - Internal	Compliance	Dan Koon (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years)	Dan Koon - No John Dave Smith - No Sharon Dorn - No	Federal Government
Objective 1.1.2 - Institute a workplace mentoring program for Investigator I employees during FY 2016-2017	Ensure staff is properly trained to complete timely investigations	3	\$ 183,329.52	3	\$ 195,150.00	Employment Cases Received; Employment Cases Closed; Employment: Monetary Value of Settlements	Compliance	Dan Koon (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years)	Dan Koon - No John Dave Smith - No Sharon Dorn - No	Federal Government
Strategy 1.2 - Implement a reliable and measurable tracking system for the time it takes to process and investigate an employment discrimination complaint	Agency will decrease time it takes to process charges to meet the goal of 180 days	3	\$ 173,873.60	3	\$ 175,310.12	See below	Compliance	Dan Koon (responsible more than 3 years) Vicki Miller (responsible more than 3 years) Margaret H Ellis (responsible more than 3 years)	Dan Koon - No Vicki Miller - No Margaret H Ellis - No	Federal Government
Objective 1.2.1 - Decrease the average amount of case processing time of 263 days to investigate a charge of discrimination from the date of filing by 20% or 210 days by June 30, 2017	Agency will decrease time it takes to process charges to meet the goal of 180 days	5	\$ 342,107.14	6	\$ 410,930.39	Employment Cases Received; Employment Cases Closed; Employment Cases Successfully Mediated; Funds Collected at Mediation; Employment: Monetary Value of Settlements	Compliance	Commissioner Raymond Buxton, II (responsible more than 3 years) Dan Koon (responsible more than 3 years) John Dave Smith (responsible less than 3 years) Sharon Dorn (responsible less than 3 years) Lee Ann Rice (responsible less than 3 years) Emma Bennett-Williams (responsible less than 3	Commissioner Raymond Buxton - No Dan Koon - No John Dave Smith - No Sharon Dorn - No Lee Ann Rice - No Emma Bennett-Williams - No	Federal Government
Goal 2 - Prevent and Eliminate Housing Discrimination										
Strategy 2.1 - Enhance the awareness of the Housing Division to include the awareness of the Agency in under-served counties	To prevent and eliminate housing in underserved counties	1	\$ 44,042.94	1	\$ 59,273.00	See below	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
Objective 2.1.1 - Finalize a Fair Housing Outreach Plan by December 31, 2016	Education and Outreach	1	\$ 44,042.94	1	\$ 59,273.00	Housing Cases Received	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
Objective 2.1.2 - Hire a Fair Housing Outreach Liaison by December 16, 2016	Education and Outreach	1	\$ 4,519.35	1	\$ 18,077.40	Housing Cases Received	Compliance/Fair Housing	Luis Mendoza (responsible less than 3 years (hired 10/17/16)	No	Federal Government
Strategy 2.2 - Implement an efficient processing system for Housing Discrimination Complaints	Agency will be able to efficiently investigate complaints of housing complaints	1	\$ 44,042.94	1	\$ 59,273.00	See below	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years)	Yes	Federal Government
Objective 2.2.1 - Process 60% of all Housing cases within 100 days during FY 2016-17	Agency will decrease time it takes to process charges to meet the goal of 100 days	DNE	\$ -	7	\$ 269,514.61	Housing Cases Closed; Housing Cases Conciliated	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years) Donald Frierson (responsible less than 3 years) Constance Jenkins (responsible more than 3 years) Tamiko Johnson (responsible more than 3 years) Anthony Sellers (responsible less than 3 years) Deborah Thomas (responsible more than 3 years) Luis Mendoza (responsible less than 3 years) Deloris Jenkins (responsible less than 3 years)	Marvin Caldwell - Yes Donald Frierson - No Constance Jenkins - No Tamiko Johnson - No Anthony Sellers - No Deborah Thomas - No Luis Mendoza - No Deloris Jenkins - No	Federal Government

		2015-16		2016-17						
		Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount Appropriated and Authorized to Spend					
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48					
Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)	Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	# of FTE equivalents utilized	Total amount spent	# of FTE equivalents planned to utilize	Total amount budgeted	Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
Objective 2.2.2 - Conduct on-site investigations for all cases identified as problematic cases during FY 2016-2017	Agency will be able to efficiently investigate complaints of housing investigations	DNE	\$ -	6	\$ 243,649.61	Housing Cases Closed	Compliance/Fair Housing	Marvin Caldwell (responsible more than 3 years) Donald Frierson (responsible less than 3 years) Constance Jenkins (responsible more than 3 years) Anthony Sellers (responsible less than 3 years) Deborah Thomas (responsible more than 3 years) Luis Mendoza (responsible less than 3 years) Deloris Jenkins (responsible less than 3 years)	Marvin Caldwell - Yes Donald Frierson - No Constance Jenkins - No Anthony Sellers - No Deborah Thomas - No Luis Mendoza - No Deloris Jenkins - No	Federal Government
Goal 3 - Educate Citizens about the use of Legal Remedies to Achieve Justice and Fairness										
See below										
Strategy 3.1 - Empower the Legal and Mediation Departments with authority as provided by law.	Provide recourses provided to charging parties	1	\$ 54,708.22	1	\$ 59,368.00	See below	Administration/Legal	Lee Ann Rice (responsible less than 3 years)	No	Federal Government
Objective 3.1.1 - Litigate probable cause cases that cannot be conciliated in the Fair Housing Division during FY 2016-17	Hold accountable discriminating respondents in SC	2	\$ 67,280.68	2	\$ 111,292.00	None	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Randy A Pate (responsible less than 3 years)	No	Federal Government
Objective 3.1.2 - Hold an administrative hearing for an employment or housing case by June 30, 2017	Holding accountable discriminators in Employment or Housing	DNE	\$ -	3	\$ 161,292.00	None	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Randy A Pate (responsible less than 3 years) Emma Williams-Bennett (responsible less than 3 years)	No	Federal Government
Objective 3.1.3 - Increase the number of mediated cases from the current level of 20% to 25% during FY 2016-17	Efficiently resolve more cases filed with the agency	2	\$ 87,538.41	2	\$ 88,905.00	Employment Cases Successfully Mediated; Funds Collected at Mediation; Housing Cases Conciliated; Public Accommodation / 90 e Cases Investigated	Administration/Legal	Lee Ann Rice (responsible less than 3 years) Tracie Mefford (responsible less than 3 years)	No	Federal Government
Strategy 3.2 - Promote legislation to update and standardize the laws and regulations of the Commission	Mandatory mediations will increase the number of complaints that we serve	1	\$ 104,070.00		\$ 104,070.00	See below	Administration/Legal	Commissioner Raymond Buxton, II (responsible more than 3 years)	Yes	No
Objective 3.2.1 - Continue to engage and educate members of the General Assembly for proposed changes to existing statues during FY 2016-17	Mandatory mediations will increase the number of complaints that we serve	1	\$ 104,070.00	1	\$ 104,070.00	None	Administration/Legal	Commissioner Raymond Buxton, II (responsible more than 3 years)	Yes	No
Goal 4 - Foster Culturally Sensitive and Socially Inclusive Communities State Wide										
See below										
Strategy 4.1 - Create and sustain existing Community Relations Councils in 46 counties	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	DNE	\$ -	2	\$ 88,042.00	See below	Consultative Services/Community Relations	Saundra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Saundra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.1.1 - Increase the number of counties with Community Relations Councils from 17 to 22 during FY 2016-17	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	DNE	\$ -	2	\$ 88,042.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Saundra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Saundra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.1.2 - Sustain the current leadership in existing Community Relations Councils per minimum requirement during FY 2016-17	Promotes harmony and foster goodwill, mutual understanding and respect among the residents of SC	2	\$ 81,174.16	2	\$ 88,042.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Saundra Ligon (responsible more than 3 years) Anita Dantzler (responsible less than 3 years)	Saundra Ligon - No Anita Dantzler - No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Strategy 4.2 - Implement technology platform and external Communication campaign to expand the network of Community Relations Councils	Promote best practices among Community Relations Councils	1	\$ 30,698.32	1	\$ 36,137.00	See below	Consultative Services/Community Relations	Anita Dantzler (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.2.1 - Distribute an electronic newsletter devoted to Community Relations Councils on a monthly basis during FY 2016-17	Promote best practices among Community Relations Councils	1	\$ 51,919.52	1	\$ 55,086.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Betty Dennis (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.2.2 - Develop the agency web page to communicate periodic updated information to all Community Relations Councils during FY 2016-17	Promote best practices among Community Relations Councils	1	\$ 30,698.32	1	\$ 36,137.00	Community Relations Councils / Sustained & Created	Consultative Services/Community Relations	Anita Dantzler (responsible less than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other

		2015-16		2016-17						
		Total # of FTEs available; and filled	Total amount appropriated and Authorized to Spend	Total # of FTEs available; and filled	Total amount appropriated and Authorized to Spend					
		46; 41	\$ 2,757,828.61	49; 42	\$ 3,378,043.48					
Strategic Plan Part and Description (2016-17) (e.g., Goal 1 - Insert Goal 1; Strategy 1.1 - Insert Strategy 1.1; Objective 1.1.1 - Insert Objective 1.1.1)	Intended Public Benefit/Outcome: (Ex. Outcome = incidents decrease and public perceives that the road is safer)	# of FTE equivalents utilized	Total amount spent	# of FTE equivalents planned to utilize	Total amount budgeted	Associated Performance Measures	Associated Organizational Unit(s)	Responsible Employee Name & Time staff member has been responsible for the goal or objective (e.g. John Doe (responsible less than 3 years) or Jane Doe (responsible more than 3 years))	Does this person have input into the budget for this goal, strategy or objective? (Y/N)	Partner(s), by segment, the agency works with to achieve the objective (Federal, State, or Local Government; Higher or K-12 Education Institute; Private Business; Non-Profit Entity; Individual; or Other)
Strategy 4.3 - Promote the Quality of Life Initiative in all Community Relations Councils	Promote best practices among Community Relations Councils	1	\$ 50,475.84	1	\$ 51,905.00	See below	Consultative Services/Community Relations	Saundra Ligon (responsible more than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Objective 4.3.1 - Conduct Quality of Life Initiative meetings with 5 Community Relations Councils during FY 2016-17	Promote best practices among Community Relations Councils	DNE	\$ -	1	\$ 51,905.00	None	Consultative Services/Community Relations	Saundra Ligon (responsible more than 3 years)	No	Federal Government; State Government; Local Government; Higher Education Institute; Private Business; Non-Profit Entity; Individual; Other
Goal 5 - Advocate the compliance of Agency Affirmative Action Policies within all State Agencies										
See below										
Strategy 5.1 - Partner with all State Agencies to better monitor agency Affirmative Action policies	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	1	\$ 48,851.00	See below	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years)	No	State Government
Objective 5.1.1 - Conduct a computer analysis of each agency's hiring and promotion practices during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	State Agency AA Plans Monitored	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government
Objective 5.1.2 - Review all State Agency Affirmative Action Reports and provide necessary recommendations to state agencies in developing and implementing non-discriminatory employment systems during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	State Agency AA Plans Monitored; Training - External	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government
Strategy 5.2 - Provide affirmative action and employment law training to all State Agencies	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	2	\$ 131,481.00	See below	Consultative Services/Technical Services	Dan Koon (responsible more than 3 years) Stephanie Price (responsible more than 3 years)	Dan Koon - No Stephanie Price - No	State Government
Objective 5.2.1 - Conduct one statewide training program for all Affirmative Action (EEO) Officers during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	1	\$ 48,851.00	None	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years)	No	State Government
Objective 5.2.2 - Provide 12 EEO Employment Law training sessions for supervisors of state agencies requesting assistance during FY 2016-17	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	2	\$ 131,481.00	None	Consultative Services/Technical Services	Dan Koon (responsible more than 3 years) Stephanie Price (responsible more than 3 years)	Dan Koon - No Stephanie Price - No	State Government
Objective 5.2.3 - Organize one state-wide Affirmative Action Forum for all State Agencies during FY 2016-17.	Ensure agencies are promoting standard hiring and promotion practices	DNE	\$ -	3	\$ 121,492.00	None	Consultative Services/Technical Services	Stephanie Price (responsible more than 3 years) Erin Wilson (responsible more than 3 years) Sheila Gibbs (responsible less than 3 years)	Stephanie Price - No Erin Wilson - No Sheila Gibbs - No	State Government

Agency Internal Changes and Law Recommendations

INTERNAL CHANGES

Internal Change # 1

- Internal Change: Update and modernize regulation 65-2 related to the South Carolina Human Affairs Law, which would eliminate the need for notarization on the Complaint Form in order to reflect the less stringent statutory requirement of a “sworn statement”
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): Regulation change has been submitted to the General Assembly and the Agency’s Legal Department has been testifying before the respective subcommittees and committees
- Performance Measures Impacted and predicted impact: More cases will be accepted which result in more case closures and high rate of compensation from the EEOC
- Objective Costs Impacted and anticipated impact: Objective 3.2 – increase will likely be \$2,100-\$3,500
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: to be given back to the general fund
- Anticipated Implementation Date: July 2017

Internal Change # 2

- Internal Change: Update and modernize regulation 65-3 related to the South Carolina Human Affairs Law, which would shorten the time that a party has to respond to the Agency’s request for information in an employment investigation
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): Regulation change has been submitted to the General Assembly and the Agency’s Legal Department has been testifying before the respective subcommittees and committees
- Performance Measures Impacted and predicted impact: Case processing time will shorten overall because the parties in an investigation will not have as many ways of unnecessarily prolonging the Agency’s investigation. The Human Affairs Law states that cases should be investigated in under 180 days, but the average case processing time currently exceeds 200 days, which is due in part to the multitudinous steps found solely in the regulations.
- Objective Costs Impacted and anticipated impact: Objective 1.2.1 – revenue from case completion would increase based on the number of cases completed
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: payment of salary/fringe for staff and operating costs utilized by earmarked funds
- Anticipated Implementation Date: July 2017

Internal Change # 3

- Internal Change: Update and modernize the Agency’s employee handbook

- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): The Management team will present the new handbook to the Board for approval at the upcoming board meeting and then will distribute to staff
- Performance Measures Impacted and predicted impact: Performance by agency staff will remain consistently high, or improve
- Objective Costs Impacted and anticipated impact: N/A
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: N/A
- Anticipated Implementation Date: August 2017

Internal Change # 4

- Internal Change: Hold administrative hearings for all 'reasonable cause cases' under S.C. Code Ann. §1-13-90(c) and S.C. Code Ann. §31-21-130
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): A plan has been implemented and the Commission Board has been trained, so that a hearing can be held in May 2017
- Performance Measures Impacted and predicted impact: Agency will be upholding its statutory duty
- Objective Costs Impacted and anticipated impact: Objective 3.1.2 – The cost will likely be less than litigation in court, but is unknown at this time and is always case-specific
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: EEOC and HUD contract payments
- Anticipated Implementation Date: May 2017

Internal Change # 5

- Internal Change: Secure other physical locations available for scheduling mediations
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): The agency is analyzing the feasibility of implementing
- Performance Measures Impacted and predicted impact: Agency will be able to offer more flexibility of times for parties engaging in mediation
- Objective Costs Impacted and anticipated impact: Objective 3.1.3 – More files will likely be closed earlier, saving the agency money on an undetermined amount of cases
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: The funds will be used on mediators
- Anticipated Implementation Date: Agency has not fully analyzed the feasibility of idea

Internal Change # 6

- Internal Change: Litigate all 'reasonable cause cases' under the Human Affairs Law and the Fair Housing Law
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): The agency is analyzing the feasibility of implementing
- Performance Measures Impacted and predicted impact: Agency will be able to offer free legal services to individuals who have been unlawfully discriminated against
- Objective Costs Impacted and anticipated impact: Objective 3.1.1 – The resulting costs will likely be covered, in part, in penalties assessed on violators through litigation; however, there are litigation expenses that will need to be fronted by the Agency, and there is no guarantee that all costs will be covered in a favorable settlement, Order, or jury verdict
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: The funds will be used to cover the costs of litigation
- Anticipated Implementation Date: Agency has not fully analyzed the feasibility of idea

Internal Change # 7

- Internal Change: Provide greater enforcement for viable complaints of Public Accommodations discrimination.
- Stage of Change Analysis (i.e., idea, analyzing feasibility, plan for implementation set, etc.): The agency is analyzing the feasibility of implementing
- Performance Measures Impacted and predicted impact: Agency will be able to offer free legal services to individuals who have been unlawfully discriminated against
- Objective Costs Impacted and anticipated impact: Objective 3.2.1 – Unknown, but additional staff would be needed
- Where (i.e., specific objective(s)) agency plans to utilize additional available funds: The funds will be used to cover the costs of investigations and administrative hearings
- Anticipated Implementation Date: Agency has not fully analyzed

LAW RECOMMENDATIONS

Law Recommendation # 1

- Law: SC Code Section 1-13-70 (i)
- Summary of current statutory requirement: The Agency shall issue subpoenas or subpoenas duces tecum to compel the attendance of witnesses or the production of evidence in employment investigations, and the Commission shall enforce subpoenas through a court of competent jurisdiction.
- Recommendation and Rationale for Recommendation: While Section 1-13-90(d) clearly articulates that the Agency has the power to subpoena non-state Agency employers, the language in 1-13-70 (i) has not been updated to reflect the agency's jurisdiction.
- Law Wording: (i) To require from any employer ~~state agency or department or local subdivisions of a state agency or department~~ such reports and information at such times as it may deem reasonably necessary to effectuate the purposes of this chapter.
- Other Agencies Impacted: None

Law Recommendation # 2

- Law: SC Code Section 1-13-90 (c)(16)
- Summary of current statutory requirement: The Commission shall hold an administrative hearing before a panel of three commission members, and shall render a decision related to the claims, when an employment investigation against a state agency has resulted in a reasonable cause determination.
- Recommendation and Rationale for Recommendation: State and Federal Courts, as well as the Agency's federal counterpart, award broader damages to aggrieved parties in employment discrimination litigation, and state law should contemplate the full range of damage awards available to a prevailing party. Language similar to the proposed wording below is found in Tennessee and Kentucky code sections.
- Law Wording: (16) If upon all the evidence at the hearing the panel shall find that the respondent has engaged in any unlawful discriminatory practice, it shall state its findings of fact and serve upon the respondent in the name of the Commission an opinion and order requiring the Respondent to cease and desist from the discriminatory practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, and to such public officers and persons as the commission deems proper. Affirmative action ordered under this section may include, but is not limited to:
 - (a) Hiring, reinstatement or upgrading of employees with or without back pay. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable;
 - (b) Admission or restoration of individuals to union membership, admission to, or participation in, a guidance program, apprenticeship, training program, on-the-job training program, or other occupational training or retraining program, and the utilization of objective criteria in the admission of individuals to such programs;
 - (c) Reporting as to the manner of compliance;

(d) Posting notices in conspicuous places in the respondent's place of business in the form prescribed by the commission and inclusion of such notices in advertising material;

(e) Payment to the complainant of damages for an injury, including humiliation and embarrassment, caused by the discriminatory practice, and cost, including a reasonable attorney's fee; and

(f) Such other remedies as shall be necessary and proper to eliminate all the discrimination identified by the evidence submitted at the hearing or in the record. ~~that such unlawful discriminatory practice be discontinued and requiring such other action including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay to the persons aggrieved by such practice as, in the judgment of the panel, will effectuate the purposes of this chapter. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. The Commission may retain jurisdiction of any such case until it is satisfied of compliance by the respondent with its order.~~

- Other Agencies Impacted: Any agency that unlawfully discriminates against an employee or potential employee

Law Recommendation # 3

- Law: SC Code Section 1-13-90 (d)(6)
- Summary of current statutory requirement: The Commission shall, at the completion of an employment investigation regarding a non-state agency employer, either order that the matter be dismissed despite evidence that reasonable cause exists to believe discrimination occurred; order that the complaint be dismissed for no reasonable cause; or recommend that a lawsuit be filed in equity in circuit court against the respondent due to a cause determination.
- Recommendation and Rationale for Recommendation: Complainants may be thrown out of court, despite abiding by all the necessary deadlines, when a complainant brings a civil suit following an investigation by the Agency, if the EEOC has waived the case to the Agency. For example, if the EEOC accepted a charge 300 days after the date of harm (the EEOC's deadline for acceptance), then subsequently waived the case immediately the Agency, the Agency would not be able to issue a Notice of Right to Sue to the Complainant until 480 days after the date of harm. Currently, the statute states that a lawsuit must be filed within a year from the date of harm, if it is earlier than the 180 days the Agency has to investigate the case.
- Law Wording: (6) If a charge filed with the commission by a complainant pursuant to this chapter is dismissed by the commission, or if within one hundred eighty days from the filing of the charge the commission has not filed an action under this chapter or entered into a conciliation agreement to which the complainant is a party, the complainant may bring an action in equity against the respondent in circuit court. The action must be brought within one year from the date of the violation alleged, or within one hundred twenty days from the date the complainant's charge is dismissed, whichever occurs later ~~earlier~~, except that this period may be extended by written consent of the respondent.
- Other Agencies Impacted: Any agency against which an employment discrimination lawsuit is brought

Law Recommendation # 4

- Law: SC Code Section 1-13-100
- Summary of current statutory requirement: The Commission may contract and cooperate with Federal Equivalent Agencies (like the EEOC and HUD) in furthering the joint missions of the Agencies. The Human Affairs Law is to be construed as a law which parallels Title VII of the Civil Rights Act of 1964, as amended, 42 U. S. C. Section 2000e et seq.; the Age Discrimination in Employment Act of 1967, as amended, 29 U. S. C. Section 621 et seq.; and the Americans with Disabilities Act of 1990, as amended, Public Law 101-336.
- Recommendation and Rationale for Recommendation: In addition to limiting the types of civil causes of action that can be brought under the Human Affairs Law, a similar limitation to the relief awarded should also be established.
- Law Wording: Nothing in this chapter may be construed to create a cause of action other than those specifically described in Section 1-13-90 of this chapter. Nothing in this chapter may be construed to create a cause of action against a person not covered by Title VII of the Civil Rights Act of 1964, as amended, 42 U. S. C. Section 2000e et seq., if the cause of action arises from discrimination on the basis of race, color, religion, sex, or national origin. Nothing in this chapter may be construed to create a cause of action against a person not covered by the Age Discrimination in Employment Act of 1967, as amended, 29 U. S. C. Section 621 et seq., if the cause of action arises from discrimination on the basis of age. Nothing in this chapter may be construed to create a cause of action against a person not covered by the Americans with Disabilities Act of 1990, as amended, Public Law 101-336. Nothing in this chapter may be construed to award relief greater than Title VII of the Civil Rights Act of 1964, as amended, 42 U. S. C. Section 2000e et seq., the Age Discrimination in Employment Act of 1967, as amended, 29 U. S. C. Section 621 et seq., or the Americans with Disabilities Act of 1990, as amended, Public Law 101-336.
- Other Agencies Impacted: None

Law Recommendation # 5

- Law: SC Code Section 1-13-90 (c)
- Summary of current statutory requirement: The Agency shall accept and investigate formal complaints against employers that state the employer has engaged in unlawful employment discrimination, based on race, religion, color, sex, age, national origin, or disability.
- Recommendation and Rationale for Recommendation: Similar to the Office of Human Resources in holding Grievance Committee Hearings and in South Carolina Circuit Courts, State Agencies and complainants should be required to engage in a preliminary mediation at the Agency.
- Law Wording: (c) For complaints asserting expressly or in substance a violation by a state agency or department or local subdivisions of a state agency or department of Section 1-13-80 the procedure shall be as follows:
 - (1) Within sixty days of the complainant's filing of the complaint, the commissioner shall assign one or more of his employees or agents to hold a mandatory mediation conference. The mandatory mediation conference may not be used as a fact-finding conference. The mediator may hold additional mediation conferences to accommodate settlement discussions.
 - (2) If the complaint is not resolved after the mandatory mediation conference, the complainant or the respondent may request the commission to hold additional mediation conferences.

(3) The commission may dismiss the complaint if a complainant, after notice and without good cause, fails to attend a mandatory mediation conference, or the respondent has eliminated the discriminatory practice complained of, taken steps to prevent a like occurrence in the future, and offered full relief to the complainant, even though the complainant has refused the relief.

(4) If the complaint is not resolved after the mandatory mediation conference, the commissioner shall assign one or more of the agency's employees or agents within fifteen days after the mandatory mediation conference to investigate the complaint as the designated investigator in charge of the complaint. Information gathered during an investigation under this item shall not be made public by the commission, its officers, or employees, except for information made public as a result of being offered or received into evidence in an action brought under this chapter.

(5) The chairman of the commission or, upon the request of the chairman, the commissioner shall designate a member of the commission to supervise the processing of the complaint.

(6) The complaint may be resolved at any time before a hearing by conference, conciliation, or persuasion, with the complainant and the respondent. The resolution must be embodied in a conciliation agreement, which shall include an agreement by the respondent to refrain from committing unlawful discriminatory practices in the future, and which may contain those further provisions as are agreed upon by the complainant and the respondent. No conciliation agreement may be considered an effective resolution by the commission unless the supervisory commission member has reviewed and approved the terms of the agreement. Positions taken by a witness in connection with these efforts toward conciliation shall not be made public or used against the interest of the witness in a subsequent proceeding.

(7) In undertaking its investigation of a complaint, the commission shall have the authority:

(a) to issue a subpoena or subpoena duces tecum and thereby compel attendance of witnesses or production for examination of books, papers, and records, whenever it is considered necessary to compel the attendance of witnesses, or the production for examination of any books, payrolls, personnel records, correspondence, documents, papers, or any other evidence relating to any matter under investigation or in question before the commission. This authority may be exercised only by the joint action by the chairman of the commission and the commissioner;

(b) to require any party or witness to answer interrogatories at any time after the complaint is filed;

(c) to take depositions of witnesses including any party pursuant to a complaint or investigation made by the commission;

(d) pursuant to subitems (a), (b), (c), if a person fails to permit access, fails to comply with a subpoena, refuses to have his deposition taken, refuses to answer interrogatories, or otherwise refuses to allow discovery, the commission may request an order of a court of competent jurisdiction requiring discovery and other related good faith compliance.

(8) If not sooner resolved, the investigator shall upon completion of his investigation submit to the supervisory commission member a statement of the facts disclosed by his investigation and recommend either that the complaint be dismissed or that a panel of commission members be designated to hear the complaint. The supervisory commission member, after review of the case file and the statement and recommendation of the investigator, shall issue an order either of dismissal or for a hearing, which order is not subject to judicial or other further review.

(9) If the order is for dismissal, the supervisory commission member shall mail a copy of the order to the complainant and the respondent at their last known addresses.

(10) If the order is for a hearing, the supervisory commission member shall attach to the order a notice and a copy of the complaint and require the respondent to answer the complaint at a hearing at a time and place specified in the notice and shall serve upon the respondent a copy of the order, the complaint, and the notice.

(11) At any time before a hearing a complaint may be amended by the supervisory commission member upon the request of the investigator, complainant, or respondent.

Complaints may be amended during a hearing only upon a majority vote of the panel of commission members for the hearing.

(12) Upon request by any party, the commissioner shall issue appropriate subpoenas or subpoenas duces tecum to any witnesses or other custodians of documents desired to be present at the hearing, or at prehearing depositions, unless the commissioner determines that issuance of the subpoenas or subpoenas duces tecum would be unreasonable or unduly burdensome.

(13) Upon notification by any party that any party or witness has failed to permit access, failed to comply with a subpoena or subpoena duces tecum, refused to have his deposition taken, refused to answer interrogatories, or otherwise refused to allow discovery, the commission, upon notice to the party or witness, shall apply to a court of competent jurisdiction for an order requiring discovery and other good faith compliance unless the commission determines that the discovery would be unreasonably or unduly burdensome.

(14) Upon request by the supervisory commission member, the chairman of the commission shall designate a panel of three members of the commission to sit as the commission to hear the complaint; provided, that no member of the commission may be a member of a panel to hear a complaint for which he has been a supervisory commission member.

(15) At any hearing held pursuant to this subsection, the case in support of the complaint shall be presented before the panel by one or more of the commission's employees or agents, and, with consent of the panel, by legal representatives of the complaining party; provided, that attempts at conciliation by the investigator must not be received into evidence nor otherwise made known to the members of the panel.

(16) The respondent shall submit a written answer to the complaint and appear at the hearing in person or by counsel and may submit evidence. The respondent shall have the power reasonably and fairly to amend his answer.

(17) The complainant is permitted to be present and submit evidence.

(18) These proceedings are subject to the Administrative Procedures Act and in case of conflict between the provisions of this chapter and the Administrative Procedures Act, the Administrative Procedures Act shall govern. A recording of the proceedings shall be made, which may be subsequently transcribed upon request and payment of a reasonable fee by the complainant or the respondent. The fee must be set by the commission or upon motion of the panel, in which case copies of this transcription shall be made available to the complainant or the respondent upon request and payment of a reasonable fee to be set by the commission.

(19) If upon all the evidence presented at the hearing the panel shall find that the respondent has engaged in any unlawful discriminatory practice, it shall state its findings of fact and serve upon the respondent in the name of the commission an opinion and order requiring that the unlawful discriminatory practice be discontinued and requiring such other action including, but not limited to, hiring, reinstating or

upgrading of employees, with or without back pay to the persons aggrieved by the practice as, in the judgment of the panel, shall effectuate the purposes of this chapter. Back pay liability shall not accrue from a date more than two years prior to the filing of the complaint with the commission. The commission may retain jurisdiction of any such case until it is satisfied of compliance by the respondent with its order.

(20) If upon all the evidence at the hearing the panel shall find that the respondent has not engaged in any unlawful discriminatory practice, the panel shall state its findings of fact and serve upon the complainant and the respondent an opinion and order dismissing the complaint as to the respondent.

(21) A copy of the opinion and order of the commission shall be delivered to the Attorney General and to those other public officers as the commission deems proper. Copies of the opinion and order shall be available to the public for inspection upon request, and copies shall be made available to any person upon payment of a reasonable fee set by the commission.

(22)(a) If an application for review is made to the commission within fourteen days from the date of the opinion and order of the commission, the commission, for good cause shown, shall review the opinion and order, the evidence, receive further evidence, rehear the parties or their representatives, and, if justified, amend the opinion and order.

(b) The opinion and order of the commission as provided in item (19), if not reviewed in due time, or an opinion and order of the commission upon review, as provided for in subitem (a), is conclusive and binding as to all questions of fact unless clearly erroneous in view of the reliable, probative, and substantive evidence in the whole record. Either party to the dispute, within thirty days after receipt of the opinion and order, may appeal the decision of the commission to the Administrative Law Court as provided in Chapter 23, Title 1. In case of an appeal from the decision of the commission, the appeal operates as a supersedeas for thirty days only, unless otherwise ordered by the administrative law judge, and the respondent is required to comply with the order involved in the appeal until the questions at issue are fully determined in accordance with the provisions of this chapter.

(c) The commission may institute a proceeding for enforcement of its order issued under item (19) or its amended order issued under subitem (a) after thirty days from the date of the order, unless otherwise prevented by the administrative law judge under subitem (b) above, by filing a request for enforcement in the court of common pleas of the county in which the hearing occurred, or where the person who is the subject of the commission's order resides or transacts business.

A decree of the court for enforcement of the order may be granted upon a showing that a copy of the petition for enforcement was served upon the party subject to the dictates of the commission's order."

~~(1) The Commissioner shall assign one or more of his employees or agents to investigate the complaint, in which case one shall be designated the investigator in charge of the complaint. Information gathered during an investigation under this subsection shall not be made public by the Commission, its officers or employees, except for information made public as a result of being offered or received into evidence in an action brought under this subsection.~~

~~(2) The Chairman of the Commission or, upon the request of the Chairman, the Commissioner shall designate a member of the Commission to supervise the processing of the complaint.~~

~~(3) The complaint may be resolved at any time before a hearing by conference, conciliation and persuasion with the complainant and the respondent, such resolution to be embodied in a conciliation agreement, which shall include an agreement by the respondent to refrain from~~

committing unlawful discriminatory practices in the future, and which may contain such further provisions as are agreed upon by the complainant and the respondent. No conciliation agreement shall be deemed an effective resolution by the Commission unless the supervisory commission member shall have reviewed and approved the terms thereof. Positions taken by a witness in connection with such efforts toward conciliation shall not be made public or used against the interest of the witness in a subsequent proceeding.

(4) In undertaking its investigation of a complaint the Commission shall have the authority:

(i) To issue a subpoena or subpoena duces tecum and thereby compel attendance of witnesses or production for examination of books, papers, and records, whenever it is deemed necessary to compel the attendance of witnesses, or the production for examination of any books, payrolls, personnel records, correspondence, documents, papers or any other evidence relating to any matter under investigation or in question before the Commission. The power may be exercised only by the joint action by the Chairman of the Commission and the Commissioner.

(ii) To require any party or witness to answer interrogatories at any time after the complaint is filed.

(iii) To take depositions of witnesses including any party pursuant to a complaint or investigation made by the Commission.

(iv) Pursuant to subitems (i), (ii), (iii), above, if a person fails to permit access, fails to comply with a subpoena, refuses to have his or her deposition taken, refuses to answer interrogatories, or otherwise refuses to allow discovery, the Commission may request an order of a court of competent jurisdiction requiring discovery and other related good faith compliance.

(5) If not sooner resolved, the investigator shall upon completion of his investigation submit to the supervisory commission member a statement of the facts disclosed by his investigation and recommend either that the complaint be dismissed or that a panel of commission members be designated to hear the complaint. The supervisory commission member, after review of the case file and the statement and recommendation of the investigator shall issue an order either of dismissal or for a hearing, which order shall not be subject to judicial or other further review.

(6) If the order be of dismissal, the supervisory commission member shall mail a copy of the order to the complainant and the respondent at their last known addresses.

(7) If the order be for a hearing, the supervisory commission member shall annex thereto a notice and a copy of the complaint and require the respondent to answer the complaint at a hearing at a time and place specified in the notice and shall serve upon the respondent a copy of the order, the complaint, and the notice.

(8) At any time before a hearing a complaint may be amended by the supervisory commission member upon the request of the investigator or of the complainant or of the respondent. Complaints may be amended during a hearing only upon a majority vote of the panel of commission members for such hearing.

(9) Upon request by any party, the Commissioner shall issue appropriate subpoenas or subpoenas duces tecum to any witnesses or other custodians of documents desired to be present at the hearing, or at prehearing depositions, unless the Commissioner determines that issuance of the subpoenas or subpoenas duces tecum would be unreasonable or unduly burdensome.

- (10) Upon notification by any party that any party or witness has failed to permit access, failed to comply with a subpoena or subpoena duces tecum, refused to have his or her deposition taken, refused to answer interrogatories, or otherwise refused to allow discovery, the Commission, shall, upon notice to the party or witness, apply to a court of competent jurisdiction for an order requiring discovery and other good faith compliance unless the Commission determines that the discovery would be unreasonably or unduly burdensome.
- (11) Upon request by the supervisory commission member, the Chairman of the Commission shall designate a panel of three members of the Commission to sit as the Commission to hear the complaint; provided, that no member of the Commission shall be a member of a panel to hear a complaint for which he has been a supervisory commission member.
- (12) At any hearing held pursuant to this subsection, the case in support of the complaint shall be presented before the panel by one or more of the commission's employees or agents, and, with consent of the panel, by legal representatives of the complaining party; provided, that endeavors at conciliation by the investigator shall not be received into evidence nor otherwise made known to the members of the panel.
- (13) The respondent shall submit a written answer to the complaint and appear at such hearing in person or by counsel and may submit evidence. The respondent shall have the power reasonably and fairly to amend his answer.
- (14) The complainant shall be permitted to be present and submit evidence.
- (15) Proceedings under this section shall be subject to the Administrative Procedures Act, Sections 1-23-310 through 1-23-400 of the Code of Laws of South Carolina, 1976, as amended, and in case of conflict between the provisions of this chapter and the Administrative Procedures Act, the Administrative Procedures Act shall govern. A recording of the proceedings shall be made, which may be subsequently transcribed upon request and payment of a reasonable fee by the complainant or the respondent. The fee shall be set by the Commission or upon motion of the panel, in which case copies of such transcription shall be made available to the complainant or the respondent upon request and payment of a reasonable fee to be set by the Commission.
- (16) If upon all the evidence at the hearing the panel shall find that the respondent has engaged in any unlawful discriminatory practice, it shall state its findings of fact and serve upon the respondent in the name of the Commission an opinion and order requiring that such unlawful discriminatory practice be discontinued and requiring such other action including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay to the persons aggrieved by such practice as, in the judgment of the panel, will effectuate the purposes of this chapter. Back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Commission. The Commission may retain jurisdiction of any such case until it is satisfied of compliance by the respondent with its order.
- (17) If upon all the evidence at the hearing the panel shall find that the respondent has not engaged in any such unlawful discriminatory practice, the panel shall state its findings of fact and serve upon the complainant and the respondent an opinion and order dismissing the complaint as to the respondent.
- (18) A copy of the opinion and order of the Commission shall be delivered in all cases to the Attorney General and to such other public officers as the Commission deems proper. Copies of the opinion and order shall be available to the public for inspection upon request, and copies shall be made available to any person upon payment of a reasonable fee set by the Commission.

~~(19)(i) If an application for review is made to the commission within fourteen days from the date the order of the commission is given, the commission, for good cause shown, shall review the order and evidence, receive further evidence, rehear the parties or their representatives, and, if proper, amend the order.~~

~~(ii) The order of the commission, as provided in item (16) of subsection (c) of this section, if not reviewed in due time, or an order of the commission upon review, as provided for in subitem (i) of item (19) of this subsection, is conclusive and binding as to all questions of fact unless clearly erroneous in view of the reliable, probative, and substantive evidence in the whole record. Either party to the dispute, within thirty days after receipt of notice to be sent by registered mail of the order may appeal the decision of the commission to the Administrative Law Court as provided in Sections 1-23-380(B) and 1-23-600(D). In case of an appeal from the decision of the commission, the appeal operates as a supersedeas for thirty days only, unless otherwise ordered by the administrative law judge, and the respondent is required to comply with the~~

~~order involved in the appeal or certification until the questions at issue are fully determined in accordance with the provisions of this chapter.~~

~~(iii) The commission may institute a proceeding for enforcement of its order of item (16) of subsection (c) of this section, or its amended order of subitem (i) of item (19) of this subsection after thirty days from the date of the order, by filing a notice of appeal in the court of common pleas of the county in which the hearing occurred, or where a person required in the order to cease and desist from a practice which is the subject of the commission's order, or to take other affirmative action, resides, or transacts business.~~

~~If no appeal pursuant to subitem (ii) of item (19) of this subsection is initiated, the commission may obtain a decree of the court for enforcement of its order upon a showing that a copy of the petition for enforcement was served upon the party subject to the dictates of the commission's order.~~

- Other Agencies Impacted: Any state agency against which a charge is filed

Law Recommendation # 6

- Law: SC Code Section 31-21-70 (G)
- Summary of current statutory requirement: The Agency shall accept and investigate (within 100 days) formal complaints against housing providers contending that a provider has engaged in unlawful discrimination based on race, color, religion, sex, disability, familial status, or national origin.
- Recommendation and Rationale for Recommendation: Disability discrimination related to modifications, accommodations and construction deficiencies in a housing investigation may involve the terms and conditions of a sale or rental of a dwelling, in addition to the denial of a dwelling.
- Law Wording: (G) For purposes of Section 31-21-40(6) and 31-21-40(7), discrimination includes:
 - (1) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications are necessary to afford that person full enjoyment of the premises, except that in the case of a rental, the landlord, where it is reasonable to do so, may condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(2) a refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or

(3) in connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is thirty months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that:

(a) the public use and common use portions of such dwelling are readily accessible to and usable by handicapped persons;

(b) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(c) all premises within these dwellings contain the following features of adaptive design:

(i) an accessible route into and through the dwelling;

(ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) reinforcements in the bathroom walls to allow later installation of grab bars; and

(iv) usable kitchens and bathrooms that an individual in a wheelchair can maneuver about the space.

- Other Agencies Impacted: None

Law Recommendation # 7

- Law: SC Code Section 31-21-120 (B)
- Summary of current statutory requirement: The Agency shall accept and investigate (within 100 days) formal complaints against housing providers contending that a provider has engaged in unlawful discrimination based on race, color, religion, sex, disability, familial status, or national origin.
- Recommendation and Rationale for Recommendation: The Agency and its Federal Counterpart agency (the Department of Housing and Urban Development) no longer require that a complaint or answer be verified, only that they be under oath. The Commission may contract and cooperate with Federal Equivalent Agencies (like the EEOC and HUD) in furthering the joint missions of the Agencies.
- Law Wording: (B) A complaint under subsection (A) must be filed within one hundred eighty days after the alleged discriminatory housing practice occurred. The complaint must be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. A complaint may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him, not later than ten days after receipt of notice, and may be amended reasonably and fairly by the respondent at any time. ~~Both complaint and answer must be verified.~~
- Other Agencies Impacted: None

Law Recommendation # 8

- Law: SC Code Section 45-9-10 (A)
- Summary of current statutory requirement: After receiving a complaint from the Attorney General or an investigation from SLED, a three-commissioner panel shall conduct a review of the investigation to determine whether there is reasonable cause to believe a place of public accommodations has discriminated against an individual due to race, color, religion or national origin, and the Agency shall attempt to conciliate the complaint received.
- Recommendation and Rationale for Recommendation: In recent years, the Attorney General and SLED have not engaged in any investigations related to public accommodation discrimination and instead all complaints are brought to the Human Affairs Commission for processing through conciliation efforts only. The Commission seeks to have the General Assembly encourage our partner Agencies to work with SCHAC in adjudicating allegations of public accommodation discrimination. Alternatively, SCHAC seeks that the statutes be changed to empower SCHAC with processing complaints. The language in the law, and new process, mirrors the Tennessee Human Rights Commission, which is substantially similar to the South Carolina Human Affairs Commission.
- Law Wording: (A) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in Article 1 of this chapter, without discrimination or segregation on the ground of race, color, religion, ~~or~~ national origin, ~~or sex, though nothing in this part shall prohibit segregation on the basis of sex of~~ bathrooms, health clubs, rooms for sleeping or changing clothes, or other places of public accommodation the commission specifically exempts on the basis of bona fide considerations of public policy.
- Other Agencies Impacted: Office of the Attorney General and SLED

Law Recommendation # 9

- Law: SC Code Section 45-9-40
- Summary of current statutory requirement: After receiving a complaint from the Attorney General or an investigation from SLED, a three-commissioner panel shall conduct a review of the investigation to determine whether there is reasonable cause to believe a place of public accommodations has discriminated against an individual due to race, color, religion or national origin, and the Agency shall attempt to conciliate the complaint received.
- Recommendation and Rationale for Recommendation: In recent years, the Attorney General and SLED have not engaged in any investigations related to public accommodation discrimination and instead all complaints are brought to the Human Affairs Commission for processing through conciliation efforts only. The Commission seeks to have the General Assembly encourage our partner Agencies to work with SCHAC in adjudicating allegations of public accommodation discrimination. Alternatively, SCHAC seeks that the statutes be changed to empower SCHAC with processing complaints. The language in the proposed wording, and new process, mirrors the Tennessee Human Rights Commission, which is substantially similar to the South Carolina Human Affairs Commission.
- Law Wording: Section 45-9-40. Processing of charges complaints; review by State Human Affairs Commission; complaint by Commission Attorney General.

Whenever the State Human Affairs Commission Attorney General receives a charge complaint and has cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by the provisions of Article 1, and that the pattern or practice is of a nature so as to deny the full exercise of the rights described in the provisions of Article 1, the Commission Attorney General shall notify the State Law Enforcement Division which shall conduct an investigation. The results of this investigation must be reported to a panel of the Board of the Commission the State Human Affairs Commission. A panel of not fewer than three commission members, designated by the chairman, shall determine if there is reasonable cause to believe that the facts alleged, based upon the results of this investigation, are sufficient to state a violation of Article 1 by a pattern or practice of discrimination or segregation.

If this panel finds reasonable cause, they shall inform the chairman the chairman shall inform the Attorney General, and the Commission Attorney General or his designee shall begin an action by filing a complaint with the commission and serving a complaint and Order for hearing, by certified mail, return receipt requested, on the parties named in the complaint. The commission members which serve on this panel may not serve on the panel conducting a hearing on the allegations contained in the complaint if a license revocation proceeding is initiated. If a person alleged to have violated the provisions of Article 1 by a pattern or practice of discrimination or segregation is an employee or agent of an establishment as defined in Section 45-9-10, the Commission Attorney General shall make a diligent effort to include in the complaint the name of the employer, principal, or a third party who may be the holder of a license or permit under which the establishment or an agent of the establishment operates. The complaint must set forth a description of the charges, including the facts pertaining to the pattern or practice of discrimination or segregation and a listing of those licenses or permits which are sought to be revoked under the provisions of this article and must state clearly the remedy or penalty available pursuant to Sections 45-9-60 and 45-9-80 if the allegations are found to be true.

- Other Agencies Impacted: Office of the Attorney General and SLED

Law Recommendation # 10

- Law: SC Code Section 45-9-60
- Summary of current statutory requirement: The Commission may establish rules and procedures for public accommodations hearings, to include permitting intervention by parties, and the Commission may revoke a business license from an establishment if it has violated the law.
- Recommendation and Rationale for Recommendation: In recent years, the Attorney General and SLED have not engaged in any investigations related to public accommodation discrimination and instead all complaints are brought to the Human Affairs Commission for processing through conciliation efforts only. The Commission seeks to have the General Assembly encourage our partner Agencies to work with SCHAC in adjudicating allegations of public accommodation discrimination. Alternatively, SCHAC seeks that the statutes be changed to empower SCHAC with processing complaints. The language in the proposed wording, and new process, mirrors the Tennessee Human Rights Commission, which is substantially similar to the South Carolina Human Affairs Commission.
- Law Wording: SECTION 45-9-60. State Human Affairs Commission may establish rules of procedure for hearings; subpoenas; rights of persons charged; rules of evidence; scope of hearing; deliberations of panel; remedies for violation.

The commission may establish rules of procedure for the conduct of the panel hearings as provided in this article and is not governed by the Administrative Procedures Act in establishing these rules or in the conduct of panel hearings. The commissioner, upon request of the panel conducting a hearing, may issue subpoenas and subpoenas duces tecum to allow the panel to interview any person it deems necessary and review any document it deems relevant.

A person or group of persons charged in the complaint with engaging in a pattern or practice of discrimination or segregation in violation of Article 1 shall have the right in the hearing to present physical and documentary evidence, the testimony of witnesses, and other relevant information. In procuring the testimony of witnesses, such persons shall have the benefit of the commissioner's subpoena power. Such persons shall have the right to appear before the panel

and be represented by an attorney, to call witnesses, to confront and cross examine adverse witnesses, and to make oral and written legal arguments.

All testimony given must be under oath in the presence of a court reporter who shall record the proceedings. The rules of evidence applicable in circuit court shall be used in all hearings. Except to the extent necessary to establish a pattern or practice of discrimination or segregation or to allow for the participation of those intervenors as may be allowed by Section 45-9-70, the panel conducting the hearing must limit the scope of the hearing to the items delineated in the description of the charges or in the allegations in the complaint.

Notwithstanding any other provision of law to the contrary, all deliberations and votes of the panel may be conducted in executive session. The deliberations, findings, and conclusions of the panel are confidential and may not be disclosed by any person until the final order or

determination is made public as provided in this article.

Except as otherwise provided by this article, if it is determined that the rights and privileges secured by Article 1 have been violated by a pattern or practice of discrimination or segregation by an owner of an establishment, an employee of an establishment, or an agent of an establishment, the panel shall grant the relief authorized in Section 45-9-80. The panel may further order any persons found to have violated

the provisions of Article 1 by a pattern or practice of discrimination or segregation to reimburse the State for the actual costs incurred in conducting the hearing, including reasonable attorney's fees. Additionally, the Panel's Order shall be public and may require:

- (1) Admission of individuals to a place of public accommodation, resort or amusement;
- (2) The extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent;
- (3) Reporting as to the manner of compliance;
- (4) Posting notices in conspicuous places in the respondent's place of business in the form prescribed by the commission and inclusion of such notices in advertising material;
- (5) Payment to the complainant of damages for an injury, including humiliation and embarrassment, caused by the discriminatory practice, and cost, including a reasonable attorney's fee;
- (6) Such other remedies as shall be necessary and proper to eliminate all the discrimination identified by the evidence submitted at the hearing or in the record.

- Other Agencies Impacted: Office of the Attorney General

Law Recommendation # 11

- Law: SC Code Section 45-9-80
- Summary of current statutory requirement: The Commission may establish rules and procedures for public accommodations hearings, to include permitting intervention by parties, and the Commission may revoke a business license from an establishment if it has violated the law.
- Recommendation and Rationale for Recommendation: In recent years, the Attorney General and SLED have not engaged in any investigations related to public accommodation discrimination and instead all complaints are brought to the Human Affairs Commission for processing through conciliation efforts only. The Commission seeks to have the General Assembly encourage our partner Agencies to work with SCHAC in adjudicating allegations of public accommodation discrimination. Alternatively, SCHAC seeks that the statutes be changed to empower SCHAC with processing complaints. The language in the proposed law, and new process, mirrors the Tennessee Human Rights Commission, which is substantially similar to the South Carolina Human Affairs Commission.
- Law Wording: SECTION 45-9-80. Commission ~~Attorney General~~ to notify permitting, regulatory, or licensing authority of violations; immediate revocation of license or permit; enforcement of panel's decision; violators not to obtain license or permit for three years. Notwithstanding any other provision of law or ordinance to the contrary, if the panel determines that the provisions of Article 1 have been violated by a pattern or practice of discrimination or segregation by the owner of an establishment, an employee of an establishment, or an agent of an establishment of public accommodations as defined in Section 45-9-10, the Commission ~~Attorney General~~ must immediately notify the appropriate state or local permitting, regulatory, or licensing authority that those licenses or permits so designated in the panel's order must be revoked immediately, notwithstanding the provisions of Section 1-23-380(C), upon expiration of the time allowed for an appeal if no appeal has been filed. After appeals, if the panel's order is not reversed, the license or permit must be revoked as

provided in this article.

If necessary, a writ of mandamus may be sought by the Commission Attorney General or any individual to effectuate the provisions of this section. Nothing in this section shall be construed as requiring the issuance of a writ of mandamus, and no civil action shall lie against any regulatory or licensing official acting pursuant to an order of the panel.

If the Commission notifies the appropriate state or local permitting, regulatory, or licensing authority that those licenses or permits so designated in the panel's order must be revoked immediately, ~~no~~ the owner of an establishment, employee of an establishment, or agent of an

establishment who is found to have violated the provisions of Article 1 by a pattern or practice of discrimination or segregation shall not obtain a license or permit from the same regulatory or licensing entity or seek the reissuance of a revoked license or permit within three years from the date of the panel's order or a final determination of a court of competent jurisdiction, whichever is later.

- Other Agencies Impacted: Office of the Attorney General

Law Recommendation # 12

- Law: Regulation 65-2
- Summary of current statutory requirement: The Agency shall accept and investigate formal complaints against employers that state the employer has engaged in unlawful employment discrimination, based on race, religion, color, sex, age, national origin, or disability.
- Recommendation and Rationale for Recommendation: The regulation should be changed to eliminate the unnecessary requirement of notarization on the Complaint Form, and should instead reflect the statutory requirement of a statement that is made under oath or affirmation. The proposed amendment parallels the requirements of the Agency's federal counterpart, the Equal Employment Opportunity Commission, thereby making the respective practices of the two entities substantially similar, which is required by the *Worksharing Agreement* between the Agency and the Equal Employment Opportunity Commission.
- Law Wording: B. Complaint Form.
The complaint shall be in writing on a form provided by the Commission for this purpose. The complaint must be signed and sworn under oath or affirmation. ~~before a notary public or other person duly authorized by law to administer oaths and take acknowledgements. Notarial service shall be furnished without charge by the Commission.~~
- Other Agencies Impacted: None

Law Recommendation # 13

- Law: Regulation 65-3
- Summary of current statutory requirement: The Agency shall accept and investigate formal complaints against employers that state the employer has engaged in unlawful employment discrimination, based on race, religion, color, sex, age, national origin, or disability. The Agency shall issue subpoenas or subpoenas duces tecum to compel the attendance of witnesses or the production of evidence in

employment investigations, and the Commission shall enforce subpoenas through a court of competent jurisdiction. The Agency shall make certain portions of employment investigation files available to the parties involved in the investigation.

- Recommendation and Rationale for Recommendation: The regulation should be changed to decrease the timeframe for subpoena enforcement from 30 days to 14 days, additionally the timeframe to request a motion to quash and request for additional time are removed. The regulation should further provide Complainants and Respondents with equal access to the Agency's investigative files in order to be substantially equivalent to the EEOC, and the citation for the Freedom of Information Act is wrong and should be corrected. .
- Law Wording: 65-3. Investigation and Production of Evidence.

A. Investigation.

(1) Investigator. The investigation of complaint shall be conducted by one or more investigators from the Commission's staff who shall be appointed by the Commissioner. If more than one investigator is appointed, one of the investigators shall be designated the "investigator in charge" and shall direct the investigation.

(2) Duties of the Investigator. Investigators shall do those things necessary and proper to thoroughly investigate a complaint, but shall limit their investigations to their proper scope as described in Subsection 65-3A(5) herein. Investigators assigned to investigate complaints filed pursuant to Section 1-13-90(c) of the Act (State agencies or departments and their local subdivisions) shall upon completion of their investigations submit to the supervisory commission member a statement of the facts disclosed by their investigations and recommend to the supervisory commission member that the complaint be dismissed or that a panel of commission members be designated to hear the complaint. In complaints arising under Section 1-13-90(d) of the Act (employers, employment agencies or labor organizations, including municipalities, counties, special purpose districts, school districts and local governments), investigators shall upon completion of their investigation submit to the Commissioner a statement of the facts disclosed by the investigation and recommend either that the complaint be dismissed or that the Commission endeavor to formally conciliate the matter.

(3) Supervisory Commission Members. If the complaint under investigation is brought pursuant to Section 1-13-90(c) of the Act, the Chairman of the Commission, or upon the request of the Chairman, the Commissioner shall designate a member of the Commission to supervise the processing of the complaint who shall be known as the supervisory commission member. The supervisory commission member shall review the results of the investigation conducted by the investigator and review the investigator's recommendations for dismissal or other action.

(4) Commencement of the Investigation. The investigation shall commence immediately upon service by the Commission of a copy of the complaint or notice of complaint upon the respondent.

(5) Scope of Investigation. Insofar as practicable, the investigation shall be limited to a determination of the facts relating to the unlawful employment practice or practices under investigation or in question before the commission. alleged in the complaint and to the individual harm alleged to have been suffered by the complaining party. The investigator's inquiry for relevant facts shall be restricted to the relevant immediate environment in which the complaining party allegedly suffered harm such as a department or similar organizational structure of a respondent employer which is within the decision-making authority of a single person.

(6) Conduct of the Investigation.

(a) The investigator shall make a prompt and complete investigation of the allegations in the complaint which meet the standards of R.65-2.

(b) As part of each investigation the investigator:

(i) Will accept as evidence any statement of position and/or evidence concerning the allegations of the complaint which the complainant or respondent wishes to voluntarily submit.

(ii) Shall require the complainant or respondent to provide any evidence, including statements and documents, ~~if any, in his/her possession~~ which are relevant to the complaint, as well as, any information which is necessary to establish actual damages or to establish the date on which the alleged damages occurred.

(c) The investigator may require the complainant to provide a detailed statement which includes, but is not limited to:

(i) a statement of each specific harm that the complainant has allegedly suffered, and the date on which each alleged harm occurred;

(ii) for each alleged harm, a statement specifying the act, policy or practice of the respondent which is alleged to be unlawful; and

(iii) for each act, policy or practice alleged to have harmed the complainant a statement of the facts which lead the complainant to believe that the act, policy or practice is unlawfully discriminatory.

(d) During the investigation of a complaint, the investigator may conduct a fact-finding conference with the parties. The purpose of the conference shall be to clearly define the issues to determine which elements of the matter under investigation are undisputed, to resolve those issues that can be resolved and to determine whether there is any likelihood for a negotiated no-fault settlement of the complaint as described in Section 65-5A. Discussions during a fact-finding conference are confidential. Any conciliation efforts during the conference are also confidential and are considered conciliation attempts within the meaning of the Act.

B. Production of Evidence.

~~(1) Investigator's Informal Request for Information. An investigator may, at any reasonable time after service of complaint, informally request access to records and documents in the possession of any person being investigated which are relevant to the complaint for purposes of inspection and copying.~~

~~(2)~~(1) Investigator's Formal Request for Information. An investigator may, at any reasonable time after service of complaint, formally request access to or production of records and documents in the possession of any person being investigated which are relevant to the complaint for purposes of inspection and copying. The investigator shall make the formal request for documents in writing by certified mail, transmitted to the person being investigated.

~~If any person refuses to comply with an investigator's informal request for access to documents and records, the investigator shall demand access to the documents in writing by certified mail, transmitted to the person being investigated.~~ The written demand shall notify the person that the investigator may apply to the Commission for a subpoena if access to or production of the documents and records is not permitted within thirty (30) days from the receipt of the investigator's written demand.

~~(3)~~(2) Investigator's Application for Subpoena ~~Duces Tecum~~. If any person fails to comply with an investigator's ~~formal written~~ demand for information within thirty (30) days after receipt of the written demand, the investigator may apply to the Commission for a subpoena ~~duces tecum~~ by presenting to the Commission the investigator's written demand and the response of the person to whom the demand was made denying access to the information requested or, if no response was made, the investigator's affidavit that no response was received from the party to whom the demand for information was sent.

~~(4)~~(3) Issuance of Subpoena ~~Duces Tecum~~. To effectuate the purpose of the Act, upon a showing by an investigator that a person has not complied with a written demand for information relevant to the complaint which was transmitted to the person by certified mail, the Chairman of the Commission and the Commissioner shall acting jointly have the authority to sign and issue a subpoena requiring:

- (a) the production of evidence including but not limited to books, papers, records, correspondence or documents in the possession or under the control of the person subpoenaed;
- (b) access to evidence for purposes of examination and the right to copy; and
- (c) under Section 1-13-90(c) of the Act, attendance at hearings or at prehearing depositions.

~~(5)~~(4) Form and Content of Subpoenas.

(a) A subpoena issued by the Commission shall:

- (i) state the name and address of its issuer;
- (ii) briefly and clearly state the cause of issuance;
- (iii) identify the person to whom and the place, date and time at which the subpoena is returnable;
- (iv) identify the person or evidence subpoenaed with reasonable clarity, specificity and particularity to readily enable the person receiving the subpoena to identify the named person or evidence;
- (v) state the date and time access is requested if a subpoena ~~duces tecum~~ is issued.

(b) A subpoena shall only be returnable to a duly authorized investigator of the Commission or the Commissioner.

(c) Neither the complainant nor the respondent shall have the right to demand that an investigative subpoena be issued.

~~(6)~~(5) Petitions to Revoke Subpoena. Within fourteen (14) ~~thirty (30)~~ days after a subpoena is issued, the person served with the subpoena may petition the Commission by mail to revoke or modify the subpoena and shall serve a copy of the petition upon the investigator who originally demanded the information. The petition shall separately identify the portion of the subpoena with which the petitioner does not intend to comply and shall state with respect to each portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A". Within ten (10) days after receipt of the petition or as soon thereafter as practicable, the Commission shall review the petition and make a written determination upon the petition stating in detail the reasons for the Commission's determination and shall serve a copy of the determination upon the petitioner and the investigator demanding the information. When a petition to revoke a subpoena is served upon the Commission, no enforcement of a subpoena shall be sought until the Commissioner has made a determination on the petition and served the petitioner with the determination.

~~(7)~~(6) Applications For Enforcement.

(a) Failure to Comply and Enforcement. A person who receives a subpoena may refuse to comply by failing to respond to the subpoena or by affirmatively stating that he/she will not respond; it is not necessary for the person to serve a petition to revoke the subpoena. If a person fails to comply with a subpoena, the Commission may, after fourteen (14) ~~thirty (30)~~ days, apply to any state court of competent jurisdiction for an order requiring the person to comply with the subpoena as provided by the Act.

(b) Notice of Hearing. Any person against whom an order is sought shall be given at least four (4) days notice (excluding Saturdays, Sundays, and state holidays) of the time and place of the hearing, and may oppose the granting of the order.

~~(c) Requests for Additional Time. Except in extraordinary circumstances the Commission will not oppose requests for additional time not to exceed ten (10) days, to prepare for the hearing, if the request is made to the court and served upon the Commission at least two days before the scheduled hearing.~~

~~(d) Motions to Quash. As provided by the Act, any person may move before a court of competent jurisdiction for an order quashing a subpoena after giving the Commission four (4) days notice (excluding Saturdays, Sundays and state holidays).~~

~~(8)(7)~~ Interrogatories and Depositions.

(a) A party or witness may be required to answer written interrogatories relevant to a complaint under investigation under Section 1-13-90(c) and (d) of the Act at any time after such complaint is served.

(b) At least ten (10) days written notice (excluding Saturdays, Sundays and state holidays) shall be furnished to any party or witness sought to be deposed.

(c) The scope of discovery shall be governed by the relevance to the content of the complaint under investigation as described in Subsection 65-3A(5) of these Regulations.

~~(9)(8)~~ Petitions to Revoke Interrogatories and Depositions. If a person refuses to have his/her deposition taken or refuses to answer interrogatories, the person may petition to revoke the notice to take deposition or revoke the interrogatories within five (5) days after receipt of the notice to take deposition or within thirty (30) days after receipt of interrogatories. The petition shall be mailed to the Commission and shall be served upon the investigator who originally demanded the information. The petition shall separately identify each portion of the interrogatories with which the petitioner does not intend to comply and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the notice to take deposition or the interrogatories, as the case may be, shall be attached to the petition and designated as "Attachment A". Within five (5) days after receipt of the petition or as soon thereafter as practicable, the Commission shall make a determination upon the petition stating in detail the reasons for its determination and shall serve a copy of its determination upon the petitioner. When a petition to revoke is served upon the Commission, no enforcement of a notice to take deposition or interrogatories shall be sought until the Commission has made its determination on the petition and served the petitioner.

~~(10)(9)~~ Applications for Enforcement.

(a) Failure to Comply and Enforcement. A person who receives interrogatories or a notice to take deposition may refuse to comply by failing to respond or by affirmatively stating that he/she will not respond; it is not necessary for the person to serve a petition to revoke. If a person fails to comply with the notice to take deposition, the Commission may after ten (10) days apply to any state court of competent jurisdiction for an order requiring the person to comply as required by the Act. If a person fails to answer interrogatories the

Commission may after thirty (30) days apply to any state court of competent jurisdiction for an order requiring the person to answer the interrogatories as provided by the Act.

(b) Notice of Hearing. Any person against whom an order is sought shall be given at least four (4) days notice (excluding Saturdays, Sundays and state holidays) of the time and place of the hearing, and may oppose the granting of the order.

~~(c) Requests for Additional Time. Except in extraordinary circumstances, the Commission will not oppose requests for additional time not to exceed ten (10) days to prepare for the hearing if the requests are made to the court and served upon the Commission at least two days before the scheduled hearing.~~

~~(d) Motions to Quash. Any person may move before a court of competent jurisdiction for an order quashing a motion to take depositions or interrogatories after giving the Commission four (4) days notice (excluding Saturdays, Sundays and state holidays).~~

~~(11)~~(10) Confidentiality.

(a) Public Access to Commission Files or Information Gathered During an Investigation. As provided in Sections 1-13-90(c)(1) and 1-13-90(d)(2) of the Act, information gathered during an investigation conducted under Section 1-13-90 of the Act, shall not be made public by the Commission, its officers or employees, unless and until that information is offered or received into evidence at a Commission hearing or court proceeding brought in accordance with the Act. In view of the prohibitions against making information public contained in Sections

1-13-90(c)(1) and 1-13-90(d)(2) of the Act, information gathered by the Commission during investigations and internal memoranda assessing evidence, discussing complaints or recommending action on complaints shall not be deemed "public records" within the meaning of the Code of Laws of South Carolina Section 30-4-20 ~~30-3-20~~. The provisions of this Subsection apply whether the Commission's investigative file is open for an ongoing investigation or closed after a matter is completely concluded.

(b) Public Access to Final Opinions and Orders and Determinations. The public shall have access to the Commission's final opinion and order concerning a complaint under Section 1-13-90(c) of the Act or the Commission's determination on whether to dismiss a complaint or sue in the state circuit court under Section 1-13-90(d) of the Act.

(c) Commission Requests for Information from Investigators. If the Commission requires reports on investigations or on the progress of investigations, the investigator's report shall be given to the Commission while the Commission sits in executive session with member of the public excluded.

(d) Access to Information by Complainant and Respondent.

(i) Information Provided by the Parties Themselves. The complainant may at all times have access to any information which the complainant has furnished the Commission. The respondent may at all times have access to any information which the respondent has furnished the Commission. However, neither the complainant nor the respondent shall have information furnished by the other party, except that this Subsection does not apply to disclosure to the parties or their attorneys where the disclosure is limited to matters necessary for determining appropriate relief and/or negotiating settlements or making conciliation offers and except that this Subsection does not apply to the complainant's or respondent's access to Commission files after a complaint against the respondent has been served as provided in subitem (ii), following.

(ii) Information Available to the Parties in a Proceeding, a Respondent before a Hearing or Court Procedure. If an action is brought against a respondent in accordance with the Act, either before the Commission pursuant to Section 1-13-90(c) of the Act or in a court of competent jurisdiction pursuant to Sections 1-13-90(c) and (d) of the Act, the complainant and respondent shall from the time the complaint is served be granted access to the investigative file of the Commission which shall include access to statements, affidavits or depositions of the complainant and ~~complainant's~~ witnesses, whether or not the complainant and the ~~complainant's~~ witnesses are employees of the respondent at the time the request for access is made. The complainant and respondent shall also have access to all other facts and data gathered by the Commission during its investigation, provided however that neither shall ~~the respondent shall not~~ have access to deliberative memoranda, working papers, drafts and other work products of the Commission relating to a complaint and further provided that deletions may be made where necessary to protect the personal privacy of an affiant or an individual named in a document to insure the anonymity of confidential sources or information, and to protect the confidentiality of trade secrets, confidential financial information and the like.

(iii) Copy of the Complaint. A copy of the complaint will be served in all cases upon the respondent unless a complaint received pursuant to a federal contract expressly requires that the original complaint not be served. In the event that a copy of the complaint is not provided, the respondent shall be served with a notice of the complaint within ten (10) days of receipt. The notice of complaint shall include the place, circumstances and identity of the person filing the complaint, a description of the violations of the Act alleged to have been committed by the respondent and the date of the alleged violation.

(e) Reports and Compilations. The Commission may publish abstracts of data derived from its closed investigative files in a form which does not reveal the identity of the parties, trade secrets, financial information or competitive commercial information or processes.

(f) Sharing Information Between Agencies. The Commission shall not provide information to any state or federal agency which does not have written regulations providing essentially the same protection against unauthorized disclosure as provided in these regulations.

- Other Agencies Impacted: None

Law Recommendation # 14

- Law: Regulation 65-9
- Summary of current statutory requirement: The Commission shall issue an order at the completion of an employment investigation regarding a state agency employer, either that the matter be dismissed or that a panel of commission members be designated to hear the matter. The Commission shall, at the completion of an employment investigation regarding a non-state agency employer, either order that the matter be dismissed despite evidence that reasonable cause exists to believe discrimination occurred; order that the complaint be dismissed for no reasonable cause; or recommend that a lawsuit be filed in equity in circuit court against the respondent due to a cause determination.

- Recommendation and Rationale for Recommendation: The Regulation should be changed to reflect the One Hundred Twenty (120) day statutory deadline for filing a lawsuit. This deadline is found in South Carolina Code Section 1-13-90(d)(6).
- Law Wording: (3) Content of Notice of Right to Sue. The notice of right to sue shall include:
 - (a) authorization to the complainant to bring a civil action pursuant to Section 1-13-90(d) of the Act within one hundred twenty (120) ninety (90) days from issuance of such authorization by the Commission to the complainant, his/her attorney of record, or, in those instances covered by 65-2J(2)(d) hereof, from the date of mailing to the complainant's last known address;
 - (b) advice concerning the institution of such civil action by the complainant, where appropriate;
 - (c) a copy of the complaint;
 - (d) the Commission's decision, determination, or dismissal as appropriate.
- Other Agencies Impacted: None

Law Recommendation # 15

- Law: Regulation 65-22
- Summary of current statutory requirement: The Commission may adopt bylaws, publish reports and policies, and promulgate regulations to further the mission of the Agency, and deter discrimination in housing and employment across the state.
- Recommendation and Rationale for Recommendation: Regulation 65-22 may confuse state agencies and may lead an agency to understand that records need only be retained for a period of six months, when in fact, federal recordkeeping obligations require longer retention periods for state agencies and other employers, specifically those found in 29 C.F.R. § 1602.
- Law Wording: 65-22. Employment Records to be Retained for Six Months.
~~Each State Agency, department and local subdivision thereof shall preserve and retain any personnel or employment record made or kept by them, including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship, for a period of six (6) months from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of six (6) months from the date of termination. However, in no event is the six-month record keeping requirement to be construed or interpreted as permitting the destruction of personnel records, after the expiration of the six-month period, whenever a charge of discrimination has been filed and currently pending against a State Agency, department or local subdivision thereof.~~ Repealed.
- Other Agencies Impacted: None

Law Recommendation # 16

- Law: Regulation 65-22
- Summary of current statutory requirement: The Agency shall accept and investigate formal complaints against employers that state the employer has engaged in unlawful employment discrimination, based on race, religion, color, sex, age, national origin, or disability.
- Recommendation and Rationale for Recommendation: The law should apply to all employers, labor organizations, and employment agencies which are in the process of being investigated by the Human Affairs Commission. The regulation should clarify that charges originating with the Commission's federal counterpart, the Equal Employment Opportunity Commission, have the same requirement. Additionally, the Human Affairs Commission should have the right to infer that, if an employer, labor organization, or employment agency fails to retain personnel records which are relevant evidence to an investigation, such evidence may have adversely affected the party's position.
- Law Wording: 65-23. Preservation of Records in Event of Charge of Discrimination.
When a charge of discrimination has been filed with the Commission or its federal equivalent, or if an action brought by either entity is pending the Commission, the employer, labor organization, or employment agency ~~respondent State Agency, department or local subdivision,~~ shall preserve all personnel or employment records relevant to the charge or action until final disposition of the charge or the action. Failure to retain relevant personnel or employment records may result in an adverse inference against the party during the course of an investigation.
- Other Agencies Impacted: None

Law Recommendation # 17

- Law: Regulation 65-223
- Summary of current statutory requirement: The Agency shall accept and investigate (within 100 days) formal complaints against housing providers contending that a provider has engaged in unlawful discrimination based on race, color, religion, sex, disability, familial status, or national origin.
- Recommendation and Rationale for Recommendation: The law should clarify that certain file contents may be protected from disclosure.
- Law Wording: (3) Notwithstanding the prohibitions and requirements with respect to disclosure of information contained in 65-225.F., the Commission will make information derived from an investigation, including the final investigative report, available to the aggrieved person and the respondent, provided however that neither shall have access to deliberative memoranda, working papers, drafts and other work products of the Commission relating to a complaint and further provided that deletions may be made where necessary to protect the personal privacy of an affiant or an individual named in a document to insure the anonymity of confidential sources or information, and to protect the confidentiality of trade secrets, confidential financial information and personal identifiable information under S.C. Code 30-2-30, or those items exempt from disclosure under S.C. Code 30-4-30. Additionally, any records requested by a party or a non-party to an investigation under S.C. Code 30-4-30 will be assessed on a case by case basis. Following the completion of investigation, the Commission shall notify the aggrieved person and the respondent that the final investigation report is completed and will be provided upon request.
- Other Agencies Impacted: None

Law Recommendation # 18

- Law: Regulation 65-227
- Summary of current statutory requirement: The Commission shall hold an expeditious administrative hearing before a panel of three commission members, and shall render a decision related to the claims, in the event that a fair housing investigation results in a reasonable cause determination, and after conciliation has failed, provided that no party has elected to have the matter be litigated in circuit court.
- Recommendation and Rationale for Recommendation: The law needs to consistently and clearly use different terms when referring to different documents in an investigation deemed to be a 'reasonable cause' case.
- Law Wording: 65-227. Issuance of Reasonable Cause Determination ~~Complaint~~
 - A . Reasonable cause determination.
 - (1) If a conciliation agreement has not been executed by the complainant and the respondent, and approved by the Commissioner, within the time limits set forth in paragraph (3)(a) of this section, the Commission shall determine whether, based on the totality of the factual circumstances known at the time of the decision, reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur. The reasonable cause determination will be based solely on the facts concerning the alleged discriminatory housing practice, provided by complainant and respondent and otherwise, disclosed during the investigation.
 - (a) In all cases
 - (i) If the Commission determines that reasonable cause exists the Commission will immediately issue a reasonable cause determination ~~complaint~~ on behalf of the aggrieved person, and shall notify the aggrieved person and the respondent of this determination by certified mail or personal service.
 - (ii) If the Commission determines that no reasonable cause exists, the Commission shall: issue a short and plain written statement of the facts upon which the Commission has based the no reasonable cause determination; dismiss the complaint; notify the aggrieved person and the respondent of the dismissal (including the written statement of facts) by certified mail or personal service; and make public disclosure of the dismissal. Public disclosure of the dismissal may be by issuance of a press release except that the respondent may request that no release be made. Notwithstanding a respondent's request that no press release be issued, the fact of the dismissal, including the names of the parties, shall be public information available on request.
 - (2) The Commission may not issue a reasonable cause determination ~~complaint~~ under paragraph (1) of this section regarding an alleged discriminatory housing practice, if an aggrieved person has commenced a civil action seeking relief with respect to the alleged discriminatory housing practice, and the trial in the action has commenced. If a complaint may not be issued because of the commencement of such a trial, the Commission will so notify the aggrieved person and the respondent by certified mail or personal service.
 - (3)(a) The Commission shall make a reasonable cause determination within 100 days after filing of the original complaint (or where the Commission has reactivated a complaint, within 100 days after service of the notice of reactivation), unless it is impracticable to do so.

(b) If the Commission is unable to make the determination within the 100 day period specified in paragraph (3)(a) of this section, the Commission will notify the aggrieved person and the respondent, by certified mail or personal service, of the reasons for the delay.

B. Issuance of Administrative Pleading-Complaint.

(1) An administrative pleading-complaint:

(a) Shall consist of a short and plain written statement of the facts upon which the Commission has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.

(b) Shall be based on the final investigative report; and

(c) Need not be limited to facts or grounds that are alleged in the original complaint if the record of the investigation demonstrated that the respondent has been given notice and an opportunity to respond to the allegation.

(2) Within three business days after the issuance of the reasonable cause determination ~~complaint~~ the Commission shall:

(a) Set a time and place for hearing;

(b) File the administrative pleading-complaint along with the required notifications, with the Chairman; and

(c) Serve the administrative pleading-complaint and notifications in accordance with the Act.

C. Election of civil action or provision of administrative proceeding.

(1) If an administrative pleading-complaint is issued under 65-227.B., a complainant, a respondent, or an aggrieved person on whose behalf the complaint is filed may elect, in lieu of an administrative proceeding, to have the claims asserted in the complaint decided in a civil action.

(2) The election must be made no later than twenty days after the receipt of service of the reasonable cause determination ~~complaint~~. The notice of the election must be filed with the Commission, the respondent, and the aggrieved persons on whose behalf the complaint was filed. The notification will be filed and served in accordance with the procedures established under Article 3.

(3) If an election is not made under this section, the Commission will maintain an administrative proceeding based on the administrative pleading-complaint in accordance with the procedures under Article 3.

(4) If an election is made under this section, the Commission shall cause to be commenced and maintained a civil action seeking relief as provided by the Fair Housing Law on behalf of the aggrieved person in the appropriate Court of Common Pleas.

- Other Agencies Impacted: None

Law Recommendation # 19

- Law: Regulation 65-233
- Summary of current statutory requirement: The Commission shall hold an expeditious administrative hearing before a panel of three commission members, and shall render a decision related to the claims, in the event that a fair housing investigation results in a reasonable cause determination, and after conciliation has failed, provided that no party has elected to have the matter be litigated in circuit court.
- Recommendation and Rationale for Recommendation: The citation in this regulation is confusing, so clarity is needed.
- Law Wording: ~~Discovery~~.

K. ~~A.~~ Either party may cause to be taken the depositions of witnesses within or without the State. Such depositions shall be taken in accordance with and subject to the same provisions, conditions and restrictions as apply to the taking of like depositions in civil actions at law in the courts of common pleas of this State; and the same rules with respect to the giving of notice to the opposite party, the taking and transcribing of testimony, the transmission and certification thereof and matters of practice relating thereto shall apply.

L. ~~B.~~ The Chief Hearing Commissioner shall on its own behalf, or, upon request, on behalf of any other party to the case, issue in the name of the Commission subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers and records.

M. ~~C.~~ The Court of Common Pleas shall, on application of the Commission, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and records and shall have the power to punish as for contempt of court, by a fine or imprisonment or both, the unexcused failure or refusal to attend and give testimony or produce books, papers and records as may have been required in any subpoena issued by the Commission.

N. ~~D.~~ If a party fails to comply with discovery, the hearing panel may:

- (1) Draw an inference in favor of the requesting party with regard to the information sought;
- (2) Prohibit the party failing to comply from introducing evidence or otherwise relying upon, testimony relating to the information sought;
- (3) Permit the requesting party to introduce secondary evidence concerning the information sought;
- (4) Strike any appropriate part of the pleadings or other submissions of the party failing to comply with such order; or
- (5) Take such other action as may be appropriate.

- Other Agencies Impacted: None

Department of Agriculture

Chair Wm. Weston J. Newton

*First Vice-Chair:
Laurie Slade Funderburk*

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Legal Counsel*

*Carmen J. McCutcheon Simon
Research Analyst/Auditor*

June 27, 2017

Commissioner Huge E. Weathers
South Carolina Department of Agriculture
P.O. Box 11280
Columbia, SC 29211

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, we appreciate the agency's continued cooperation during the oversight process. The Subcommittee is scheduled to meet again on Monday, July 10 at 2:00 p.m. As it is my understanding you are unable to attend the meeting on July 10, the Subcommittee will hold another work session with regards to its study of the Department of Agriculture. Please have an agency representative available to answer any potential questions. In preparation for the next work session, the Subcommittee seeks additional information from the agency, pertaining to its recommendations, on or before Friday, July 7, 2017.

Recommendation #4 - Adopt the model feed law proposed by the American Association of Feed Control Officials

- Please explain the difference in the tonnage fee versus the registration fee and how the agency will be able to make this change budget neutral?
- Please explain the facility registration fees.
- Please explain any other fees and if the proposed changes adds or keeps these the same.

Recommendation #10 - Authorize an application fee (\$25) for a food business when registering for a registration verification certificate

Recommendations #11 - Authorize a tiered annual fee for a registration verification certificate

- How much revenue does the agency anticipate this fee will generate?
- How many inspectors, if any, will this revenue enable the agency to hire?

Commissioner Weathers
June 27, 2017

Previously, the Subcommittee requested draft language (i.e., strike through and underline format) of agency recommendations. We appreciate the suggested language already provided for many of the agency recommendations. It would be helpful to have that language for the remaining agency recommendations:

- Recommendation #5 - Authorize agency to fine businesses that habitually and willfully violate existing consumer protection labeling/quality laws
- Recommendation #6 - Requires businesses that dispense petroleum products to notify the agency within 30 days of operating dispensers
- Recommendation #7 - Authorize a \$5 per dispenser registration fee for business that dispense petroleum products
- Recommendation #8 - Enforce a scalable money penalty for habitual and willful offenders of petroleum law, when taking advantage of the consumer

In your responses to these questions, please provide the Subcommittee with any relevant, necessary context information. As a reminder, testimony during meetings and written information from agencies are considered sworn testimony and subject to S.C. Code of Laws Sections 2-2-70 through 2-2-120. Thank you for your service to the citizens of South Carolina.

Sincerely,



Laurie Slade Funderburk
Committee First Vice-Chair

cc: Economic Development, Transportation, and Natural Resources Subcommittee Members

UPDATED RECOMMENDATIONS

AGENCY RECOMMENDATIONS FOR LEGISLATIVE CHANGES TO IMPROVE EFFICIENCY AND OUTCOMES

Commissioner of Agriculture

1. **ADOPTED 6.22.17** Remove the bonding requirements of the Commissioner of Agriculture
 - o Draft language

~~SECTION 46-3-50. Bond.~~

~~The bond of the Commissioner shall be in the sum of fifty thousand dollars, and his liability thereon shall not extend to losses incurred in bonded warehouses, except in case of tort or neglect of duty on his part.~~

~~HISTORY: 1962 Code Section 3-3.1; 1954 (48) 1566.~~

Commission of Agriculture

2. **ADOPTED 6.22.17** Remove the Agriculture Commission's authority to establish the agency's policies and annually approve the agency's budget
 - o Draft language

SECTION 46-5-20. Powers.

The Commission shall have the power to:

~~(1) Adopt policies, rules and regulations of the Department of Agriculture for its own government not inconsistent with the laws of the State.~~

~~(2) Annually approve budget requests for the institutions, agencies and service under the control of the Department of Agriculture as prepared by the Commissioner of Agriculture prior to being submitted to the Governor and to the General Assembly.~~

~~(3)~~ (1) Appoint such committees and such members of committees as may be required or as may be desirable to carry out the orderly function of the Commission.

~~(4)~~ (2) Cooperate fully with the Commissioner of Agriculture at all times to the end that the State's agricultural economy may constantly be improved.

~~(5)~~ (3) Assume such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it by law.

3. **ADOPTED 6.22.17** Revise the appointment procedure of Commission of Agriculture to address a seat has either been vacant or the term has expired for more than two years

Feed

4. Adopt the model feed law proposed by the American Association of Feed Control Officials
 - o [SUBMITTED LANGUAGE FROM AGENCY FOR COMMITTEE TO REVIEW - ON WEBSITE- LARGE DOCUMENT](#)
 - o Per agency approximately 25 other states have adopted

Food Quality (Consumer Protection Lab)

5. Authorize agency to fine businesses that habitually and willfully violate existing consumer protection labeling/quality laws

Consumer Services

6. Require businesses that dispense petroleum products to notify the agency within 30 days of operating dispensers
7. Authorize a \$5 per dispenser registration fee for businesses that dispense petroleum products
8. Enforce a scalable monetary penalty for habitual and willful offenders of petroleum law, when taking advantage of consumer
9. **ADOPTED 6.22.17** Modernize the cotton warehouse receipt law (i.e., accept Permanent Bale Identification from a cotton gin as the universal warehouse receipt number)

SECTION 39-22-110. Required identification tags on bales.

Each bale of cotton accepted for storage in a warehouse operated under the state warehouse system must be identified by a numbered tag affixed to the bale. The tag must be designed so that the brand "South Carolina" may be unmistakably visible. The palmetto tree, with a bale of cotton lying at the roots, and the shield of the State must

be printed on the tag. The county of origin may appear on the tag. The warehouse may utilize the Permanent Bale Identification (PBI) number and tag of another gin if that tag meets above requirements. If PBI tag does not meet the above listed tag requirements, the warehouseman may affix a sticker to the PBI tag or to bale of cotton adjacent to the PBI tag that meets requirements as list above.

Food/Feed Safety

10. Authorize an application fee (\$25) for a food business when registering for a registration verification certificate
 - o Registration with the agency is required for persons or firms wishing to manufacture, prepare, repack or sell foods to the public
11. Authorize a tiered annual fee for a registration verification certificate

SECTION 39-25-210. Persons subject to inspection pursuant to this chapter; registration requirements; exceptions; annual renewal; civil and criminal penalties.

(A) A person subject to inspection pursuant to this chapter may not engage in the business of manufacturing, processing, warehousing, or packaging food in any manner without first registering with the department. This section shall not apply to facilities inspected and regulated by the United States Department of Agriculture (USDA) or the Clemson Livestock-Poultry Health Meat Inspection Division. Registration is required beginning January 1, 2011, and must be renewed annually thereafter on or before the first day of January on forms provided by the department.

(B) A person who willfully violates the provisions of this section is subject to a civil penalty of up to one thousand dollars for each violation as determined by the department. Any person violating this section is also guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than thirty days.

(C) Ability to Operate under Registration Verification Certificate (RVC)

(1)- Prerequisite for operation. A person may not operate a food establishment without a valid Registration Verification Certificate (RVC) issued by the Department

(2)- Form of Submission. A person desiring to engage in a food business regulated by the department shall submit to the Department a written application for a RVC on a form provided by the Department. Fee for this application is \$25.

(D) The Commissioner shall charge annually the following fees for the RVC issued pursuant to the establishment and product type. The fee structure shall be based on the level of risk, employee size, procedural effort and inspection time needed for each food manufacturer establishment. Tier 1 -\$100.00 Tier 2 \$200.00 Tier 3- \$300.00. The

RVC shall be renewed annually on July 1. Registration Fees shall be increased by 50 percent for the renewal of a license not renewed by September 1.

HISTORY: 2010 Act No. 261, Section 2, eff June 11, 2010.

Reduce Restrictions for Businesses

12. **ADOPTED 6.22.17** Remove agency involvement with the “cottage bill” - (i.e., remove the exemption registration burden from small home-based food producers)
 - A cottage food operation is a home-based food operations in an individual’s dwelling that prepares, packages, stores and distributes non-potentially hazardous baked foods and candy to the end consumer
 - [Letter from DHEC on website stating no objection to this requested change](#)
13. **ADOPTED 6.22.17** -Revise state egg law (i.e., exempt United States Department of Agriculture graded facilities from state licensing; add quail eggs; and remove the licensing requirements for small producers)
 - [SUBMITTED LANGUAGE FROM AGENCY FOR COMMITTEE TO REVIEW - ON WEBSITE](#)
14. **FOR INFORMATION ONLY 6.22.17** Modernize salvage food (e.g., dented cans) regulations
 - [SUBMITTED LANGUAGE FOR COMMITTEE TO REVIEW - ON WEBSITE](#)

Procurement for Commodity Boards

15. **FOR INFORMATION ONLY 6.22.17** Recommend Subcommittee Report include a finding recognizing the [April 28, 2016 Attorney General Opinion](#) that commodity boards are not subject to the State Procurement Code
 - [Commodity boards](#) operate as autonomous representatives of their respective commodities (e.g., beef; pork; peanut; cotton; tobacco; soybean and watermelon)



July 12, 2017

Commissioner Huge E. Weathers
South Carolina Department of Agriculture
P.O. Box 11280
Columbia, SC 29211

Dear Commissioner Weathers:

On behalf of the Economic Development, Transportation, and Natural Resources Subcommittee, we appreciate your staff sharing their time and knowledge with the Subcommittee on July 10. At this time, the Subcommittee is in the process of drafting its study of the agency for submission to the full Committee for its consideration. Thank you for your service to the citizens of South Carolina and for your continued cooperation with the legislative oversight process.

Sincerely,

A handwritten signature in black ink, reading "L. Funderburk". The signature is written in a cursive style with a large, stylized "L" and "F".

Laurie Slade Funderburk
Committee First Vice-Chair

cc: Economic Development, Transportation, and Natural Resources Subcommittee Members

Appendix M. Recommendation 4. Model Feed Law - Revisions to SC Code of Laws 36-25-210 and 40-7-1

Appendix Includes:

- Recommendation 4. Model Feed Law - Agency proposed revisions to SC Code of Laws 36-25-210 and 40-7-1

Chapter Four
Model Bill and Regulations

Editor—Doug Lueders, MN

Model Bill and Regulations

Section Editor—Doug Lueders, MN

**Officially Adopted by Association of American Feed Control
Officials and Endorsed by American Feed Industry Association,
National Grain and Feed Association, and Pet Food Institute**

Although this Bill and the Regulations have not been passed into law in all the states, the subject matter covered herein does represent the official policy of this Association.

AN ACT

To regulate the manufacture and distribution of commercial feeds in the State of _____, BE IT ENACTED by the Legislature of the State of _____.

Section 1. Title

This Act shall be known as the “_____ Commercial Feed Law of 20_____.”

Section 2. Enforcing Official

This Act shall be administered by the _____ of the State of _____, hereinafter referred to as the “_____.”

Section 3. Definitions of Words and Terms

When used in this Act:

- (a) The term “brand name” means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant/licensee and distinguishing it from that of others.
- (b) The term “commercial feed” means all materials or combination of materials which are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted. Unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of Section 7(a) of this Act, are exempt. The _____ by _____ rule may exempt from this definition, or from specific provisions of this Act, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not inter-mixed with other materials, and are not adulterated within the meaning of Section 7(a) of this Act.
- (c) The term “contract feeder” means a person who is an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person’s remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product.
- (d) The term “customer-formula feed” means commercial feed which consists of a mixture of commercial feeds and/or feed ingredients each batch of which is manufactured according to the specific instructions of the final purchaser.
- (e) The term “distribute” means to offer for sale, sell, exchange, or barter, commercial feed; or to supply, furnish, or otherwise provide commercial feed to a contract feeder.

- (f) The term “distributor” means any person who distributes.
- (g) The term “drug” means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than commercial feed intended to affect the structure or any function of the animal body.
- (h) The term “feed ingredient” means each of the constituent materials making up a commercial feed.
- (i) The term “label” means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.
- (j) The term “labeling” means all labels and other written, printed, or graphic matter (1) upon a commercial feed or any of its containers or wrapper or (2) accompanying such commercial feed.
- (k) The term “manufacture” means to grind, mix or blend, or further process a commercial feed for distribution.
- (l) The term “mineral feed” means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.
- (m) The term “official sample” means a sample of commercial feed taken by the _____ or their agent in accordance with the provisions of Section 11(c), (e), or (f) of this Act.
- (n) The term “percent” or “percentages” means percentages by weights.
- (o) The term “person” includes individual, partnership, corporation, and association.
- (p) The term “pet food” means any commercial feed prepared and distributed for consumption by dogs or cats.
- (q) The term “pet” means dog or cat.
- (r) The term “product name” means the name of the commercial feed which identifies it as to kind, class, or specific use and distinguishes it from all other products bearing the same brand name.
- (s) The term “quantity statement” means the net weight (mass), liquid measure or count.
- (t) The term, “raw milk” means any milk or milk product, exclusive of USDA licensed veterinary biologics, from any species other than humans, that has not been pasteurized in accordance with processes recognized by the US Food and Drug Administration.
- (u) The term “specialty pet” means any domesticated animal normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.
- (v) The term “specialty pet food” means any commercial feed prepared and distributed for consumption by specialty pets.
- (w) The term “ton” means a net weight of two thousand pounds avoirdupois.

Section 4. Registration and Licensing

Option A. Registration

- (a) No person shall manufacture a commercial feed in this State, unless they have filed with the _____ on forms provided by the _____, their name, place of business and location of each manufacturing facility in this State.
- (b) No person shall distribute in this State a commercial feed, except a customer-formula feed, which has not been registered pursuant to the provisions of this section. The application for registration shall be submitted in the manner prescribed by the _____. Upon approval by the _____ the registration shall be

issued to the applicant. All registrations expire on the 31st day of December of each year. (Option: A registration shall continue in effect unless it is cancelled by the registrant or unless it is cancelled by the _ pursuant to Subsection (c) of this section.

- (c) The _ is empowered to refuse registration of any commercial feed not in compliance with the provisions of this Act and to cancel any registration subsequently found not to be in compliance with any provision of this Act: Provided, That no registration shall be refused or canceled unless the registrant shall have been given an opportunity to be heard before the _ and to amend their application in order to comply with the requirements of this Act.

Option B. Licensing

- (a) Any person:
- (1) Who manufactures a commercial feed within the state; or
 - (2) Who distributes a commercial feed in or into the state; or
 - (3) Whose name appears on the label of a commercial feed as guarantor, shall obtain a license for each facility which distributes in or into the state authorizing them to manufacture or distribute commercial feed before they engage in such activity. Any person who makes only retail sales of commercial feed which bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the tonnage inspection fee due under this Act is not required to obtain a license.
- (b) Any person who is required to obtain a license shall submit an application on a form provided or approved by the _ accompanied by a license fee of _ paid to the _ for each facility. The license year shall be _ . Each license shall expire on _ (day) _ (month) of the year for which it is issued; provided that any license shall be valid through _ of the next ensuing year or until the issuance of the renewal license, whichever event first occurs, if the holder thereof has filed a renewal application with the _ on or before _ of the year for which the current license was issued. Any new applicant who fails to obtain a license within fifteen working days of notification of the requirement to obtain a license, or any licensee who fails to comply with license renewal requirements, shall pay a _ dollar late fee in addition to the license fee.
- (c) The form and content of the commercial feed license application shall be established by rules adopted by the _ .
- (d) The _ may request from, at any time, a license applicant or licensee copies of labels and labeling in order to determine compliance with the provisions of this Act.
- (e) The _ is empowered to refuse to issue a license to any person not in compliance with the provisions of this Act. The _ may suspend or revoke

any license issued to any person found not in compliance with any provision of this Act. The _ may place conditions that limit production or distribution

of a particular commercial feed on the license of any person found not to be in compliance with this Act. No license shall be conditionalized, suspended, refused or revoked unless the applicant or licensee shall first be given an opportunity to be heard before the _ in order to comply with the requirements of this Act.

Option C. Registration and Licensing

(a) Any person:

(1) Who manufactures a commercial feed within the state; or

- (2) Who distributes a commercial feed in or into the state; or
- (3) Whose name appears on the label of a commercial feed as guarantor, shall obtain a license for each facility which distributes in or into the state authorizing them to manufacture or distribute commercial feed before they engage in such activity. Any person who makes only retail sales of commercial feed which bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the tonnage inspection fee due under this Act is not required to obtain a license.
- (b) Any person who is required to obtain a license shall submit an application on a form provided or approved by the _ accompanied by a license fee of _ paid to the _ for each facility. The license year shall be _ .
- Each license shall expire on _ (day) _ (month) of the year for which it is issued; provided that any license shall be valid through _ of the next ensuing year or until the issuance of the renewal license, whichever event first occurs, if the holder thereof has filed a renewal application with the _ on or before _ of the year for which the current license was issued. Any new applicant who fails to obtain a license within fifteen working days of notification of the requirement to obtain a license, or any licensee who fails to comply with license renewal requirements, shall pay a _ dollar late fee in addition to the license fee.
- (c) The form and content of the commercial feed license application shall be established by rules adopted by the _ .
- (d) The _ may request from, at any time, a license applicant or licensee copies of labels and labeling in order to determine compliance with the provisions of this Act.
- (e) No person shall distribute in this state commercial feed, such as but not limited to; canned animal food, pet food, specialty pet food, supplements or medicated feed, until it is registered with the _ by the licensee whose name appears on the label. An application for each brand and/or product name shall be made on a form furnished by the _ and shall be accompanied by a fee of \$ _ per product. Upon the approval of an application by the _ , a copy of the registration shall be furnished to the applicant. All registrations expire on the _ day of _ (month) each year. (Option: A registration shall continue in effect unless it is canceled by the registrant or unless it is canceled by the _ pursuant to subsection (f) of this section.)
- (f) The _ is empowered to refuse to issue a license or registration to any manufacturer or distributor not in compliance with the provisions of this Act. The _ may suspend or revoke any license or cancel any registration issued to any person found not to be in compliance with any provision of this

Act. The _____ may place conditions that limit production or distribution

of a particular commercial feed on the license of any person found not to be in compliance with this Act. No license shall be conditionalized, suspended, refused or revoked and no registration shall be refused or canceled unless the licensee shall first be given an opportunity to be heard before the _____ in order to comply with the requirements of this Act.

Section 5. Labeling

A commercial feed shall be labeled as follows:

- (a) In case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information.

- (1) The quantity statement.
- (2) The product name and the brand name, if any, under which the commercial feed is distributed.
- (3) The guaranteed analysis, expressed on an “as-is” basis, stated in such terms as the _ by regulation determines is required to advise the user

of the composition of the commercial feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the AOAC International.

- (4) The common or usual name of each ingredient used in the manufacture of the commercial feed: Provided, that the _ by regulation may permit

the use of a collective term for a group of ingredients which perform a similar function, or the _ may exempt such commercial feeds, or

any group thereof, from this requirement of an ingredient statement if the _ finds that such statement is not required in the interest of consumers.

- (5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.
 - (6) Adequate directions for use for all commercial feeds containing drugs and for such other commercial feeds as the _ may require by regulation as necessary for their safe and effective use.
 - (7) Such precautionary statements as the _ by regulation determines are necessary for the safe and effective use of the commercial feed.
- (b) In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip, or other shipping document, bearing the following information:
- (1) Name and address of the manufacturer.
 - (2) Name and address of the purchaser.
 - (3) Date of delivery.
 - (4) The product name and quantity statement of each commercial feed and each other ingredient used in the mixture.
 - (5) Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the _ may require by regulation as necessary for their safe and effective use.
 - (6) The directions for use and precautionary statements as required by Regulation 7 and 8.
 - (7) If a drug containing product is used:
 - I. The purpose of the medication (claim statement)
 - II. The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with Regulation 4 (d).

Section 6. Misbranding

A commercial feed shall be deemed to be misbranded:

- (a) If its labeling is false or misleading in any particular.
- (b) If it is distributed under the name of another commercial feed.
- (c) If it is not labeled as required in Section 5 of this Act.
- (d) If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless

such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the .

- (e) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Section 7. Adulteration

A commercial feed shall be deemed to be adulterated:

- (a)
 - (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health; or
 - (2) If it bears or contains any added poisonous, added deleterious, or added non-nutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; or (ii) a food additive); or
 - (3) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act; or
 - (4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; or
 - (5) If it is, or it bears or contains any color additive which is unsafe within the meaning of Section 721 of the Federal Food, Drug, and Cosmetic Act; or
 - (6) If it is, or it bears or contains any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act; or
 - (7) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for feed; or
 - (8) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or
 - (9) If it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of Section 402 (a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act; or
 - (10) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

- (11) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act.
- (b) If any valuable constituent has been in whole or in part omitted or abstracted there from or any less valuable substance substituted therefor.
- (c) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.
- (d) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the _ to assure that

the drug meets the requirement of this Act as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the _ shall adopt

the current good manufacturing practice regulations for Type A medicated Articles and Type B and Type C Medicated Feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless the _ determines that

they are not appropriate to the conditions which exist in this State.

- (e) If it contains viable weed seeds in amounts exceeding the limits which the _ shall establish by rule or regulation.

Section 8. Prohibited Acts

The following acts and the causing thereof within the State of _ are hereby prohibited.

- (a) The manufacture or distribution of any commercial feed that is adulterated or misbranded.
- (b) The adulteration or misbranding of any commercial feed.
- (c) The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, which are adulterated within the meaning of Section 7(a), of this Act.
- (d) The removal or disposal of a commercial feed in violation of an order under Section 13 of this Act.
- (e) The failure or refusal to register and/or obtain a license in accordance with Section 4 of this Act.
- (f) The violation of Section 14(f) of this Act.
- (g) The failure to pay inspection fees or file reports as required by Sections 9 and 12 of this Act.
- (h) Bags or totes used for commercial feeds (including customer-formula feed) shall not be re-used unless appropriately cleaned. A firm that intends to re-use bags or totes must document its cleanup procedures.
- (i) The distribution of raw milk for use as commercial feed for any species:
 - (1) If it has not been decharacterized using a sufficient quantity of food coloring as designated by _ (director, commissioner, etc.);
 - (2) If it has been decharacterized using food coloring unless the food coloring has been approved by the US Food and Drug Administration, or in the case of raw milk labeled as organic, approved by the US Department of Agriculture;
 - (3) If it has been decharacterized and the nutritive value of the milk has been adversely affected by the decharacterization;
 - (4) That is packaged in containers that are or resemble those used for the

packaging of milk for human consumption;

- (5) That is stored at retail with, or in the vicinity of, milk or milk products intended for human consumption;
- (6) If it does not comply with Section 8 (a) through (h) of this Act.

Section 9. Inspection Fees and Reports

- (a) An inspection fee at the rate of _ cents per ton shall be paid on commercial

feeds distributed in this State by the person whose name appears on the label as the manufacturer, guarantor or distributor, except that a person other than the manufacturer, guarantor or distributor may assume liability for the inspection fee, subject to the following:

- (1) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.
- (2) No fee shall be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as ingredients therein.
- (3) No fee shall be paid on commercial feeds which are used as ingredients for the manufacture of commercial feeds which are registered. If the fee has already been paid, credit shall be given for such payment.
- (4) In the case of a commercial feed which is distributed in the State only in packages of ten pounds or less, an annual fee of _ shall be paid in lieu of the inspection fee specified above.
- (5) The minimum inspection fee shall be _ per _ (reporting period).
- (6) In the case of specialty pet food which is distributed in the state only in packages of one pound or less, an annual fee of _ per product shall be paid up to a maximum annual fee of _ per manufacturer in lieu of an inspection fee.

- (b) Each person who is liable for the payment of such fee shall:

- (1) File, on or before the last day of the month following the inspection fee reporting period, setting forth the number of net tons of commercial feeds distributed in this State during the preceding reporting period; and upon filing such statement shall pay the inspection fee at the rate stated in paragraph (a) of this Section. Inspection fees which are due and owing and have not been remitted to the _ within 15 days following the date due shall have a penalty fee of _ per cent (minimum _) added to the amount due when payment is finally made. The assessment of this penalty fee shall not prevent the _ from taking other actions as provided in this chapter.
- (2) Keep such records as may be necessary or required by the _ to indicate accurately the tonnage of commercial feed distributed in this State, and the _ shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.
- (c) Fees collected shall constitute a fund for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for administration of this Act.
- (d) Records or reports maintained or filed under Section 9, Inspection Fees and Reports, are confidential and not subject to disclosure under applicable public records acts.

Section 10. Rules and Regulations

(a) The _ is authorized to promulgate such rules and regulations for

commercial feeds (which includes pet and specialty pet foods) as are specifically authorized in this Act and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this Act. In the interest of uniformity the _ shall by regulation adopt, unless the _

determines that they are inconsistent with the provisions of this Act or are not appropriate to conditions which exist in this state, the following:

- (1) The Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials and published in the Official Publication of that organization, and
 - (2) Any regulation promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act: Provided, that the _ would have the authority under this Act to promulgate such regulations.
- (b) Before the issuance, amendment, or repeal of any rule or regulation authorized by this Act, the _ shall publish the proposed regulation, amendment, or

notice to repeal an existing regulation in a manner reasonably calculated to give interested parties, including all current registrants, adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the _ shall take appropriate

action to issue the proposed rule or regulation or to amend or repeal an existing rule or regulation. The provisions of this paragraph notwithstanding, if the _ pursuant to the authority of this Act, adopts the Official Definitions of Feed Ingredients and Official Feed Terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by said Association or by the US Secretary of Health and Human Services, in the case of regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act, shall be adopted automatically under this Act without regard to the publication of the notice required by this paragraph (b), unless the _ by order specifically determines that said amendment of

modification shall not be adopted.

- (c) **Food and Drug Rules.** Federal regulations contained in Title 21, Code of Federal Regulations, part 507, not otherwise adopted herein, also are adopted as feed rules of this state.

Section 11. Inspection, Sampling, and Analysis

- (a) For the purpose of enforcement of this Act, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the _ , upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, during normal business hours, any factory, warehouse, or establishment within the State in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and (2) to inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of records, and production and control procedures related to the manufacture, distribution, storage, handling, use or disposal of commercial feed as may be necessary to determine compliance with this Act.
- (b) A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable

promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

- (c) If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the inspector/sampler shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.
- (d) If the owner of any factory, warehouse, or establishment described in paragraph (a), or their agent, refuses to admit the _ or their agent to inspect in accordance with paragraphs (a) and (b), the _ is authorized to obtain

from any State Court a warrant directing such owner or his agent to submit the premises described in such warrant to inspection.

- (e) For the enforcement of this Act, the _ or their duly designated agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.
- (f) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International, or in accordance with other generally recognized methods.
- (g) The results of all analyses of official samples shall be forwarded by the _ to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within 30 days following the receipt of the analysis the _ shall furnish to the registrant a portion of the sample concerned.
- (h) The _, in determining for administrative purposes whether a commercial

feed is deficient in any component, shall be guided by the official sample as defined in paragraph (n) of Section 3 and obtained and analyzed as provided for in paragraphs (c), (e), and (f) of Section 11 of this Act.

Section 12. Certificates

To facilitate continued access to markets for commercial feed and feed ingredients, the _ may:

- (a) Inspect, audit or certify commercial feed manufacturer or distributor facilities at the request of the manufacturer or distributor to the extent authorized by this Act, or on the basis of other records voluntarily supplied by the manufacturer or distributor;
- (b) Issue certificates pursuant to subsection (a), such as, but not limited to, certificates of export from the state;
- (c) Promulgate, amend or adopt rules to inspect, audit or certify and issue certificates pursuant to this Section; and
- (d) Include a schedule of fees that addresses all activities required under this section. Such fees shall not duplicate those set forth in other sections of this Act.

Section 13. Detained Commercial Feeds

- (a) "Withdrawal from distribution" orders: When the _ or their authorized agent

has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this Act or any of the prescribed regulations under This Act, the _ may issue and enforce a written or printed "withdrawal

from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the _ or

the Court. The _ shall release the lot of commercial feed so withdrawn when

said provisions and regulations have been complied with. If compliance is not obtained within 30 days, the _ may begin, or upon request of the distributor

or registrant shall begin, proceedings for condemnation.

- (b) “Condemnation and Confiscation”: Any lot of commercial feed not in compliance with said provisions and regulations shall be subject to seizure on complaint of _ to a court of competent jurisdiction in the area in

which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this Act and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the State: provided, that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or re-label said commercial feed to bring it into compliance with this Act.

Section 14. Penalties

- (a) Any person convicted of violating any of the provisions of this Act or who shall impede, hinder, or otherwise prevent, or attempt to prevent, said _ or their duly authorized agent in performance of their duty in connection with the provisions of this Act, shall be adjudged guilty of a misdemeanor and shall be fined not less than _ or more than _ for the first violation, and not less than _ or more than _ for a subsequent violation.
- (b) Nothing in this Act shall be construed as requiring the _ or their representative to: (1) report for prosecution, or (2) institute seizure proceedings, or (3) issue a withdrawal from distribution order, as a result of minor violations of the Act, or when the _ believes the public interest will best be served by suitable notice of warning in writing.
- (c) It shall be the duty of each _ attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the _ reports a violation for such prosecution, an opportunity shall be given the distributor to present their view to the _.
- (d) The _ is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this Act or any rule or regulation promulgated under the Act notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.
- (e) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this Act may within 45 days thereafter bring action in the (here name the particular Court in the county where the enforcement official has his office) for judicial review of such actions. The form of the proceeding shall be any which may be provided by statutes of this state to review decisions of administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.
- (f) Any person who uses to their own advantage, or reveals to other than the _ , or officers of the _ (appropriate departments of this State),

or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this Act, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a misdemeanor and shall on conviction thereof be fined not less than \$ _____ or imprisoned for not less than _____ year(s) or both: Provided, That

this prohibition shall not be deemed as prohibiting the _____, or their duly authorized agent, from exchanging information of a regulatory nature with duly

appointed officials of the United States Government, or of other States, who are similarly prohibited by law from revealing this information.

- (g) Any person who violates any of the provisions of this Act or an order, standard, stipulation, agreement, citation, or schedule of compliance of the _____ or impedes, hinders, or otherwise prevents or attempts to prevent performance of a duty by the _____ in connection with this Act may be subject to a civil penalty of up to \$_____ per violation, per day as determined by the _____.
- (h) In any action to compel performance of an order of the _____ to enforce this Act, the court must require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.
- (i) The civil penalties and payments provided for in this section may be recovered by a civil action brought by the _____ in the name of the state.

Section 15. Cooperation with Other Entities

The _____ may cooperate with and enter into agreements with governmental agencies of this State, other States, agencies of the Federal Government, and private associations in order to carry out the purpose and provisions of this Act.

Section 16. Publication

The _____ shall publish at least annually, in such forms as the _____ may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as the _____ may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the State as compared with the analyses guaranteed in the registration and on the label; Provided, That the information concerning production and use of commercial feed shall not disclose the operations of any person.

Section 17. Constitutionality

If any clause, sentence, paragraph, or part of this Act shall for any reason be judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 18. Repeal

All laws and parts of laws in conflict with or inconsistent with the provisions of this Act are hereby repealed. (The specific statute and specific code sections to be repealed may have to be stated.)

Section 19. Effective Date

This Act shall take effect and be in force from and after the first day of _____.

Model Regulations Under the Model Bill

Editor—Doug Lueders, MN

Pursuant to due publication and public hearing required by the provisions of Chapter _ of the Laws of this State, the _ has adopted the following Rules and Regulations.

Regulation 1. Definition and Terms

- (a) The names and definitions for commercial feeds shall be the Official Definition of Feed Ingredients adopted by the Association of American Feed Control Officials (AAFCO), except as the _ designates otherwise in specific cases.
- (b) The terms used in reference to commercial feeds shall be the Official Feed Terms adopted by AAFCO, except as the _ designates otherwise in specific cases.
- (c) The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Section 3(b) of the Act: Raw meat, hay, loose salt, straw, stover, silages, cobs, husks, and hulls when unground and when not mixed or intermixed with other materials: Provided that these commodities are not adulterated within the meaning of Section 7(a), of the Act.
- (d) Principal Display Panel means the out-facing side of the feed tag, or if no tag, the part of the label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

Regulation 2. Label Format

- (a) Commercial feed, other than custom formula feed, shall bear the information prescribed in this regulation on the label of the product and in the following format.
 - (1) Product name and brand name, if any, as stipulated in Regulation 3(a)(1).
 - (2) If a drug is used, label as stipulated in Regulation 3(a)(2).
 - (3) Purpose statement as stipulated in Regulation 3(a)(3).
 - (4) Guaranteed analysis as stipulated in Regulation 3(a)(4).
 - (5) Feed ingredients as stipulated in Regulation 3(a)(5).
 - (6) Directions for use and precautionary statements as stipulated in Regulation 3(a)(6).
 - (7) Name and principal mailing address of manufacturer or persons responsible for distributing the feed as stipulated in Regulation 3(a)(7).
 - (8) Quantity statement.
- (b)
 - (1) The information as required in Regulation 2(a)(1), (2), (3) and (8) must appear in its entirety on the principal display panel.
 - (2) The information as required in Regulation 2(a)(4), (5), (6) and (7) shall be displayed in a prominent place on the feed tag or label, but not necessarily on the principal display panel. When a precautionary statement required by Regulation 2(a)(6) does not appear on the principal display panel, it must be referenced on the principal display panel with a statement such as "See back of label for precautions."
- (c) None of the information required by Regulation 2 shall be subordinated or obscured by other statements or designs.

- (d) Customer-formula feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket, or other shipping document bearing the following information.
 - (1) The name and address of the manufacturer.
 - (2) The name and address of the purchaser.
 - (3) The date of sale or delivery.
 - (4) The customer-formula feed name and brand name if any.
 - (5) The product name and net quantity of each registered commercial feed and each other ingredient used in the mixture.
 - (6) The direction for use and precautionary statements as required by Regulations 7 and 8.
 - (7) If a drug containing product is used:
 - I. The purpose of the medication (claim statement)
 - II. The established name of each active drug ingredient and the level of each drug used in the mixture expressed in accordance with Regulation 4 (d).

Regulation 3. Label Information

- (a) Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation.
 - (1) Product name and brand name if any.
 - I. The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A commercial feed for a particular animal class, must be suitable for that purpose.
 - II. Commercial, registered brand or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.
 - III. The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: Provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.
 - IV. The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen.
 - V. When the name carries a percentage value, it shall be understood to signify protein and/or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein": Provided, that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.
 - VI. Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the Association of American Feed Control Officials unless the label designates otherwise.

- VII. The word “vitamin,” or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in Regulation 4(c).
 - VIII. The term “mineralized” shall not be used in the name of a feed except for “TRACE MINERALIZED SALT.” When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.
 - IX. The term “meat” and “meat by-products” shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.
 - X. If the commercial feed consists of raw milk, the words, “Raw (blank) Milk” shall appear conspicuously on the principal display panel. (Blank is to be completed by using the species of animal from which the raw milk is collected.)
- (2) If a drug is used:
- I. The word “medicated” shall appear directly following and below the product name in type size, no smaller than one-half the type size of the product name.
 - II. Purpose statement as required in Regulation 3(a)(3).
 - III. The purpose of medication (claim statement).
 - IV. An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Regulation 4 (d).
- (3) Purpose Statement
- I. The statement of purpose shall contain the specific species and animal class(es) for which the feed is intended as defined in Regulation 3(a)(4).
 - II. The manufacturer shall have full authority in describing in more specific and common language the defined animal class, species and purpose while being consistent with the category of animal class defined in Regulation 3(a)(4) which may include, but is not limited to weight range(s), sex, or ages of the animal(s) for which the feed is manufactured.
 - III. The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.
 - IV. The purpose statement of a premix for the manufacture of feed may exclude the animal class and species and state “For Further Manufacture of Feed” if the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end user of the premix. [This section applicable to commercial feeds regulated under Regulation 3(a)(4)(XI)(b)(10).]
 - V. The purpose statement of a single purpose ingredient blend, such as a blend of animal protein products, milk products, fat products, roughage products or molasses products may exclude the animal class and species and state “For Further Manufacture of Feed” if the label guarantees of the nutrients contained in the single purpose nutrient blend are sufficient to provide for formulation into various animal species feeds. [This section applicable to commercial feeds regulated under Regulation 3(a)(4)(XI)(b)(10).]
 - VI. The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.

VII. The statement of purpose for single ingredient feeds shall be stated as “Single Ingredient Feed” or “Feed Ingredient.” The manufacturer of a single ingredient feed or feed ingredient shall have flexibility in describing in more specific and common language the intended use of the feed ingredient dependent on species and class.

- (4) Guarantees—Crude Protein, Equivalent Crude Protein from Non Protein Nitrogen, Amino Acids, Crude Fat, Crude Fiber, Acid Detergent Fiber, Neutral Detergent Fiber, Calcium, Phosphorus, Salt and Sodium shall be the sequence of nutritional guarantees when such guarantee is stated. Other required and voluntary guarantees should follow in a general format such that the units of measure used to express guarantees (percentage, parts per million, International Units, etc.) are listed in a sequence that provides a consistent grouping of the units of measure. Individual nutrient guarantees are not required if listed as exempt in section XII.

I. Required guarantees for swine formula feeds

- a. Animal classes
 - (1) Prestarter—2 to 11 pounds
 - (2) Starter—11 to 44 pounds
 - (3) Grower—44 to 110 pounds
 - (4) Finisher—110 pounds to market weight
 - (5) Gilts, sows, and adult boars
 - (6) Lactating gilts and sows
- b. Guaranteed analysis for swine complete feeds and supplements (all animal classes)
 - (1) Minimum percentage of crude protein
 - (2) Minimum percentage of lysine
 - (3) Minimum percentage of crude fat
 - (4) Maximum percentage of crude fiber
 - (5) Minimum and maximum percentage of calcium
 - (6) Minimum percentage of phosphorus
 - (7) Minimum and maximum percentage of salt (if added)
 - (8) Minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee
 - (9) Minimum selenium in parts per million (ppm)

II. Required guarantees for Formula Poultry Feeds (Broilers, Layers and Turkeys)

- a. Animal Classes
 - (1) Layer - Chickens that are grown to Produce eggs for food, e.g., table eggs
 - (a) Starting/Growing - From day of hatch to approximately 10 weeks of age.
 - (b) Finisher - From approximately 10 weeks of age to time fi egg is produced. (Approximately 20 weeks of age).
 - (c) Laying - From time first egg is laid throughout the time of egg production.
 - (d) Breeders - Chickens that produce fertile eggs for hatch replacement layers to produce eggs for food, table eggs, from time first egg is laid throughout their productive cycle.
 - (2) Broilers - Chickens that are grown for human food.

- (a) Starting/growing - From day of hatch to approximately 5 weeks of age.
 - (b) Finisher - From approximately 5 weeks of age to market, (42 to 52 days).
 - (c) Breeders - Hybrid strains of chickens whose offspring are grown for human food, (broilers), any age and either sex.
 - (3) Broilers, Breeders - Chickens whose offspring are grown for human food (broilers).
 - (a) Starting/Growing - From day of hatch until approximately 10 weeks of age.
 - (b) Finishing - From approximately 10 weeks of age to time fi egg is produced, approximately 20 weeks of age.
 - (c) Laying - Fertile egg producing chickens (broilers/roasters) from day of first egg throughout the time fertile eggs are produced.
 - (4) Turkeys
 - (a) Starting/Growing - Turkeys that are grown for human food from day of hatch to approximately 13 weeks of age (females) and 16 weeks of age (males).
 - (b) Finisher - Turkeys that are grown for human food, females from approximately 13 weeks of age to approximately 17 weeks of age; males from 16 weeks of age to 20 weeks of age, (or desired market weight).
 - (c) Laying - Female turkeys that are producing eggs; from time first egg is produced, throughout the time they are producing eggs.
 - (d) Breeder - Turkeys that are grown to produce fertile eggs, from day of hatch to time first egg is produced (approximately 30 weeks of age), both sexes.
 - b. Guaranteed Analysis for Poultry Complete feeds and Supplements (all animal classes)
 - (1) Minimum percentage of Crude Protein
 - (2) Minimum percentage of Lysine
 - (3) Minimum percentage of Methionine
 - (4) Minimum percentage of Crude Fat
 - (5) Maximum percentage of Crude Fiber
 - (6) Minimum and maximum percentage of Calcium
 - (7) Minimum percentage of Phosphorus
 - (8) Minimum and maximum percentage of Salt (if added)
 - (9) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
- III. Required Guarantees for Beef Cattle Formula Feeds.
- a. Animal Classes
 - (1) Calves (birth to weaning)
 - (2) Cattle on Pasture (may be specific as to production stage; e.g. stocker, feeder, replacement heifers, brood cows, bulls, etc.)
 - (3) Feedlot Cattle
 - b. Guaranteed analysis for Beef Complete Feeds and Supplements (all animal classes)
 - (1) Minimum percentage of Crude Protein

- (2) Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added
- (3) Minimum percentage of Crude Fat
- (4) Maximum percentage of Crude Fiber
- (5) Minimum and maximum percentage of Calcium
- (6) Minimum percentage of Phosphorus
- (7) Minimum and maximum percentage of Salt (if added)
- (8) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
- (9) Minimum percentage of Potassium
- (10) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)
- c. Guaranteed analysis for Beef Mineral Feeds (if added)
 - (1) Minimum and maximum percentage Calcium
 - (2) Minimum percentage of Phosphorus
 - (3) Minimum and maximum percentage of Salt
 - (4) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
 - (5) Minimum percentage of Magnesium
 - (6) Minimum percentage of Potassium
 - (7) Minimum Copper in parts per million (ppm)
 - (8) Minimum Selenium in parts per million (ppm)
 - (9) Minimum Zinc in parts per million (ppm)
 - (10) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound

IV. Required Guarantees for Dairy Formula Feeds

- a. Animal Classes
 - (1) Veal Milk Replacer
 - (2) Herd Milk Replacer
 - (3) Starter
 - (4) Non-Lactating Dairy Cattle: Replacement Dairy Heifers, Dairy Bulls and Dairy Calves
 - (5) Lactating Dairy Cows
 - (6) Dry Dairy Cows
- b. Guaranteed Analysis for Veal and Herd Replacement Milk Replacer
 - (1) Minimum percentage Crude Protein
 - (2) Minimum percentage Crude Fat
 - (3) Maximum percentage of Crude Fiber
 - (4) Minimum and maximum percentage Calcium
 - (5) Minimum percentage of Phosphorus
 - (6) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)
- c. Guaranteed Analysis for Dairy Cattle Complete Feeds and Supplements
 - (1) Minimum percentage of Crude Protein
 - (2) Maximum percentage of Equivalent Crude Protein from Non-Protein Nitrogen (NPN) when added
 - (3) Minimum percentage of Crude Fat
 - (4) Maximum percentage of Crude Fiber
 - (5) Maximum percentage of Acid Detergent Fiber (ADF)

- (6) Minimum and maximum percentage of Calcium
 - (7) Minimum percentage of Phosphorus
 - (8) Minimum Selenium in parts per million (ppm)
 - (9) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)
- d. Required Guaranteed Analysis for Dairy Mixing and Pasture Mineral (if added)
 - (1) Minimum and maximum percentage of Calcium
 - (2) Minimum percentage of Phosphorus
 - (3) Minimum and maximum percentage of Salt
 - (4) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
 - (5) Minimum percentage of Magnesium
 - (6) Minimum percentage of Potassium
 - (7) Minimum Selenium in parts per million (ppm)
 - (8) Minimum Vitamin A, other than the precursors of Vitamin A, in international Units per pound
- V. Required Guarantees for Equine Formula Feeds
 - a. Animal Classes
 - (1) Growing
 - (2) Broodmare
 - (3) Maintenance
 - (4) Performance (Including Stallions)
 - b. Guaranteed Analysis for Equine Complete Feeds and Supplements (all animal classes)
 - (1) Minimum percentage of Crude Protein
 - (2) Minimum percentage of Crude Fat
 - (3) Maximum percentage of Crude Fiber
 - (4) Maximum percentage of Acid Detergent Fiber (ADF)
 - (5) Maximum percentage of Neutral Detergent Fiber (NDF)
 - (6) Minimum and maximum percentage of Calcium
 - (7) Minimum percentage of Phosphorus
 - (8) Minimum Copper in parts per million (ppm) (if added)
 - (9) Minimum Selenium in parts per million (ppm)
 - (10) Minimum Zinc in parts per million (ppm)
 - (11) Minimum Vitamin A, other than the precursors of Vitamin A, in International Units per pound (if added)
 - c. Guaranteed Analysis for Equine Mineral Feeds (all animal classes)
 - (1) Minimum and maximum percentage of Calcium
 - (2) Minimum percentage of Phosphorus
 - (3) Minimum and maximum percentage of Salt (if added)
 - (4) Minimum and maximum percentage of Sodium
 - (5) Minimum Copper in parts per million (ppm) (if added)
 - (6) Minimum Selenium in parts per million (ppm)
 - (7) Minimum Zinc in parts per million (ppm)
 - (8) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)
- VI. Required Guarantees for Goat Formula Feeds
 - a. Animal Classes
 - (1) Starter
 - (2) Grower

- (3) Finisher
- (4) Breeder
- (5) Lactating
- b. Guaranteed Analysis For Goat Complete Feeds And Supplements (all animal classes)
 - (1) Minimum percentage of Crude Protein
 - (2) Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added
 - (3) Minimum percentage of Crude Fat
 - (4) Maximum percentage of Crude Fiber
 - (5) Maximum percentage of Acid Detergent Fiber
 - (6) Minimum and maximum percentage of Calcium
 - (7) Minimum percentage of Phosphorus
 - (8) Minimum and maximum percentage of Salt (if added)
 - (9) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.
 - (10) Minimum and maximum Copper in parts per million (ppm) (if added).
 - (11) Minimum Selenium in parts per million (ppm).
 - (12) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added).

VII. Required Guarantees for Sheep Formula Feeds

- a. Animal Classes
 - (1) Starter
 - (2) Grower
 - (3) Finisher
 - (4) Breeder
 - (5) Lactating
- b. Guaranteed Analysis for Sheep Complete Feeds and Supplements (all animal classes)
 - (1) Minimum percentage of Crude Protein
 - (2) Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added
 - (3) Minimum percentage of Crude Fat
 - (4) Maximum percentage of Crude Fiber
 - (5) Minimum and maximum percentage of Calcium
 - (6) Minimum percentage of Phosphorus
 - (7) Minimum and maximum percentage of Salt (if added)
 - (8) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.
 - (9) Minimum and maximum Copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm)
 - (10) Minimum Selenium in parts per million (ppm)
 - (11) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)

VIII. Required Guarantees for Duck and Geese Formula Feeds.

- a. Animal Classes
 - (1) Ducks
 - (a) Starter - 0 to 3 weeks of age
 - (b) Grower - 3 to 6 weeks of age

- (c) Finisher - 6 weeks to market
 - (d) Breeder Developer - 8 to 19 weeks of age
 - (e) Breeder - 22 weeks to end of lay
- (2) Geese
 - (a) Starter - 0 to 4 weeks of age
 - (b) Grower - 4 to 8 weeks of age
 - (c) Finisher - 8 weeks to market
 - (d) Breeder Developer - 10 to 22 weeks of age
 - (e) Breeder - 22 weeks to end of lay
- b. Guaranteed Analysis for Duck and Geese Complete Feeds and Supplements (for all animal classes)
 - (1) Minimum percentage of Crude Protein
 - (2) Minimum percentage of Crude Fat
 - (3) Maximum percentage of Crude Fiber
 - (4) Minimum and maximum percentage of Calcium
 - (5) Minimum percentage of Phosphorus
 - (6) Minimum and maximum percentage of Salt (if added)
 - (7) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
- IX. Required Guarantees for Fish Complete Feeds and Supplements
 - a. Animal Species shall be declared in lieu of animal class
 - (1) Trout
 - (2) Catfish
 - (3) Species other than trout or catfish
 - (1) Minimum percentage of Crude Protein
 - (2) Minimum percentage of Crude Fat
 - (3) Maximum percentage of Crude Fiber
 - (4) Minimum percentage of Phosphorus
- X. Required Guarantees for Rabbit Complete Feeds and Supplements
 - a. Animal Classes
 - (1) Grower - 4 to 12 weeks of age
 - (2) Breeder - 12 weeks of age and over
 - b. Guaranteed analysis for Rabbit Complete Feeds and Supplements (all animal classes)
 - (1) Minimum percentage of Crude Protein
 - (2) Minimum percentage of Crude Fat
 - (3) Minimum and maximum percentage of Crude Fiber (the maximum crude fiber shall not exceed the minimum by more than 5.0 units)
 - (4) Minimum and maximum percentage of Calcium
 - (5) Minimum percentage of Phosphorus
 - (6) Minimum and maximum percentage of Salt (if added)
 - (7) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
 - (8) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)
- XI. The required guarantees of grain mixtures with or without molasses and feeds other than those described in regulation 3(a)(4) (I thru X) shall include the following items, unless exempted in section XII, in the order listed:

- a. Animal class(es) and species for which the product is intended.
- b. Guaranteed analysis
 - (1) Minimum percentage Crude Protein
 - (2) Maximum or minimum percentage of equivalent Crude Protein from Non-Protein Nitrogen as required in Regulation 4(e)
 - (3) Minimum percentage of Crude Fat
 - (4) Maximum percentage of Crude Fiber
 - (5) Minerals in formula feeds, to include in the following order:
 - (a) Minimum and maximum percentages of Calcium
 - (b) Minimum percentage of Phosphorus
 - (c) Minimum and maximum percentage of Salt (if added)
 - (d) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee
 - (e) Other Minerals
 - (6) Minerals in feed ingredients - as specified by the official definitions of the Association of American Feed Control Officials
 - (7) Vitamins in such terms as specified in Regulation 4(c)
 - (8) Total sugars as invert on dried molasses products or products being sold primarily for their sugar content
 - (9) Viable lactic acid producing microorganisms for use in silages in terms specified in Regulation 4(g)
 - (10) A commercial feed (e.g. vitamin/mineral premix, base mix, etc.) intended to provide a specialized nutritional source for use in the manufacture of other feeds, must state its intended purpose and guarantee those nutrients relevant to such stated purpose. Article II of AAFCO's "Criteria for Labeling Nutritional Indicators" is not applicable to the label guarantees for these specialized commercial feeds

XII. Exemptions.

- a. A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers, is not required when:
 - (1) The feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or
 - (2) The feed or feed ingredient is intended for non-food producing animals and contains less than 6.5% total mineral.
- b. Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.
- c. Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.
- d. Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the

- primary purpose of the product, and no specific label claims are made.
- e. The indication for animal class(es) and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species.
- (5) Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Section 5(a)(4) of the Act.
 - I. The name of each ingredient as defined in the Official Publication of the Association of American Feed Control Officials, common or usual name, or one approved by the _____.
 - II. Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official Publication of the Association of American Feed Control Officials in lieu of the individual ingredients; Provide that:
 - a. When a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label.
 - b. The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.
 - III. The registrant may affix the statement, "Ingredients as registered with the State" in lieu of ingredient list on the label. The list of ingredients must be on file with the _____. This list shall be made available to _____ the feed purchaser upon request.
 - (6) Directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by Regulations 7 and 8 appear elsewhere on the label.
 - (7) Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, zip code; However, the street address may be omitted if it is shown in the current city directory or telephone directory.
 - (8) Quantity Statement
 - I. Net quantity shall be declared in terms of weight, liquid measure or count, based on applicable requirements under Section 4 of the Fair Packaging and Labeling Act.
 - II. Net quantity labeled in terms of weight shall be expressed both in pounds, with any remainder in terms of ounces or common or decimal fractions of the pound and in appropriate SI metric system units; or in the case of liquid measure, both in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart and in appropriate Si metric system units.
 - III. When the declaration of quantity of contents by count does not give adequate information as to the quantity of feed in the container, it shall be combined with such statement of weight, liquid measure, or size of the individual units as will provide such information.

Regulation 4. Expression of Guarantees

- (a) The guarantees for crude protein, equivalent crude protein from non-protein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber and acid detergent fiber shall be in terms of percentage.
- (b) Mineral Guarantees
 - (1) When the calcium, salt, and sodium guarantees are given in the guaranteed analysis such shall be stated and conform to the following:
 - I. When the minimum is below 2.5%, the maximum shall not exceed the minimum by more than 0.5 percentage point.
 - II. When the minimum is 2.5% but less than 5.0%, the maximum shall not exceed the minimum by more than one percentage point.
 - III. When the minimum is above 5.0% or greater the maximum shall not exceed the minimum by more than 20% of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.
 - (2) When stated, guarantees for minimum and maximum total sodium, and salt: minimum potassium, magnesium, sulfur, phosphorus and maximum fluorine shall be in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (1%) or greater.
 - (3) Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) may state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.
- (c) Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in mg/lb. or in units consistent with those employed for the quantity statement unless otherwise specified:
 - (1) Vitamin A, other than precursors of vitamin A, in International Units per pound.
 - (2) Vitamin D-3 in products offered for poultry feeding, in International Chick Units per pound.
 - (3) Vitamin D for other uses, International Units per pound.
 - (4) Vitamin E, in International Units per pound.
 - (5) Concentrated oils and feed additive premixes containing vitamins A, D and/or E may, at the option of the distributor be stated in units per gram instead of units per pound.
 - (6) Vitamin B-12, in milligrams or micrograms per pound.
 - (7) All other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following: menadione; riboflavin; d-pantothenic acid; thiamine; niacin; vitamin B-6; folic acid; choline; biotin; inositol; p-amino benzoic acid; ascorbic acid; and carotene.
- (d) Guarantees for drugs shall be stated in terms of percent by weight, except:
 - (1) Antibiotics, present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed.
 - (2) Antibiotics present at 2,000 or more grams per ton (total) of commercial feed, shall be stated in grams per pound of commercial feed.
 - (3) Labels for commercial feeds containing growth promotion and/or feed efficiency levels of antibiotics, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the Federal Food Additive Regulations for certain

antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic.

- (4) The term “milligrams per pound” may be used for drugs or antibiotics in those cases where a dosage is given in “milligrams” in the feeding directions.
- (e) Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:
 - (1) For ruminants
 - a. Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than 5% protein from natural sources shall be guaranteed as follows:
Crude Protein, minimum, _ %
(This includes not more than _ % equivalent crude protein from non-protein nitrogen).
 - b. Mixed feed concentrates and supplements containing less than 5% protein from natural sources may be guaranteed as follows:
Equivalent Crude Protein from Non-Protein Nitrogen,
minimum, _ %
 - c. Ingredient sources of non-protein nitrogen such as Urea, Diammonium Phosphate, Ammonium Polyphosphate Solution, Ammoniated Rice Hulls, or other basic non-protein nitrogen ingredients defined by the Association of American Feed Control Officials shall be guaranteed as follows:
Nitrogen, minimum, _ %
Equivalent Crude Protein from Non-Protein Nitrogen,
minimum, _ %
 - (2) For non-ruminants
 - a. Complete feeds, supplements and concentrates containing crude protein from all forms of non-protein nitrogen, added as such, shall be labeled as follows:
Crude protein, minimum _ %
(This includes not more than _ % equivalent crude protein

which is not nutritionally available to (species of animal for which feed is intended).
 - b. Premixes, concentrates or supplements intended for non-ruminants containing more than 1.25% equivalent crude protein from all forms of non-protein nitrogen, added as such, must contain adequate directions for use and a prominent statement:
WARNING: This feed must be used only in accordance with directions furnished on the label.
- (f) Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.
- (g) Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams, or in colony forming units per pound (CFU/lb.) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.
- (h) Guarantees for enzymes shall be stated in units of enzymatic activity per unit

weight or volume, consistent with label directions. The source organism for each type of enzymatic activity shall be specified, such as: Protease (*Bacillus*

subtilis) 5.5 mg amino acids liberated/min./milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

- (i) Guarantees for dietary starch, sugars, and fructans for Commercial Feeds, other than customer-formula feed, Pet Food and Specialty Pet Food Products:
 - (1) A commercial feed which bears on its labeling a claim in any manner for levels of “dietary starch,” “sugars,” “fructans,” or words of similar designation, shall include on the label:
 - (a) Guarantees for maximum percentage of dietary starch and maximum percentage sugars, in the Guaranteed Analysis section immediately following the last fiber guarantee.
 - (b) A maximum percentage guarantee for fructans immediately following sugars, if the feed contains forage products.
 - (2) When such guarantees for dietary starch, sugars or fructans for commercial feeds appear on the label, feeding directions shall indicate the proper use of the feed product and a recommendation to consult with a veterinarian or nutritionist for a recommended diet.

Regulation 5. Substantiation of Nutritional Suitability

- (a) A commercial feed, other than a customer-formula feed, shall be nutritionally suitable for its intended purpose as represented by its labeling.
- (b) If the _ has reasonable cause to believe a commercial feed is not nutritionally suitable, the _ may request the feed manufacturer to either submit an “Affidavit of Suitability” or an alternative procedure acceptable to the _, certifying the nutritional adequacy of the feed. The Affidavit of Suitability or alternate procedure of suitability shall serve as substantiation of the suitability of the feed.
- (c) If an Affidavit of Suitability, or alternative procedure acceptable to the _ is not submitted by the feed manufacturer within 30 days of written notification the _ may deem the feed adulterated under section 7(c) of this Act and order the feed removed from the marketplace.
- (d) The Affidavit of Suitability shall contain the following information:
 - (1) The feed company’s name;
 - (2) The feed’s product name;
 - (3) The name and title of the affiant submitting the document;
 - (4) A statement that the affiant has knowledge of the nutritional content of the feed and based on valid scientific evidence the feed is nutritionally adequate for its intended purpose;
 - (5) The date of submission; and
 - (6) The signature of the affiant notarized by a certified Notary Public.

Regulation 6. Ingredients

- (a) The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the Official Definitions of Feed Ingredients as published in the Official Publication of the Association of American Feed Control Officials, the common or usual name, or one approved by the _.
- (b) The name of each ingredient must be shown in letters or type of the same size.
- (c) No reference to quality or grade of an ingredient shall appear in the ingredient

statement of a feed.

- (d) The term “dehydrated” may precede the name of any product that has been artificially dried.
- (e) A single ingredient product defined by the Association of American Feed Control Officials is not required to have an ingredient statement.
- (f) Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e. sugar).
- (g) When the word “iodized” is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.

Regulation 7. Directions for Use and Precautionary Statements

- (a) Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or non-nutritive additives) shall:
 - (1) Be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and,
 - (2) Include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug, and Cosmetic Act.
- (b) Adequate directions for use and precautionary statements are required for feeds containing non-protein nitrogen as specified in Regulation 8.
- (c) Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.
- (d) Raw milk distributed as commercial feed shall bear the following statement: **“WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA.”** This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the quantity statement as shown in the following table:

Panel Size	Minimum Warning Statement Type Size
≤5 in. ²	1/16 in.
>5–≤25 in. ²	1/8 in.
>25–≤100 in. ²	3/16 in.
>100–≤400 in. ²	1/4 in.
>400 in. ²	1/2 in.

Regulation 8. Non-Protein Nitrogen

- (a) Urea and other non-protein nitrogen products defined in the Official Publication of the Association of American Feed Control Officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen, added as such, or the equivalent crude protein from all forms of non-protein nitrogen, added as such, exceeds one-third of the total crude protein, the label shall bear adequate

directions for the safe use of feeds and a precautionary statement: **“CAUTION: USE AS DIRECTED.”** The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

- (b) Non-protein nitrogen defined in the Official Publication of the Association of American Feed Control Officials, when so indicated, are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed 1.25% of the total daily ration.
- (c) On labels such as those for medicated feeds which bear adequate feeding directions and/or warning statements, the presence of added non-protein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of non-protein nitrogen.

Regulation 9. Drug and Feed Additives

- (a) Prior to approval of a registration application and/or approval of a label for commercial feed which contain additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.
- (b) Satisfactory evidence of safety and efficacy of a commercial feed may be:
 - (1) When the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in Title 21, Code of Federal Regulations, or which are “prior sanctioned” or “informal review sanctioned” or “generally recognized as safe” for such use, or
 - (2) When the commercial feed is itself a drug as defined in Section 3(g) of the Act and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Section 512 of the Federal Food, Drug, and Cosmetic Act, or
 - (3) When one of the purposes for feeding a commercial feed is to impart immunity (that is to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended, or
 - (4) When the commercial feed is a direct fed microbial product and:
 - I. The product meets the particular fermentation product definition; and
 - II. The microbial content statement, as expressed in the labeling, is limited to the following: “Contains a source of live (viable) naturally occurring microorganisms.” This statement shall appear on the label; and
 - III. The source is stated with a corresponding guarantee expressed in accordance with Regulation 4.(g).
 - (5) When the commercial feed is an enzyme product and:
 - I. The product meets the particular enzyme definition defined by the Association of American Feed Control Officials; and
 - II. The enzyme is stated with a corresponding guarantee expressed in accordance with Regulation 4.(h).

Regulation 10. Adulterants

- (a) For the purpose of Section 7(a)(1) of the Act, the terms “poisonous or deleterious substances” include but are not limited to the following:
 - (1) Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry.
 - (2) Fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine and 0.03% for poultry.
 - (3) Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that results in a daily fluorine intake in excess of 50 milligrams of Fluorine per 100 pounds of body weight.
 - (4) Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets which have been extracted with trichlorethylene or other chlorinated solvents.
 - (5) Sulfur dioxide, Sulfurous acid, and salts of Sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine).
- (b) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no more than _ viable prohibited weed seeds per pound and not more than _ viable restricted weed seeds per pound.

Regulation 11. Current Good Manufacturing Practices and Hazard Analysis and Risk-Based Preventive Controls

- (a) For the purposes of enforcement of Section 7(d) of the Act the _ adopts the following as current good manufacturing practices:
 - (1) The regulations prescribing good manufacturing practices for Type B and Type C medicated feeds as published in Title 21, Code of Federal Regulations, 225.1–225.202.
 - (2) The regulations prescribing good manufacturing practices for Type A Medicated Articles as published in the Title 21, Code of Federal Regulations, 226.1–226.115.
- (b) Pursuant to Section 10 of the Act, the _ adopts the requirements of Title 21, Code of Federal Regulations, part 507.

Regulation 12. Certain Mammalian Proteins Prohibited in Ruminant Feed

- (a) Pursuant to Section 7(a)(1) or 7(a)(3) of the Act, the _ adopts the requirements of Title 21, Code of Federal Regulations, 589.2000.
- (b) Pursuant to Section 7(a)(1) or 7(a)(3) of the Act, the _ adopts the requirements of Title 21, Code of Federal Regulations, 589.2001.

AFFIDAVIT

Affidavit of Suitability

(Company Name)

(Product Name and Code Number)

1. Affiant is the _ of _
(Title) (Name of Company)
and is duly authorized to make and execute this Affidavit for and on behalf of said company.
2. Affiant has knowledge of the nutritional content of the above listed feed product and is familiar with the nutritional requirements for the animal species and animal class(es) for which the feed product is intended.
3. Affiant has knowledge of valid scientific evidence that supports the suitability of the product for the intended animal species and animal class for which this feed is intended. A copy of the product label is attached to this affidavit.

- _____
(Name of Company)

By _
(Name)

(Title)

Subscribed and sworn to before me

this _ day of _ , 20_

(Notary Public)

Criteria for Labeling Nutritional Indicators

Section Editor—Chair, Feed Labeling Committee

I. Nutritional Considerations

- (a) Nutritional indicators identified as important by 50% of a panel of 10 recognized experts chosen by the joint AAFCO/Industry Label Task Force will be required as a guarantee provided that the other requirements of these criteria are met. **Five of the experts shall be from Land Grant Universities and 5 from the regulated industry.**
- (b) The nutritional indicator must be compatible with the feed product's intended purpose to be permitted as a guarantee.
- (c) There must be a general recognition and understanding of the nutritional indicator by the feeder, to be permitted as a guarantee.
- (d) If feeding safety or efficacy is dependent upon the knowledge of presence and level of a nutritional indicator, it may be required as a guarantee even though it was not identified in I (a) above.

II. Enforceability

To be permitted as a guarantee, a nutrient indicator must be: verifiable by an established AOAC method; or other recognized method.

III. Economics

- (a) It will be assumed that there will be a commensurate benefit to the feeder from the guarantee of the nutrient, unless evidence is provided to show that the cost of the state monitoring and/or industry implementation of the guarantee would not provide commensurate value to the feeder.

IV. Historically Required

If the nutritional indicator has a historical significance and is required by current state law and/or regulation, then only this criterion applies and the nutritional indicator should be guaranteed.

Exception

A nutritional indicator may be removed if agreed upon by two-thirds of the members of the expert panel established in I(a).

V. Voluntary Guarantees

- (a) May be included on a feed label provided that criteria established by II and III above are met.

Model Regulations for Pet Food and Specialty Pet Food Under the Model Bill

Section Editor—Stan Cook, MO

These Model Regulations are approved by the Association of American Feed Control Officials (AAFCO) under the Model Bill and in conjunction with the Model Regulations. States proposing to adopt these Model Regulations for Pet Food and Specialty Pet Food under their own state feed law are encouraged to adopt AAFCO's Model Regulations for feed, which also apply to pet food and specialty pet food, unless otherwise noted within these regulations.

Pursuant to due publication and public hearing required by the provisions of Chapter _____ of the Laws of this State, the _____ has adopted the following Rules and Regulations.

Regulation PF1. Definitions and Terms

The definitions in the Model Bill and Model Regulations shall apply in addition to the following:

- (a) "All Life Stages" means gestation/lactation, growth, and adult maintenance life stages.
- (b) "Family" means a group of products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an AAFCO feeding protocol(s).
- (c) "Immediate Container" means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.
- (d) "Ingredient Statement" means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.
- (e) "Principal Display Panel" means the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

Regulation PF2. Label Format and Labeling

- (a) Pet food and specialty pet food shall be labeled with the following information prescribed in this Regulation:
 - (1) Product name and brand name, if any, on the principal display panel as stipulated in Regulation PF3;
 - (2) A Statement specifying the species name of pet or specialty pet for which the food is intended, conspicuously designated on the principal display panel;
 - (3) Quantity statement, as defined in Section 3(s) of this Act and Regulation 3(a)(8) of the Model Regulations, by weight (pounds and ounces, and metric), liquid measure (quarts, pints and fluid ounces, and metric) or by count, on the principal display panel;
 - (4) Guaranteed analysis as stipulated in Regulation PF4;
 - (5) Ingredient statement as stipulated in Regulation PF5(a);
 - (6) A statement of nutritional adequacy or purpose if required under Regulation PF7;
 - (7) Feeding directions if required under Regulation PF8; and
 - (8) Name and address of the manufacturer or distributor as stipulated in Regulation PF11.
- (b) When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.

- (c) A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.
- (d) The use of the word “proven” in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.
- (e) No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.
- (f) A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.
- (g) A statement on a pet food or specialty pet food label stating “Improved,” “New,” or similar designation shall be substantiated and limited to six (6) months production.
- (h) A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated.
- (i) Raw milk distributed as pet food or specialty pet food shall bear the following statement **“WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA.”** This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the quantity statement as shown in the following table:

Panel Size	Minimum Warning Statement Type Size
≤5 in. ²	1/16 in.
>5–≤25 in. ²	1/8 in.
>25–≤100 in. ²	3/16 in.
>100–≤400 in. ²	1/4 in.
>400 in. ²	1/2 in.

Regulation PF3. Brand and Product Names

- (a) The words “100%,” or “All,” or words of similar designation shall not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one ingredient, not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments.
- (b) An ingredient or combination of ingredients may form part of a product name of a pet food or specialty pet food:
 - (1) When the ingredient(s) constitutes at least 95% of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredients shall constitute at least 70% of the total product weight.
 - (2) When any ingredient(s) constitutes at least 25% of the weight of the product, provided that:
 - A. Water sufficient for processing may be excluded when calculating the percentage, however, the ingredients(s) shall constitute at least 10% of the total product weight; and
 - B. A descriptor is used with the ingredient name(s). This descriptor shall imply other ingredients are included in the product formula.

Examples of descriptors include “dinner,” “platter,” “entree,” “formula,” and “recipe”; and

- C. The descriptor shall be in the same size, style, and color print as the ingredient name(s).
- (3) When a combination of ingredients which are included in the product name in accordance with Regulation PF3(b) meets all of the following:
 - A. Each ingredient constitutes at least 3% of the product weight, excluding water sufficient for processing; and
 - B. The names of the ingredients appear in the order of their respective predominance by weight in the product; and
 - C. All such ingredient names appear on the label in the same size, style, and color print.
- (c) When the name of any ingredient appears in the product name of a pet food specialty pet food or elsewhere on the product label and includes a descriptor such as “with” or similar designation, the named ingredient(s) must each constitute at least 3% of the product weight exclusive of water for processing. If the names of more than one ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The 3% minimum level shall not apply to claims for nutrients, such as, but not limited to, vitamins, minerals, and fatty acids, as well as condiments. The word “with,” or similar designation, and named ingredients shall be in the same size, style, color and case print and be of no greater size than:

Panel Size	Max “With Claim” Type Size
≤5 in. ²	1/8 in.
>5–≤25 in. ²	1/4 in.
>25–≤100 in. ²	3/8 in.
>100–≤400 in. ²	1/2 in.
>400 in. ²	1 in.

- (d) A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:
 - (1) The flavor designation:
 - A. Conforms to the name of the ingredient as listed in the ingredient statement; or
 - B. Is identified by the source of the flavor in the ingredient statement; and
 - (2) The word “flavor” is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and
 - (3) Substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.
- (e) The product name of the pet food or specialty pet food shall not be derived from one or more ingredients unless all ingredients are included in the name, except as specified by Regulation PF3 (b) or (c); provided that the name of an ingredient or combination of ingredients may be used as a part of the product name if:
 - (1) The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present

- in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser thereof; or
- (2) It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients.
 - (f) Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with Regulation PF3 (b), (c), or (d).
 - (g) When pet food or specialty pet food consists of raw milk, the words, “Raw (blank) Milk” shall appear conspicuously on the principal display panel. (Blank is to be completed by using the species of animal from which the raw milk is collected.)

Regulation PF4. Expression of Guarantees

- (a) The “Guaranteed Analysis” shall be listed in the following order and format unless otherwise specified in these Regulations:
 - (1) A pet food or specialty pet food label shall list the following required guarantees;
 - A. Minimum percentage of crude protein;
 - B. Minimum percentage of crude fat;
 - C. Maximum percentage of crude fat, if required by Regulation PF10;
 - D. Maximum percentage of crude fiber;
 - E. Maximum percentage of moisture; and
 - F. Additional guarantees shall follow moisture.
 - (2) When ash is listed in the guaranteed analysis on a pet food or specialty pet food label, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.
 - (3) A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles. Guarantees for substances not listed in the AAFCO Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer “not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles.” The disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees.
 - (4) A specialty pet food label shall list other required or voluntary guarantees in the same order and units of the nutrients in an AAFCO-recognized nutrient profile for the specific species; however, if no species-specific AAFCO-recognized nutrient profile is available, the order and units shall follow the same order and units of nutrients in the AAFCO Cat Food Nutrient Profile. Guarantees for substances not listed in an AAFCO recognized nutrient profile for the specific species of animal shall immediately follow the listing of recognized nutrients and shall be accompanied by an asterisk referring to the disclaimer “not recognized as an essential nutrient by the .” (Blank is to be completed by listing the specific AAFCO recognized nutrient profile.) This disclaimer shall appear immediately after the last such guarantee in the same size type as the guarantees. No such disclaimer shall be required unless an AAFCO-recognized nutrient profile is available for the specific species of specialty pet.
- (b) The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label (for example, “Minimum crude protein 15–18%”) is prohibited.

- (c) The label of a pet food or a specialty pet food which is formulated as and represented to be a mineral supplement shall include:
 - (1) Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed as the element in units specified in the nutrient profile; or
 - (2) Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units specified in the AAFCO Cat Food Nutrient Profiles when no species-specific nutrient profile has been recognized by AAFCO; and provided that
 - (3) Mineral guarantees required by Regulation PF4 (c)(1) and (2) may be expressed in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
 - (4) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.
- (d) The label of a pet food or a specialty pet food which is formulated as and represented to be a vitamin supplement shall include:
 - (1) Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed in units specified in the nutrient profile; or
 - (2) Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in the AAFCO Cat Food Nutrient Profiles when no species-specific nutrient profile has been recognized by AAFCO; and provided that
 - (3) Vitamin guarantees required by Regulation PF4(d)(1) and (2), may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
 - (4) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.
- (e) When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following apply:
 - (1) The product shall meet the AAFCO-recognized nutrient profile; and
 - (2) The statement of comparison shall be preceded by a statement that the product meets the AAFCO-recognized profile: however, the statement that the product meets the AAFCO-recognized nutrient profile is not required provided that the nutritional adequacy statement as per Regulation PF7(a)(1) or PF7(b)(2)(A) appears elsewhere on the product label; and
 - (3) The statement of comparison of the nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and
 - (4) The statement of comparison may appear on the label separate and apart from the guaranteed analysis.
- (f) The maximum moisture declared on a pet food or specialty pet food label shall not exceed 78.00% or the natural moisture content of the ingredients, whichever is higher. However, pet food and specialty pet food such as, but not limited to, those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer, and which are so labeled, may contain moisture in excess of 78.00%.
- (g) Guarantees for crude protein, crude fat, and crude fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.

- (h) Guarantees for microorganisms and enzymes shall be stated in the format as stipulated in Model Regulations 4(g) and (h).

Regulation PF5. Ingredients

- (a) Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:
 - (1) The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size, style and color;
 - (2) The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms;
 - (3) Ingredients shall be listed and identified by the name and definition established by AAFCO; and
 - (4) Any ingredient for which no name and definition have been so established shall be identified by the common or usual name of the ingredient.
- (b) The ingredients “meat” or “meat by-products” shall be qualified to designate the animal from which the meat or meat by-products are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof. For example, ingredients derived from horses shall be listed as “horsemeat” or “horsemeat by-products.”
- (c) Brand or trade names shall not be used in the ingredient statement.
- (d) A reference to the quality, nature, form, or other attribute of an ingredient shall be allowed when the reference meets all of the following:
 - (1) The designation is not false or misleading;
 - (2) The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and
 - (3) A reference to quality or grade of the ingredient does not appear in the ingredient statement.

Regulation PF6. Drugs and Pet Food Additives

- (a) An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets or specialty pets.
- (b) Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:
 - (1) When the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are “prior sanctioned” or “informal review sanctioned” or “Generally Recognized as Safe” for such use; or
 - (2) When the pet food or specialty pet food itself is a drug or contains a drug as defined in Section 3 (g) of this Act and is “generally recognized as safe and effective” for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b).
- (c) When a drug is included in a pet food or specialty pet food, the format required by Model Regulation 3(a)(2) for labeling medicated feeds shall be used.

Regulation PF7. Nutritional Adequacy

- (a) The label of a pet food or specialty pet food which is intended for all life stages and sizes of the pet or specialty pet may include an unqualified claim, directly or indirectly, such as “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” if at least one of the following apply:
 - (1) The product meets the nutrient requirements for all life stages and sizes established by an AAFCO-recognized nutrient profile; or
 - (2) The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s); or
 - (3) The product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, provided that:
 - A. The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and
 - B. The family product meets the criteria for all life stages; and
 - C. Under circumstances of reasonable doubt, the (State Control Official) may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.
- (b) The label of a pet food or specialty pet food which is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes, may include a qualified claim such as “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” when the product and claim meet all of the following:
 - (1) The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, “complete and balanced for puppies (or kittens).” The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style and color print; and
 - (2) The product meets at least one of the following:
 - A. The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile; or
 - B. The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s); or
 - C. The requirements of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and provided that:
 - i. The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and
 - ii. The family product meets the criteria for such limited purpose; and
 - iii. Under circumstances of reasonable doubt, the (State Control Official) may require the manufacturer to perform additional testing for the family product to substantiate the claim of nutritional adequacy.
- (c) Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except when the dog or cat food is clearly and

conspicuously identified on the principal display panel as a “snack,” “treat,” or “supplement.” The statement shall consist of one of the following:

- (1) A claim that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one of the following:
 - A. “(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for _ .” (Blank is to be completed by using the stage or stages of the pet’s life, such as gestation/lactation, growth, maintenance or the words “All Life Stages”). For a dog food, when the blank includes the words “Growth” or “All Life Stages,” one of the following phrases must also be added verbatim to the end of the claim:
 - i. “including growth of large size dogs (70 lb. or more as an adult)” if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs.
 - ii. “except for growth of large size dogs (70 lb. or more as an adult)” if the product has not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs; or
 - B. “Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for _ .” (Blank is to be completed by using the stage or stages of the pet’s life tested, such as, gestation/lactation, growth, maintenance or the words “All Life Stages”); or
 - C. “(Name of Product) provides complete and balanced nutrition for _ .” (Blank is to be completed by using the stage or stages of the pet’s life, such as gestation, lactation, growth, maintenance or the words “All Life Stages”) and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests.”
- (2) A nutritional or dietary claim for purposes other than those listed in Regulation PF7(a) or (b) if the claim is scientifically substantiated; or
- (3) The statement: “This product is intended for intermittent or supplemental feeding only,” if a product does not meet the requirements of Regulation PF7(a) or (b) or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.
- (d) A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with Regulation PF7(c)(1) or (3).
- (e) A signed affidavit attesting that the product meets the requirements of Regulation PF7(a) or PF7(b)(2) shall be submitted to the _ upon request.
- (f) If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated.
- (g) The following AAFCO-recognized nutritional authority, nutrient profile, and/or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:
 - (1) As an AAFCO-recognized nutrient profile or nutritional authority:
 - A. For dogs, the AAFCO Dog Food Nutrient Profiles;
 - B. For cats, the AAFCO Cat Food Nutrient Profiles;

- C. For specialty pets, the nutrient recommendations approved by the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences, provided that, this nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended.
- (2) As an AAFCO-recognized animal feeding protocol(s), the AAFCO Dog and Cat Food Feeding Protocols.

Regulation PF8. Feeding Directions

- (a) Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in Regulation PF7(c)(1), except those pet foods labeled in accordance with Regulation PF7(d), shall list feeding directions on the product label. These directions shall be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared elsewhere (e.g., “adult formula”). These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state, “Feed (weight/unit of product) per (weight only) of dog (or cat).” The frequency of feeding shall also be specified.
- (b) When a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement: “Use only as directed by your veterinarian” may be used in lieu of feeding directions.
- (c) Specialty pet food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in Regulation PF7(a), shall list feeding directions on the product label. These feeding directions shall be adequate to meet the nutrient requirements of the intended species of specialty pet as recommended by the AAFCO-recognized nutritional authority. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified.

Regulation PF9. Statements of Calorie Content

- (a) The label of a dog or cat food, including snacks, treats, and supplements, shall bear a statement of calorie content and meet all of the following:
 - (1) The statement shall be separate and distinct from the “Guaranteed Analysis” and appear under the heading “Calorie Content”;
 - (2) The statement shall be measured in terms of metabolizable energy (ME) on an “as fed” basis and must be expressed both as “kilocalories per kilogram” (“kcal/kg”) of product, and as kilocalories per familiar household measure (e.g., cans or cups) or unit of product (e.g., treats or pieces); and
 - (3) The calorie content is determined by one of the following methods:
 - A. By calculation using the following “Modified Atwater” formula:

$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})],$$
 where ME = metabolizable energy,
 CP = % crude protein “as fed,”
 CF = % crude fat “as fed,”
 NFE = % nitrogen-free extract (carbohydrate) “as fed,”
 and the percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference

- between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture and ash (determined in the same manner as CP and CF); or
- B. In accordance with a testing procedure established by AAFCO.
- (4) An affidavit shall be provided upon the request of _____, substantiating that the calorie content was determined by:
- A. Regulation PF9(a)(3)A in which case the summary data used in the calculation shall be included in the affidavit; or
 - B. Regulation PF9(a)(3)B in which case the summary data used in the determination of calorie content shall accompany the affidavit.
- (5) The calorie content statement shall appear as one of the following:
- A. The heading “Calorie Content” on the label or other labeling shall be followed parenthetically by the word “calculated” when the calorie content is determined in accordance with Regulation PF9(a)(3)A; or
 - B. The heading “Calorie Content” on the label or other labeling shall be followed parenthetically by the word “fed” when the calorie content is determined in accordance with Regulation PF9(a)(3)B.
- (b) Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

Regulation PF10. Descriptive Terms

- (a) Calorie Terms
 - (1) “Light”
 - A. A dog food product which bears on its label the terms “light,” “lite,” “low calorie,” or words of similar designation shall:
 - i. Contain no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and
 - ii. Include on the label a calorie content statement:
 - aa. In accordance with the format provided in Regulation PF9; and
 - bb. Which states no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and
 - iii. Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.
 - B. A cat food product which bears on its label the terms “light,” “lite,” “low calorie,” or words of similar designation shall:
 - i. Contain no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and
 - ii. Include on the label a calorie content statement:
 - aa. In accordance with the format provided in Regulation PF9; and
 - bb. Which states no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less

- than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and
 - iii. Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.
- (2) “Less” or “Reduced Calories”
 - A. A dog or cat food product which bears on its label a claim of “less calories,” “reduced calories,” or words of similar designation, shall include on the label:
 - i. The name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and
 - ii. The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and
 - iii. A calorie content statement in accordance with the format provided in Regulation PF9; and
 - iv. Feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison.
 - B. A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.
- (b) Fat Terms
 - (1) “Lean”
 - A. A dog food product which bears on its label the terms “lean,” “low fat,” or words of similar designation shall:
 - i. Contain no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture;
 - ii. Include on the product label in the Guaranteed Analysis:
 - aa. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Regulation PF4(a)(1); and
 - bb. A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.
 - B. A cat food product which bears on its label the terms “lean,” “low fat,” or words of similar designation shall:
 - i. Contain a maximum percentage of crude fat which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture; and
 - ii. Include on the product label in the Guaranteed Analysis:
 - aa. A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Regulation PF4(a)(1); and

- bb. A maximum crude fat guarantee which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture.
- (2) “Less” or “Reduced Fat”
 - A. A dog or cat food product which bears on its label a claim of “less fat,” “reduced fat,” or words of similar designation, shall include on the label:
 - i. The name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and
 - ii. The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and
 - iii. A maximum crude fat guarantee in the Guaranteed Analysis immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Regulation PF4(a)(1).
 - B. A comparison on the label between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

Regulation PF11. Manufacturer or Distributor; Name and Address

- (a) The label of a pet food or specialty pet food shall specify the name and address of the manufacturer or distributor. The statement of the place of business shall include the street address, city, state, and zip code; however, the street address may be omitted if such street address is shown in a current city directory or telephone directory for the city listed on the label.
- (b) When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.

Guidelines for Tartar Control Claims

The AAFCO Pet Food Committee supports and recommends the following guidelines as developed by the Center for Veterinary Medicine of the US Food and Drug Administration for dental health claims with respect to rawhides, biscuits, and other pet food products:

- (1) Foods bearing claims to cleanse, freshen, or whiten teeth by virtue of their abrasive or mechanical action are not objectionable.
- (2) Foods bearing claims for plaque or tartar reduction or prevention, or control of breath odor may be misbranded. However, if these claims are made only with respect to the products’ abrasive action, enforcement would be a low priority. Thus, CVM is exercising discretion by not objecting to these types of claims at this time.
- (3) Foods bearing expressed or implied drug claims to prevent or treat dental diseases (e.g., gingivitis, gum problems, tooth loss) are not permissible unless they are the subject of approved New Animal Drug Applications.
- (4) Food ingredients that are not GRAS (generally recognized as safe) for the intended purpose of affecting the teeth or gums may be unapproved food additives or unapproved drugs, depending on the nature of the claim.

- (5) Foods bearing claims for plaque or tartar reduction, prevention, or control of breath odor that achieve their effect, in part or in total, by means other than mechanical action must have an approved New Animal Drug Application or a letter of no objection from the FDA prior to being marketed.

Guidelines for “Natural” Claims

AAFCO recommends and supports the following guidelines for use of the term “natural” in the labeling of commercial feeds, pet foods, and specialty pet foods.

- (1) In the AAFCO-defined feed term “natural,” the use of the term “natural” is only acceptable in reference to the product as a whole when all of the ingredients and components of ingredients meet the definition.
- (2) In the definition, the use of the term “natural” is false and misleading if any chemically synthesized ingredients are present in the product; however, AAFCO recommends that exceptions be made in the cases when chemically synthesized vitamins, minerals, or other trace nutrients are present as ingredients in the product, provided that the product is not a dietary supplement and that a disclaimer is used to inform the consumer that the vitamins, minerals or other trace nutrients are not natural.

AAFCO recommends that an acceptable use of the disclaimer would be stated as follows on the product labeling:

- A. The disclaimer, such as “Natural with added vitamins, minerals, and other trace nutrients [include the items as appropriate to match the chemically synthesized ingredient(s)],” is juxtaposed with the term “natural”; and
 - B. The disclaimer appears with the largest or most prominent use of the term “natural” on each panel of the label on which the term appears, in the same style and color print and at least one-half the size of the term “natural”; and
 - C. All other ingredients and components of ingredients in the product meet the definition of the AAFCO-approved feed term “natural.”
- (3) If the disclaimer that is juxtaposed with the term “natural” is used only to identify in generic terms those vitamins, minerals and other trace nutrients which are not natural, AAFCO recommends that the disclaimer should not be construed as a nutrient claim which would warrant vitamin and mineral guarantees. However, if the disclaimer makes reference to a specific nutrient (e.g., “with added calcium”), a guarantee would be warranted.
 - (4) AAFCO also recommends that exceptions be made when the term “natural” is used only in reference to a specific ingredient (e.g., “natural cheese flavor”), even though the product as a whole may not meet the definition of the AAFCO-defined feed term “natural,” and that the reference does not imply that the product as a whole is “natural.”

Guidelines for “Human Grade” Claims

AAFCO recommends and supports the following guidelines for the use of the term “human grade” in the labeling of pet foods and specialty pet foods.

- (1) In the AAFCO-defined feed term “human grade,” the use of the term “human grade” is only acceptable in reference to the product as a whole. The feed term specifies that every ingredient and the resulting product must be stored, handled, processed, and transported in a manner that is consistent and compliant with regulations for current good manufacturing practices (cGMPs) for human edible foods as specified in 21 CFR part 117.
- (2) In the definition, the term “human grade” is false and misleading if the product

as a whole is not human edible. “Human grade” claims may not be made for individual ingredients in a finished product that does not fully adhere to the manufacturing and ingredient specifications identified above.

- (3) In order to substantiate that a “human grade” claim is truthful and not misleading, a manufacturer making one or more “human grade” claims must have documentation that:
 - A. Each of the individual ingredient suppliers has verified that the individual ingredients supplied to the manufacturer are fit for human consumption.
 - B. Every ingredient and the resulting product are stored, handled, processed, and transported in a manner that is consistent and compliant with regulations for cGMPs for human edible foods as specified in 21 CFR part 117.
 - C. The manufacturing facility is licensed to produce human food by the appropriate authority (which varies by jurisdiction). Such evidence may include, but is not limited to, facility licenses or permits for operation of edible food manufacturing facilities or results of most recent inspections issued by local, county, or state public health authorities.
- (4) A pet food or specialty pet food product with “human grade” claims must be clearly labeled for its intended use as animal food, such as “dog food” or “cat treats,” and follow all other pet food or specialty pet food labeling requirements. The following also applies to labeling:
 - A. Statements of quality or grade may not appear in the ingredient statement [PF5(d)(3)].
 - B. All uses of the words “human grade” on the label can be no larger than the statement of intended use required by PF2(a)(2).
 - C. A claim of “human grade ingredients” is only acceptable if the product complies with all parts of this guideline.
 - D. In order to use the term “human grade” on labeling (brochures, point of sale materials, websites, etc.), the statement of intended use must also be included. All uses of the words “human grade” on labeling can be no larger than the statement of intended use.

AAFCO Methods for Substantiating Nutritional Adequacy of Dog and Cat Foods

This section contains the minimum testing methods for the substantiation of nutritional adequacy claims, calorie content claims, and procedures for establishing pet food product families referenced in AAFCO Model Pet Food and Specialty Pet Food Regulations PF2, 4, 7, 8, 9 and/or 10. These methods represent minimum requirements. Companies may choose, or may need, to perform additional testing to substantiate their claims.

AAFCO Dog and Cat Food Nutrient Profiles—Introduction

The Pet Food committee recommends that the revisions to the AAFCO Dog and Cat Food Nutrient Profiles not be enforced until 12 months (1/1/2017) for new products in development and 24 months (1/1/2018) for existing products after publication of the revised AAFCO Dog and Cat Food Nutrient Profiles in the print version of the AAFCO OP.

The Pet Food committee also recommends that the revisions to PF7 of the Pet Food Model Regulations for Pet and Specialty Pet Food Under the Model Bill not be enforced

until enforcement commences for the revised AAFCO Dog and Cat Food Nutrient Profiles.

Delayed enforcement and implementation of the revised PF7 language for nutritional adequacy statements would allow nutritional adequacy statements on products in the market place to be either: verbatim as shown in 2014 OP hard copy, or verbatim as shown in the OP hard copy containing the revised nutrient profiles, until 24 months after publication of the revised nutrient profiles at which time the statement must be as verbatim in the revised PF7.

The original Canine and Feline Nutrition Expert Subcommittees convened in 1990 were charged by the chair of the AAFCO Pet Food Committee to establish practical nutrient profiles for both dog and cat foods based on commonly used ingredients. These subcommittees established the “AAFCO Dog Food Nutrient Profiles” and the “AAFCO Cat Food Nutrient Profiles” that appeared in the Official Publication of the AAFCO in 1992 and 1993, respectively. The profiles were reviewed in 1994/95 and updates to the maximum concentrations for vitamin A in dog foods were implemented in 1996.

The National Research Council (NRC) in 2006 updated its published *Nutrient Requirements of Dogs* and *Nutrient Requirements of Cats* in a single publication that combined recommendations for both species.¹ In 2007 the AAFCO Pet Food Committee again formed Canine and Feline Nutrition Expert Subcommittees and charged these subcommittees with the task of revising the AAFCO Nutrient Profiles in consideration of the information in the 2006 NRC *Nutrient Requirements of Dogs and Cats* (2006 NRC). In addition, the subcommittees considered information in the NRC *Mineral Tolerance of Animals Second Revised Edition, 2005* (2005 *Mineral Tolerance of Animals*).² Finally, the subcommittees also reviewed and considered the recommended nutrient concentrations for dog and cat food products as published in February 2008 by the European Pet Food Industry Federation (Federation Europeenne de l’Industrie des Aliments pour Animaux Familiers (FEDIAF)), titled *F.E.D.I.A.F. Nutritional Guidelines for Complete and Complementary Pet Food for Cats and Dogs*, (FEDIAF Guidelines) that are roughly the European equivalent to the AAFCO Dog and Cat Food Nutrient Profiles.³

The AAFCO Dog and Cat Food Nutrient Profiles were designed to establish practical minimum and some maximum nutrient concentrations for dog and cat foods, formulated from commonly used, non-purified, complex ingredients. The concentrations differ from minimum nutrient requirements traditionally developed by the NRC Committee on Animal Nutrition. Many of the NRC minimum nutrient requirements are based on research with purified diets and/or highly bioavailable nutrient sources that are not practical to use in commercial dog and cat foods. Therefore, unlike the previous NRC publications *Nutrient Requirements of Dogs* in 1985⁴ and *Nutrient Requirements of Cats* in 1986,⁵ the *Nutrient Requirements of Dogs and Cats* in 2006 contained two additional listings of nutrient concentrations for adequate intake and recommended allowance (RA) in addition to minimum requirements. The concentrations for RA’s of nutrients in the 2006 NRC are at least equal to, or greater than, concentrations for adequate intakes and minimum requirements, respectively, and are defined as “the concentration or amount of a nutrient in a diet formulated to support a given physiological state.” When appropriate, the RA takes into consideration the bioavailability of the nutrient. Thus, the Canine and Feline Nutrition Expert Subcommittees of 2007 primarily used the RA in the 2006 *Nutrient Requirements of Dogs and Cats* in evaluating whether revision was needed to one or more of the minimum recommended concentrations in the profiles. Values for specific nutrient concentrations were added or modified where indicated and supported by recent scientific publications, practical experience, or unpublished data.

The AAFCO Dog and Cat Food Nutrient Profiles have been criticized and faulted for not explicitly indicating the apparent nutrient digestibility, sometimes called nutrient

availability or bioavailability, required to make the listed concentrations adequate for meeting the animal's daily requirements. When a minimum requirement has been established for a particular nutrient, the expected apparent digestibility to meet the minimum requirement for that nutrient at the recommended concentration listed in an AAFCO Nutrient Profile can be calculated using the formula:

$$\frac{[(\text{minimum requirement}) \times (\text{its apparent digestibility in the diet(s) used to establish the minimum requirement}) / (\text{recommended concentration in the AAFCO Profile})] \times 100.}$$

In the above formula, the minimum requirement is expressed in the same units as in the AAFCO Nutrient Profile and digestibility is expressed in decimal equivalents. As an example, the NRC lists the minimum crude protein requirement for puppies to be met by formulas containing 18% crude protein on a dry matter basis with the digestibility of the protein sources estimated to be near 100%. The 2016 AAFCO Dog Food Nutrient Profile for Growth and Reproduction recommends the minimum crude protein concentration of dry matter to be 22.5%. Therefore, the expected apparent digestibility for crude protein in a diet formulated to meet the AAFCO Dog Food Nutrient Profile for Growth and Reproduction is at least 80% $[(18 \times (1.00)/22.5) \times 100]$.

For nutrients known to be essential, but that lack sufficient data to establish a minimum requirement, the typical digestibility for the nutrient in ingredients and food matrices similar to those used to establish the apparent amount to fulfill the animal's need for the nutrient should be ensured. The 2006 *Nutrient Requirements of Dogs and Cats* discusses average or typical apparent digestibility for such nutrients when explaining how a RA was set. As an example, for adult dogs there is no established minimum requirement for iron, although iron is considered essential for adult dogs. In setting the RA of 30 mg/kg in dietary dry matter for adult maintenance, the NRC subcommittee considered the apparent digestibility of iron to be 20%. However, the explanatory text in the publication notes that measured apparent digestibility of iron in the scientific literature has ranged from close to 100% to less than 10%, and is affected by numerous factors such as the specific source of iron, the concentration of other specific minerals or other ingredients in the diet, as well as the iron status of the animal.

The specific example for iron can be generalized to most essential minerals, and demonstrates the impossibility that any list of concentrations can invariably ensure that all nutrient requirements are fulfilled in all diet formulas without additional considerations. As stated for the previous editions of the AAFCO Dog and Cat Food Nutrient Profiles, formulating a product according to the Profiles is only one part of a nutritionally sound, scientific development that must consider all other aspects of the product. The fact that a dog or cat food is formulated to meet a specific AAFCO Profile should not deter or discourage the manufacturer from conducting appropriate feeding trials to further confirm and ensure the diet is nutritionally adequate for its intended use.

Indications regarding expected nutrient availability from some ingredient sources are given in footnotes. It is important to read the footnotes to the tables as they contain information critical to many of the recommended concentrations. Additionally, manufacturers must make allowances to nutrient concentrations prior to processing to account for losses during processing and subsequent storage. The recommended concentrations in the Profiles are those expected to be present at the time the formula is consumed by the animal.

The established profiles are the "AAFCO Dog Food Nutrient Profiles" and "AAFCO Cat Food Nutrient Profiles" as the terms are applied in AAFCO model pet food regulations referring to nutritional adequacy. Under these model regulations, dog and cat foods substantiated for nutritional adequacy by reference to the AAFCO Dog and Cat Food Nutrient Profiles for a designated life stage(s) must be formulated to contain

at least the minimum concentrations of nutrients specified in the Profiles, and, for some nutrients, not more than any maximum concentration listed for that specific nutrient in the Profiles as shown in this section. Products with their nutritional adequacy substantiated by AAFCO Feeding Protocols are not mandated to meet the minimum or maximum concentrations listed in the Profiles. Additionally, snacks, treats or products intended for intermittent or supplemental feeding only are not mandated to meet the concentrations in the Profiles unless their labeling references the Profiles.

The AAFCO Dog and Cat Food Nutrient Profiles and the AAFCO Feeding Protocols are the only methods recognized by AAFCO for substantiating the nutritional adequacy of “complete and balanced” dog or cat foods. If a product is substantiated by a feeding trial and does not meet the AAFCO Dog or Cat Food Nutrient Profiles, the label cannot reference the Profiles. An unqualified reference to an AAFCO Dog or Cat Food Nutrient Profile is an implied guarantee that the product contains the minimum concentrations for all nutrients in the profile and no more than any maximum concentration listed for a specific nutrient in the profile.

Minimum and some maximum nutrient concentrations were established in the Profiles for two categories; growth and reproduction (gestation/lactation), and adult maintenance. Maximum nutrient concentrations were established for nutrients where the potential for overuse or toxicity is of concern and likely to occur if attention is not paid to the concentrations of those nutrients. The absence of a maximum concentration should not be interpreted to mean that nutrients without a specific maximum content are safe at any concentration. Rather, it reflects the lack of information in dogs and cats on toxic concentrations of that nutrient. Establishing a maximum concentration implies safety below that concentration for long term consumption and to set a maximum arbitrarily might prove worse than no maximum at all.

The nutrient concentrations are expressed on a dry matter (DM) basis and at a specified caloric density. Diets should be corrected for caloric density as indicated below. Reference to the concentrations of nutrients on a product label in the guaranteed analysis must be expressed in the same units and order as given in the AAFCO Dog or Cat Food Nutrient Profiles. For the purposes of determining metabolizable energy (ME), use the methods specified in Model Regulation PF9.

AAFCO Dog Food Nutrient Profiles Based on Dry Matter^a

Nutrient	Units DM Basis	Growth and Reproduction Minimum	Adult Maintenance Minimum^b	Maximum
Crude protein	%	22.5	18.0	
Arginine	%	1.0	0.51	
Histidine	%	0.44	0.19	
Isoleucine	%	0.71	0.38	
Leucine	%	1.29	0.68	
Lysine	%	0.90	0.63	
Methionine	%	0.35	0.33	
Methionine-cystine	%	0.70	0.65	
Phenylalanine	%	0.83	0.45	
Phenylalanine-tyrosine	%	1.30	0.74	

(continued)

Nutrient	Units DM Basis	Growth and Reproduction Minimum	Adult Maintenance Minimum^b	Maximum
Threonine	%	1.04	0.48	
Tryptophan	%	0.20	0.16	
Valine	%	0.68	0.49	
Crude fat ^c	%	8.5	5.5	
Linoleic acid	%	1.3	1.1	
alpha-Linolenic acid	%	0.08	ND ^d	
Eicosapentaenoic + Docosahexaenoic acid	%	0.05	ND ^d	
(Linoleic + Arachidonic):(alpha- Linolenic + Eicosapentaenoic + Docosahexaenoic) acid ratio				30:1
Minerals				
Calcium	%	1.2	0.5	2.5 (1.8) ^e
Phosphorus	%	1.0	0.4	1.6
Ca:P ratio		1:1	1:1	2:1
Potassium	%	0.6	0.6	
Sodium	%	0.3	0.08	
Chloride	%	0.45	0.12	
Magnesium	%	0.06	0.06	
Iron ^f	mg/kg	88	40	
Copper ^g	mg/kg	12.4	7.3	
Manganese	mg/kg	7.2	5.0	
Zinc	mg/kg	100	80	
Iodine	mg/kg	1.0	1.0	11
Selenium	mg/kg	0.35	0.35	2
Vitamins and others				
Vitamin A	IU/kg	5000	5000	250,000
Vitamin D	IU/kg	500	500	3000
Vitamin E ^h	IU/kg	50	50	
Thiamine ⁱ	mg/kg	2.25	2.25	
Riboflavin	mg/kg	5.2	5.2	
Pantothenic acid	mg/kg	12	12	
Niacin	mg/kg	13.6	13.6	
Pyridoxine	mg/kg	1.5	1.5	

(continued)

Nutrient	Units DM Basis	Growth and Reproduction Minimum	Adult Maintenance Minimum ^b	Maximum
Folic acid	mg/kg	0.216	0.216	
Vitamin B ₁₂	mg/kg	0.028	0.028	
Choline	mg/kg	1360	1360	

^aPresumes a caloric density of 4000 kcal ME/kg, as determined in accordance with Regulation PF9. Formulations greater than 4000 kcal ME/kg should be corrected for energy density; formulations less than 4000 kcal ME/kg should not be corrected for energy. Formulations of low-energy density should not be considered adequate for reproductive needs based on comparison to the Profiles alone.

^bRecommended concentrations for maintenance of body weight at an average caloric intake for dogs of a given optimum weight.

^cAlthough a true requirement for crude fat per se has not been established, the minimum concentration was based on recognition of crude fat as a source of essential fatty acids, as a carrier of fat-soluble vitamins, to enhance palatability, and to supply an adequate caloric density.

^dND = not determined. Although a minimum requirement has not been determined, sufficient amounts of omega-3 fatty acids are necessary to meet the maximum omega-6:omega-3 fatty acid ratio.

^eThe maximum of 1.8% is applicable to formulas that may be fed to large size puppies (those weighing 70 lb. or greater as mature lean adults). For other life stages, including non-large-size growth formulas, the maximum calcium is 2.5% DM.

^fAverage apparent digestibility for iron associated with recommended minimums is 20% of that consumed. Because of very poor apparent digestibility, iron from carbonate or oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration for iron.

^gBecause of very poor apparent digestibility, copper from oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration for copper.

^hIt is recommended that the ratio of IU of vitamin E to grams of polyunsaturated fatty acids (PUFA) be $\geq 0.6:1$. A diet containing 50 IU of vitamin E will have a ratio $\geq 0.6:1$ when the PUFA content is 83 grams or less. Diets containing more than 83 grams of PUFA should contain an additional 0.6 IU of vitamin E for every gram of PUFA.

ⁱBecause processing may destroy up to 90% of the thiamine in the diet, allowances in formulation should be made to ensure the minimum nutrient concentration for thiamine is met after processing.

AAFCO Dog Food Nutrient Profiles Based on Calorie Content

Nutrient	Units per 1000 kcal ME	Growth and Reproduction Minimum	Adult Maintenance Minimum ^a	Maximum
Crude protein	g	56.3	45.0	
Arginine	g	2.50	1.28	
Histidine	g	1.10	0.48	
Isoleucine	g	1.78	0.95	
Leucine	g	3.23	1.70	

(continued)

Nutrient	Units per 1000 kcal ME	Growth and Reproduction Minimum	Adult Maintenance Minimum ^a	Maximum
Lysine	g	2.25	1.58	
Methionine	g	0.88	0.83	
Methionine-cystine	g	1.75	1.63	
Phenylalanine	g	2.08	1.13	
Phenylalanine-tyrosine	g	3.25	1.85	
Threonine	g	2.60	1.20	
Tryptophan	g	0.50	0.40	
Valine	g	1.70	1.23	
Crude fat ^b	g	21.3	13.8	
Linoleic acid	g	3.3	2.8	
alpha-Linolenic acid	g	0.2	ND ^c	
Eicosapentaenoic + Docosahexaenoic acid	g	0.1	ND ^c	
(Linoleic + Arachidonic):(alpha- Linolenic + Eicosapentaenoic + Docosahexaenoic) acid ratio				30:1
Minerals				
Calcium	g	3.0	1.25	6.25 (4.5) ^d
Phosphorus	g	2.5	1.00	4.0
Ca:P ratio		1:1	1:1	2:1
Potassium	g	1.5	1.5	
Sodium	g	0.80	0.20	
Chloride	g	1.10	0.30	
Magnesium	g	0.15	0.15	
Iron ^e	mg	22	10	
Copper ^f	mg	3.1	1.83	
Manganese	mg	1.8	1.25	
Zinc	mg	25	20	
Iodine	mg	0.25	0.25	2.75
Selenium	mg	0.09	0.08	0.5
Vitamins and others				
Vitamin A	IU	1250	1250	62,500
Vitamin D	IU	125	125	750
Vitamin E ^g	IU	12.5	12.5	

(continued)

Nutrient	Units per 1000 kcal ME	Growth and Reproduction Minimum	Adult Maintenance Minimum ^a	Maximum
Thiamine ^h	mg	0.56	0.56	
Riboflavin	mg	1.3	1.3	
Pantothenic acid	mg	3.0	3.0	
Niacin	mg	3.4	3.4	
Pyridoxine	mg	0.38	0.38	
Folic acid	mg	0.054	0.054	
Vitamin B ₁₂	mg	0.007	0.007	
Choline	mg	340	340	

^aRecommended concentrations for maintenance of body weight at an average caloric intake for dogs of a given optimum weight.

^bAlthough a true requirement for crude fat per se has not been established, the minimum concentration was based on recognition of crude fat as a source of essential fatty acids, as a carrier of fat-soluble vitamins, to enhance palatability, and to supply an adequate caloric density.

^cND = not determined. Although a minimum requirement has not been determined, sufficient amounts of omega-3 fatty acids are necessary to meet the maximum omega-6:omega-3 fatty acid ratio.

^dMaximum of 4.5 g Ca/1000 kcal ME is applicable to formulas; that may be fed to large size puppies (those weighing 70 lb. or greater as mature lean adults). For other life stages, including non-large-breed growth formulas, the maximum calcium is 6.25 g Ca/1000 kcal ME.

^eAverage apparent digestibility for iron associated with recommended minimums is 20% of that consumed. Because of very poor apparent digestibility, iron from carbonate or oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration for iron.

^fBecause of very poor apparent digestibility, copper from oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration for copper.

^gIt is recommended that the ratio of IU of vitamin E to grams of polyunsaturated fatty acids (PUFA) be $\geq 0.6:1$. A diet containing 50 IU of vitamin E will have a ratio $\geq 0.6:1$ when the PUFA content is 83 grams or less. Diets containing more than 83 grams of PUFA should contain an additional 0.6 IU of vitamin E for every gram of PUFA.

^hBecause processing may destroy up to 90% of the thiamine in the diet, allowances in formulation should be made to ensure the minimum nutrient concentration for thiamine is met after processing.

Changes to and Rationale for Nutrient Concentrations—Dog Foods

Caloric Density

The 2007 AAFCO Canine Nutrition Expert Subcommittee (CNES) chose to set the presumed caloric density for dog food products at 4000 kcal metabolizable energy (ME) per kilogram (kg) dry matter (DM) for both the nutrient concentrations per kg DM and the nutrient amounts per 1000 kcal ME in order to be consistent with the presumed caloric density used in the 2006 *Nutrient Requirements of Dogs and Cats*¹ and in the current AAFCO Cat Food Nutrient Profiles. Prior to the 2016 revisions to the Profiles,

the presumed caloric density for dog foods was set at 3500 kcal ME/kg DM for nutrient concentrations per kg DM and at 4500 kcal ME/kg DM for nutrient amounts per 1000 kcal ME, although mathematical conversion between the two tables was accomplished using 3500 kcal/kg DM as the caloric density. The presumed caloric density is not a minimum or a maximum content that a product must meet to reference the profile, but it does dictate the factor used to convert between expressions of nutrient content per kg DM versus per 1000 kcal ME and the minimum concentrations of required nutrients in complete and balanced products. Because the denominator for converting from concentrations per kg DM to amounts per 1000 kcal ME has increased from 3.5 to 4.0, values in the per 1000 kcal ME table in some instances may appear less than corresponding values listed prior to 2016 even though DM concentrations may not have changed or even increased slightly. Corrections to amounts of nutrients in formulations differing in caloric density from the presumed value of 4000 kcal ME/kg DM are discussed below.

Protein

The minimum concentration of protein for growth and reproduction was increased slightly from 22% to 22.5% DM consistent with the RA for growth established by the 2006 NRC.¹ The minimum concentration in the AAFCO Dog Food Nutrient Profile for Adult Maintenance was not changed from the previous value of 18%.

The CNES established minimum recommended amounts for the essential amino acids methionine and phenylalanine consistent with the RA proposed by the NRC in addition to the previous minimum recommended amounts of methionine plus cystine and phenylalanine plus tyrosine. The CNES felt it prudent to include specific minimums for methionine and phenylalanine because although some, or all, of the requirement for cystine and tyrosine can be met from excess methionine and phenylalanine, respectively, the reverse is not true. Some of the previous recommendations for dietary concentrations of essential amino acids in the Dog Food Nutrient Profile for Adult Maintenance (i.e., histidine, lysine, threonine and tryptophan) were greater than the corresponding RA in the 2006 NRC and the CNES elected to retain the previously recommended amounts for these amino acids in the current Dog Food Nutrient Profile for Adult Maintenance.

Minimum concentrations of some essential amino acids in the Dog Food Nutrient Profile for Growth and Reproduction were increased, usually to match the NRC RA for growth (i.e., arginine, leucine, methionine, methionine-cystine, phenylalanine-tyrosine and valine). Although the NRC RA for total crude protein during lactation is essentially identical to the RA for growth (22.0% versus 22.5%), several of the RA for essential amino acids during lactation are greater than the RA for growth. In some cases (i.e., histidine, isoleucine, lysine, phenylalanine, and threonine) the difference was small and the CNES elected to set the recommended amount in the Growth and Reproduction Profile at the larger NRC RA for lactation. For other essential amino acids (i.e., leucine and valine) the RA proposed by the NRC for lactation is substantially more than the RA for growth, and in the case of leucine and valine the concentrations are equal to, or greater than, the corresponding RA for the cat during lactation, an obligate carnivore with protein requirements generally greater than those for the dog. The NRC ad hoc committee indicated that it set the RA based on, “lowest concentrations of each of the essential amino acids from digestible protein in commercial dry expanded diets that have been shown to sustain normal gestation and lactation for bitches.”¹ The CNES chose not to increase the recommended concentrations for leucine and valine to those of the NRC RA for lactation based on lack of documented problems with the previous concentrations in the AAFCO Dog Food Nutrient Profile for Growth and Reproduction and the relative disparity in the RA between canine versus feline protein requirements. The CNES did

not elect to change the tryptophan concentration in the Dog Food Nutrient Profile for Growth and Reproduction for two reasons. The CNES had access to feeding studies and a publication showing that the minimum requirement for tryptophan in Labrador retriever puppies was less than the current concentration in AAFCO Dog Food Nutrient Profile for Growth and Reproduction and that the tryptophan concentration of 0.2% DM already provided approximately a 25% safety margin.⁶ The CNES was also aware that it was nearly impossible to formulate a product at the minimum protein concentration to contain more than 0.2% tryptophan on a DM basis from typical ingredients without including crystalline tryptophan in the formula.

Insufficient data were available to demonstrate detrimental effects of high protein intake in the normal dog to allow for any definitive maximum concentrations for protein or amino acids to be established. The CNES is aware of the findings regarding excess lysine at some concentration between 2.0% and 4.0% lysine/kg DM to produce depression in growth of puppies and clinical signs associated with arginine deficiency when arginine is present at 0.4% DM, and that FEDIAF has established a concentration of 2.8% lysine in DM as a maximum.^{3,7} However, this information was available prior to the establishment of the original AAFCO Nutrient Profiles and did not result in a maximum lysine content being established by the 1990 Expert Subcommittee. Furthermore, the 2007 CNES notes that the minimum recommended arginine content for growth and reproduction is 2.5 times the concentration of 0.4% arginine/kg DM required to produce the noted adverse effects in combination with lysine at more than 2.0%/kg DM.

Fat/Fatty Acids

The CNES increased the minimum recommended amount for total fat in the AAFCO Dog Food Nutrient Profiles by 0.5% to 8.5% for Growth and Reproduction and 5.5% for Adult Maintenance. These concentrations are consistent with the RA for total fat in the 2006 NRC and the FEDIAF Guidelines. The CNES also increased the minimum recommended linoleic acid concentration in the Growth and Reproduction Profile from 1.0% to 1.3% and in the Adult Maintenance Profile from 1.0% to 1.1%, again consistent with the RA in the 2006 NRC. The CNES did not set a minimum recommended concentration for arachidonic acid in either profile, but did establish minimum recommended concentrations for some fatty acids in the n-3 (omega-3) series in the Growth and Reproduction Profile, specifically, alpha-linolenic acid at 0.08%, and the combination of eicosapentaenoic plus docosahexaenoic acids at 0.05%, of DM. Because the scientific evidence to date indicates that these n-3 fatty acids are needed for the development of the nervous and visual systems during fetal and neonatal life stages, the CNES did not feel there was scientific justification for setting minimum recommended concentrations for n-3 fatty acids for adult maintenance. A recommendation in a comment to list quantities of alpha-linolenic acid and eicosapentaenoic plus docosahexaenoic acids for adult maintenance as being not determined (ND) was accepted by the AAFCO Pet Food Committee.

The CNES did not establish maximum concentrations for fat or fatty acids despite the NRC listing a safe upper limit (SUL) for total crude fat, linoleic acid, and the combination of eicosapentaenoic plus docosahexaenoic acids. The CNES felt it likely that insufficiencies in other nutrients will occur in a conventional formula before an inclusion of 33% crude fat in DM is reached. Also, although some differences in delayed hypersensitivity reactions were noted in studies cited by the NRC as the basis for setting the SUL for eicosapentaenoic plus docosahexaenoic acids, the 2007 CNES noted that those differences are not unequivocally undesirable or detrimental.^{8,9} The CNES did elect to set a maximum for the ratio of the sum of linoleic plus arachidonic acids to the

sum of alpha-linolenic, eicosapentaenoic, and docosahexaenoic acids at 30:1 given the modulating effects of n-3 fatty acids on n-6 metabolism and the predominant contribution of these fatty acids to the n-6 and n-3 fatty acid contents, respectively, in conventional dog food formulas.

Calcium and Phosphorus

The CNES decreased the recommended minimum concentration of calcium and phosphorus in the Adult Maintenance Profile by 0.1% to 0.5% and 0.4%, respectively. The current recommended minimum concentrations are 0.1% more than the RA for calcium and phosphorus on a DM basis for adult maintenance in the 2006 NRC but consistent with the concentrations in the FEDIAF Guidelines. The CNES recommended that the calcium and phosphorus in growth formulas for the large breed or large size dogs (those breeds typically attaining lean adult body weights of 70 pounds or more) be allowed to decrease to 0.9% and 0.75%, respectively, while still being judged to meet the Growth and Reproduction Nutrient Profile. However, based on comments and a publication¹⁰ demonstrating that some diets containing 0.88% to 1.04% Ca on a DM basis (2.2 to 2.6 g Ca/1000 kcal ME) when fed to medium or large breed puppies produced inhibited growth in 10-week growth studies compared to diets containing between 1.3 to 1.8% Ca, the AAFCO Pet Food Committee elected to keep the minimum recommended calcium and phosphorus concentrations in the Growth and Reproduction Nutrient Profile at 1.2% and 1.0%, respectively, for all dog food products that substantiate nutritional adequacy based on being formulated to meet the nutrient content of the Dog Food Nutrient Profile for Growth and Reproduction.

Because of concerns for excess calcium to produce detrimental effects in growing dogs of large and giant breeds,^{11–13} the 2007 CNES deemed that additional restriction to the maximum limit for calcium was warranted for large size growth formulations and lowered the maximum calcium concentration to 1.8% DM for these products. The CNES did not believe it necessary to decrease the previous maximum calcium concentration of 2.5% for adult dogs or growing dogs of small or moderate size breeds, and retained the maximum of 2.5% for the adult maintenance products as well as gestation/lactation products and growth products for small and moderate size breeds of dogs. The AAFCO Pet Food Committee discussed and considered the proposal at length for having two maximum calcium concentrations applicable to different products. The Pet Food Committee notes that unless a product's labeling restricts the product to specific breeds, products bearing an All Life Stages claim based on the product being formulated to meet the AAFCO Dog Food Nutrient Profile for Growth and Reproduction should not contain more than 1.8% calcium on a DM basis. The CNES retained the maximum phosphorus concentration of 1.6% DM for both profiles, as well as the minimum and maximum values of 1:1 and 2:1, respectively, for the calcium to phosphorus ratio.

Other Macrominerals

Potassium

The 2007 CNES elected to retain the recommended minimum potassium concentration at 0.6% DM for both Profiles. Although the RA in the 2006 NRC and some concentrations in the FEDIAF Guidelines are less than 0.6% DM for potassium, the CNES felt that the potassium concentration did not warrant changing especially given that potential toxicosis of potassium was not a practical concern. Thus, a maximum concentration for potassium was not established.

Sodium and Chloride

The 2007 CNES did not change the minimum recommendation for sodium or chloride in the Growth and Reproduction Nutrient Profile as the values are slightly above

the 2006 NRC RA. The 2007 CNES made an editorial increase in the recommended minimum concentrations for sodium and chloride in the Adult Maintenance Nutrient Profile to match the 2006 NRC RA. For sodium the increase was from 0.06% to 0.08% DM and for chloride from 0.09 to 0.12% DM. The recommended minimum concentrations for sodium and chloride in both dog food nutrient profiles continue to reflect the 1:1.5 sodium to chloride ratio of salt previously used by the 1990 CNES to justify recommended chloride concentrations. As noted by the 1990 CNES, because palatability and food consumption would decline due to excess sodium before adverse health effects were observed, setting a maximum concentration for sodium was not of practical concern.

Magnesium

The 2007 CNES increased the minimum recommended concentration for magnesium from 0.04 to 0.06% in Adult Maintenance and Growth and Reproduction Nutrient Profiles to match the 2006 NRC RA for adult maintenance and peak lactation, respectively. The 2007 CNES deleted the maximum recommended concentration for magnesium due to lack of data specific to dogs in both the 2006 NRC and the 2005 *Mineral Tolerances of Animals*. The only comment regarding maximum magnesium content in the 2006 NRC was that a SUL for magnesium in the diets of dogs was greater than 1.7% DM.

Microminerals

Iron

The 2007 CNES made an editorial change to the minimum concentration for iron in the Growth and Reproduction Nutrient Profile to make the concentration consistent with a presumed caloric density of 4000 kcal ME/kg DM which makes the recommended concentration consistent with the RA from the 2006 NRC and the FEDIAF Guidelines for same life stages. The 2007 CNES decreased the recommendation for adult maintenance from 80 to 40 mg/kg DM based on considerations that the RA of the 2006 NRC was 30 mg/kg DM and the FEDIAF Guidelines concentration was 36 mg/kg DM. The 2007 CNES deleted the maximum concentration for iron based on one scientific and one practical regulatory consideration. First, the 2006 NRC indicated that appropriate data for setting a SUL for iron in dog foods are not available. The previous maximum concentration was stated to be based on tolerance data in swine. The 2005 *Mineral Tolerance of Animals* indicated that the listed tolerance of 3000 mg/kg DM for swine needed to be confirmed by long-term studies and all other tolerances for iron listed in that publication are 6 times less than 3000 mg/kg DM. Second, the implied safety of a maximum concentration presumes some amount of apparent digestibility and, as noted above, the apparent digestibility of iron in any given diet or combination of ingredients can vary from less than 10% to near 100%. Some sources of iron are considered unavailable and used for their technical effects (i.e., color) on the product and not for their nutrient contribution of iron to the animal. Such unavailable sources will still contribute iron to an analytical result for determining product content, and thus a maximum concentration set for available sources of iron might prohibit use of unavailable sources for coloring, whereas a maximum concentration set for unavailable colorants might permit use of unsafe amounts of available sources on the basis of analytical content. Thus, the 2007 CNES elected to delete the previous maximum of 3000 mg/kg DM and not list any other value as a maximum for iron. Manufacturers should note that iron is toxic at some amount greater than the recommended quantities, but the exact amount is unknown for dogs.

Copper

The minimum concentration for copper in the Adult Maintenance Nutrient Profile was not changed from the previous amount of 7.3 mg/kg DM, the concentration being

consistent with that of the FEDIAF Guidelines and slightly more than the 2006 NRC RA of 6.0 mg/kg. The 2007 CNES increased the minimum recommended concentration in the Growth and Reproduction Nutrient Profile to 12.4 mg/kg DM, consistent with the 2006 NRC RA for peak lactation and slightly more than FEDIAF Guidelines and the NRC RA for growth. Because of poor bioavailability, the use of copper oxide as a nutritional source is excluded.¹⁴ The 2007 CNES deleted the copper maximum concentration for many of the same science-based reasons cited above for deleting the maximum for iron content.

Manganese

The minimum concentration for manganese in the Adult Maintenance Nutrient Profile was not changed from the previous amount of 5.0 mg/kg DM, the amount being slightly more than the 2006 NRC RA of 4.8 and slightly less than the FEDIAF Guidelines of 5.6 mg/kg DM. The 2007 CNES increased the minimum recommended concentration in the Growth and Reproduction Nutrient Profile to 7.2 mg/kg DM, consistent with the 2006 NRC RA for peak lactation and slightly more than FEDIAF Guidelines concentrations and NRC RA for growth.

Zinc

The 2006 NRC RA for zinc in growth, reproduction, and adult maintenance formulations was less than the previous concentration in the Dog Food Nutrient Profiles of 120 mg/kg DM and the 2007 CNES decreased the recommended minimum concentration to 100 mg/kg DM in the Growth and Reproduction Nutrient Profile and to 80 mg/kg DM in the Adult Maintenance Nutrient Profile consistent with the 2006 NRC RA and FEDIAF Guidelines concentrations. Both the 2005 *Mineral Tolerance of Animals* and the 2006 *Nutrient Requirements of Dogs and Cats* state there is not enough data available to set a tolerance or SUL for zinc in dog foods. The 2007 CNES elected to delete the previous maximum concentration of 1000 mg/kg DM that was based on the maximum tolerance concentration recommended for swine rations. The CNES noted that the swine tolerance of 1000 mg/kg DM was the greatest concentration for any tolerance for zinc listed in the 2005 *Mineral Tolerance of Animals*.

Iodine

The 2006 NRC RA for iodine in dog foods is 0.88 mg/kg DM. The FEDIAF Guideline concentrations range from 0.9 to 1.5 mg/kg DM. In considering the basis for these various recommended concentrations the 2007 CNES felt a recommended minimum concentration of 1.0 mg/kg to be prudent and adequate to support adult maintenance as well as growth and reproduction.

The 2007 CNES revised the maximum concentration for iodine based on the following considerations. Although neither the 2005 *Mineral Tolerances for Animals* nor the 2006 *Nutrient Requirements of Dogs and Cats* established a tolerance or SUL for iodine in diets for dogs, both publications cite data that indicate a commercial formulation containing 5.6 mg iodine/kg diet had adverse effects on thyroid function.^{15,16} FEDIAF also notes these studies, but faulted the studies for using a diet deficient in calcium, phosphorus and potassium, and fed in excessive quantities. The 2008 FEDIAF Guidelines indicate a maximum concentration for iodine of 11 mg/kg DM when other minerals are within acceptable concentrations and the products are fed in appropriate quantities. The tolerances for iodine in the 2005 *Mineral Tolerances of Animals* that have been established for various species range from 5 mg/kg DM in diets for horses to 400 mg/kg DM in diets for swine. Given that the NRC tolerance for horses is 10 times less than the general maximum concentration of 50 mg iodine/kg DM recommended by AAFCO, the 2007 CNES felt the value of 50 mg/kg DM to no longer be appropriate for setting a maximum concentration for iodine in dog foods. The 2007 CNES acknowledges that additional studies may allow further refinement of a maximum amount of iodine in

foods for dogs, but until such data are available the CNES felt it prudent to adopt the FEDIAF position and set 11 mg iodine per kg DM as the maximum concentration of iodine in dog foods.

Selenium

The recommended minimum concentration of selenium was increased to 0.35 mg/kg DM in Adult Maintenance and Growth and Reproduction Nutrient Profiles consistent with the 2006 NRC RA for selenium. The 2007 CNES notes there is a difference between added selenium and total selenium content. The approval of food additives for addition of selenium to animal feeds limits the total amount of selenium that may be added to feed to 0.3 mg/kg from all approved sources on an as-fed basis (90% DM feeds), roughly equivalent to 0.333 mg/kg on a DM basis. The recommended minimum concentration of 0.35 mg selenium/kg DM in dog foods is the sum of selenium from all ingredients in the product, both approved food additives used specifically to add selenium to the product, as well as selenium contained as a constituent of other ingredients. As there is generally more than 0.05 mg selenium/kg DM in ingredients used to supply protein and fat to typical pet food formulations, the 2007 CNES believes the limitation of 0.3 mg selenium/kg DM from approved selenium additives will not hinder a manufacturer's ability to meet the minimum recommended concentration of 0.35 mg selenium/kg DM.

Both the 2006 NRC and the 2005 *Mineral Tolerance of Animals* state no data are available upon which to establish a SUL or tolerance for selenium in diets for dogs. Both NRC publications cite the fifth edition of *Trace Elements in Human and Animal Nutrition* published in 1986 for information indicating a dietary concentration of 5 mg/kg DM resulted in toxicity in dogs.¹⁷ The 2007 CNES acknowledges the NRC has indicated in the years since the publication of the first edition of *Mineral Tolerance of Domestic Animals* set a tolerance of 2.0 mg of selenium per kg DM for all species in 1980 that the value has been challenged as an underestimate of the true tolerance for several species, and that during 1980 to 2005 greater tolerances for selenium have been established for some species. Although the true tolerance for dogs may be greater than 2, but less than 5, mg selenium/kg DM, the 2007 CNES believes it to be prudent to retain the maximum concentration for selenium at 2.0 mg/kg DM until such time as empirical data permit a greater and more definitive maximum to be established.

Vitamins

The 2007 CNES did not believe there were data sufficient to change any of the recommended minimum concentrations for the fat soluble vitamins or the maximum concentration for vitamin A. The 2007 CNES decreased the maximum vitamin D concentration in consideration of the SUL and maximums set by the 2006 NRC and FEDIAF Guidelines based on the studies conducted by Tryfondidou et al.^{18,19} The maximum vitamin D concentration was reduced to 3000 IU/kg DM (750 IU/1000 kcal ME) which is 6 times the recommended minimum concentration and 1000 IU/kg less than the amount shown to produce disruption of endochondrial ossification in growing Great Dane puppies. The 2007 CNES noted that the 2006 *Nutrient Requirements of Dogs and Cats* had not established a SUL for vitamin E based on there being no information on vitamin E toxicity in dogs, and so deleted the maximum concentration for vitamin E in the Dog Food Nutrient Profiles. The 2007 CNES increased the minimum concentrations of thiamine, riboflavin and pyridoxine consistent with the RA of the 2006 NRC. For pantothenic acid, niacin, folic acid, vitamin B₁₂ and choline, the 2007 CNES elected to set the recommended concentrations in the AAFCO Dog Food Nutrient Profiles equal to the 2006 NRC adequate intake (AI) recommendation based on indications that the AI already provided a margin of safety above the minimum requirements for these compounds.

AAFCO Cat Food Nutrient Profiles Based on Dry Matter^a

Nutrient	Units DM Basis	Growth and Reproduction Minimum	Adult Maintenance Minimum ^b	Maximum
Crude protein	%	30.0	26.0	
Arginine	%	1.24	1.04	
Histidine	%	0.33	0.31	
Isoleucine	%	0.56	0.52	
Leucine	%	1.28	1.24	
Lysine	%	1.20	0.83	
Methionine	%	0.62	0.20	1.5
Methionine-cystine	%	1.10	0.40	
Phenylalanine	%	0.52	0.42	
Phenylalanine-tyrosine	%	1.92	1.53	
Threonine	%	0.73	0.73	
Tryptophan	%	0.25	0.16	1.7
Valine	%	0.64	0.62	
Crude fat ^c	%	9.0	9.0	
Linoleic acid	%	0.6	0.6	
alpha-Linolenic acid	%	0.02	ND ^d	
Arachidonic acid	%	0.02	0.02	
Eicosapentaenoic + Docosahexaenoic acid	%	0.012	ND	
Minerals				
Calcium	%	1.0	0.6	
Phosphorus	%	0.8	0.5	
Potassium	%	0.6	0.6	
Sodium	%	0.2	0.2	
Chloride	%	0.3	0.3	
Magnesium ^e	%	0.08	0.04	
Iron ^f	mg/kg	80	80	
Copper (extruded) ^g	mg/kg	15	5	
Copper (canned) ^g	mg/kg	8.4	5	
Manganese	mg/kg	7.6	7.6	
Zinc	mg/kg	75	75	
Iodine	mg/kg	1.8	0.6	9.0
Selenium	mg/kg	0.3	0.3	
Vitamins and others				
Vitamin A	IU/kg	6668	3332	333,300

(continued)

Nutrient	Units DM Basis	Growth and Reproduction Minimum	Adult Maintenance Minimum^b	Maximum
Vitamin D	IU/kg	280	280	30,080
Vitamin E ^h	IU/kg	40	40	
Vitamin K ⁱ	mg/kg	0.1	0.1	
Thiamine ^j	mg/kg	5.6	5.6	
Riboflavin	mg/kg	4.0	4.0	
Pantothenic acid	mg/kg	5.75	5.75	
Niacin	mg/kg	60	60	
Pyridoxine	mg/kg	4.0	4.0	
Folic acid	mg/kg	0.8	0.8	
Biotin ^k	mg/kg	0.07	0.07	
Vitamin B ₁₂	mg/kg	0.020	0.020	
Choline	mg/kg	2400	2400	
Taurine (extruded)	%	0.10	0.10	
Taurine (canned)	%	0.20	0.20	

^aPresumes an energy density of 4000 kcal ME/kg as determined in accordance with Regulation PF9. Formulations greater than 4000 kcal ME/kg should be corrected for energy density; formulations less than 4000 kcal ME/kg should not be corrected for energy. Formulations of low-energy density should not be considered adequate for growth or reproductive needs based on comparison to the Profiles alone.

^bRecommended concentrations for maintenance of body weight at an average caloric intake for cats of a given optimal weight.

^cAlthough a true requirement for crude fat per se has not been established, the minimum concentration was based on recognition of crude fat as a source of essential fatty acids, as a carrier of fat-soluble vitamins, to enhance palatability, and to supply an adequate caloric density.

^dND = not determined.

^eIf the mean urine pH of cats fed *ad libitum* is not below 6.4, the risk of struvite urolithiasis increases as the magnesium content of the diet increases.

^fBecause of very poor bioavailability, iron from carbonate or oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration.

^gBecause of very poor bioavailability, copper from oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration.

^hAdd 10 IU vitamin E above the minimum concentration for each gram of fish oil per kilogram of diet.

ⁱVitamin K does not need to be added unless the diet contains more than 25% fish on a dry matter basis.

^jBecause processing and specific ingredients may destroy up to 90% of the thiamine in the diet, allowances in formulation should be made to ensure the minimum nutrient concentration is met after processing.

^kBiotin does not need to be added unless the diet contains antimicrobial or antivitamin compounds.

AAFCO Cat Food Nutrient Profiles Based on Calorie Content

Nutrient	Units per 1000 kcal ME	Growth and Reproduction Minimum	Adult Maintenance Minimum ^a	Maximum
Crude protein	g	75	65	
Arginine	g	3.10	2.60	
Histidine	g	0.83	0.78	
Isoleucine	g	1.40	1.30	
Leucine	g	3.20	3.10	
Lysine	g	3.00	2.08	
Methionine	g	1.55	0.5	3.75
Methionine-cystine	g	2.75	1.00	
Phenylalanine	g	1.30	1.05	
Phenylalanine-tyrosine	g	4.80	3.83	
Threonine	g	1.83	1.83	
Tryptophan	g	0.63	0.40	4.25
Valine	g	1.55	1.55	
Crude fat ^b	g	22.5	22.5	
Linoleic acid	g	1.40	1.40	
alpha-Linolenic acid	g	0.05	ND ^c	
Arachidonic acid	g	0.05	0.05	
Eicosapentaenoic + Docosahexaenoic acid	g	0.03	ND	
Minerals				
Calcium	g	2.5	1.5	
Phosphorus	g	2.0	1.25	
Potassium	g	1.5	1.5	
Sodium	g	0.5	0.5	
Chloride	g	0.75	0.75	
Magnesium ^d	g	0.20	0.10	
Iron ^e	mg	20.0	20.0	
Copper (extruded) ^f	mg	3.75	1.25	
Copper (canned) ^f	mg	2.10	1.25	
Manganese	mg	1.90	1.90	
Zinc	mg	18.8	18.8	
Iodine	mg	0.45	0.15	2.25
Selenium	mg	0.075	0.075	
Vitamins and others				
Vitamin A	IU	1667	833	83,325

(continued)

Nutrient	Units per 1000 kcal ME	Growth and Reproduction Minimum	Adult Maintenance Minimum^a	Maximum
Vitamin D	IU	70	70	7520
Vitamin E ^g	IU	10	10	
Vitamin K ^h	mg	0.025	0.025	
Thiamine ⁱ	mg	1.40	1.40	
Riboflavin	mg	1.00	1.00	
Pantothenic acid	mg	1.44	1.44	
Niacin	mg	15	15	
Pyridoxine	mg	1.0	1.0	
Folic acid	mg	0.20	0.20	
Biotin ^j	mg	0.018	0.018	
Vitamin B ₁₂	mg	0.005	0.005	
Choline	mg	600	600	
Taurine (extruded)	g	0.25	0.25	
Taurine (canned)	g	0.50	0.50	

^aRecommended concentrations for maintenance of body weight at an average caloric intake for cats of a given optimal weight.

^bAlthough a true requirement for crude fat per se has not been established, the minimum concentration was based on recognition of crude fat as a source of essential fatty acids, as a carrier of fat-soluble vitamins, to enhance palatability, and to supply an adequate caloric density.

^cND = not determined.

^dIf the mean urine pH of cats fed *ad libitum* is not below 6.4, the risk of struvite urolithiasis increases as the magnesium content of the diet increases.

^eBecause of very poor bioavailability, iron from carbonate or oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration.

^fBecause of very poor bioavailability, copper from oxide sources that are added to the diet should not be considered in determining the minimum nutrient concentration.

^gAdd 10 IU vitamin E above the minimum concentration for each gram of fish oil per kilogram of diet.

^hVitamin K does not need to be added unless the diet contains more than 25% fish on a dry matter basis.

ⁱBecause processing and specific ingredients may destroy up to 90% of the thiamine in the diet, allowances in formulation should be made to ensure the minimum nutrient concentration is met after processing.

^jBiotin does not need to be added unless the diet contains antimicrobial or antivitamin compounds.

Changes to and Rationale for Nutrient Concentrations—Cat Foods

Caloric Density

The 2007 AAFCO Feline Nutrition Expert Subcommittee (FNES) retained the presumed caloric density for cat food products at 4000 kcal ME/kg DM for both the nutrient concentrations per kg DM and the nutrient amounts per 1000 kcal ME. As discussed below and in the footnotes to the Tables of the AAFCO Cat Food Nutrient Profiles, products with a caloric density greater than 4000 kcal ME/kg should have nutrient concentrations corrected for energy density. Nutrient concentrations in products with energy densities less than 4000 kcal ME/kg should not be corrected.

Protein

The 2007 FNES did not change the minimum concentrations of crude protein in the Cat Food Nutrient Profiles, the current values being equal to or greater than the corresponding 2006 NRC RA and FEDIAF Guidelines.^{1,3} The FNES made modifications to concentrations for some essential amino acids to bring the recommended concentrations in line with the RA in the 2006 NRC and the FEDIAF Guidelines. Minor increases between 0.02 to 0.04% in amounts of histidine, isoleucine and leucine were made in the Growth and Reproduction Profile. The amount for methionine and methionine plus cystine was decreased for adult maintenance. Significant increases were made to the recommended phenylalanine and phenylalanine plus tyrosine concentrations to bring the recommendations in line with the RA in the 2006 NRC which are based on studies establishing the requirements for maximum nitrogen retention and black hair color.^{20,21}

Because of work showing an adverse effect of high concentrations of methionine, the maximum concentration of 1.5% was retained.²² The FNES also set a maximum of 1.7% for tryptophan based on the work of Herwill and the recommendations in the 2006 NRC and FEDIAF Guidelines.^{1,3,23}

Fat/Fatty Acids

The 2007 FNES retained the minimum recommended concentrations of crude fat at 9% DM and at 0.02% for arachidonic acid. The minimum concentration for linoleic acid was increased to 0.6% in both Cat Food Nutrient Profiles consistent with the corresponding 2006 NRC RA and FEDIAF Guidelines. Similar to the CNES, the FNES established minimum recommended concentrations for some fatty acids in the n-3 (omega-3) series in the Growth and Reproduction Profile, specifically, alpha-linolenic acid at 0.02%, and the combination of eicosapentaenoic plus docosahexaenoic acids at 0.012%, of DM. The FNES notes that the NRC¹ stated no requirement for alpha-linolenic acid in adult cats had been demonstrated and that although a theoretical argument could be made for the adult cat to require eicosapentaenoic plus docosahexaenoic acids on a similar order of magnitude as arachidonic acid given the low delta-6 desaturase activity in the species, no objective data were available to support the establishment of any required concentrations. Although the FNES did not feel there was scientific justification for setting minimum recommended concentrations for n-3 fatty acids for adult cats, a recommendation in a comment to list quantities of alpha-linolenic acid and eicosapentaenoic plus docosahexaenoic acids for adult maintenance as being not determined (ND) was accepted by the AAFCO Pet Food Committee.

Minerals

The 2007 FNES increased the recommended concentrations for copper in canned formulas in the Growth and Reproduction Nutrient Profile and for iodine and selenium

in both Cat Food Nutrient Profiles. The recommended copper concentration in canned products for growth and reproduction was increased from 5.0 to 8.4 mg/kg DM to match the 2006 NRC RA for gestation and lactation.

For iodine the 2007 FNES increased the recommended concentration in the Growth and Reproduction Nutrient Profile to match the 2006 NRC RA and the FEDIAF Guidelines. The recommended concentration of iodine for adult maintenance was increased to match the amount recommended in the FDIAP Guidelines rather than the 2006 NRC RA in consideration of the findings of Wedekind *et al.*²⁴ The 2007 FNES also set a maximum for iodine content in cat foods based on the findings of Wedekind *et al.*²⁴

The 2007 FNES increased the recommended concentrations for selenium in the Cat Food Nutrient Profiles from 0.1 to 0.3 mg/kg to match the recommendations of the 2006 NRC RA and the FEDIAF Guidelines. The 2007 FNES elected to delete the maximum recommended amount of zinc from the Cat Food Nutrient Profiles noting that the 2006 NRC indicated the safe upper limit of zinc for cats was > 600 mg/kg DM for at least short periods of time and that the swine tolerance of 1000 mg/kg DM was the greatest concentration for any tolerance for zinc listed in the 2005 *Mineral Tolerance of Animals*. The FNES retained the recommended concentrations set by the 1990 FNES for all other minerals in the Cat Food Nutrient Profiles.

Vitamins and Others

The 2007 FNES decreased the recommended minimum concentrations for vitamins A and D in the Cat Food Nutrient Profiles based on the 2006 NRC RA. The 2007 FNES increased the maximum concentration for vitamin D in the Cat Food Nutrient Profiles based on the work of Sih *et al.* and the SUL in the 2006 NRC.²⁵

The 2007 FNES increased the recommended concentration of vitamin E to more closely coincide with the recommendations of the 2006 NRC and the FEDIAF Guidelines. The recommended concentration of vitamin K in diets containing 25% or more DM derived from fish was unchanged from previous values consistent with the FEDIAF Guidelines.

Recommended concentrations of thiamine and pantothenic acid in the Cat Food Nutrient Profiles were increased to match the 2006 NRC RA. The recommended concentrations of the remaining water soluble vitamins and for taurine were unchanged from the previous values, several being equal or greater than the 2006 NRC RA (riboflavin, niacin, pyridoxine, folic acid and taurine) with previous recommended concentrations for biotin, vitamin B₁₂ and choline being between the 2006 NRC AI and RA.

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Correcting for Moisture Content

The values given in the Profiles are listed in terms of dry matter (DM). However, the values listed in the guaranteed analysis on dog and cat food labels are given on an “as is” or “as fed” (AF) basis, and values reported from laboratories may be given on either an AF or DM basis. The difference between a value reported on a DM basis versus an AF basis is proportional to the moisture (water) content of the food. The greater the moisture content of a food, the greater the food’s DM values for nutrients would be compared to the corresponding AF values. This discrepancy makes direct comparison between the guaranteed analysis values on a food label and the Profile table values impossible without first correcting one or the other set of values so that both are on an equal-moisture basis.

One method of correcting for moisture is the adjustment of the values listed in the guaranteed analysis or reported from a laboratory on an AF basis to a DM basis before comparing with the Profile values. This is done by dividing each AF value by the proportion of DM in the food [(100 – % moisture)/100]. The examples shown below use the guaranteed analysis values, but these adjustments are equally valid for actual laboratory results reported on an AF basis.

Example A1: A Dry Dog Food Making a Growth Claim:
Moisture-Adjusted Guaranteed Analysis Values

Nutrient	Guaranteed Analysis Values	Dog Food Nutrient Profile Minimum Values for Growth	Moisture-Adjusted Guaranteed Analysis Values	Moisture-Adjusted Guaranteed Analysis vs. Profile Values
Crude protein	min. 21%	22.5%	23.3%	OK
Crude fat	min. 8%	8.5%	8.9%	OK
Crude fiber	max. 4%		4.4%	
Moisture	max. 10%	0%	0%	
Calcium	min. 1.1%	1.2%	1.2%	OK
Phosphorus	min. 0.9%	1.0%	1.0%	OK

Directly comparing the guaranteed values in Example A1 for crude protein, crude fat, calcium, and phosphorus to the minimum values for growth given in the Dog Food Nutrient Profile indicates this food would appear to be deficient. However, this comparison is not valid, because the values for the food are listed on a 10% moisture (90% DM) basis, but the Profile values are given on a 0% moisture (100% DM) basis. To put both sets of values on an equal-moisture basis, the guaranteed values were adjusted to 100% DM by dividing each value by the proportion of DM in the food (0.90). With this correction, it becomes apparent that the moisture-adjusted guaranteed analysis values of the reported nutrients do, in fact, meet the minimum recommended concentrations of the Dog Food Nutrient Profile for Growth and Reproduction.

As an alternative method to converting the guaranteed values to a DM basis, the Profile values can be adjusted to match the moisture content of the food. This can be achieved by simply multiplying each Profile value by the proportion of DM in the food (0.9 in example A1). Such calculations yield the following:

**Example A2: A Dry Dog Food Making a Growth Claim:
Moisture-Adjusted Guaranteed Analysis Values**

Nutrient	Guaranteed Analysis Values	Dog Food Nutrient Profile Minimum Values for Growth	Moisture- Adjusted Profile Values for Growth	Guaranteed Analysis vs. Moisture- Adjusted Profile Values
Crude protein	min. 21%	22.5%	20.25%	OK
Crude fat	min. 8%	8.5%	7.65%	OK
Crude fiber	max. 4%			
Moisture	max. 10%	0%	10%	
Calcium	min. 1.1%	1.2%	1.08%	OK
Phosphorus	min. 0.9%	1.0%	0.9%	OK

Correcting for Energy Density

The values given in the Profiles presume an energy density of 4000 kcal ME/kg DM. Some dog and cat foods will have energy densities close to this amount. However, many products may have DM energy densities considerably greater than the presumed values. When these more energy-dense products are fed, the dog or cat will require less of the food to meet its caloric requirements. Under these circumstances, the concentrations of the other nutrients in the food should be increased proportionately, so that the dog or cat will receive the needed amount of each nutrient in the smaller amount of food. Therefore, when the energy density of the dog or cat food exceeds 4000 kcal ME/kg DM the nutrient concentrations should be corrected for caloric content before valid comparisons to the appropriate AAFCO Nutrient Profile are made.

Conversely, products could be much lower in energy density than 4000 kcal ME/kg DM. Theoretically, a lower concentration of the other nutrients should be required, assuming that the dog or cat is allowed, and able, to consume enough of the product to meet its caloric needs and that those caloric needs are typical for the average dog or cat of the specific life stage. Because this assumption does not always hold true, the nutrient content should not be decreased in less energy-dense products, that is, the nutrient concentrations in such products should not be corrected for energy density. In fact, if the food is intended to supply significantly fewer calories in somewhat smaller amounts of food than typically consumed by the average weight and specific life stage of the animal, the concentrations of some nutrients per 1000 kcal ME may need to be increased compared to amounts listed in the tables to ensure the animal is provided adequate amounts of those essential nutrients in the quantity of food containing the targeted consumption of daily calories. Furthermore, unless a product meeting the definition for a “lite” or “low calorie” product as specified in Model Regulation PF10 has successfully passed the appropriate AAFCO Feeding Protocols, the product should not be considered adequate for growth or reproduction, regardless of the concentrations of the other nutrients.

The first step in correcting for energy density is to determine the actual energy density of the food. The determination should be done in accordance with Model Regulation PF9. After determining the energy density of the food, the nutrient values can be converted to a per 4000 kcal ME/kg DM or a per 1000 kcal ME basis and compared to the values in the appropriate AAFCO Nutrient Profile.

**Example B1: A Canned Cat Food Making a Growth Claim:
Moisture- and Energy-Adjusted Guaranteed Analysis Values**

Nutrient	Guaranteed Analysis Values	Moisture- Adjusted Guaranteed Analysis Values	Moisture- and Energy- Adjusted Guaranteed Analysis Values	Growth and Reproduction Cat Food Profi Values per kg DM	Status of Energy- Adjusted Guaranteed Analysis vs. Profi Values
Crude protein	min. 9%	36%	32.1%	30.0	OK
Crude fat	min. 7%	28%	25%	9.0	OK
Crude fiber	max. 1%				
Moisture	max. 75%	0%	0%		
Ash	max. 2%				
Calcium	min. 0.25%	1.0%	0.89%	1.0	Low
Phosphorus	min. 0.2%	0.8%	0.71%	0.8	Low
Energy ^a	1120 kcal ME/kg AF	4480 kcal ME/kg DM	4000 kcal ME/kg DM	4000 kcal ME/kg DM	

^aEnergy = (3.5 × g crude protein) + (8.5 × g crude fat) + [3.5 × g nitrogen-free extract (CHO)] = (3.5 × 90) + (8.5 × 70) + (3.5 × 60) = 1120; % nitrogen-free extract = 100 – (% crude protein + % crude fat + % crude fiber + % moisture + % ash)

A cursory examination of the values listed in the guaranteed analysis compared to the minimum values given in the Cat Food Nutrient Profiles expressed as per kg DM containing 4000 kcal ME revealed that a direct comparison would not be valid. Because the food in Example B1 was 75% moisture (25% DM), the major reason for the discrepancy was likely due to water content. By first dividing the guaranteed values by the proportion of DM (0.25), the moisture-adjusted guaranteed values were derived. Comparing these corrected values with the Profile values, this food appeared to meet the minimums for a growth claim.

However, in this example, direct comparison of the moisture-adjusted guaranteed values with the Profile values was premature. The high DM crude fat content of the food compared to the Profile value (25% vs. 9.0%) was an indication that the food was probably more energy-dense than the Profile value of 4000 kcal ME/kg DM. When calculated, in fact, it was found to be 4480 kcal ME/kg DM (1120 kcal ME/kg AF). Therefore a second adjustment to account for the differences in energy density was warranted. This was achieved by dividing each moisture-adjusted guaranteed value by 4480 (the DM energy density of the food) and then multiplying the result by 4000 (the standard energy density). This second manipulation revealed that the energy-adjusted guaranteed analysis values for the calcium and phosphorus were, in fact, below minimum concentrations for growth.

As demonstrated with the moisture correction methods above, an alternative to correcting the values of the food to meet the Profile energy density is correcting the Profile values to meet the food's energy density. Below, each Profile value was divided by 4000, and the result was multiplied by the appropriate value for energy density (1120 in this example).

Example B2: A Canned Cat Food Making a Growth Claim:
Energy-Adjusted Profile DM Values

Nutrient	Guaranteed Analysis Values	Cat Food Nutrient Profile Minimum Values for Growth	Energy-Adjusted Profile Values	Guaranteed vs. Energy-Adjusted Profile Values (Column 2 vs. 4)
Crude protein	min. 9%	30.0%	8.4%	OK
Crude fat	min. 7%	9.0%	2.5%	OK
Crude fiber	max. 1%			
Moisture	max. 75%			
Ash	max. 2%			
Calcium	min. 0.25%	1.0%	0.28%	Low
Phosphorus	min. 0.2%	0.8%	0.22%	Low
Energy	1120 kcal ME/kg AF	4000 kcal ME/kg DM	1120 kcal ME/kg AF	

Note that although the energy-adjusted minimum for crude fat calculated out to be 2.5%, a much higher concentration of crude fat (in this case 7%) predefined the higher energy density and dictated the need for energy adjustment in the first place. Because for the most part a higher concentration of crude fat predetermines what the higher energy density will be, the energy-adjusted Profile minimum value for crude fat should always be met and will often be grossly exceeded.

The last method for correcting for energy density is to convert the guaranteed values for the food to a per 1000 kcal basis, and to compare these values with those listed in the appropriate Profile based on Calorie Content. This is accomplished by dividing the AF values in the guaranteed analysis by the AF energy density (1120 kcal ME/kg in this example) and then multiplying the result by 1000 kcal ME/kg. The result is the values appearing in the fourth column of Example B3 below with the conclusion being identical to that reached in Examples B1 and B2 above.

Example B3: A Canned Cat Food Making a Growth Claim:
Energy-Adjusted Guaranteed Analysis Values

Nutrient	Guaranteed Analysis Values	Amount per kg (1000 g) As Fed	Product Amount per 1000 kcal ME	Profile Amount per 1000 kcal ME	Status
Crude protein	9%	90 g	80.4 g	75	OK
Crude fat	7%	70 g	62.5 g	22.5	OK
Crude fiber	1%	10 g			
Moisture	75%	750 g			
Ash	2%	20 g			
Calcium	0.25%	2.5 g	2.2 g	2.5	Low

(continued)

Nutrient	Guaranteed Analysis Values	Amount per kg (1000 g) As Fed	Product Amount per 1000 kcal ME	Profile Amount per 1000 kcal ME	Status
Phosphorus	0.20%	2.0 g	1.9 g	2.0	Low
Nitrogen-free extract (CHO) ^a	(8%)	60 g			
Energy ^b		1120 kcal			

^a% nitrogen-free extract = 100 – (% crude protein + % crude fat + % crude fiber + % moisture + % ash)

^bEnergy = (3.5 × 90) + (8.5 × 70) + (3.5 × 60) = 1120

AAFCO Dog and Cat Food Feeding Protocols

A successfully completed, feeding protocol validates the nutritional adequacy of the product’s ingredient formula and resulting nutrient profile for the species and life stage(s) to which the product was fed. For the nutritional adequacy claim to be valid, it is expected that the nutrient delivery of the product will not be significantly degraded over the shelf life of the product.

Minimum Feeding Protocol for Proving an Unqualified Representation of Nutritional Adequacy for a Dog or Cat Food

The minimum testing necessary to prove an unqualified claim for nutritional adequacy may be obtained by using the gestation/lactation and the growth protocols. These protocols must be used sequentially. Thus, a manufacturer desiring to prove an unqualified claim for nutritional adequacy must use the litters obtained from performing the gestation/lactation protocol for the growth period. Test puppies or kittens shall receive the test diet as their sole source of nourishment, other than dam’s or queen’s milk, during lactation, weaning, and growth.

Selection of puppies or kittens shall be on a statistically sound basis from each of the litters qualifying for the gestation/lactation protocol with equal sex distribution preferred.

Minimum Feeding Protocol for Proving an Adult Maintenance Claim for a Dog Food

Dogs

A minimum of eight healthy adult dogs at least one year of age and of optimal body weight shall be required to start the test. Bitches in gestation or lactation shall be excluded. All animals starting the test must pass an initial physical examination by a veterinarian. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. A minimum of 30 dogs shall be required for developing a historical colony average, with data used to establish averages for all parameters coming from the same individual dogs. A minimum of eight dogs shall be required for the concurrent control group. Breed distribution shall be similar in all groups.

Diet

The same formulation shall be fed throughout the test although different production

batches may be used. Diets fed to a concurrent control group or to dogs in the

determination of historical colony averages must have successfully passed the minimum feeding protocol for an adult maintenance claim for a dog food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

Duration of Test

The test shall run for a minimum of 26 weeks and shall begin when dogs are placed on the test diet.

Feeding Parameters

The test diet shall be the sole source of nutrients except for water. Dogs shall be fed *ad libitum* or based on energy needs. Fresh water shall be provided *ad libitum*. Any interruption in the feeding protocol must be disclosed and may invalidate the test.

Clinical Observations and Measurements

- (1) Individual daily food consumption shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) Individual body weights shall be measured and recorded at the beginning, weekly, and at the end of the test.
- (3) Hemoglobin, packed cell volume, serum alkaline phosphatase and serum albumin shall be measured and recorded at the end of the test.
- (4) All dogs shall be given a complete physical examination by a veterinarian at the beginning and at the end of the test. Each dog shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.
- (5) Any medication and the reason for its use must be recorded.
- (6) A number of dogs, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Dogs may be removed for poor food intake only during the first two weeks of the test. Data already collected from dogs removed from the test shall be retained although it does not have to be included in the final results.
- (7) A necropsy shall be conducted on any dog which dies during the test and the findings recorded.

Interpretation

- A. The diet shall fail if any dog shows clinical or pathological signs of nutritional deficiency or excess.
- B. All dogs not removed for non-nutritional reasons or poor food intake must successfully finish the test.
- C. No individual dog shall lose more than 15% of its initial body weight. The average percent body weight change (final compared to initial) shall not be less than either:
 1. -10%; or
 2. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at $p \leq 0.05$, if $n = 8$ per group).
- D. The average final hemoglobin, packed cell volume and serum albumin values shall not be less than either:
 1. a. Hemoglobin - 14.0 g/dL (no individual <12.0 g/dL),
 - b. PCV - 42% (no individual <36%),
 - c. Albumin - 2.8 g/dL (no individual <2.4 g/dL); or

2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
 3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample t -test at $p \leq 0.01$, if $n = 8$ per group).
- E. The average feline serum alkaline phosphatase value shall not be greater than either:
1. 150 IU/L (no individual >300 IU/L); or
 2. The historical colony average plus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
 3. The average for the concurrent control group, plus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample t -test at $p \leq 0.01$, if $n = 8$ per group).

Optional Procedures

The testing requirements for a maintenance dog food may be met by successfully performing either the growth or gestation/lactation protocols in lieu of performing the maintenance protocol.

Minimum Feeding Protocol for Proving an Adult Maintenance Claim for a Cat Food

Cats

A minimum of eight healthy adult cats at least one year of age and of optimal body weight shall be required to start the test. Queens in gestation or lactation shall be excluded. All animals starting the test must pass an initial physical examination by a veterinarian. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. A minimum of 30 cats shall be required for developing a historical colony average, with data used to establish averages for all parameters coming from the same individual cats. A minimum of eight cats shall be required for the concurrent control group.

Diet

The same formulation shall be fed throughout the test although different production batches may be used. Diets fed to a concurrent control group or to cats in the determination of historical colony averages must have successfully passed a minimum feeding protocol for an adult maintenance claim for a cat food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

Duration of Test

The test shall run for a minimum of 26 weeks and shall begin when cats are placed on the test diet.

Feeding Parameters

The test diet shall be the sole source of nutrients except for water. Cats shall be fed *ad libitum* or based on energy needs. Fresh water shall be provided *ad libitum*. Any interruption in the feeding protocol must be disclosed and may invalidate the test.

Clinical Observations and Measurements

- (1) Individual daily food consumption shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) Individual body weights shall be measured and recorded at the beginning, weekly, and at the end of the test.
- (3) Hemoglobin, packed cell volume, serum alkaline phosphatase, serum albumin and whole blood taurine shall be measured and recorded at the end of the test.
- (4) All cats shall be given a complete physical examination by a veterinarian at the beginning and at the end of the test. Each cat shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.
- (5) Any medication and the reason for its use must be recorded.
- (6) A number of cats, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Cats may be removed for poor food intake only during the first two weeks of the test. Data already collected from cats removed from the test shall be retained although it does not have to be included in the final results.
- (7) A necropsy shall be conducted on any cat which dies during the test and the findings recorded.

Interpretation

- A. The diet shall fail if any cat shows clinical or pathological signs of nutritional deficiency or excess.
- B. All cats not removed for non-nutritional reasons or poor food intake must successfully finish the test.
- C. No individual cat shall lose more than 15% of its initial body weight. The average percent body weight change (final compared to initial) shall not be less than either:
 1. -10%; or
 2. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at $p \leq 0.05$, if $n = 8$ per group).
- D. The average final hemoglobin, packed cell volume, whole blood taurine and serum albumin values shall not be less than either:
 1.
 - a. Hemoglobin - 10.0 g/dL (no individual <8.0 g/dL)
 - b. PCV - 30% (no individual <24%)
 - c. Taurine - 300 nmole/mL (no individual <200 nmole/mL)
 - d. Albumin - 2.8 g/dL (no individual <2.4 g/dL); or
 2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
 3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the

two group averages (one-tailed, two sample t -test at $p \leq 0.01$, if $n = 8$ per group).

- E. The average final serum alkaline phosphatase value shall not be greater than:
 1. 100 IU/L (no individual >200 IU/L); or
 2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
 3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample t -test at $p \leq 0.01$, if $n = 8$ per group).

Optional Procedures

The testing requirements for a maintenance cat food may be met by successfully performing either the growth or gestation/lactation protocols in lieu of performing the maintenance protocol.

Minimum Feeding Protocol for Proving a Growth Claim for a Dog Food

Puppies

A minimum of eight puppies from three different bitches shall be required to start the test. The puppies shall be no older than eight weeks of age and weaned. All puppies starting the test must pass an initial physical examination by a veterinarian. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. Historical colony averages for weight gain of puppies must be developed for each sex. Colony statistics shall be calculated with at least 30 males to determine the colony male average weight gain ($\mu_{\text{MaleColony}}$) \pm standard deviation ($\sigma_{\text{MaleColony}}$). In addition, at least 30 females shall be used to determine the colony female average weight gain ($\mu_{\text{FemaleColony}}$) \pm standard deviation ($\sigma_{\text{FemaleColony}}$). A minimum of 30 puppies shall be required for developing the historical colony averages for parameters other than weight gain with all data coming from the same individual puppies. When using a concurrent control group, a minimum of eight puppies for the control group and eight puppies for the test group derived from at least three different bitches shall be required to form the test and concurrent control groups. The test group shall have the same gender distribution as the concurrent control group.

Diet

The same formulation shall be fed throughout the test, although different production batches may be used. Diets fed to a concurrent control group or to puppies in the determination of historical colony averages must have successfully passed a minimum feeding protocol for a growth claim for a dog food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

Duration of Test

The test shall run for a minimum of 10 weeks.

Feeding Parameters

The test diet shall be the sole source of nutrients except for water. Puppies shall be fed *ad libitum* or based on energy needs. Fresh water shall be provided *ad libitum*.

Puppies may be fed individually or in groups. The historical or concurrent control groups shall be fed in a manner similar to that of the treatment group. Any interruption in the feeding protocol must be disclosed and may invalidate the test.

Clinical Observations and Measurements

- (1) Individual daily food consumption shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) Individual body weights shall be measured and recorded at the beginning, weekly, and at the end of the test.
- (3) Hemoglobin, packed cell volume, and serum albumin shall be measured and recorded at the end of the test.
- (4) All puppies shall be given a complete physical examination by a veterinarian at the beginning and at the end of the test. Each puppy shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.
- (5) Any medication and the reason for its use must be recorded.
- (6) A number of puppies, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Puppies may be removed for poor food intake only during the first two weeks of the test. Data already collected from puppies removed from the test shall be retained although it does not have to be included in the final results.
- (7) A necropsy shall be conducted on any puppy which dies during the test and the findings recorded.

Interpretation

- A. The diet shall fail if any puppy shows clinical or pathological signs of nutritional deficiency or excess.
- B. All puppies not removed for non-nutritional reasons or poor food intake must successfully finish the test.
- C. The average body weight gain shall not be less than either:
 1. 80% of the historical colony average, with averages for males and females determined separately for both the test and colony groups; or
 2. The average body weight gain for n puppies ($n \geq 8$) shall not be less than either the adjusted historical colony average minus 1.64 times the standard error. (See Appendix 1 for mathematical formulas required to calculate adjusted historical colony average and standard error regarding weight gain); or
 3. The average body weight gain shall not be less than the average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample t -test at $p \leq 0.05$, if $n = 8$ per group). (See Appendix 2 for mathematical formulas required to calculate the standard error of the difference of the two group averages for weight gain).
- D. The average final hemoglobin, packed cell volume and serum albumin values shall not be less than either:
 1. Hemoglobin - 11.0 g/dL (no individual <9.0 g/dL)
PCV - 33% (no individual <27%)
Albumin - 2.6 g/dL (no individual <2.2 g/dL); or
 2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or

3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at $p \leq 0.01$, if $n = 8$ per group).

Minimum Feeding Protocols for Proving a Growth Claim for a Cat Food

Kittens

A minimum of eight kittens from three different queens shall be required to start the test. The kittens shall be no older than nine weeks of age and weaned. All kittens starting the test must pass an initial physical examination by a veterinarian. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. Historical colony averages for weight gain of kittens must be developed for each sex. Colony statistics shall be calculated with at least 30 males to determine the colony male average weight gain ($\mu_{\text{MaleColony}} \pm \text{standard deviation } (\sigma_{\text{MaleColony}})$). In addition, at least 30 females shall be used to determine the colony female average weight gain ($\mu_{\text{FemaleColony}} \pm \text{standard deviation } (\sigma_{\text{FemaleColony}})$).

A minimum of 30 kittens shall be required for developing the historical colony averages for parameters other than weight gain with all data coming from the same individual kittens. When using a concurrent control group, a minimum of eight kittens for the control group and eight kittens for the test group derived from at least three different queens shall be required to form the test and concurrent control groups. The test group shall have the same gender distribution as the concurrent control group.

Diet

The same formulation shall be fed throughout the test, although different production batches may be used. Diets fed to a concurrent control group or to kittens in the determination of historical colony averages must have successfully passed a minimum feeding protocol for a growth claim for a cat food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

Duration of Test

The test shall run for a minimum of 10 weeks.

Feeding Parameters

The test diet shall be the sole source of nutrients except for water. Kittens shall be fed *ad libitum* or according to energy needs. Fresh water shall be provided *ad libitum*. Kittens may be fed individually or in groups. The historical or concurrent control groups shall be fed in a manner similar to that of the treatment group. Any interruption in the feeding protocol must be disclosed and may invalidate the test.

Clinical Observations and Measurements

- (1) Individual daily food consumption shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) Individual body weights shall be measured and recorded at the beginning, weekly, and at the end of the test.
- (3) Hemoglobin, packed cell volume, whole blood taurine, and serum albumin shall be measured and recorded at the end of the test.

- (4) All kittens shall be given a complete physical examination by a veterinarian at the beginning and at the end of the test. Each kitten shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.
- (5) Any medication and the reason for its use must be recorded.
- (6) A number of kittens, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Kittens may be removed for poor food intake only during the first two weeks of the test. Data already collected from kittens removed from the test shall be retained although it does not have to be included in the final results.
- (7) A necropsy shall be conducted on any kitten which dies during the test and the findings recorded.

Interpretation

- A. The diet shall fail if any kitten shows clinical or pathological signs of nutritional deficiency or excess.
- B. All kittens not removed for non-nutritional reasons or poor food intake must successfully finish the test.
- C. The average body weight gain shall not be less than either:
 1. 80% of the historical colony average, with averages for males and females determined separately for both the test and colony groups; or
 2. The average body weight gain for n kittens ($n \geq 8$) shall not be less than either the adjusted historical colony average minus 1.64 times the standard error. (See Appendix 1 for mathematical formulas required to calculate adjusted historical colony average and standard error regarding weight gain); or
 3. The average body weight gain shall not be less than the average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample t -test at $p \leq 0.05$, if $n = 8$ per group). (See Appendix 2 for mathematical formulas required to calculate the standard error of the difference of the two group averages for weight gain).
- D. The average final hemoglobin, packed cell volume, whole blood taurine and serum albumin values shall not be less than either:
 1.
 - a. Hemoglobin - 10.0 g/dL (no individual <8.0 g/dL)
 - b. PCV - 29% (no individual <26%)
 - c. Taurine - 300 nmole/mL (no individual <200 nmole/mL)
 - d. Albumin - 2.7 g/dL (no individual <2.4 g/dL); or
 2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
 3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample t -test at $p \leq 0.01$, if $n = 8$ per group).

Minimum Feeding Protocol for Proving a Gestation/ Lactation Claim for a Dog Food

Dogs

Enough bitches shall be used to ensure that a minimum of eight pregnant bitches start the test. The bitches must be in at least their second heat period and at least one year of age. All bitches starting the test must pass an initial physical examination by a veterinarian. There is no specific size or breed requirement, but the bitches and studs must be of the same breed. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. A minimum of 30 bitches shall be required for developing a historical colony average, with data used to establish averages for all parameters coming from the same individual bitches. A minimum of eight bitches shall be required for the concurrent control group. Breed distribution must be similar in all groups.

Diet

The same formulation shall be fed throughout the test, although different production batches may be used. Diets fed to a concurrent control group or to bitches in the determination of historical colony averages must have successfully passed the minimum feeding protocol for a gestation/lactation claim for a dog food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

Duration of Test

The test shall begin at or before estrus, and shall end when the puppies are 4 weeks of age, independent of age at weaning.

Feeding Parameters

The test diet shall be the sole source of nutrients except for water. Animals shall be fed *ad libitum* or based on energy needs which are affected by the size of litter being nursed. Fresh water shall be provided *ad libitum*. Any interruption in the feeding protocol must be disclosed, and may invalidate the test.

Clinical Observations and Measurements

- (1) Individual daily food consumption for the bitch during gestation and for the bitch and her puppies during lactation shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) For each bitch, body weights shall be measured and recorded at breeding, weekly during gestation, within 24 hours after whelping, weekly during lactation, and at the end of the test. For the puppies, body weights shall be measured and recorded within 24 hours after birth, weekly, and at the end of the test.
- (3) The litter size at birth, at one day of age, and at the end of the test shall be recorded. Stillbirths and congenital abnormalities shall be recorded.
- (4) Hemoglobin, packed cell volume, and serum albumin shall be measured and recorded for the bitch at the end of the test.
- (5) All bitches shall be given a complete physical examination by a veterinarian at the beginning of the test, and at the end of the test. Each bitch shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded. All puppies shall be given a complete physical examination by a veterinarian within 72 hours after birth, and at the end of the test. Each puppy shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.

- (6) Any medication and the reason for its use must be recorded.

- (7) A number of bitches, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Bitches may be removed for poor food intake only during the first two weeks of the test. Data already collected from bitches or puppies removed from the test shall be retained although it does not have to be included in the final results.
- (8) A necropsy shall be conducted on any bitch or puppy which dies during the test and the findings recorded.

Interpretation

- A. The diet shall fail if any bitch or puppy shows clinical or pathological signs of nutritional deficiency or excess.
- B. All bitches not removed for non-nutritional reasons or poor food intake must successfully finish the test. Eighty percent of all one-day-old puppies must survive and successfully finish the test.
- C. The pregnant bitches on the test shall show weight gain during gestation. The average percent body weight change (breeding through the end of the test) of the bitches shall not be less than either:
 1. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
 2. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at $p \leq 0.05$, if $n = 8$ per group).
- D. The average weight of the puppies at the end of the test shall not be less than either:
 1. 80% of the historical colony average; or
 2. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals. (See Appendix 1 for mathematical formulas required to calculate adjusted historical colony average and standard error regarding weight gain); or
 3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at $p \leq 0.05$, if $n = 8$ per group). (See Appendix 2 for mathematical formulas required to calculate the standard error of the difference of the two group averages for weight gain).
- E. At the end of the test, the average litter size of the bitches completing the test shall not be less than either:
 1. 80% of the historical colony average; or
 2. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
 3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at $p \leq 0.05$, if $n = 8$ per group).
- F. The average final hemoglobin, packed cell volume, and serum albumin values shall not be less than either:
 1. a. Hemoglobin - 10.0 g/dL (no individual <8.0 g/dL),
 - b. PCV - 30% (no individual <24%),
 - c. Albumin - 2.4 g/dL (no individual <2.2 g/dL); or

2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample *t*-test at $p \leq 0.01$, if $n = 8$ per group).

Minimum Feeding Protocol For Proving a Gestation/ Lactation Claim for a Cat Food

Cats

Enough queens shall be used to ensure that a minimum of eight pregnant queens start the test. The queens must be in at least their second heat period and at least one year of age. All queens starting the test must pass an initial physical examination by a veterinarian. Historical colony averages shall be acquired from a similar population of animals within the same testing facility that accurately represents the size and breed of the test group. A minimum of 30 queens shall be required for developing a historical colony average, with data used to establish averages for all parameters coming from the same individual queens. A minimum of eight queens shall be required for the concurrent control group.

Diet

The same formulation shall be fed throughout the test, although different production batches may be used. Diets fed to a concurrent control group or to queens in the determination of historical colony averages must have successfully passed the minimum feeding protocol for a gestation/lactation claim for a cat food. It may be helpful to consider diet type (i.e., dry vs. semi-moist vs. canned) in establishing colony averages.

Duration of Test

The test shall begin at or before estrus, and shall end when the kittens are 6 weeks of age, independent of age at weaning.

Feeding Parameters

The test diet shall be the sole source of nutrients except for water. Animals shall be fed *ad libitum* or based on energy needs which are affected by the size of litter being nursed. Fresh water shall be provided *ad libitum*. Any interruption in the feeding protocol must be disclosed, and may invalidate the test.

Clinical Observations and Measurements

- (1) Individual daily food consumption for the queen during gestation and for the queen and her kittens during lactation shall be measured and recorded for all animals if any animal is removed for poor food intake.
- (2) For each queen, body weights shall be measured and recorded at breeding, weekly during gestation, within 24 hours after queening, weekly during lactation, and at the end of the test. For the kittens, body weights shall be measured and recorded within 24 hours after birth, weekly, and at the end of the test.

- (3) The litter size at birth, at one day of age, and at the end of the test shall be recorded. Stillbirths and congenital abnormalities shall be recorded.
- (4) Hemoglobin, packed cell volume, whole blood taurine, and serum albumin shall be measured for the queen at the end of the test.
- (5) All queens shall be given a complete physical examination by a veterinarian at the beginning of the test and at the end of the test. Each queen shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded. All kittens shall be given a complete physical examination by a veterinarian within 72 hours after birth, and at the end of the test. Each kitten shall be evaluated as to general health, body and hair coat condition, and comments shall be recorded.
- (6) Any medication and the reason for its use must be recorded.
- (7) A number of queens, not to exceed 25% of those starting the test, may be removed for non-nutritional reasons or poor food intake. The reason for their removal must be recorded. Queens may be removed for poor food intake only during the first two weeks of the test. Data already collected from queens or kittens removed from the test shall be retained although it does not have to be included in the final results.
- (8) A necropsy shall be conducted on any queen or kitten which dies during the test and findings recorded.

Interpretation

- A. The diet shall fail if any queen or kitten shows clinical or pathological signs of nutritional deficiency or excess.
- B. All queens not removed for non-nutritional reasons or poor food intake must successfully finish the test. Eighty percent of all one-day-old kittens must survive and successfully finish the test.
- C. The pregnant queens on the test shall show weight gain during gestation. The average percent body weight change (breeding through the end of the test) of the queens shall not be less than either:
 1. -10% (no individual $< -15\%$); or
 2. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
 3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample t -test at $p \leq 0.05$, if $n = 8$ per group).
- D. The average weight of the kittens at the end of the test shall not be less than either:
 1. 80% of the historical colony average; or
 2. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root number of test animals. (See Appendix 1 for mathematical formulas required to calculate adjusted historical colony average and standard error regarding weight gain); or
 3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample t -test at $p \leq 0.05$, if $n = 8$ per group). (See Appendix 2 for mathematical formulas required to calculate

- the standard error of the difference of the two group averages for weight gain).
- E. At the end of the test, the average litter size of the queens completing the test shall not be less than either:
 1. 80% of the historical colony average; or
 2. The historical colony average minus 1.64 times the standard error. The standard error is defined as the colony standard deviation divided by the square root number of test animals; or
 3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 1.76 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample t -test at $p \leq 0.05$, if $n = 8$ per group).
 - F. The average final hemoglobin, packed cell volume, whole blood taurine and serum albumin values shall not be less than either:
 1.
 - a. Hemoglobin - 9.5 g/dL (no individual < 8.0 g/dL)
 - b. PCV - 29% (no individual $< 26\%$)
 - c. Taurine - 300 nmole/mL (no individual < 200 nmole/mL)
 - d. Albumin - 2.7 g/dL (no individual < 2.4 g/dL); or
 2. The historical colony average minus 2.33 times the standard error. The standard error is defined as the colony standard deviation divided by the square root of the number of test animals; or
 3. The average for the concurrent control group, minus the allowance for normal variation. The allowance for normal variation is defined as 2.62 times the pooled estimate of the standard error of the difference of the two group averages (one-tailed, two sample t -test at $p \leq 0.01$, if $n = 8$ per group).

Criteria for Substantiation of Continued Validity of Nutritional Adequacy Based on Feeding Protocol Results

Definition

A protocol substantiated formula is a dog or cat food, whether marketed or not, that has passed one or more AAFCO dog or cat food feeding protocols for substantiation of nutritional adequacy of one or more life stages. These are products that comply with Model Regulation (MR) PF7(a)(2) or PF7(b)(2)(B). A protocol substantiated formula may be a Product Family lead product. A protocol substantiated formula may carry a claim of nutritional adequacy substantiated via animal feeding protocol in compliance with PF7(c)(1)(B). A Product Family Member can be established according to the Procedures For Establishing Product Families. These Product Family Members may also carry a claim of nutritional adequacy substantiated via animal feeding protocol in compliance with PF7(c)(1)(B), provided they have been tested in a feeding protocol for determining metabolizable energy.

Formula Changes

Substitution of one or more different ingredients for ingredients used in a protocol substantiated formula necessitates redoing the previously passed protocol(s) in order to retain a nutritional adequacy claim permitted by MR PF7(c)(1)(B), unless the manufacturer has data on file that are sufficient to establish that the protocol substantiated formula is the lead member of a Pet Food Product Family and the new formula meets the criteria for being a member of the product family for bearing the claim specified in MR PF7(c)(1)(B). Substitution of one or more different ingredients for ingredients used in a

Product Family Member formula necessitates re-establishing that the new formula meets the criteria for being a member of the product family.

A change in ingredient proportions in a protocol substantiated formula that mandates a reordering of the listed ingredients according to their predominance of weight necessitates redoing the previously passed protocol(s) in order to retain a nutritional adequacy claim permitted by MR PF7(c)(1)(B), unless the manufacturer has data on file that are sufficient to establish that the protocol substantiated formula is the lead member of a Pet Food Product Family and the new formula meets the criteria for being a member of the product family.

Marketed Formulas

Every 5 years a manufacturer shall demonstrate continued validity of its marketed protocol substantiated formula products that bear a nutritional adequacy statement permitted in MR PF7(c)(1)(B) by producing data sufficient to show that the mean of six analyses from six independent, randomly selected batches of the currently marketed formula contains at least 95% of each of the key nutrients (dog and cat foods: crude protein, calcium, phosphorus, zinc, lysine, thiamine; plus for cat foods: potassium and taurine) used for establishment of a family member product using data from analyses of the original formula used in the feeding protocol(s) as the original nutrient values. The absence of data necessary to establish the original protocol substantiated formula as a lead product in a Pet Food Product Family for formulas marketed for 5 or more years necessitates redoing the previously passed protocol(s) in order to retain a nutritional adequacy claim permitted by MR PF7(c)(1)(B),

Every 5 years, a manufacturer shall demonstrate continued validity of its Product Family Members that bear a nutritional adequacy statement permitted in MR PF7(c)(1)(B) by producing data sufficient to show that the currently marketed formula meets the criteria for being a member of a Pet Food Product Family using data from the original feeding protocol(s) as the lead product criteria for establishment of a Pet Food Product Family.

Appendix 1: Calculation Formulas for Adjusted Colony Average and Standard Error for Weight Gain of Puppies or Kittens.

These mathematical formulas are to be used when evaluating weight gain produced by a test diet against the historical colony average.

$$\text{Adjusted Colony Average} = \frac{(\text{No. of TestMales} \times \mu_{\text{MaleColony}}) + (\text{No. of TestFemales} \times \mu_{\text{FemaleColony}})}{N}$$

The Colony standard error is defined as:

$$SE = \frac{\sigma^2_{\text{MaleColony}} + \sigma^2_{\text{FemaleColony}}}{2 \times N}$$

Appendix 2: Calculation Formulas for Standard Error of the Difference Between Test and Concurrent Control Group for Weight Gain of Puppies or Kittens

These mathematical formulas are to be used when evaluating weight gain produced by a test diet against weight gain produced by a concurrent control group fed a diet having successfully passed the same feeding protocol.

Calculate the following test statistics:

Puppies or Kittens	Standard Deviation	<i>n</i>
Male Test (MT)	SD _{MT}	<i>n</i> _{MT}
Female Test (FT)	SD _{FT}	<i>n</i> _{FT}
Male Control (MC)	SD _{MC}	<i>n</i> _{MC}
Female Control (FC)	SD _{FC}	<i>n</i> _{FC}

SE_{diff} =

$$\sqrt{\frac{(n_{MT}-1)SD_{MT}^2+(n_{MC}-1)SD_{MC}^2+(n_{FT}-1)SD_{FT}^2+(n_{FC}-1)SD_{FC}^2}{n_{MT}+n_{MC}+n_{FT}+n_{FC}-4}}$$

$$\times \sqrt{N}$$

Note: The test and control groups of N each (*N* ≥ 8) must contain at least 2 male pairs or at least 2 female pairs.

If the test (T) and control (C) are composed of all male or all female offspring then the standard error of the difference of the two group averages simplifies to:

SE_{diff} =

$$\sqrt{\frac{SD_T^2+SD_C^2}{N}}$$

Procedures For Establishing Pet Food Product Families

When pet food manufacturers substantiate nutritional adequacy by animal feeding tests performed in accordance with the AAFCO feeding protocols for dog and cat foods, and wish to establish product families, the following procedures shall be followed:

- A. *Each company may establish families of products which are nutritionally similar to a lead product produced by that company which has been successfully test-fed by the appropriate AAFCO feeding protocol(s). The other products within the established family must meet the following criteria:*
 1. All products within a family must be of the same processing type;
 2. All products within a family must also be in the same moisture content category (less than 20%, 20% or more but less than 65%, 65% or more) as determined by the same analytical method; and
 3. The label for the family members must bear a statement of nutritional adequacy for the same or less demanding life stage for which the lead product was successfully tested. Life stages in descending order are “all life stages,” gestation/lactation or growth, and maintenance; and
 4. The dry matter metabolizable energy (ME) content of the product family member (same Method for both lead and family member) must be within $\pm 7.5\%$ of the lead product’s dry matter ME content as determined by either an animal feeding study using the AAFCO “Minimum Protocol for Use in the Determination of Metabolizable Energy of Dog and Cat Foods” which has been corrected for moisture content, or the “Modified Atwater” formula as found in AAFCO Official Pet Food Regulation PF9(a)(3)(A) which has been corrected for moisture content; and
 5. The product family member must:
 - a. Meet, as determined by laboratory analysis, the dry matter nutrient levels and ratios of the lead family product for crude protein, calcium, phosphorus, zinc, lysine, thiamine, and additionally potassium and taurine for cat foods; and
 - b. All other nutrients in the AAFCO Nutrient Profile shall be formulated to meet or exceed the nutrient levels and ratios of the lead family product or the AAFCO Nutrient Profiles, whichever is lower and shall not exceed the maximums established by the AAFCO Nutrient Profiles; and
 6. Nutritional adequacy statement:
 - a. The lead product, whose nutritional adequacy is substantiated by an AAFCO Animal Feeding Protocol shall bear a label statement consistent with AAFCO Official Pet Food Regulation PF7(c)(1)B. Family members whose ME is substantiated by an ME feeding study shall bear the same label statement.
 - b. Family members whose ME is substantiated by using the “Modified Atwater” formula shall bear a label statement consistent with the AAFCO Official Pet Food Regulation PF7(c)(1)C.
- B. *When formula changes are made to family members, life stage feeding tests need not be conducted unless the product does not meet the requirements established for the family.*
- C. *Affidavits shall be made available upon request to the state control official for the lead product and for each product within the established family.*

AAFCO Dog and Cat Food Metabolizable Energy Protocols

Method 1: Quantitative Collection

I. Animals

A minimum of six (6) fully grown animals at least one (1) year of age shall complete the test. The animals shall be in good health and of known weight. Animals shall be individually housed in metabolism cages. If urine is not collected and metabolizable energy is calculated based on correction factors for urine energy loss as specified in the protocol, protected covered runs may be used in lieu of metabolism cages.

II. Feeding Procedures

Feeding procedures shall be standardized. The feeding shall consist of two phases. The first phase shall be the pre-collection period of at least five (5) days with the objective of acclimating the test animals to the diet and adjusting food intake, as necessary, to maintain body weight. The second phase shall be the total collection period of at least five (5) days (120 hours). The amount of food offered during the second phase shall remain constant. Food intake shall be recorded throughout both phases.

III. Food

Food type, flavor, and production codes representing the composite feed shall be recorded. The food source shall remain constant throughout the test period.

IV. Food Allowances

The amount of food presented to each animal may be based upon existing data on the quantity of food required to maintain body weight, or the estimated daily energy needs required for maintenance of various weights of dogs (Table 5, 1985 Nutrient Requirements of Dogs, NRC, or 132 kcal ME times body weight in kilograms to the 0.75 power) or cats (Table 4, 1986 Nutrient Requirements of Cats, NRC, or 70 kcal ME per kilogram body weight). *Ad libitum* feeding also may be used.

V. Times of Feeding

Animals shall be fed at least once daily and at the same time each day. Water shall be available at all times. Food shall be fed as is, or per normal feeding instructions for the product. The excess food shall be weighed back after the feeding.

VI. Pre-Trial Termination

If, during the pre-collection phase, the food is continually rejected or results in minimal consumption by a majority of the animals, the trial shall not proceed into the collection phase.

VII. Feces Collection

It is imperative that all collection containers be clearly marked using double labels. The labels shall include the animal number, diet number, and dates of collection. Feces shall be collected daily over 120 hours. Every effort should be made to collect all of the feces and avoid collecting hair. The methodology is as follows:

1. Weigh collection container and record weight.
2. Place feces in the respective animal's container for that day of collection.
Collect feces as quantitatively as possible.
3. Place collections in freezer for storage.

4. Feces may be dried each day.
 - a. Weigh and record the weight of the feces and container each day, and determine net weight of feces. If the volume of feces is large, an aliquot may be retained for drying.
 - b. Dry daily feces collection (or aliquot). Feces should be thin enough to dry quickly. Otherwise, nitrogen and carbon losses may occur due to fermentation products.
 - c. Composite the entire 120-hour collection or proportional aliquots.

VIII. Sample Preparation

A. Food

The food shall be blended to ensure a uniform consistency and an adequate quantity used for appropriate assays. Ample quantities of the remaining sample should be frozen and retained until assay results have been reviewed and found acceptable.

B. Feces

Feces shall be analyzed using composite samples. The samples shall be blended to ensure a uniform consistency and an adequate quantity used for appropriate assays. Ample quantities of the remaining sample should be frozen and retained until assay results have been reviewed and found acceptable.

C. Urine

If urine collections are made, they shall be for the same period as the feces collections. Urine shall be collected, with a minimum of contamination, in a urine receptacle containing sulfuric acid to stabilize the urine and prevent nitrogen loss. After the total urine volume is determined, aliquot samples shall be freeze-dried in an appropriate container.

IX. Analytical Determinations

Prepared samples shall be used for analysis. AOAC International approved analytical methodology shall be used when available. Food, feces, and urine (if collected) shall be assayed for gross energy (bomb calorimetry). If urine is not collected, food and feces also shall be assayed for crude protein.

X. Calculation of Metabolizable Energy

The determination is based on assays of the gross energy consumed, minus the energy in the feces and correction for energy lost in the urine (or energy lost in urine as determined by calorimetry).

A. Without urine collection

Data may be entered into the supporting data worksheet entitled Quantitative Collection Method Without Urine Collection which follows the Affidavit of Dog or Cat Food Caloric Content. Data for food must be entered on an “as fed” (AF) basis. Data for feces may be entered on a dry matter (DM) or wet (as collected) basis. However, all data for feces must be recorded on the same basis.

$$ME = \{ \text{gross energy of food consumed} - \text{gross energy of feces collected} - [(\text{grams protein consumed} - \text{grams protein in feces}) \times \text{correction factor for energy lost in urine}] / \text{amount of food consumed} \}$$

Correction factor for energy lost in urine = 1.25 kcal/g for dogs, 0.86 kcal/g for cats.

Example:

$$\text{ME (kcal/kg)} = \frac{(a \times b) - (c \times d) - \left(\frac{b \times e}{100} \right) - \left(\frac{d \times f}{100} \right) \times g}{b} \times 1000$$

a = gross energy of food = 4.35 kcal/g

b = amount of food consumed = 1250 g

c = gross energy of feces = 1.65 kcal/g

d = amount of feces collected = 600 g

e = protein in food = 24%

f = protein in feces = 9%

g = correction factor (dog) = 1.25 kcal/g

$a \times b = 4.35 \times 1250 = 5437.5$ kcal gross energy of food consumed

$c \times d = 1.65 \times 600 = 990$ kcal gross energy of feces collected

$b \times e / 100 = 1250 \times 24 / 100 = 300$ g protein of food consumed

$d \times f / 100 = 600 \times 9 / 100 = 54$ g protein in feces

$(300 - 54) \times 1.25 = 307.5$ kcal energy lost in urine

$$\text{ME} = \frac{(5437.5 - 990 - 307.5)}{1250} \times 1000$$

$$= 3310 \text{ kcal ME/kg food}$$

B. With urine collection

Data may be entered into the supporting data worksheet entitled Quantitative Collection Method with Urine Collection which follows the Affidavit of Dog or Cat Food Caloric Content. Data for food must be entered on an “as fed” (AF) basis. Data for feces may be entered on a dry matter (DM) or wet (as collected) basis. However, all data for feces must be recorded on the same basis.

ME = (gross energy of food consumed – gross energy of feces collected – gross energy of urine collected)/amount of food consumed

$$\text{ME (kcal/kg)} = \frac{(a \times b) - (c \times d) - (e \times f)}{b} \times 1000$$

Example:

a = gross energy of food = 4.35 kcal/g

b = amount of food consumed = 1250 g

c = gross energy of feces = 1.65 kcal/g

d = amount of feces collected = 600 g

e = gross energy of urine = 0.25 kcal/mL

f = volume of urine = 1230 mL

$a \times b = 4.35 \times 1250 = 5437.5$ kcal gross energy of food consumed

$c \times d = 1.65 \times 600 = 990$ kcal gross energy of feces collected

$e \times f = 307.5$ kcal gross energy of urine collected

$$\text{ME} = \frac{(5437.5 - 990 - 307.5)}{1250}$$

$$\begin{aligned} & \times 1000 \\ & = 3310 \text{ kcal ME/kg food} \end{aligned}$$

Method 2: Indicator Method

I. Animals

A minimum of six (6) fully grown animals at least one (1) year of age shall complete the test. The animals shall be in good health and of known weight. Animals shall be individually housed.

II. Feeding Procedures

Feeding procedures shall be standardized. The feeding shall consist of two phases. The first phase shall be the pre-collection period of at least five (5) days with the objective of acclimating the test animals to the diet and adjusting food intake, as necessary, to maintain body weight. The second phase shall be the collection period, during which aliquots of feces shall be collected from at least three separate days.

III. Food

Food type, flavor, and production codes representing the composite feed shall be recorded. The food source shall remain constant throughout the test period.

Approximately 0.25% chromic oxide shall be uniformly mixed in a quantity of food sufficient to feed all animals for the duration of the pre-collection and collection periods. The chromic oxide should be of high quality and free of soluble chromium. Fisher Certified powder or equivalent is suitable.

For dry diets, the chromic oxide powder should be premixed with a feed ingredient before incorporation into the diet. Although it possibly could be sprayed onto an extruded product, the uniformity of dispersion is questionable.

For canned diets, the chromic oxide powder should be added as an aqueous slurry. To aid in dispersion, a small amount of liquid detergent should be added to the slurry. This should help overcome the hydrophobic nature of chromic oxide and its tendency to form balls in solution.

IV. Food Allowances

The amount of food presented to each animal may be based upon existing data on the quantity of food required to maintain body weight, or the estimated daily energy needs required for maintenance of various weights of dogs (Table 5, 1985 Nutrient Requirements of Dogs, NRC, or 132 kcal ME times body weight in kilograms to the 0.75 power) or cats (Table 4, 1986 Nutrient Requirements of Cats, NRC, or 70 kcal ME per kilogram body weight). *Ad libitum* feeding also may be used.

V. Times of Feeding

Animals shall be fed at least once daily and at the same time each day. Water should be available at all times. Food shall be fed as is, or per normal feeding instructions for the product. The excess food shall be weighed back after the feeding.

VI. Pre-Trial Termination

If, during the pre-collection phase, the food is continually rejected or results in minimal consumption by a majority of the animals, the trial shall not proceed into the collection phase.

VII. Feces Collection

It is imperative that all collection containers be clearly marked using double labels. The labels shall include the animal number, diet number, and dates of collection.

Aliquots of feces from three separate days shall be collected. Every effort should be made to avoid collecting hair. The aliquots shall be dried and composited.

VIII. Sample Preparation

A. Food

The food shall be blended to ensure a uniform consistency and an adequate quantity used for appropriate assays. Ample quantities of the remaining sample should be frozen and retained until assay results have been reviewed and found acceptable.

B. Feces

The feces shall be analyzed using composite samples. The samples shall be blended to ensure a uniform consistency and an adequate quantity used for appropriate assays. Ample quantities of the remaining sample should be frozen and retained until assay results have been reviewed and found acceptable.

IX. Analytical Determinations

Prepared samples shall be used for analysis. AOAC International approved analytical methodology shall be used when available. Food and feces shall be assayed for gross energy (bomb calorimetry), crude protein, and chromium.

Food and feces should be analyzed for chromium by the same method. The preferred method of analysis is atomic absorption spectrophotometry.¹ Controlled sample digestion and oxidation of the chromic oxide to chromates is critical for reproducible results. Colorimetric analysis of chromium is less reproducible than atomic absorption spectrophotometry.

X. Calculation of Metabolizable Energy

The determination is based on assays of the gross energy consumed, minus the energy in the feces and correction for energy lost in the urine. Data may be entered into the supporting data worksheet entitled Indicator Method which follow the Affidavit of Dog or Cat Food Caloric Content. Data for food must be entered on an "as fed" (AF) basis. Data for feces may be entered on a dry matter (DM) or wet (as collected) basis. However all data for feces must be recorded on the same basis.

ME = digestible energy – (digestible protein × correction factor for energy lost in urine)
Correction factor = 1.25 kcal/g for dogs, 0.86 kcal/g for cats

$$DE = 1 - \frac{\text{gross energy of feces} \times \% \text{ Cr}_2\text{O}_3 \text{ in food}}{\text{energy of food} \times \% \text{ Cr}_2\text{O}_3 \text{ in feces}} \times \text{gross energy of food}$$

$$DP = 1 - \frac{\% \text{ protein in feces} \times \% \text{ Cr}_2\text{O}_3 \text{ in food}}{\% \text{ protein in food} \times \% \text{ Cr}_2\text{O}_3 \text{ in feces}} \times \% \text{ protein in food}$$

$$DE \text{ (kcal/g food)} = \{1 - [(b \times c)/(a \times d)]\} \times a$$

$$DP \text{ (g digestible protein/g food)} = \frac{\left\{1 - \frac{(f \times c)}{(e \times d)}\right\}}{100} \times e$$

$$ME \text{ (kcal/kg food)} = [DE - (DP \times g)] \times 1000$$

Example:

a = gross energy of food = 4.35 kcal/g

b = gross energy of feces = 1.65 kcal/g

c = percent chromic oxide in food = 0.25%

d = percent chromic oxide in feces = 0.52%

e = protein in food = 24%

f = protein in feces = 9%

g = correction factor (dog) = 1.25 kcal/g protein digested

$$\begin{aligned} \text{DE} &= \{1 - [(1.65 \times 0.25)/(4.35 \times 0.52)]\} \times 4.35 \\ &= 3.56 \text{ kcal/g food} \end{aligned}$$

$$\begin{aligned} \text{DP} &= \frac{\left\{1 - \frac{(9 \times 0.25)}{(24 \times 0.52)}\right\} \times 24}{100} \\ &= 0.197 \text{ g digestible protein/g food} \end{aligned}$$

$$\begin{aligned} \text{ME} &= 3.56 - (0.197 \times 1.25) \times 1000 \\ &= 3310 \text{ kcal ME/kg food} \end{aligned}$$

XI. Reference

¹ Arthur D. The determination of chromium in animal feed and excreta by atomic absorption spectrophotometry. Can Spect 1970; 15:134.

(Notary Signature)

I. _____
 _____ (Company Name)
 for _____
 _____ (Product Name)
 for Comparison to _____
 _____ (Lead Product Name)

II. Moisture Category as determined by the same analytical method for the lead and for this product):

 Dry (Less than 20%)

 Semi-moist (20% or more but less than 65%)

 Canned (65% or more)

III. Processing Type:
 This Product: _____ Lead Product: _____

IV. Life Stage (All Life Stages, Gestation/Lactation or Growth, and Maintenance):
 This Product: _____ Lead Product: _____

V. Metabolizable Energy (ME) Content (dry matter basis):
 ME determined by: _____ AAFCO Animal Feeding Study*
 _____ Modified Atwater Formula**
 This Product: _____ Kcal/kg Lead Product: _____ Kcal/kg

VI. Nutrient Levels (determined by laboratory analysis on a dry matter basis):

Key Nutrients	Units	This Product	Lead Product
Crude protein	%		
Calcium	%		
Phosphorus	%		
Zinc	mg/kg		
Lysine	%		
Thiamine	mg/kg		
Potassium (cat only)	%		
Taurine (cat only)	%		

Other nutrients are formulated to meet or exceed the minimum levels and ratios of the lead product or AAFCO Nutrient Profiles, whichever is lower, and shall not exceed the maximums established by the AAFCO Nutrient Profiles. Substantiation for individual nutrients shall be furnished upon request.

*Substantiation of animal feeding study results shall be furnished upon request.

**Data and calculation of ME results shall be furnished upon request.

(b) Affidavit of Pet Food Nutritional Similarity

[For pet food product family members labeled with the nutritional adequacy claim referenced in PF7(c)B and C]

- Affidavit _
(Company Name)
for _
(Product Name)

for Product Comparison to Animal Testing Affidavit _
for _
(Lead Product Name)

1. Affiant is the _ of _
(Title) (Company Name)
and is duly authorized to make and execute this Affidavit for and on behalf of said company.
2. Affiant is familiar with the requirements of the (AAFCO) Official Pet Food Regulations PF7(a), (b), (c), and (d) that pertain to the label representation of nutritional adequacy of dog and cat food products.
3. The product to which this Affidavit pertains (listed above and on the product label that is attached) meets the criteria to be considered a member of a family of products whose lead product (listed above and a copy of the label and Affidavit attached) has been substantiated by adequate testing that was performed in accordance with the requirements established by AAFCO for such testing. The information and data verifying such criteria are attached.
4. The nutritional representations made in this Affidavit are based upon scientifically accurate calculations made from the formula for this product and upon a chemical laboratory analysis of the product which are recorded and such results are on file at _ , and will be furnished to the state feed
(Location of Records)
control official upon request.

Name: _
Title: _
Signature: _
Company Name: _
Address: _

Subscribed and sworn before me this
_ Day of _ , 20 _ .

(Notary Signature)

**[For products labeled with the nutritional adequacy claim
referenced in PF7(c)(1)(A)]**

(Company Name) (Product Name)

- This product meets the nutrient levels established in the AAFCO _____
(Dog or Cat)
Food Nutrient Profiles for _____

4. The nutritional representations made in this Affidavit are based upon _____ (scientifically accurate calculations made from the formula _____ for this product) or (upon a chemical laboratory analysis of the product) which are recorded and such results are on file at _____ and will be furnished to the State Feed _____ (Location of Records) Official upon request.

Address: _____

Day of _____, 20____.

(Notary Signature)

(d) Affidavit of Dog or Cat Food Calorie Content

	Affidavit _	Calorie Content
(Company Name)	(Number)	

Statement for _____ (Product Name)

1. Affiant is the _____ of _____
(Title) (Company Name)
and is duly authorized to make and execute this Affidavit for and on behalf of said company.
2. Affiant is familiar with the requirements of AAFCO Regulation PF9 concerning label representations as to calorie content statements on dog and cat food products.
3. The product to which this Affidavit pertains contains _____ kcal/kg
metabolizable energy and _____ kcal per _____ (e.g., can, cup, biscuit).
4. The representations made in this Affidavit are based (check one that applies)
a. _____ upon calculations as per Regulation PF9(a)(3)A, using the following summary data:
- | | | |
|-----------------------|-------|---|
| Average crude protein | _____ | % |
| Average crude fat | _____ | % |
| Average crude fiber | _____ | % |
| Average moisture | _____ | % |
| Average ash | _____ | % |
| Calculated NFE | _____ | % |
- b. _____ upon adequate testing of digestibility in accordance with AAFCO procedures as per Regulation PF9(a)(3)B. Supportive summary data are attached.
5. The data substantiating this representation of calorie content are recorded and on file at _____ and will be furnished to the feed control official upon request.

By _____
(Name)

(Title)

(Signature)

(Company Name)

Subscribed and sworn before me this

Day of _____, 20____.

(Notary Signature)

Batch No.	CP Crude Protein AF ^a (%)	CF Crude Fat AF (%)	CFb Crude Fiber AF (%)	Mo Moisture AF (%)	Ash Ash AF (%)	NFE AF (%)	ME (kcal/kg)
1							
2							
3							
4							
Average							

^aAF = as fed.

$$\text{NFE (\%)} = 100 - (\text{CP} + \text{CF} + \text{CFb} + \text{Mo} + \text{Ash})$$

$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})]$$

Quantitative Collection Method Without Urine Collection

Dog ID No.	<i>a</i> Gross Energy of Food AF ^a (kcal/g)	<i>b</i> Food Consumed AF (g)	<i>c</i> Gross Energy Feces AF (g)	<i>d</i> Feces Collected DM ^b (g)	<i>e</i> Protein Food AF (%)	<i>f</i> Protein Feces DM (%)	<i>g</i> Correction Factor (kcal/g)	ME (kcal/g)
1								
2								
3								
4								
5								
6								
Average ME								

^aAF = as fed.
^bDM = dry matter.

$$(a \times b) - (c \times d) - \left((b \times e / 100) - (d \times f / 100) \right) \times g$$
$$\text{ME (kcal/kg)} = \frac{\hspace{10em}}{b} \times 1000$$

Correction factor = 1.25 kcal/g for dogs, 0.86 kcal/g for cats



Batch No.	CP Crude Protein AF ^a (%)	CF Crude Fat AF (%)	CFb Crude Fiber AF (%)	Mo Moisture AF (%)	Ash Ash AF (%)	NFE AF(%)	ME (kcal/g)
1							
2							
3							
4							
5							
6							

^aAF = as fed.

$$\text{NFE (\%)} = 100 - (\text{CP} + \text{CF} + \text{CFb} + \text{Mo} + \text{Ash})$$

$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})]$$

Quantitative Collection Method with Urine Collection

Dog ID No.	<i>a</i> Gross Energy of Food AF ^a (kcal/g)	<i>b</i> Food Consumed AF (g)	<i>c</i> Gross Energy Feces AF (g)	<i>d</i> Feces Collected DM ^b (g)	<i>e</i> Gross Energy Urine (kcal/mL)	<i>f</i> Urine Collected (mL)	ME (kcal/g)
1							
2							
3							
4							
5							
6							
Average ME							

^aAF = as fed.
^bDM = dry matter.

$$\frac{(a \times b) - (c \times d) - (e \times f)}{b}$$

$$\text{ME (kcal/kg)} = \frac{(a \times b) - (c \times d) - (e \times f)}{b} \times 1000$$

Batch No.	CP Crude Protein AF ^a (%)	CF Crude Fat AF (%)	CFb Crude Fiber AF (%)	Mo Moisture AF (%)	Ash Ash AF (%)	NFE AF (%)	ME (kcal/kg)
1							
2							
3							
4							
Average							

^aAF = as fed.

$$\text{NFE (\%)} = (\text{CP} + \text{CF} + \text{CFb} + \text{Mo} + \text{Ash})$$

$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})]$$

Indicator Method

Dog ID No.	<i>a</i> Gross Energy of Food AF ^a (kcal/g)	<i>b</i> Gross Energy Feces DM ^b (kcal/g)	<i>c</i> C ₁₂₀₃ in Food AF (%)	<i>d</i> C ₁₂₀₃ in Feces DM (%)	<i>e</i> Protein Food AF (%)	<i>f</i> Protein Feces DM (%)	<i>g</i> Correction Factor (kcal/g)	ME (kcal/g)
1								
2								
3								
4								
5								
6								
Average ME								

^aAF = as fed.^bDM = dry matter.

$$\text{DE (kcal/g food)} = \{1 - [(b \times c)/(a \times d)]\} \times a$$

$$\text{DP (g digestible protein/g food)} = [1 - (f \times c)/(e \times d)] \times e$$

$$\text{ME (kcal/g food)} = [\text{DE} - (\text{DP} \times g)] \times 1000$$

$$\text{Correction factor} = 1.25 \text{ kcal/g for dogs, } 0.86 \text{ kcal/g for cats}$$

Batch No.	CP Crude Protein AF ^a (%)	CF Crude Fat AF (%)	CFb Crude Fiber AF (%)	Mo Moisture AF (%)	Ash Ash AF (%)	NFE AF (%)	ME (kcal/g)
1							
2							
3							
4							
Average							

^aAF = as fed.

$$\text{NFE (\%)} = 100 - (\text{CP} + \text{CF} + \text{CFb} + \text{Mo} + \text{Ash})$$

$$\text{ME (kcal/kg)} = 10[(3.5 \times \text{CP}) + (8.5 \times \text{CF}) + (3.5 \times \text{NFE})]$$

AAFCO Pet Food Regulations Label Review Checklist

Company Name: _

Product Name: _

Reviewer: _

This Label Review Checklist is intended as a guide in determining whether this pet food or specialty pet food label is in compliance with the AAFCO Model Regulations for Pet Food and Specialty Pet Food.

*Note: There are also federal regulations that apply to the labeling and manufacture of animal food. It is recommended that pet food manufacturers and distributors check with FDA for additional information on federal labeling requirements. The AAFCO Business of Pet Food Website has a page with links to additional information on federal labeling requirements as well. The website address is <http://petfood.aaftco.org>

A “Yes” response to the questions below indicates compliance for that item.

A “No” response indicates a violation of the regulation mentioned.

I. Animal Species – Model Pet Food Regulation PF2(a)(2)

- (1) Do the words “Dog Food,” “Cat Food,” “Canine Formula,” “Feline Diet,” “Hamster Food” or similar designation appear conspicuously on the principal display panel? Yes _ No _

II. Quantity Statement – Model Pet Food Regulation PF2(a)(3)

- (1) Is there a quantity statement on the principal display panel in either net weight or net volume (avoirdupois and metric) or by count?
Yes _ No _
- (2) If volume is listed on a liquid vitamin or mineral supplement, is there a weight equivalent listed elsewhere on label? PF4(c)(4) and PF4(d)(4)
Yes _ No _

III. Location of Required Label Information – Model Pet Food Regulation PF2(b)

- (1) Does all required label information appear on the outer container or wrapper?
Yes _ No _

IV. Product Claims – Model Pet Food Regulation PF2(c)(d)(e)(f)(g)

If product claims and/or graphic representations are made:

- (1) Does adequate substantiation exist for each claim? Yes _ No _
- (2) Are the claims truthful and not misleading? Yes _ No _
- (3) If a claim of “new” or “improved” is made, is it limited to six (6) months of production? Yes _ No _

V. Product Comparison Claims – Model Pet Food Regulation PF2(h)

- (1) If the label includes any claims of comparison to another product, is the name of the product of comparison included on the label?

Yes No _

- (a) If “yes,” is documentation, data, etc., available to support the claim?
Yes No _
- (b) Is the claim limited to one (1) year production? Yes _ No _

VI. Product Name – Model Pet Food Regulation PF3

The following AAFCO Official Pet Food or Specialty Pet Food Regulations refer to ingredient(s) that form part of the product name:

- (1) If the pet food or specialty pet food claims “100%” or “All” within the product name (PF3(a)):
 - (a) Does the pet food or specialty pet food contain only one ingredient other than water for processing, decharacterizing agents, or trace amounts of preservatives and condiments? Yes _ No _
- (2) If the product name is formed by using an ingredient or combination of ingredients without further qualification (“95% Rule”- PF3(b)(1) Example: My Favorite Beef Dog Food):
 - (a) Is the formulation comprised of at least 95% of the named ingredient(s), exclusive of water sufficient for processing, [but not less than 70% of the total product weight] in the formulation?
Yes No _
 - (b) Is the named ingredient listed in the ingredient statement?
Yes No _
 - (c) If multiple ingredients are listed, are they in the same order in both the product name and ingredient statement and is each ingredient at least 3% of formula? Yes _ No _
 - (d) Are all ingredients that are included in the product name printed in the same size, style and color print? Yes _ No _
- (3) If a product name is formed using an ingredient or a combination of ingredients and is listed with a primary descriptor term such as “dinner,” “entrée,” “formula,” etc. (“25% Rule”- PF3(b)(2), Example: My Favorite Salmon Entrée Cat Food):
 - (a) Is the formulation comprised of at least 25% of the named ingredient(s), exclusive of water sufficient for processing, [but not less than 10% of the total product weight] in the formulation? Yes _ No _
 - (b) Is the named ingredient listed in the ingredient statement?
Yes No _
 - (c) If multiple ingredients are listed, are they in the same order in both the product name and ingredient statement and is each ingredient at least 3% of the formula? (Example: My Favorite Beef, Chicken and Lamb Dinner Dog Food)? Yes _ No _
 - (d) Are all ingredients and primary descriptor that are included in the product name printed in same size, style and color print? Yes _ No _
- (4) If there is an ingredient name in the product name or elsewhere on the label that

includes a descriptor term such as “with” (“With Rule”- PF3(c)Example: My Favorite Dog Food With Beef):

- (a) Does each ingredient named constitute at least 3% of the formulation, exclusive of water sufficient for processing (except for nutrients or condiments)? Yes _ No _
- (b) If multiple ingredients are listed, are they in the same order in both the product name and ingredient statement and is each ingredient at least 3% of formula? Yes _ No _

- (c) Is the word “with” in the same size, style, color and case print as the ingredients that are included in the product name? Yes _ No _
- (d) Does the product name meet the print size specifications listed in the following table? Yes _ No _

Panel Size	Maximum “With Claim” Type Size
≤5 in. ²	1/8 in.
>5–≤25 in. ²	1/4 in.
>25–≤100 in. ²	3/8 in.
>100–≤400 in. ²	1/2 in.
>400 in. ²	1 in.

- (5) If a flavor designation is used in the product name or elsewhere on the label:
- (a) Does the name correspond to the source of the flavor in the ingredient statement or has it been identified by a source of flavor in the ingredient statement; and is substantiation available to validate the flavor designation? Yes _ No _
- (b) If a flavor designation is made, is the word “flavor” printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation? Yes _ No _

Table Summarizing Product Name Requirements

Claim Rule	Product Name Example With Ingredient	Percentage of Ingredient to Make Claim	Minimum Percent of Ingredient in Formula Weight ^a
“100%”, “All”	“100% Beef”; “All Sweet Potato”	100% ^b	
95%	“Cherry”; “Trout”	95% ^c	70%
25% Descriptor	“Chicken Platter”; “Turkey Recipe”	25% ^c	10%
“with”	“with blueberries, carrots, and cranberries”	3% each ^c	N/A
“Flavor”	Peanut Butter Flavor	Sufficient to impart flavor	N/A

^aMinimum percentage of ingredient allowed in total product weight, regardless of water content.

^bnot including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments

^cnot including water sufficient for processing

VII. Expression of Guarantees – Model Pet Food Regulation PF4

(1) Are all required nutrients guaranteed? PF4(a)(1); PF4(g) Yes _ No _

- (a) Are mandatory guarantees in the proper order as found in PF4(a)(1)?
Yes No _
- (b) If label claims have been made that indicate that the product is a source of specific nutrients, are those nutrients guaranteed? Model Bill Section 5(a)
(3) Yes No _
- (2) Do the guarantees follow the applicable AAFCO nutrient profile order? PF(4)
(a)(3) Yes _ No _
- (a) For Specialty Pets without an AAFCO-recognized nutrient profile, do the guarantees follow the order of the AAFCO Cat Food Nutrient Profile?
PF(4)(a)(4) Yes _ No _
- (3) If a guarantee is made for a nutrient not listed as essential by the AAFCO Dog or Cat Food Nutrient Profiles (or in the case of a specialty pet food, the cited AAFCO-recognized nutritional authority for the intended species), is it asterisked to the disclaimer statement? PF4(a)(3) or PF4(a)(4)
Yes No _
- (4) Are the correct units used? Units must follow those used in AAFCO Dog or Cat Food Nutrient Profiles (or in the case of specialty pet food, in the cited AAFCO-recognized nutrient profile*). PF4(a)(3) or PF4(a)(4)
Yes No _
- *Note: If no AAFCO-recognized nutrient profile exists for the species, units should follow the AAFCO Cat Food Nutrient Profile for specialty pet food labels.*
- (5) Has it been verified that the label does not have sliding scale guarantees? (e.g. Minimum Crude Protein is 15-18%) PF4(b) Yes _ No _
- (6) If formulated or represented as a mineral supplement, are guarantees listed as required by PF4(c) (1)-(4)? Yes _ No _
- (7) If formulated or represented as a vitamin supplement, are guarantees listed as required by PF4(d)(1)-(4)? Yes _ No _
- (8) If the label of the pet food or specialty pet food bears a statement of comparison of the nutrient content of food with levels established in the the AAFCO-recognized nutrient profile, do the following apply? PF4(e)
- (a) Does the product meet the nutrient requirements of the AAFCO-recognized nutrient profile? Yes _ No _
- (b) Is there a statement that the product meets the AAFCO-recognized nutrient profile, unless the nutritional adequacy statement required by PF7(a)(1) or PF7(b)(2)(A) appears elsewhere on the label? Yes _ No _
- (c) Does the comparison comply with the additional requirements in PF4(e) (3)-(4)? Yes _ No _
- (9) Has it been verified that the moisture content of the pet food or specialty pet food does not exceed 78% or the natural moisture content of the ingredients, unless the product is consisted of and labeled as: “stew,” “gravy,” “sauce,”

“broth,” “aspic,” “juice,” or a “milk replacer”? PF4(f) Yes _ No _

VIII. Ingredient Statement – Model Pet Food Regulation PF5

- (1) Are all ingredients listed in the same size, style, and color and in a single, uninterrupted ingredient statement? Yes _ No _
- (2) Are ingredients listed in order of descending predominance by weight? PF5(a)
(2) Yes _ No _
- (3) Are defined ingredients listed by their AAFCO defined names? PF5(a)(3)
Yes _ No _
- (4) If an ingredient has no established AAFCO name or definition, is a common or usual name used? Yes _ No _

- (5) Collective terms, brand or trade names have not been used in the ingredient statement? PF5(c) Yes _ No _
- (6) There are no references to ingredient quality or grade in the ingredient statement? PF5(d)(3) Yes _ No _

IX. Drugs and Pet Food Additives – Model Pet Food Regulation PF6

- (1) If an artificial color is used, has sufficient documentation been collected to demonstrate that it has been shown to be harmless to pets or specialty pets based on the intended use of the feed? PF6(a) Yes _ No _
- (2) If an additive or drug is being used, can safety and efficacy be established through satisfactory evidence (i.e. does it conform to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or is it prior-sanctioned, informal-review sanctioned or GRAS for such use) when the product is fed according to the label directions? PF6(b) Yes _ No _
- (3) If a drug is used: PF6(b)(2) and MR3(a)(2)
- (a) Does the word “Medicated” appear directly following and below the product name in font that is no less than one half (1/2) the type size of the product name? MR3(a)(2)I Yes _ No _
- (b) Does the label bear a purpose statement that clearly indicates the purpose, class of animal, and species? MR3(a)(2)II Yes _ No _
- (c) Does the label have a claim statement (purpose of the medication)? MR3(a)(2) Yes _ No _
- (d) Does the label have an active ingredient statement which lists the active drug ingredient by the established name and the amount present? MR3(a)(2)IV Yes _ No _

X. Nutritional Adequacy – Model Pet Food Regulation PF7

Dog and Cat and Specialty Pets

- (1) If there is an unqualified nutritional adequacy claim of “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” on the label of the pet food or specialty pet food, is the product complete and balanced for all life stages of the intended species by meeting one of the 3 criteria in PF7(a)?
Yes _ No _
- (2) If there is a qualified nutritional adequacy claim for only a limited purpose or specific life stage on the label of the pet food or specialty pet food, is the claim and required qualification on same panel in the same size, style and color print? PF7(b)(1) Yes _ No _
- (3) If there is a qualified nutritional adequacy claim for only a limited purpose or specific life stage on the label of the pet food or specialty pet food, is the product “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” for the specific life stage of the intended species by meeting one of the 3 criteria in PF7(b)(2)? Yes _ No _

- (4) If the pet food or specialty pet food product is labeled for “use by or under the supervision or direction of a veterinarian,” (PF7(d)) does it also contain a nutritional adequacy statement in accordance with PF7(c)(1) or PF7(c)(3)?
PF7(d)? Yes _ No _
- (5) Are signed affidavits available to support that the pet food or specialty pet food product meets the requirements of PF7(a) or PF7(b)(2)? PF7(e)
Yes No _

Pet (Dog and Cat) Only:

- (6) If the dog or cat food product is a “snack,” “treat,” or “supplement,” do the words “snack” or “treat” or “supplement” appear clearly and conspicuously on the principal display panel? PF7(c) Yes _ No _
- (7) If the dog or cat food product is not labeled as a “snack” or “treat” or “supplement”:
 - (a) Does the label contain the proper (as appropriate to the intended use and substantiation method) nutritional adequacy statement and in the exact wording shown? PF7(c)(1) Yes _ No _
 - (b) And, if the product does not meet the requirements of Regulation PF7(a) or (b)(2) or any other special nutritional or dietary need, so is suitable only for limited or supplemental feeding, does the statement “This product is intended for intermittent or supplemental feeding only” appear on the label? PF7(c)(3) Yes _ No _

XI. Feeding Directions – Model Pet Food Regulation PF8

Pet (Dog or Cat) Food Directions:

- (1) If dog or cat food (including “treats” or “snacks”)* is labeled as complete and balanced for any or all life stages, does the label have feeding directions? PF8(a) Yes _ No _

**If a dog or cat product is labeled as a snack or treat, and is not represented as “complete and balanced,” feeding directions are voluntary unless considered necessary for “safe and effective use.”*

- (2) Are the feeding directions consistent with all of the intended uses of the product? PF8(a) Yes _ No _
- (3) Do the feeding directions state, at minimum, a weight or unit of product per weight of dog or cat and frequency of feeding stated? PF8(a) Yes _ No _
- (4) If the dog or cat food product is labeled for “use by or under the supervision or direction of a veterinarian,” does it also carry the statement “Use only as directed by your veterinarian.”? PF8(b) Yes _ No _

Specialty Pet Food Directions:

- (5) Are the feeding directions adequate to meet the nutritional requirements of the intended species as recommended by the AAFCO-recognized nutritional authority? PF8(c) Yes _ No _
- (6) Do the feeding directions for specialty pet foods and treats labeled as complete and balanced for any or all life stages meet all three of the following three criteria? PF(8)(c):
 - (a) List feeding directions that are adequate to provide the nutrient requirements as determined by an AAFCO-recognized nutritional authority of the intended species? Yes _ No _
 - (b) Use common terms and appear predominantly on the label?

Yes No _

(c) Specify the frequency of feeding? Yes _ No _

Nutritional Supplement Feed:

(7) If a pet food or specialty pet food is labeled as a nutritional supplement, are adequate directions for use provided? MR 7(c) Yes _ No _

XII. Calorie Content – Model Pet Food Regulation PF9 – Applies Only to Pet Food (Dog or Cat)

(1) Does the label bear a calorie content statement? PF9(a) Yes _ No _

- (2) Is it separate and distinct from the guaranteed analysis? PF9(a)(1)
Yes No _
- (3) Does it appear under the heading “Calorie Content”? PF9(a)(1)
Yes No _
- (4) Is it stated in terms of metabolizable energy (ME)? PF9(a)(2)
Yes No _
- (5) Is it expressed both in terms of kcal/kg and kcal per familiar household measure or unit of product (cups, cans, treats, pieces)? PF9(a)(2)
Yes No _
- (6) Has it been determined by calculation or animal testing procedure following methods in PF9(a)(3)? Yes _ No _
- (a) If calculated, does the word “calculated” appear in parentheses immediately after “Calorie Content”? PF9(a)(5)A. Yes _ No _
- (b) If determined by animal testing procedures, does the word “fed” appear in parentheses immediately after “Calorie Content”? PF9(a)(5)B.
Yes No _
- (7) Is an affidavit available to support the calorie content statement? PF9(a)(4)
Yes No _

XIII. Descriptive Terms – Model Pet Food Regulation PF10 – Applies Only to Pet Food (Dog or Cat)

- (1) Calorie Terms- Light-If the product label bears a “light,” “lite” or “low calorie” claim:
- (a) Does it meet the following requirements? Yes _ No _
- | | |
|-------------------------------------|------------------------|
| <u>Light—PF10(a)(1)(A)—Dog Food</u> | |
| ≤3100 kcal/kg | <20% moisture |
| ≤2500 kcal/kg | <65% and ≥20% moisture |
| ≤900 kcal/kg | ≥65% moisture |
| <u>Light—PF10(a)(1)(B)—Cat Food</u> | |
| ≤3250 kcal/kg | <20% moisture |
| ≤2650 kcal/kg | <65% and ≥20% moisture |
| ≤950 kcal/kg | ≥65% moisture |
- (b) Does the label contain a calorie content statement? PF10(a)(1)(A)(ii) or PF10(a)(1)(B)(ii) Yes _ No _
- (c) Is the claim based on an “as fed” basis? Yes _ No _
- (d) Does the calorie content statement follow the format specified in PF9? PF10(a)(1)(A)(ii)(aa) or PF10(a)(1)(B)(ii)(aa) Yes _ No _
- (e) Are feeding directions consistent with reduced calorie intake? PF10(a)(1)(A)(iii) or PF10(a)(1)(B)(iii). Yes _ No _

- (2) Less or Reduced Calories - Regulation PF10(a)(2) --If the label makes a less or reduced calorie claim:
- (a) Is there a product of comparison named? PF10(a)(2)(A)(i)
Yes No _
 - (b) Is there a percentage of calorie reduction stated on the label? PF10(a)(2)(A)(i) Yes _ No _
 - (c) Is it expressed on an equal weight basis (i.e., kcal/kg on an as fed basis)? PF10(a)(2)(A)(i) Yes _ No _
 - (d) Is percent calorie reduction and name of the product of comparison juxtaposed with the most prominent use of this claim on each panel? PF10(a)(2)(A)(i) Yes _ No _

- (e) Is print of comparative statement in same color and style and at least 1/2 the type size of the claim? PF10(a)(2)(A)(ii) Yes _ No _
- (f) Is there a calorie content statement on the label? PF10(a)(2)(A)(iii)
Yes _ No _
- (g) Do feeding directions reflect a reduction in calories? PF10(a)(2)(A)(iv)
Yes _ No _
- (h) Are compared products in the same moisture category (e.g., both products must be less than 20% moisture)? PF10(a)(2)(B)
Yes _ No _
- (3) Fat Terms - Lean - Regulation PF10(b)(1)--If there is a lean or low-fat claim on label:
- (a) Does it meet the following requirements? Yes _ No _
- Lean—PF10(b)(1)(A)—Dog Food
- | | |
|---------|------------------------|
| ≤9% fat | <20% moisture |
| ≤7% fat | <65% and ≥20% moisture |
| ≤4% fat | ≥65% moisture |
- Lean—PF10(b)(1)(B)—Cat Food
- | | |
|----------|------------------------|
| ≤10% fat | <20% moisture |
| ≤8% fat | <65% and ≥20% moisture |
| ≤5% fat | ≥65% moisture |
- (b) Are there minimum and maximum percent crude fat guarantees? PF10(b)(1)(A)(ii)(aa) or PF10(b)(1)(B)(ii)(aa) Yes _ No _
- (4) Less or Reduced Fat - PF10(b)(2)(A)--If there is a reduced fat, less fat or similar claim on label:
- (a) Is a product of comparison stated? PF10(b)(2)(A)(i) Yes _ No _
- (b) Is there a percentage of reduction based on an equal weight basis (as fed and not dry matter basis) stated? PF10(b)(2)(A)(i) Yes _ No _
- (c) Can the stated (claimed) percentage of reduction be determined using the method in the following example: Yes _ No _

“Less or Reduced Fat” Example [PF10(b)(2)]:

Assume the following three products

Guarantee	Brand A	Brand B	Brand C
% Fat (min.)	10	5	5
% Fat (max.)	Not declared	9	7

Claims

Calculation used when there is no maximum fat listed for product to which claim is compared	“Brand B has 10% less fat than Brand A.”	Brand B (max.) – Brand A (min.)/Brand A (min.) = $(9 - 10)/10 = -1/10 = -10\%$
Calculation used when both products have maximum fat guaranteed	“Brand C has 22% less fat than Brand B.”	Brand C (max.) – Brand B (max.)/Brand B (max.) = $(7 - 9)/9 = -2/9 = -22\%$

- (d) Is percent fat reduction and name of the product of comparison juxtaposed with the most prominent use of the claim on each panel? PF10(b)(2)(A)(i)
Yes No _
- (e) Is the statement in the same style, color and at least 1/2 size type as the claim? PF10(b)(2)(A)(ii) Yes _ No _
- (f) Is there a minimum and maximum percent crude fat guarantee? PF10(b)(2)(A)(iii) Yes _ No _
- (g) Are compared products in same moisture categories (e.g., both products must be less than 20% moisture)? PF10(b)(2)(B) Yes _ No _

XIV. Manufacturer or Distributor – Model Pet Food Regulation PF11

- (1) Is there a name and address, including zip code, of the manufacturer or distributor on label? PF11(a) Yes _ No _

XV. Attachments

- (1) If brochures, pamphlets, website, advertisements, promotional material, etc., are produced for this product, does all of the information comply with the AAFCO Pet Food Model Regulations? Yes _ No _

XVI. Raw Milk Distributed as Pet or Specialty Pet Food- Model Bill 3(t); Model Bill 8(i)((1)-(6); Model Pet Food Regulations PF2(i); PF(3)(g)

- (1) Does the product fit the definition of “Raw Milk”? Model Bill (Section 3)(t)
Yes No _
- (2) Is the raw milk appropriately “decharacterized” using a sufficient quantity of animal feed appropriate food coloring; or is it certified and labeled as Organic in compliance with the USDA National Organic Program requirements? Model Bill (Section 8)(i)(1-3) Yes _ No _
- (3) Is the raw milk appropriately packaged in a packaging that does not resemble packaging used for milk consumed by Humans? Model Bill (Section 8)(i)(4)
Yes No _
- (4) Is the raw milk offered for sale sufficiently separate from of the vicinity of milk or milk products for human consumption? Model Bill (Section 8)(i)(5)
Yes No _
- (5) Have no other “Prohibited Acts” found in Model Bill Section 8 “Prohibited Acts” been violated?
Yes No _
- (6) If this product is raw milk distributed as pet food or specialty pet food, is the statement: **“WARNING: NOT FOR HUMAN CONSUMPTION-THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA.”** conspicuously placed on the principal display panel and in font size not smaller than required by the following table?

Panel Size	Minimum Warning Statement Type Size
<5 in. ²	1/16 in.
≥5—<25 in. ²	1/8 in.
≥25—<100 in. ²	3/16 in.
≥100—<400 in. ²	1/4 in.
≥400 in. ²	1/2 in.

Yes _____ No

- (7) If the pet food or specialty pet food consists of raw milk, do the words “Raw (Blank) Milk” appear conspicuously on the display panel? *Blank to be completed using the species of animal from which the milk is collected (e.g. “Raw Goat Milk,” “Raw Sheep Milk”) Yes _ No _

XVII. Direct Fed Microbials and Enzyme labeling (Pet Food and Specialty Pet Food)

Direct Fed Microbials - Model Regulation 9(b)(4)

If the product claims to be a source of, or guarantees, probiotics or direct-fed microbials:

- (1) Does the label bear the statement “Contains a source of live (viable) naturally occurring microorganisms”? MR 9(b)(4)(II) Yes _ No _
- (2) Is there a guarantee for total microbes with a parenthetical species list or for individual species listed in descending order of predominance by microbial number? MR 4(g) Yes _ No _
- (3) Does the guarantee include only organisms from ingredient definition 36.14 or 96.2 or 96.8 (if yeast)? Yes _ No _
- (4) Is the guarantee stated in colony forming units per unit fed, based on the feeding directions (either CFU/g or CFU/lb)? MR 4(g) Yes _ No _
- (5) On pet food labels (dog and cat): Is there an asterisk with the guarantee, referring to the disclaimer statement “Not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles”? Yes _ No _
- (6) On specialty pet food labels: If an AAFCO-recognized profile exists, is there an asterisk with the guarantee, referring to the disclaimer statement “Not recognized as an essential nutrient by the _”? PF4(a)(4)
Yes _ No _
- (7) Does the product include an ingredient from ingredient definition 36.11 or 36.12 or 96.2 or 96.8 (if yeast)? Yes _ No _

- (a) If the direct fed microbial is a source of bacteria, is the ingredient listed in the ingredient statement using the appropriate fermentation product definition, with the organism name input into the blank? (Example: Dried *Lactobacillus acidophilus* fermentation product; Liquid *Bifidobacterium bifidum* fermentation product) Yes _ No _
- (b) If the direct fed microbial is a source of yeast, is the ingredient listed as “active dry yeast” or “yeast culture” in the ingredient statement?
Yes _ No _

Note: Direct fed microbial ingredients that are a source of bacteria are listed in the ingredient statement using two definitions: The Genus species as listed in 36.14 and the type of fermentation product (Dried Genus species fermentation product or Liquid Genus species fermentation product). They are never listed as just “Genus species” in the ingredient statement. Direct fed microbials that are a source of yeast are listed in the ingredient statement using one of two definitions: Active dry yeast or Yeast

culture.

Enzymes-- Model Regulation 9(b)(5)

If the product claims to be a source of- or guarantees- enzyme activity:

- (1) Is there a guarantee for enzyme(s)? MR 9(b)(5)(II) Yes _ No _
 - (a) Is the source of enzyme activity shown in the guarantee (e.g. Protease (Aspergillus niger))? MR 4(h) Yes _ No _
 - (b) Is the guarantee listed in the units of enzymatic activity per amount of product fed, consistent with label directions (e.g. mg amino acids liberated/min/g)? MR 4(h) Yes _ No _

- (2) If multiple sources of enzyme activity are guaranteed, are the sources identified in the guarantee in descending order of predominance of enzyme activity? MR 4(h) Yes _ No _
- (3) On pet food labels (Dog and Cat): is there an asterisk with the guarantee referring to the disclaimer statement “Not recognized as essential by the AAFCO Dog (or Cat) Food Nutrient Profile”? Yes _ No _
- (4) On specialty pet food labels: If an AAFCO-recognized profile exists, is there an asterisk with the guarantee, referring to the disclaimer statement “Not recognized as essential by the _ ”? Yes _ No _
- (5) If the enzyme is derived from a microbial source, does the product include an ingredient from ingredient definition 36.6, 36.7, 36.11, or 36.12?
Yes _ No _
- (a) Is the source shown in ingredient definition 30.1? PF(5)(a)(3)
Yes _ No _
- (b) Is the source associated with the guaranteed enzyme?
Yes _ No _

Note: For example if the label bears a guarantee for lipase, the ingredient statement must include the appropriate source of enzyme activity, such as: Dried Aspergillus niger fermentation extract.

- (6) If the enzyme is derived from a plant or animal product, does the product contain an ingredient providing enzyme activity corresponding to the enzyme in ingredient definition 30.1? Yes _ No _
- (a) Is the source shown in ingredient definition 30.1? PF(5)(a)(3)
Yes _ No _
- (b) Is the source associated with the guaranteed enzyme?
Yes _ No _

Note: Example (1) If the label bears a guarantee for lipase, the ingredient statement must include the appropriate source of enzyme activity, such as: Dried lamb pancreas; Example (2) If the label bears a guarantee for bromelain, the ingredient statement must include the appropriate source of enzyme activity, such as: Dried pineapple.

Model Regulations for Processed Animal Waste Products as Animal Feed Ingredients

Section Editor—Doug Lueders

The following Model Regulations have been developed by the Animal Waste Task Force after consideration of a number of state regulations on the same topic and after careful consideration of a number of regulatory options which might be open to a state control official. It represents the best judgment of the Task Force and is recommended, should any member state choose to adopt it for its use.

Any State Control Official proposing to adopt the following Model Regulations, or regulate Processed Animal Waste Products and Animal Feed Ingredients under his own state feed law and regulations, should read carefully all of the Federal Register notice published by FDA on Recycled Animal Wastes (F.R. 45, No. 251, 86272-86276, Dec. 30, 1980), and the 1981 Recycled Animal Waste Committee Report.

Regulation 1. Legal Authority

Legal Authority (designated specifically by each state to meet legal requirements: Section 10, Model Bill).

Regulation 2. Definitions

Definitions (in addition to those listed in the current issue of the Official Publication of AAFCO).

Regulation 3. Registration

Registration Required (Section 4, Model Bill).

- (A) No person shall sell, offer or expose for sale, or distribute in this state, any processed animal waste product intended, promoted, represented, advertised or distributed for use as a commercial feed as defined in Section II prior to registering same with _____, as specified in Section 4 Model Bill.
- (B) Application for registration shall be made to the _____ on forms provided by the _____ and shall be accompanied by payment of the statutory registration fee as set forth in _____.
- (C) Applications for registration shall be accompanied by the following:
 - (1) A copy of the label or tag which the applicant proposes to use for the processed animal waste product.
 - (2) A detailed description of the facilities, equipment and method of manufacture to be used in processing, manufacturing and testing of the processed animal waste product.
 - (3) A sampling schedule, a full description of all tests made, and the results, thereby purporting to show the processed animal waste product meets the standards of _____ and these rules and regulations for registration.

Regulation 4. Registration Refused or Cancelled

(Section 4, Model Bill)

- (A) General--Registration of a processed animal waste product shall be refused if:
 - (1) Applicant or the processed animal waste product is determined to be in violation of any state or federal statute or state agency rule or regulation

affecting or relating to the sale of commercial feeds.

- (2) The processed animal waste product contains any pathogenic organisms, drug residues, pesticide residues, harmful parasites, or other toxic or

deleterious substances above levels permitted by (State regulations), Federal Food, Drug, and Cosmetic Act, Sections 406, 408, 409 and 706, or which could be harmful to animals, or which could result in residue in the tissue or by-products of animals above levels determined and promulgated in regulations by the _ to be harmful.

- (3) The processed animal waste product does not meet the Quality Standards set forth in _ Definitions, of this regulation.
- (4) The processed waste product is not labeled in compliance with law and agency rules and regulations, including Regulation 5 of these rules.
- (5) Applicant or registrant fails to perform the testing as specified in Regulation 6 of these rules, or to accurately maintain and display to the _ or his designee, upon demand, the records required.
- (B) Registration may be refused pursuant to and in compliance with any statutory provisions authorizing the _ to refuse registration.
- (C) Registration may be cancelled by the _ if the product or registrant is found to be in violation of any provision of these regulations.

Regulation 5. Labeling Requirements.

- (A) The label, tag, or label invoice accompanying shipments of animal waste products shall contain all information as required by Regulation 2, Model Bill and Regulations.
- (B) In addition, it shall include the following information, in the list of guarantees, in following order, in percentages:
 - (1) maximum moisture, following fiber guarantee.
 - (2) maximum ash, following moisture guarantee.
- (C) Special labeling or warnings required, as appropriate:
 - (1) If the product contains drug residues, then the label shall contain the following statement in boldface type:
“WARNING: THIS PRODUCT CONTAINS DRUG RESIDUES. DO NOT USE WITHIN 15 DAYS OF SLAUGHTER AND DO NOT USE 15 DAYS PRIOR TO OR DURING THE FOOD PRODUCTION PERIOD OF DAIRY ANIMALS AND LAYING HENS.”
 - (2) If the product contains high levels (25 ppm or greater) of copper, a maximum guarantee of copper and the following statement is required:
“WARNING: CONTAINS HIGH LEVELS OF COPPER: DO NOT FEED TO SHEEP.”
 - (3) If the product derives one-third (1/3) or more of the guaranteed total crude protein from non-protein nitrogen sources, the label shall provide adequate directions for safe use of the product and the precautionary statement:
“CAUTION: USE ONLY AS DIRECTED.”

Regulation 6. Testing Required

- (A) The purpose of the sampling and testing requirements of this section shall be to determine the presence of harmful materials or biological contaminants specified in (State regulation) and to assure compliance with the quality standards in _ of these regulations.
- (B) Any person seeking or receiving registration of any processed animal waste

product shall test, by representative sampling and assaying of such samples, and keep accurate records thereof, the processed animal waste product for which the registration is sought or received. The sample shall be of sufficient size so as to provide meaningful data, statistically reliable in carrying out the

purpose of such sampling and analysis. For example, 10 one-pound samples taken randomly from one day's production run or other identifiable lot, should be packaged in sealed airtight bags for prompt shipment to the analytical laboratory.

- (C) The registrant, manufacturer, or producer of any such processed animal waste product ingredient shall conform to the following sample and analyses requirements:

- (1) Analyses specific by the _____ to meet the requirements of the quality standards of _____ of these regulations shall be conducted on three sequential production runs to establish that the feed ingredient is consistently within the limitations specified prior to registration and/or sale of the processed animal waste product.

Optional

In addition to quality standards, testing on the same production runs or lots should include potential hazardous substances such as the following:

- (a) Drugs suspected or known to be used in the feed or as a therapeutic treatment of the animals.
 - (b) Pesticides used on the animal, facilities, and wastes for pest control.
 - (c) Pathogenic organisms, at least to include *Salmonella* and *E. coli*.
 - (d) Heavy metals: arsenic, cadmium, copper, lead, mercury and selenium, at least.
 - (e) Parasitic larva or ova.
 - (f) Mycotoxins, such as aflatoxins.
- (2) Following the initial sequential testing, periodic analyses shall be conducted on production runs no less than one (1) each calendar quarter. Less frequent testing may be allowed where the analytical results show continued uniformity and a consistent margin of compliance. More frequent tests shall be required where the analytical results show a wide range, or show levels close to the established quality standards. Any processed animal waste product that does not meet the quality standards for the product shall be further processed until standards are met, shall be diverted to non-feed uses, or destroyed.
- (3) Sequential testing shall again be required when the periodic analyses required by paragraph (C)(2) of this section or other information available to the manufacturer of the ingredient indicates that:
- (a) The ingredients are not within the limitations established in these regulations.
 - (b) Changes are made in the manufacturing process.
 - (c) New or expanded sources of the raw ingredients are used.
 - (d) Changes occur in the drugs or pesticides used by the supplier(s) of the raw ingredient(s).

Regulation 7. Records Required

Any person seeking or receiving registration of any processed animal waste product shall keep for a period of two (2) years, accurate records of:

- (A) All sources of raw materials and date acquired, including information on drugs and pesticide usage.
- (B) All production output, including a code or other method to identify the date of production.
- (C) All sales and distribution, including the name and address of the purchaser or to whom distributed, date, quantity and production code.
- (D) Sampling and assay records of the testing required by Regulation 6 of this

regulation.

AAFCO Non-Commercial Feed Model Bill

Section Editor—Doug Lueders

Preamble

A bill to provide authority to the _____ to regulate the manufacture of non-commercial feed, allow for inspection, sampling and testing of non-commercial feed, and authorize the _____ to take enforcement action pursuant to adulterated non-commercial feed to protect the health and safety of animals and food from animals.

Extra Bill Explanation

This Non-Commercial Feed Model Bill was developed to provide express authority for States to regulate the manufacture of feed not in commerce or not intended for distribution into commerce. Its intent is to provide States that adopt it legislatively with the authority to regulate the manufacture of such feed that could present a danger to human or animal health. It does not provide authority to regulate the feeding of animals. Although this Bill has not been passed into law in all the States, the subject matter covered herein represents the official position of this Association.

AN ACT

To regulate non-commercial feed in the State of _____ BE IT ENACTED by the Legislature of the State of _____.

Section 1. Title

This Act shall be known as the “_____ Non-Commercial Feed Law of 20____.”

Section 2. Enforcing Official

This Act shall be administered by the _____ of the State of _____, hereinafter referred to as the “_____.”

Section 3. Definitions of Words and Terms

When used in this Act:

- (a) The term “commercial feed” means all materials or combination of materials which are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted. Unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of Section 7(a) of the Model Bill, are exempt. The _____ by rule may exempt from this definition, or from specific provisions of this Act, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds or substances are not inter-mixed with other materials, and are not adulterated within the meaning of Section 7(a) of the Model Bill.
- (b) The term “distribute” means to offer for sale, sell, exchange, or barter

commercial feed; or to supply, furnish or otherwise provide commercial feed to a contract feeder.

- (c) The term “drug” means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and

articles other than feed intended to affect the structure or any function of the animal body.

- (d) The term “establishment” includes any of the following, but is not limited to, facilities, equipment and conveyances used for, or in connection with, the receiving, processing, manufacturing, storing, packaging, transportation or use of feed.
- (e) The term “feed” means edible material(s) which are consumed by animals and contribute energy and/or nutrients to the animal’s diet.
- (f) The term “feed ingredient” means a component, part or constituent of any combination or mixture making up a non-commercial feed.
- (g) The term “manufacture” means to grind, mix, blend, package, store, transport or further process a non-commercial feed.
- (h) The term “non-commercial feed” means all materials or combination of materials, not distributed or intended for distribution, that are for manufacturing and use as feed, or for mixing in feed. A person manufacturing non-commercial feed shall not be subject to licensing, product registration or tonnage fees imposed by the State of .
- (i) The term “official sample” means a sample of non-commercial feed taken by the or their agent in accordance with the provisions of Section 7(c), (e), or (f) of this Act.
- (j) The term “person” includes individual, partnership, corporation, and association.

Section 4. Adulteration

A non-commercial feed shall be deemed to be adulterated:

- (a)
 - (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such non-commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such non-commercial feed does not ordinarily render it injurious to health; or
 - (2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; or (ii) a food additive); or
 - (3) If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act; or
 - (4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; provided, that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed non-commercial feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed non-commercial feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed non-commercial feed will result or is likely to result in a pesticide residue in the edible product of

- the animal, which is unsafe within the meaning of Section 408 (a) of the Federal Food, Drug, and Cosmetic Act; or
- (5) If it is, or it bears or contains any color additive which is unsafe within the meaning of Section 721 of the Federal Food, Drug, and Cosmetic Act; or
 - (6) If it is, or it bears or contains any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act; or
 - (7) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for non-commercial feed; or
 - (8) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or
 - (9) If it is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter which is unsafe within the meaning of Section 402 (a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act; or
 - (10) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or
 - (11) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act.
- (b) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the _ to assure that

the drug meets the requirement of this Act as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such regulations, the _ shall adopt

the current good manufacturing practice regulations for Type A medicated Articles and Type B and Type C Medicated Feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless the _ determines that

they are not appropriate to the conditions which exist in this State.

- (c) If it is manufactured, processed, packaged, stored, transported or used in a manner that does not conform to the feed safety regulations promulgated by the _.
- (d) If it contains viable weed seeds in amounts exceeding the limits which the _ shall establish by rule or regulation.

Section 5. Prohibited Acts

The following acts and the causing thereof within the State of _ are hereby prohibited.

- (a) The manufacture of any non-commercial feed that is adulterated.
- (b) The adulteration of any feed.
- (c) The disposal or use of a non-commercial feed in violation of an order under Section 8 of this Act.
- (d) The violation of Section 9(f) of this Act.

Section 6. Rules and Regulations

- (a) The _ is authorized to promulgate such rules and regulations for non-

commercial feed as are specifically authorized in this Act and such other reasonable rules and regulations as may be necessary for the efficient

enforcement of this Act. In the interest of uniformity the _ shall by
regulation adopt, unless the _ determines that they are inconsistent with
the provisions of this Act or are not appropriate to conditions which exist in this
state, the following:

- (1) The Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials and published in the Official Publication of that organization, and
 - (2) Any regulation promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act (U.S.C. Sec. 301, et seq.): Provided, that the _ would have the authority under this Act to promulgate such regulations.
- (b) Before the issuance, amendment, or repeal of any rule or regulation authorized by this Act, the _ shall publish the proposed regulation, amendment, or

notice to repeal an existing regulation in a manner reasonably calculated to give interested persons adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the _ shall take appropriate action to issue the proposed rule or

regulation or to amend or repeal an existing rule or regulation. The provisions of this paragraph notwithstanding, if the _ pursuant to the authority of this

Act, adopts the Official Definitions of Feed Ingredients or Official Feed Terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by said Association or by the US Secretary of Health and Human Services, in the case of regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act, shall be adopted automatically under this Act without regard to the publication of the notice required by this paragraph (b), unless the _ by order specifically determines

that said amendment or modification shall not be adopted.

Section 7. Inspection, Sampling, and Analysis

- (a) For the purpose of enforcement of this Act, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to the provisions, agents of the _ , upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge of the non-commercial feed establishment, are authorized (1) to enter, during normal business hours, any public or private premises, including any establishment within the State in which feed ingredients or non-commercial feeds are stored, manufactured, processed, packed or used, or to enter any vehicle being used to transport or hold such feed ingredients or non-commercial feeds; and (2) to inspect at reasonable times, within reasonable limits and in a reasonable manner, any establishment, vehicle, pertinent equipment, finished and unfinished non-commercial feed or feed ingredients, containers, and labeling therein. The inspection may include: sampling of feed ingredients and mixed feed; verification of storage, production, handling and use control procedures; and verification of records as may be necessary to determine compliance with this Act.
- (b) A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the owner, operator or agent in charge of the facility or vehicle shall be so notified.
- (c) If the _ or their agent making such inspection has obtained an official

sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises a receipt describing the official samples obtained shall be given to the owner, operator, or agent in charge.

- (d) If the owner, operator or agent in charge of any non-commercial feed establishment described in paragraph (a), refuses to admit the _ or their agent to inspect in accordance with paragraphs (a) and (b), the _ is authorized to obtain from any State Court a warrant directing such owner, operator or agent in charge to submit the premises described in such warrant to inspection.
- (e) Sampling and analysis shall be conducted in accordance with methods published by the AOAC International, or in accordance with other generally recognized methods.
- (f) The results of all analyses of official samples shall be forwarded by the _ to the non-commercial feed manufacturer. When the inspection and analysis of an official sample indicates a non-commercial feed has been adulterated, and upon request within 30 days following the receipt of the analysis, the _ shall furnish to the non-commercial feed manufacturer a portion of the official sample concerned.
- (g) The _, in determining for administrative purposes whether a non-commercial feed is adulterated, shall be guided by the official sample as defined in paragraph (g) of Section 3 and obtained and analyzed as provided for in paragraphs (c) and (e) of Section 7 of this Act.

Section 8. Detained Non-Commercial Feed

- (a) "Stop-Use" orders: When the _ or their agent has reasonable cause to believe any non-commercial feed is in violation of any of the provisions of this Act or any of the prescribed regulations under this Act, the _ may issue and enforce a written or printed "stop-use" order, warning the owner not to dispose of or use the lot of non-commercial feed in any manner until written permission is given by the _ or the Court. The _ shall release the lot of non-commercial feed upon which such stop-use orders are issued when said provisions and regulations have been complied with. If compliance is not obtained within 30 days, the _ may begin, or upon request of the non-commercial feed manufacturer shall begin, proceedings for condemnation.
- (b) "Condemnation and Confiscation": Any non-commercial feed not in compliance with said provisions and regulations shall be subject to seizure on complaint of _ to a court of competent jurisdiction in the area in which said non-commercial feed is located. In the event the court finds the said non-commercial feed to be in violation of this Act and orders the condemnation of said non-commercial feed, it shall be disposed of in any manner consistent with the quality of the non-commercial feed and the laws of the State; provided, that in no instance shall the disposition of said non-commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said non-commercial feed or for permission to process said non-commercial feed to bring it into compliance with this Act.

Section 9. Penalties

- (a) Any person convicted of violating any of the provisions of this Act or who shall

impede, hinder, or otherwise prevent, or attempt to prevent, said _ or their

agent in performance of their duty in connection with the provisions of this Act, shall be adjudged guilty of a misdemeanor and shall be fined not less than _ or more than _ for the first violation, and not less than or

more than _ for a subsequent violation.

- (b) Nothing in this Act shall be construed as requiring the _ or their agent to:
- (1) report for prosecution, or (2) institute seizure proceedings, or (3) issue a withdrawal order, as a result of minor violations of the Act, or when the _ believes the public interest will best be served by suitable notice of warning in writing.
- (c) It shall be the duty of each _ attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the _ reports a violation for such prosecution, an opportunity shall be given the non-commercial feed manufacturer to present their views to the _.
- (d) The _ is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this Act or any rule or regulation promulgated under the Act notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.
- (e) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this Act may within 45 days thereafter bring action in the (here name the particular Court in the county where the enforcement official has their office) for judicial review of such actions. The form of the proceeding shall be any which may be provided by statutes of this state to review decisions of administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.
- (f) Any person who uses to his own advantage, or reveals to other than the _, or officers of the _ (appropriate departments of this State), or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this Act, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a misdemeanor and shall upon conviction thereof be fined not less than \$ _ or imprisoned for not less than _ year(s) or both: Provided, That this prohibition shall not be deemed as prohibiting the _, or their agent, from exchanging information of a regulatory nature with duly appointed officials of the United States Government, or of other States, who are similarly prohibited by law from revealing this information.

Section 10. Cooperation with other entities

The _ may cooperate with and enter into agreements with governmental agencies of this State, other States, agencies of the Federal Government, and private associations in order to carry out the purpose and provisions of this Act.

Section 11. Constitutionality

If any clause, sentence, paragraph, or part of this Act shall for any reason be judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 12. Effective Date

This Act shall take effect and be in force from and after the first day of .

AAFCO Model Good Manufacturing Practice Regulations for Feed and Feed Ingredients

Section Editor—Doug Lueders

Please see the Current Good Manufacturing Practice regulations, Title 21, CFR parts 507.14–507.28 and the associated checklist, available online at <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.cfm?CFRPart=507>.



2017 AAFCO Board of Directors. Bottom row: Kristen Green, Jr. Director; Dan Danielson, President-Elect; Ken Bowers, President; Mark LeBlanc, Immediate Past-President; Erin Bubb, Jr. Director. Back row: Stan Cook, Sr. Director; Bob Church, Jr. Director; Bob Geiger, Sr. Director; Ali Kashani, Secretary-Treasurer.

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ENDNOTES

¹ Visual Summary Figure 1 is compiled from information in the Department of Agriculture study materials available online under "Citizens' Interest," under "House Legislative Oversight Committee Postings and Reports," and then under "Department of Agriculture"
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017).

² *SC Code of Laws*, § 2-2-20(C).

³ The Subcommittee's name during the 121st General Assembly is the Economic Development, Transportation, Natural Resources and Regulatory Subcommittee. When the Committee reorganizes for the 122nd General Assembly, the Subcommittee is renamed the Economic Development, Transportation, and Natural Resources Subcommittee.

⁴ Department of Agriculture, under "Divisions," under "Consumer Protection"
<http://agriculture.sc.gov/divisions/consumer-protection/foodfeed-safety-compliance/> (accessed July 26, 2017).

⁵ SC House of Representatives, House Legislative Oversight Committee, "Results of Survey of Department of Agriculture; Department of Health and Environmental Control; Law Enforcement and Criminal Justice Academy; Department of Archives and History; and Retirement System Investment Commission," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Public Survey & Public Input via LOC webpage,"
<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SurveysforAllAgencies/Results%20of%20Survey%20of%20Dept.%20of%20Agric.;%20DHEC;%20CJA;%20Archives%20and%20History;%20and%20R%20SIC.PDF> (accessed July 26, 2017). Hereinafter, "May 2016 Public Survey Results." See Comment #18 received on May 14, 2016, 6:03 p.m. on page 8. SC House of Representatives, House Legislative Oversight Committee, "History, Mission, Vision, and Key Partners presentation provided by the Department of Agriculture (July 6, 2016)," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, "History Presentation - July 6, 2016".

⁶ SC House of Representatives, House Legislative Oversight Committee, "April 28, 2016 Attorney General Opinion," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," and under "Other Materials,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, "April 28, 2016 Attorney General Opinion."

SC House of Representatives, House Legislative Oversight Committee, "Department of Agriculture's Proposed Revisions to Regulation 5-360 (Salvage Operations Dealing in Foods and Cosmetics)" under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Other Materials,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, "Department of Agriculture's Proposed Revisions to Regulation 5-360."

⁷ Act 104 of 1879.

⁸ Ibid. at section 22. The one-time appropriation figure was adjusted for inflation from the nominal figure of \$5,000 using the Consumer Price Index (Urban).

⁹ South Carolina, Department of Agriculture, *First Annual Report of the Commissioner of Agriculture of the State of South Carolina* (Charleston, SC: Walker, Evans & Cogswell, 1880), 64. The carried forward balance was calculated by adding the balance of the one-time appropriation to the Department of Agriculture in 1879, and the amounts received by the agency from taxes collected on commercial fertilizers and fees received from land registrations, and then adjusting the resulting nominal sum of \$17,435.20 for inflation using the Consumer Price Index (Urban).

¹⁰ Ibid. at pages 3-4. Though the names are similar, Commissioner Butler was not Andrew Pickens Butler, the South Carolina native who served as a member of the United States House of Representatives and as a state judge.

¹¹ Act 185 of 1981. On July 6, 2016, the Commissioner of Agriculture testifies "twelve other states have an elected Commissioner."

¹² History Presentation – July 6, 2016 at slide 4.

¹³ Ibid. at slide 9. Agencies with responsibilities originally housed at the agency include: Clemson Regulatory Services; State Veterinarian's Office; Department of Labor, Licensing and Regulation; Department of Health and Environmental Control; Forestry Commission; Department of Revenue; State Law Enforcement Division; and Department of Natural Resources (Land Resources, Geological Survey, Wildlife and Marine Resources).

¹⁴ Ibid. The current name was established in 1941.

¹⁵ Act 259 of 1904.

¹⁶ Ibid. at section 2.

¹⁷ Act 4 of 1909. Act 124 of 1909.

¹⁸ Act 871 of 1936.

¹⁹ Ibid.

²⁰ Act 93 of 1941.

²¹ Act 758 of 1960.

²² History Presentation - July 6, 2016 at slide 10.

²³ Ibid.

²⁴ Ibid. at slide 11.

²⁵ Ibid. at slide 12.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Department of Agriculture, "Introduction to the Agency PowerPoint provided by the Department of Agriculture during the agency's entry meeting with the Subcommittee (April 28, 2016)," under "Citizen's Interest," under "House Legislative Oversight Committee's Posting and Reports," under "Department of Agriculture"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/April%2028,%202016%20-%20Department%20of%20Agriculture%20Presentation%20to%20Subcommittee.pdf>

(accessed October 24, 2016). Commissioner Hugh E. Weathers noted in his presentation to the Subcommittee that the agribusiness total includes forestry, and some federal agencies do not recognize forestry as an agriculture.

Commissioner Weather's comments on this issue begin at 24:36 in the archived video of the subcommittee's April 28, 2016, meeting available at <http://www.scstatehouse.gov/video/videofeed.php>.

³⁰ Department of Agriculture, "About" <https://agriculture.sc.gov/about/> (accessed July 27, 2017). On April 28, 2016, in response to a question as to what are the state's top crops, the Commissioner of Agriculture testifies "Some federal agencies do not count timber as a crop, and I do. When I sell timber, get a check, and it clears the bank, I have sold a crop. Timber is one of our larger numbers around 800 million dollars. Our largest has become poultry. We no longer include tobacco. Peaches barely make the top 10. Anderson County is the largest beef producing county. Horticulture crops were second as of 2008 and 2009, but with the recession that field died." See 24:37 archived video of the April 28, 2017 Economic Development, Transportation, Natural Resources, and Regulatory Subcommittee meeting.

³¹ SC House of Representatives, House Legislative Oversight Committee, "Updated Agency PER (December 30, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/SCDA%20PER%2012.30.16.pdf> (accessed July 24, 2017). See Daily Operations Programs Chart at page 4 under "Updated Agency PER." Hereinafter, "Updated Agency PER (December 30, 2016)".

³² SC House of Representatives, House Legislative Oversight Committee, "2015-16 Accountability Report Guidelines," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FilesforAllAgenciesNewWebsite/2017%20-%20ARR%20Guidelines%20\(June%202020,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FilesforAllAgenciesNewWebsite/2017%20-%20ARR%20Guidelines%20(June%202020,%202016).pdf) (accessed July 26, 2017).

³³ SC House of Representatives, House Legislative Oversight Committee, "2015-16 Accountability Report," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Agriculture, Department of," under "Oversight Reports and Studies," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Reports%20&%20Audits%20-%20Reports%20and%20Reviews/Accountability%20Report%20-%202015-2016.pdf> (accessed July 24, 2017), See Customer Template.

³⁴ Updated Agency PER (December 30, 2016). See page 6, response to question 29.

³⁵ Ibid.

³⁶ Department of Administration, Executive Budget Office, "2016-17 Accountability Report Technical Assistance Guide," under Agency Accountability Reports <http://www.admin.sc.gov/files/FY%202016-17%20Accountability%20Report%20Technical%20Assistance.pdf> (accessed July 21, 2017).

Updated Agency PER (December 30, 2016). See Strategic Spending 2015-16 Chart, Employee Allocation by Objective 2016-17 Chart, and Strategic Budgeting 2016-17 Chart.

³⁷ The methodology the agency utilizes includes operational and employee costs related to each objective. The expenditures (less employee costs) of each division are analyzed to determine if any cost is associated completely with one objective. If so, that cost is charged entirely to that objective. The remaining costs for the division are multiplied by a percentage based on the objectives related to that division. Likewise, employee cost and fringes are analyzed to ascertain if any one employee or group of employees are associated with a single objective and if so, their salary and fringes are charged to that objective. For example, the agency's investigator spends his entire time working toward Objective 3.2.2 (audit field records to ensure matched with Certification records) even though his position is associated with the Director's office. The remaining employees' salaries and fringes are then charged percentage-wise to the appropriate objectives. The operational costs and employee and fringe costs are added together to determine the total amount spent on each objective.

³⁸ Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

³⁹ Ibid. See Strategic Budgeting 2016-17 Chart.

⁴⁰ Ibid. See page 3, response to question 11.

⁴¹ Ibid. See page 3, response to question 10. Agency's carryforward amounts include: 2011-12: \$1,757,450; 2012-13: \$2,472,562; 2013-14: \$4,712,809; 2014-15: \$5,426,456; 2015-16: \$5,382,093.

⁴² Ibid. See Employee Allocation by Objective 2016-17 Chart.

⁴³ Ibid. See Strategic Budgeting 2016-17 Chart.

⁴⁴ 2015-16 Accountability Report. See Performance Measurement Template.

⁴⁵ Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

⁴⁶ Ibid. See Strategic Budgeting 2016-17 Chart.

⁴⁷ 2015-16 Accountability Report. See Performance Measurement Template.

⁴⁸ Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

⁴⁹ Ibid. See Strategic Budgeting 2016-17 Chart.

⁵⁰ 2015-16 Accountability Report. See Performance Measurement Template.

⁵¹ Updated Agency PER (December 30, 2016). See Employee Allocation by Objective 2016-17 Chart.

⁵² Ibid. See Strategic Budgeting 2016-17 Chart.

⁵³ 2015-16 Accountability Report, See Performance Measurement Template.

⁵⁴ Updated Agency PER (December 30, 2016). See page 6, response to question 28.

⁵⁵ *SC Code of Laws* § 2-2-10(1).

⁵⁶ SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2016" under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Committee Information," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/S1.pdf> (accessed July 26, 2017).

⁵⁷ SC House of Representatives, House Legislative Oversight Committee, "January 28, 2016- Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Meeting Minutes and Handouts" and under "Full Committee Minutes," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/FullCommitteeMinutes/January282016.pdf> (accessed July 26, 2017). Hereinafter, "January 28, 2016 - Meeting Minutes".

⁵⁸ SC House of Representatives, House Legislative Oversight Committee, "Subcommittees - 2017" under "Citizens' Interest," under "Agency Oversight by House Legislative Oversight Committee," under "Committee Information," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Subcommittee%20Assignment%20-%202017.pdf> (accessed July 26, 2017). Hereinafter, "Subcommittees - 2017".

⁵⁹ SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Committee to Dept. of Agriculture (February 4, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Agriculture, Department of" [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Oversight%20Committee%20to%20Dept%20of%20Agriculture%20\(Febuary%204,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Oversight%20Committee%20to%20Dept%20of%20Agriculture%20(Febuary%204,%202016).pdf) (accessed May 24, 2017).

⁶⁰ SC House of Representatives, House Legislative Oversight Committee, "2015 - 2017 Summary - House Legislative Oversight Committee" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Committee Information," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Committee%20Timeline%20-%20\(Updated%20July%2013,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Committee%20Timeline%20-%20(Updated%20July%2013,%202017).pdf) (accessed July 27, 2017). Hereinafter, "Committee Timeline."

⁶¹ Subcommittees -2017.

⁶² SC House of Representatives, "Tuesday, February 21, 2017, House Journal," http://www.scstatehouse.gov/query.php?search=DOC&searchtext=norman&category=HOUSEJOURNALS&year=2017&conid=8678024&result_pos=10&keyval=H12220170221&numrows=10#OCC1 (accessed July 26, 2017).

⁶³ *S.C. Code of Laws* § 1-30-10.

⁶⁴ SC House of Representatives, House Legislative Oversight Committee, "2015 - Agency ARR and Seven-Year Plan (March 11, 2015)" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Oversight Reports and Studies" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2015AgencyRestructuringandSevenYearPlanReports/2015%20Department%20of%20Agriculture.pdf> (accessed July 26, 2017). Hereinafter, "2015 - Agency ARR Seven-Year Plan".

⁶⁵ *SC Code of Laws*, § 1-30-10.

⁶⁶ 2015 - Agency ARR and Seven-Year Plan.

SC House of Representatives, House Legislative Oversight Committee, "2016 - Agency ARR (January 12, 2016)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Oversight Reports and Studies" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20ARR/2016%20ARR%20-%20Agriculture.PDF> (accessed July 26, 2017). 2015-16 Accountability Report.

⁶⁷ 2015-16 Accountability Report.

⁶⁸ *SC Code of Laws*, § 2-2-50.

⁶⁹ SC House of Representatives, House Legislative Oversight Committee, "Program Evaluation Report Guidelines (May 16, 2016)" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Oversight Reports and Studies"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20\(May%2016,%202016\)%20-%20Dept%20of%20Agriculture.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/2016%20Program%20Evaluation%20Reports%20Guidelines/PER%20Guidelines%20(May%2016,%202016)%20-%20Dept%20of%20Agriculture.pdf) (accessed May 24, 2017).

⁷⁰ SC House of Representatives, House Legislative Oversight Committee, "Agency PER (August 24, 2016)" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Oversight Reports and Studies" Hereinafter, "Agency PER (August 24, 2016)".

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Agency%20PER%20-%20August%2024,%202016.pdf> (accessed May 24, 2017). Updated Agency PER (December 30, 2016).

⁷¹ A brochure about the House Legislative Oversight's Committee process is available online. Also, there are ongoing opportunities to request notification when meetings are scheduled and to provide feedback about state agencies under study that can be found online.

⁷² SC House of Representatives, House Legislative Oversight Committee

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed May 19, 2017).

⁷³ May 2016 Public Survey Results.

⁷⁴ SC House of Representatives, House Legislative Oversight Committee, "Press Release announcing Public Survey (April 29, 2016)," under "House Legislative Oversight Committee," under "Agency and Other Studies," under "Law Enforcement Training Council and Criminal Justice Academy," under "Public Survey & Public Input via LOC webpage,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Press%20Release%20announcing%20Public%20Survey%20\(April%2029,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/LawEnforcementTrainingCouncilandCriminalJusticeAcademy/Press%20Release%20announcing%20Public%20Survey%20(April%2029,%202016).pdf) (accessed June 2, 2017).

⁷⁵ Committee Timeline (April 11, 2016).

⁷⁶ May 2016 Public Survey Results.

⁷⁷ SC House of Representatives, House Legislative Oversight Committee, under "Committee Information," under "Standard Practices," Standard Practice 10.4

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/StandardPractices01102017new.pdf> (accessed July 19, 2017). Hereinafter, "Standard Practice."

⁷⁸ May 2016 Public Survey Results.

⁷⁹ SC House of Representatives, House Legislative Oversight Committee, "Submit Public Input," under "House Legislative Oversight Committee,"

<https://www.research.net/r/ProvideInputtotheSCHouseLegislativeOversightCommittee?sm=AkgKjSlhdd%2fDwFDaMT4NxAh50lf%2fLkg2JrDglf%2fB%2f8%3d> (accessed July 26, 2017).

⁸⁰ May 2016 Public Survey Results at page 2.

⁸¹ May 2016 Public Survey Results at page 3.

⁸² May 2016 Public Survey Results at page 5.

⁸³ SC House of Representatives, House Legislative Oversight Committee, "July 6, 2016 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/July062016Minutes.pdf> (accessed May 24, 2017). Hereinafter, "July 6, 2016 - Meeting Minutes."

⁸⁴ SC House of Representatives, House Legislative Oversight Committee, "Press Release announcing Public Input Meeting (June 28, 2016)" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Public Survey & Public Input via LOC webpage,"

[http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Press%20Release%20-%20Public%20Input%20Meetings%20\(June%2028,%202016\)%20\(2\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Press%20Release%20-%20Public%20Input%20Meetings%20(June%2028,%202016)%20(2).pdf) (accessed May 24, 2017).

⁸⁵ SC House of Representatives, House Legislative Oversight Committee, "Economic Development, Transportation, and Natural Resources Subcommittee Minutes," under "House Legislative Oversight Committee," under "Committee Information," under "Meeting Minutes and Handouts,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes.php> (accessed March 19, 2017). Videos of the meetings are available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁸⁶ January 28, 2016 - Meeting Minutes. The agency replaces the Department of Employment of Workforce as the next agency to study.

⁸⁷ SC House of Representatives, House Legislative Oversight Committee, "April 28, 2016 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/April282016Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁸⁸ July 6, 2016 - Meeting Minutes.

⁸⁹ SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to Department of Agriculture (August 9, 2016)," under "House Legislative Oversight Committee," under "Agriculture, Department of," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Subcommittee%20to%20Department%20of%20Agriculture%20\(August%209,%202016\).PDF](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Subcommittee%20to%20Department%20of%20Agriculture%20(August%209,%202016).PDF) (accessed July 27, 2017).

⁹⁰ Department of Agriculture, "Letter from Department of Agriculture to Oversight Subcommittee (September 2, 2016)," under "House Legislative Oversight Committee," under "Agriculture, Department of," [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20\(September%202,%202016\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20(September%202,%202016).pdf) (accessed July 27, 2017).

⁹¹ SC House of Representatives, House Legislative Oversight Committee, "October 31, 2016 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/October312016Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, "October 31, 2016 - Meeting Minutes."

⁹² Ibid.

⁹³ SC House of Representatives, House Legislative Oversight Committee, "January 26, 2017 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/January262017Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁹⁴ SC House of Representatives, House Legislative Oversight Committee, "February 16, 2017 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/February162017Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁹⁵ SC House of Representatives, House Legislative Oversight Committee, "May 2, 2017 - Meeting Minutes" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Meetings" <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/05.2.2017%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

⁹⁶ SC House of Representatives, House Legislative Oversight Committee, "Letter from Oversight Subcommittee to Department of Agriculture (May 3, 2017)," under "House Legislative Oversight Committee," under "Agriculture, Department of," <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/5.3.17%20-%20Follow%20up%20letter%20to%20Department%20of%20Agriculture.pdf> (accessed July 27, 2017).

⁹⁷ Department of Agriculture, “Letter from Department of Agriculture to Legislative Oversight Committee (June 6, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20\(June%206,%202017\).pdf.pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Letter%20from%20Department%20of%20Agriculture%20to%20Oversight%20Subcommittee%20(June%206,%202017).pdf.pdf) (accessed July 27, 2017).

⁹⁸ SC House of Representatives, House Legislative Oversight Committee, “Department of Agriculture’s Recommended Statutory Changes” under “House Legislative Oversight Committee,” under “Agency and Other Studies,” under “Agriculture, Department of,” under “Other Materials,” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/Agriculture.php> (accessed July 26, 2017). Hereinafter, “Department of Agriculture’s Recommended Statutory Changes Presentation (June 15, 2017).”

⁹⁹ SC House of Representatives, House Legislative Oversight Committee, “June 15, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/06.15.17%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “June 15, 2017 - Meeting Minutes.”

¹⁰⁰ SC House of Representatives, House Legislative Oversight Committee, “Legislative Oversight Subcommittee Letter to Department of Agriculture (June 16, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Correspondence%20with%20Department%20of%20Agriculture%20\(June%2016,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Correspondence%20with%20Department%20of%20Agriculture%20(June%2016,%202017).pdf) (accessed July 28, 2017).

¹⁰¹ SC House of Representatives, House Legislative Oversight Committee, “June 22, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of” and under “Meetings” <http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/SubcommitteeMinutes/EconomicSub/June%2022,%202017%20-%20Meeting%20Minutes.pdf> (accessed July 12, 2017). A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>.

¹⁰² SC House of Representatives, House Legislative Oversight Committee, “Letter from Oversight Subcommittee to the Department of Agriculture (June 27, 2017)” under “House Legislative Oversight Committee,” under “Agriculture, Department of” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20\(June%2027,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20(June%2027,%202017).pdf) (accessed July 27, 2017).

¹⁰³ SC House of Representatives, House Legislative Oversight Committee, “July 10, 2017 - Meeting Minutes” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” and under “Meetings” [Minutes are posted after approval at the next meeting]. A video of the meeting is available at <http://www.scstatehouse.gov/video/videofeed.php>. Hereinafter, “July 10, 2017 - Meeting Minutes”.

¹⁰⁴ SC House of Representatives, House Legislative Oversight Committee, “Legislative Oversight Subcommittee letter to Department of Agriculture (July 12, 2017),” under “House Legislative Oversight Committee,” under “Agriculture, Department of,” [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20\(July%2012,%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Oversight%20Subcommittee%20Letter%20to%20Department%20of%20Agriculture%20(July%2012,%202017).pdf) (accessed July 27, 2017).

¹⁰⁵ Standard Practice 14.1.

¹⁰⁶ Standard Practice 14.2.

¹⁰⁷ Agency PER (August 24, 2016) at page 2. SC Const. Art. VI, §7.

¹⁰⁸ SC Code of Laws §46-3-40.

¹⁰⁹ SC Code of Laws §46-3-30.

¹¹⁰ Other duties referenced in statute include: sale of marl or ground limestone (SC Code of Laws §46-3-90); arrangements for inoculating material and disposition of moneys derived from the sale of inoculating material (SC

Code of Laws §46-3-100 and 110); provide an annual report of the agency's work to the Governor and General Assembly *SC Code of Laws* (§46-3-140); enter into agreements with the United States government for conduct of aquatic plan control projects *SC Code of Laws* (§46-3-160); revocation of registrations or licenses issued; release of certain items from restraining orders *SC Code of Laws* §46-3-180 - 220); enforcement of regulations relating to food and drugs (*SC Code of Laws* §46-3-240); ability to sue and be sued *SC Code of Laws* (§46-3-170).

¹¹¹ Act 644 of 1954. This legislation actually reduced the bond of the Commissioner of Agriculture and limited his liability to not include losses incurred in bonded warehouses, except in the case of tort or neglect of duty on his part.

¹¹² Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

¹¹³ *SC Code of Laws* §46-5-10.

¹¹⁴ SC Secretary of State, "Agriculture Commission" http://search.scsos.com/boards_commissions/default.aspx (accessed October 11, 2016). The Secretary of State's role with regards to boards and commissions is explained on its website. "Pursuant to S.C. Code of Laws §1-5-40, the Secretary of State's Office has a duty to monitor positions on state boards and commissions. The Secretary of State's Office must keep membership information for state boards and commissions as a public record available for inspection by the members of the General Assembly and members of the public. This information must include the term length, expiration date of the term, appointing authority, and any required qualifications for membership." (accessed July 25, 2017).

¹¹⁵ 1999 WL 387055, at *5 (S.C.A.G. May 3, 1999). Relevant excerpt: "The people have elected the Commissioner with the expectation that he, and he alone, will run the Department. The essential function of the Commissioner has always been to serve as the head of the Department of Agriculture which executes the laws and policies relating to agriculture in this State. Any interference by the Commission (or by the Legislature) in carrying out or diminishing the Commissioner's duties could now be deemed to contravene the Constitution in the same way that the Constitution was violated in the cases referenced above. Thus, the Commissioner's authority, pursuant to the South Carolina Constitution, must be deemed paramount to and controlling over any authority previously bestowed upon the Commission by statutes enacted prior to the constitutional amendment relating to the Commissioner of Agriculture."

¹¹⁶ October 31, 2016 - Meeting Minutes. See 00:11:55: in the archived video.

¹¹⁷ Department of Agriculture's Recommended Statutory Changes Presentation.

¹¹⁸ June 15, 2017 - Meeting Minutes. Department of Agriculture's Recommended Statutory Changes Presentation. Agency PER (August 24, 2016).

¹¹⁹ Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

¹²⁰ July 10, 2017 - Meeting Minutes. See 1:08:09 in the archived video.

¹²¹ Department of Agriculture, "Food/Safety Compliance," under "Divisions," <http://agriculture.sc.gov/divisions/consumer-protection/foodfeed-safety-compliance/> (accessed July 28, 2017). Hereinafter, "Department of Agriculture Food/Feed Safety Compliance website."

¹²² SC House of Representatives, House Legislative Oversight Committee, "Correspondence from the Department of Agriculture about the agency's recommendations (July 10, 2017)" under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Agriculture, Department of," and under "Other Materials" [http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Correspondence%20from%20Department%20of%20Agriculture%20\(July%2010%202017\).pdf](http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Correspondence%20from%20Department%20of%20Agriculture%20(July%2010%202017).pdf) (accessed July 24, 2017). Hereinafter, "Agency Email."

¹²³ Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

¹²⁴ Agency Email.

¹²⁵ Currently, there are five inspectors.

¹²⁶ Department of Agriculture Food/Feed Safety Compliance website.

¹²⁷ June 15, 2017 - Meeting Minutes. See 29:14 in the archived video.

¹²⁸ Updated Agency PER (December 30, 2016).

¹²⁹ Clemson University Cooperative Extension, "South Carolina's Cottage Food Bill," <http://www.clemson.edu/extension/food/canning/canning-tips/18sc-cottage-food-bill.html> (accessed October 10, 2016).

¹³⁰ Updated Agency PER (December 30, 2016).

¹³¹ Department of Health and Environmental Control, under "House Legislative Oversight Committee," under "Agriculture, Department of,"

<http://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/Agriculture/Department%20of%20Health%20and%20Environmental%20Control%20Correspondence%20with%20Oversight%20Subcommittee%20on%20Cottage%20Law%20Recommendation.PDF> (accessed July 28, 2017).

¹³² June 15, 2017 - Meeting Minutes. See 46:45 in the archived video.

¹³³ Ibid. at 51:12 in the archived video.

¹³⁴ Ibid. at 52:55 in the archived video. *SC Code of Laws* § 39-39-120.

¹³⁵ June 15, 2017 - Meeting Minutes. See 54:23 in the archived video.

¹³⁶ Department of Agriculture's Recommended Statutory Changes Presentation (June 15, 2017).

¹³⁷ *SC Code of Laws* § 39-39-120.

¹³⁸ May 2016 - Public Survey Results. History Presentation - July 6, 2016.

¹³⁹ April 28, 2016 Attorney General Opinion.

¹⁴⁰ Department of Agriculture's Proposed Revisions to Regulation 5-360.