

South Carolina Department of Natural Resources



DNR

Alvin A. Taylor
Director

November 22, 2017

VIA HAND DELIVERY

The Honorable Edward R. Tallon Sr., Chairman
Legislative Oversight Committee Subcommittee
418 Blatt Building
Post Office Box 11867
Columbia, SC 29201

Re: Follow-up from Subcommittee's November 6, 2017, meeting with the SC Department of Natural Resources

Dear Chairman Tallon:

In response to your letter dated November 13, 2017, the SC Department of Natural Resources has compiled the additional information sought by the committee as part of the oversight process of our agency. Answers are compiled in the body of this letter, as well as Exhibit A.

If additional information is needed, please let me know.

Office of Environmental Programs

Deliverables

1. In regards to Deliverable Item #24, perform environmental review and assist with mitigation for loss of natural resources, please state the number of regulatory agencies served each of the last three fiscal years.

The agency served six regulatory agencies: US Army Corps of Engineers (USACE), Department of Health and Environmental Control (DHEC), Environmental Protection Agency (EPA), Federal Energy Regulatory Commission (FERC), National Marine Fisheries Service (NMFS), and the U.S. Fish and Wildlife Service (USFWS).

2. Please provide a list of example activities for which permit applications are reviewed (e.g., mines, residential/commercial development, beach re-nourishment).

The type of activities for which permit applications would be reviewed are predominantly those impacting waters of the United States (WOTUS) requiring potentially 401 water quality certifications, 404 fill to WOTUS, state/federal navigable waters, coastal zone consistency, and critical area permits. However, we also review mining permits and FERC-regulated natural gas pipelines and hydroelectric projects. For those impacting WOTUS, these could be a variety of impact types for new, or adaptations to existing, of the following: docks, fishing piers, boat ramps, marina, bulkheads/revetments, maintenance dredging, stream/wetland restoration/enhancements, land based mining and instream mining, recreational impoundments, greentree reservoirs, waterfowl impoundments, landfills, utility lines (sewage/water/gas/power), road/highways, railways, bridges, airports, residential/commercial development, golf courses, water intakes/discharges, sewage treatment/wastewater facilities, groins, jetties, beach re-nourishment, ports, artificial reefs, beach access, and sand scraping.

Federal Energy Regulation Commission (FERC)

3. Please explain the difference in a FERC lake and an Army Corps of Engineers lake, including any differences in which entities are responsible for which activities.

The FERC lakes are non-federal hydroelectric-power projects that are licensed and regulated by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act (FPA). Most FERC-regulated lakes are owned and managed by private utility companies, and sometimes by state or local-government owned utilities, such as the SC Public Service Authority (Santee Cooper). The FERC issues licenses for 30 to 50-year terms to operate and manage hydroelectric projects, and the FERC licensing process requires, and provides, substantial public input to specifying conditions for the licenses. In addition, licenses usually specify the utility/licensee to have regularly scheduled consultations with state and federal agencies to periodically review and address natural resource and environmental management issues throughout the license term. The FERC-regulated lakes in South Carolina include Lakes Jocassee, Keowee, Tugaloo, Wylie, Fishing Creek, Wateree, Parr, Monticello, Greenwood, Murray, Marion, Moultrie, and 15 other projects with smaller reservoirs.

The US Army Corps of Engineer (USACE) lakes are established by Congress in federal law and usually for multiple purposes that may include flood control, navigation, power production, recreation, and water supply. The USACE acts as both the regulator and operator/manager of their lake projects, and there is no license term. Although less regulatory and resource interaction is mandated than it is with FERC regulated lakes, the USACE lake managers coordinate often with SCDNR for fisheries management of these reservoirs, drought management through Drought Contingency Planning and, most recently, on nuisance aquatic plant management. The USACE lakes in South Carolina include Lakes Thurmond, Russell, and Hartwell located on the Savannah River.

4. Does the agency website have a resource members of the public can utilize to determine, for a particular body of water, the entity that owns it and the entity responsible for management of it, similar to the Department of Transportation's Street Finder (i.e., <http://www.scdot.org/getting/streetFinder.aspx>).

Yes. There are also resources on our website that point to ownership/maintenance for pier and bank fishing access, boat ramps and SCDNR-managed State Lakes program.

Lakes/Reservoirs Website: <http://www.dnr.sc.gov/lakes/index.html>

Pier & Bank Fishing Access: <http://www.dnr.sc.gov/lakes/access.html>

Boat Ramps: <https://www2.dnr.sc.gov/ManagedLands/boatramp/boatrampsearch>

SCDNR-managed State Lakes: <http://www.dnr.sc.gov/lakes/state/index.html>

Law Enforcement Division

Employees

1. On average, of the individuals the agency sends to the Criminal Justice Academy for basic training, what percentage graduate on their first try?

Since 2013, 97% of officers have passed on the first attempt. Out of 92 officers sent through the Academy, only three have recycled (one recycled due to illness, one recycled due to failing the defense tactics practical, and one recycled due to failing the driving practical). All three officers who recycled successfully completed the Academy.

2. Please provide the following information for each law enforcement officer rank:

- a. Number of individuals currently employed; and
- b. Average number of years with SCDNR.

240 Sworn FTEs in the Law Enforcement Division

COMPETITIVE POSITIONS SUPERVISORY RANKS	
COLONEL - DEPUTY DIRECTOR - 24 YEARS OF SERVICE	
	1
MAJOR - 27 YEARS OF SERVICE AVERAGE	
	3
CAPTAIN - 25 YEARS OF SERVICE AVERAGE	
	9
LIEUTENANT - 21 YEARS OF SERVICE AVERAGE	
	12
FIRST SGT - 15 YEARS OF SERVICE AVERAGE	
	31
NON-COMPETITIVE POSITIONS NON-SUPERVISORY RANKS	

STAFF SGT LE III- NON-SUPERVISORY 17 YEARS OF SERVICE AVERAGE
8
SGT LE II – NON-SUPERVISORY 21 YEARS OF SERVICE AVERAGE
31
L/CORPORAL - 9.5 YEARS OF SERVICE AVERAGE
56
PRIVATE FIRST CLASS 3.5 YEARS OF SERVICE AVERAGE
46
CONSERVATION OFFICER - 1.5 YEARS OF SERVICE AVG
32
COMMUNICATIONS MANAGER - 18 YEARS OF SERVICE
1
AIRCRAFT PILOT – 10 YEARS OF SERVICE 2 YEARS OF SERVICE
2
DNR INVESTIGATOR III - 11 YEARS OF SERVICE AVERAGE
5
DNR INVESTIGATOR IV - 23 YEARS OF SERVICE AVERAGE
3

3. Please provide the number of game wardens that have voluntarily separated since January 2017.

Fifteen game wardens have voluntarily separated since January 2017. These separations were due to (5) retirements, (7) accepting positions with other agencies, and (3) personal reasons.

4. Does the division utilize a personnel allocation model to determine the number of officers needed in each region?

- a. If so, does the agency currently have the number of officers needed in each region?**
- b. If not, how many additional officers are needed in each region?**

Currently the law enforcement division has an internal process used to determine field officer assignments. This is determined through the use of several factors such as hunting/fishing activity, recreational boating activity, and geography of the area.

5. Does each law enforcement region have activity or other monthly goals? If so, are they the same for each region and what are they?

Yes. All four law enforcement regions have monthly goals for activity, but each of the four regions are inherently different. For example, the upstate region may have goals associated with enforcing trout limits or bear season while the coastal region may have goals for enforcing trawling season or shellfish season. Even within regions, activity can vary from county to county depending on factors like water and abundance of rural land for hunting. Although each region's specific goals may vary, some of the basic activity may include: public contacts,

boating hours, boats inspected, night patrol hours, public presentations, permits issued, and Joint Enforcement patrol hours.

6. What information is tracked in an officer's activity book?

The following data is tracked in an officer's monthly activity book: date; day; mileage; cases written; cases assisted; warnings written; boating hrs.; boats inspected; hunters checked; fishermen checked; JEA hrs.; assisting hrs.; night patrol hrs.; search & rescue hrs.; permits issued; homeland security hrs.; nuisance wildlife calls; litter patrol hrs.; heritage trust hrs.; public presentations; cases cleared court; hunting accident hrs.; boating accident hrs.; fines collected; other permits issued; enforcement action reports; courtesy boat inspections; incident/accident reports; warrants/suspensions cleared; and daily activity comments.

7. How much did it cost to plan, implement, and maintain the division's career path?

The law enforcement division's sworn career path has been in place for many years. It was recently updated in FY 2015 to reflect the need to retain and add incentive for officers to continue their careers with the agency. The cost associated with this plan changes yearly based upon the numbers of officers and current salaries. The funds needed for this career path are state appropriated and directly allocated by the General Assembly. Last year's FY 2018 DNR Law Enforcement request of \$75,308.00 for step increases was not funded.

Equipment

8. Is there certain equipment every new officer at the agency requires?

a. Does the agency have a replacement plan for this type of equipment?

b. Does the agency have dedicated line items in the budget to cover the costs of this equipment?

Yes, based on the officer's geographical area and specific mission, standard and specialized equipment is required. Supervisors ensure that equipment needs are justified and properly documented. The following items are examples of standard issue equipment: vehicle, boat, mobile radio, portable radio (WT), uniforms and accessories, hand gun, shotgun, ammunition, badges, blue light, body armor, blood borne pathogen kit, binoculars, fire extinguisher, first aid kit, personal floatation device, cell phone, gas card, summons book, warning book, summons book cover, law book, flashlight vehicle, flashlight belt, flashlight gun mounted, GPS unit, protective gloves, evidence kits, compass, camera, rain gear, hip waders, catch pole, report holder, tape recorder, waterfowl field identification guide, leatherman tool, gear bag, snake boots, night vision goggles, range finder, float or survival suit, eye protection, and evidence cooler.

Equipment replacement is based on an annual assessment to be completed by the supervisor utilizing information gathered from the inspection of the officer's equipment. This assessment includes: 1) the age, serviceability, and basic condition of the equipment; 2) if its reasonably practical to repair the equipment; 3) the officer's continued status in a particular geographic area and/or specific job tasks; 4) and an evaluation as to whether the design or construction of the equipment is significantly improved so as to allow a substantial benefit to the department in terms of job efficiency and effectiveness, or when its use impacts the safety of the officer.

The only equipment which has a dedicated line item in the law enforcement division's budget is vehicles.

9. During the public input meeting, it was mentioned the State Law Enforcement Division (SLED) and Department of Natural Resources (DNR) share communications equipment. Please explain what is shared, what prompted the idea of entering an arrangement to do this, and how the arrangement works? Also, has there been consideration of setting up a similar arrangement with the Department of Public Safety?

SLED and DNR do not routinely share communication equipment unless there is a short-term need identified, such as a repair or special assignment. SLED and DNR do have a shared radio frequency and camera IP network. DNR shares some of these resources to get better coverage for less money by not duplicating equipment. DNR, SLED and DPS assist each other when requested for programming, firmware updates and radio tuning. SLED, DPS, DNR and many other state agencies all share radio frequencies for interoperability. DNR and SLED share the VHF radio system for interoperability for special events. DNR and SLED both have radio dispatch consoles that are capable of communicating on each other's radio system both VHF and Palmetto 800 if needed. In addition, SLED and DNR have DPS 800, mutual aid talk groups programmed into their consoles that allows most state and local agencies to communicate.

Boater Education

10. In the Program Evaluation Report, the agency states the General Assembly can help avoid boating accidents and deaths by requiring in law the successful completion of a boating safety class as a prerequisite to operating a motorized vessel or device in SC waters. What is currently required to operate a motorized vessel or device in SC waters?

Per S.C. Code Ann. Sec. 50-21-870(B)(9)(a) operators under age 16 operating without adult supervision of watercraft powered by a 15 HP motor are the only vessel operators required to successfully complete a boater safety class. Operators of motorized watercraft 16 years of age or older are not required to successfully complete a boater safety class to operate a motorized watercraft or device in SC waters.

11. In conducting investigations of boating accidents and fatalities, what are some of the most common causes the agency has found?

As shown in the 2017 Law Enforcement Investigations and Education Statistics Report the following are some of the most common causes the agency has found:

- a. fail to maintain proper lookout;
- b. operator inattention;
- c. excessive speed;
- d. operator inexperience;
- e. fault of machinery;
- f. alcohol use;
- g. careless/reckless operation.

12. Has the agency previously requested enactment of a law that requires the successful completion of a boating safety class as a prerequisite to operating a motorized vessel or device in SC waters? If so, what were the concerns expressed, if any?

The agency has discussed this with members of the General Assembly but no legislation was introduced as of this year.

13. Which other states, if any, require the successful completion of a boating safety class, or some type of license, as a prerequisite to operating a motorized vessel or device in state waters? Is the agency aware of any data on how these requirements have impacted the number of boating accidents or fatalities?

According to data received from the National Association of State Boating Law Administrators the following states have a mandatory boater safety course requirement (NASBLA): These states include: Alabama, Arkansas, California, Connecticut, District of Columbia, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maryland, Michigan, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

Deliverables

14. Please provide case law which addresses the "open fields' doctrine" and what is required for a DNR officer to enter private property.

Hester v. United States, 265 U.S. 57, 44 S.Ct. 445, 68 L.Ed. 898 (1924) and U.S. v. Oliver, 466 U.S. 170 (1984) are the two United States Supreme Court cases which first held that the Fourth Amendment did not extend to open fields, and clarified the open fields doctrine.

Also, US v. Vankesteren, 553 F.3d 286, 291 (4th Cir.2009), is a Fourth Circuit case involving the Virginia Department of Game and Inland Fisheries which addresses the Fourth Amendment and open fields. These cases, along with S.C. Code Ann. Sec. 50-1-10 which states that “all wild birds, wild game, and fish, except fish in strictly private ponds and lakes and lakes entirely segregated from other waters or held and grown in bonafide aquaculture operations are the property of the State” and S.C. Code Ann. Sec. 50-3-420 which states “neither any officer of the Lake Wylie Marine Commission nor any enforcement officer or deputy enforcement officer of the Department of Natural Resources is subject to criminal prosecution when acting in his official capacity within his territorial jurisdiction for...(2) entering into private property, whether or not posted against trespassing...” give the SCDNR officers authority to enter private property.

15. Are there any investigative reports the agency prepares which are available for purchase by private companies? If so, please provide the following:

- a. Amount DNR charges a private entity for each type of report; and**
- b. Cost to DNR to create each type of report.**

No, other than fees allowed pursuant to the Freedom of Information Act (FOIA).

16. Are DNR personnel, including, but not limited to officers and biologists, ever called to testify as a witness in civil litigation?

- a. If so, are there statutes which discuss the rates the personnel may charge or is that handled through DNR's regulations?**

Yes. The allowance for fees for testimony are set out in the South Carolina Rules of Civil Procedure (SCRCP) Rule 30(b) which allows a witness attending a deposition in a civil case to receive \$25.00 plus mileage.

Performance

17. For each of the agency performance measures listed below, which are associated with Strategy 2.2 or Objective 2.3.1, please provide other potential target values that may be more easily measured and/or more directly align with the actual results currently measured by the agency.

Strategy 2.2

a. Document natural resource, boating, and criminal violations;

100 % of violations detected documented through written summons or warning.

b. Maintain leadership role in search and rescue missions, and disaster response; and

Respond to 100 % of requests for assistance during search & rescue or disaster response events.

c. Continue internal efforts and partnerships with federal, state, and local partners conducting missions related to Homeland Security.

Respond to 100 % of requests for assistance from our federal, state, and local partners for assistance on Homeland Security missions.

Objective 2.3.1

d. Enforce inland fish and game laws in all 46 counties within SC; and

Document 100% of violations detected through written summons or warnings.

e. Saltwater recreational and commercial fishing enforcement of over 3,000 miles of coastal waters to prevent illegal harvest of marine species.

Document 100% of violations detected through written summons, warnings, or enforcement action reports.

Finances

18. Agency Objective 2.3.1 relates to enforcement of the state's hunting, fishing, and boating laws. Since the agency spends over 20% of its budget to accomplish this objective, please explain some of the major related costs, other than personnel.

The Law Enforcement Division incurs many diverse expenses for the enforcement of the state's hunting, fishing, and boating laws. Operational costs vary from month to month for equipment repairs (boats, motors & vehicles), standard facility expenses (electricity, gas, and maintenance), insurance, gas (vehicle, boat & ATV), communication costs (radio towers, cell phones and dispatch) and lastly, the Bank of America Procurement monthly bill.

19. The agency budgeted approximately \$1.2 million more to Objective 2.3 .1 this year than it did last year, with fewer personnel. What has necessitated the increased spending?

The request for increase budget spending relates to the Supplemental funds that were appropriated for Outreach and upgrades to our Law Enforcement Communications Center, and increase in the Regional WREC/County Game and Fish requested funds for needed equipment, as well as a projected increase in our federal boating grant. It was also necessary to request operational budget increases in Earmarked (3000) Law Enforcement funds to offset projected financial needs for the Fiscal year. Note that the Agency does not Budget to Objectives and Law Enforcement Staff are fluid in relation to Objectives.

20. What percentage of the fines and fees from DNR issued citations go back to DNR?

According to information received from Court Administration, SCDNR receives 100% of most fines imposed by SCDNR. The exceptions are S.C. Code Ann. Sec. 50-21-114, for which

SCDNR receives 75% of the fine, and the other 25% is remitted to the county. For other fines under Title 50, Chapter 21, 75% of the fine is remitted to SCDNR and 25% is remitted to county. Also, under S.C. Code Ann. Sec. 50-1-85 Criminal Negligent use of Fire Arms / Archery Tackle, 100% of that fine is deposited to the SC Victim's Compensation Fund.

21. How much has DNR collected from citations during each of the last three fiscal years?

According to SCEIS, the fine receipts for SCDNR for the last three years is as follows:

2015	\$ 336,172.74
2016	\$ 266,700.55
2017	\$ 320,237.13

22. Currently approximately 43% of the agency's entire budget comes from federal grants. With that background, please answer the questions below.

a. What is the agency's plan to continue its programs if there is a new round of tax cuts by the federal government during which these grants are cut?

Federal grants are an important component of the agency's funding and are necessary to meet agency goals. Federal funds are comprised of a number of funding categories, including formula grants and competitive grants. All of these grant programs are dependent upon the availability of funds through the federal appropriations process, and some of these funding sources are protected in Federal law and less likely to be impacted by cuts to the domestic discretionary budget as a result of tax cuts. Fortunately for SCDNR, a significant proportion of these grants are formula grants.

Examples of formula grants include the Wildlife/Sport Fish Restoration (WSFR) funds, including Dingell-Johnson (related to recreational fish resource research/monitoring/stock enhancement) and the Pittman-Robertson Funds (related to game species) funds. These funds are established in federal law and are apportioned to the states by prescribed formulas and are funded by excise taxes paid by the recreational fisher or hunter when they buy fishing and hunting equipment. Other grants include State Wildlife Grants, Endangered Species Act Grants, Boater Infrastructure Grant, Clean Vessel Act grants, etc.

Categorical project grants, or competitive grants, come largely through agencies within the federal government that administer projects aimed at specific agency research needs. These funding agencies solicit proposals through a Request for Proposal (RFP) process and proposals are then competitively judged/reviewed by experts for scientific merit and applicability to RFP. Two main SCDNR funding agencies are the Dept. of Interior's US Fish and Wildlife Service (USFWS) and Dept. of Commerce's National Oceanic and Atmospheric Administration (NOAA).

Department staff are encouraged to be entrepreneurial in terms of seeking outside funding support and have developed strong professional relationships with collaborators nationwide, invested in hiring competitive nationally recognized scientists and biologists, have access to state of the art technology, and have successfully competed for dwindling federal resources even during hard budget times. In addition, staff have also developed contracts with NGOs, cities and municipalities, and others to support staff while meeting the agency's mission. The agency plans to continue to encourage staff to enhance their professional reputations as leaders in the field in order to remain competitive for these competitively-awarded grants.

b. Are there critical need programs the agency currently has which are funded by federal grants?

Yes, a number of the most vulnerable and important programs in the department could be lost, including, but not limited to, the following programs:

MARMAP – this program provides the bulk of data used to monitor oceanic fish stocks like red snapper, black seabass, groupers, etc., between Cape Canaveral, FL, and Cape Hatteras, NC. This data is critical for assessing stock abundance which is used to establish fishing regulations in federal and state waters.

Inshore Fish Assessment program – a larger portion of this program is funded by a federal grant (RecFin). Loss of funding would jeopardize the long-term data sets for species like red drum, spotted sea trout, flounder and others. Loss of this data would not allow SCDNR to track population status and provide expert advice to inform the Legislature on fishery laws. This could result in a collapse of these popular, and economically valuable, fisheries.

Genetic Research used in stock assessments to identify fish stocks and population health.

Sea Turtle Monitoring and Research – this program has documented turtle population trends and coordinated research into sea turtle health.

Fisheries Statistics—the agency is required by state law to collect landings data to help inform the management of commercial fisheries.

Wildlife Habitat Management and Public Hunting Programs – Wildlife Restoration (Pittman-Robertson) funds are the primary funding source for all habitat management and hunting programs on public lands.

Wildlife Research and Monitoring – research and monitoring of wildlife is accomplished through the use of Wildlife Restoration and State Wildlife Grant funds. Undetected declines in these species could result in loss of recreational opportunity and associated economic benefits as well as increased regulatory restrictions.

Environmental Review – a portion of the DNR Office of Environmental Program is funded through Wildlife and Sport Fish Restoration funds. Inability to review proposed environmental impacts and mitigation measures may result in direct habitat and species losses.

Freshwater aquatic education programs are support with a grant through the Sport Fish Restoration Program.

Monitoring of endangered sturgeon in South Carolina is partially supported by funds from the U. S. Army Corp of Engineers.

Three out of five of the fully operational freshwater hatcheries are supported with federal funds through the Sport Fish Restoration Program.

Freshwater Fisheries research, monitoring and habitat enhancement is accomplished through the use of Sport Fish Restoration Funds and State Wildlife Grant funds.

Recreational fishing opportunities in small impoundments is provided through the State Lakes Program supported with Sport Fish Restoration Funds.

Emergencies/Natural Disasters

23. Please provide a list of the general type of services the agency has provided during state emergencies that occurred in the last three years?

In the last three years, DNR officers have provided the following services during emergency events:

Hurricane & Flood Response (2015-2017) – DNR provided manpower for security and search/rescue operations as a partner in the state emergency plan. Assets included vessels, 4x4 vehicles and ATVs which were utilized pre/post storm where warranted. Rescues were facilitated in both urban and rural areas, however security missions were conducted more heavily post-storm. In addition, aviation assets were utilized pre/post storm for damage assessment and during river sweep operations along the coast. In addition, DNR supported the SCHP to assist in facilitating lane reversals.

As a partner in the states Inclement Weather Plan (ice and snow) in 2015-2017 – DNR provided assistance to SCHP during inclement weather operations throughout the state. Officers are deployed with their 4x4 vehicles to “pre-identified” SCHP Troops. Officers are to ride the interstate to assist motorists, and assist with traffic, as DNR vehicles have better maneuverability.

24. Agency Objective 2.2.2 relates to the agency responding during statewide disasters. Please provide examples of rescues which require the National Guard because the agency is unable to perform the rescue due to lack of necessary equipment or specific training for personnel?

a. If the agency had this type of equipment, would the equipment generally be useful during statewide emergencies, or would it make the agency more effective or efficient in providing its other deliverables?

DNR law enforcement has always been able to accomplish its mission during statewide emergencies with the SCDNR issued equipment that the officers are assigned.

Internal Affairs

25. What is the internal affairs/investigation policy?

See SCDNR Directive 321 attached as Exhibit A.

26. When is a matter referred to SLED as opposed to being investigated in-house?

A matter is referred to SLED when it is determined the matter is criminal, or during an in-house investigation probable cause is developed to a level that would support a criminal charge.

Agency Recommendations from Program Evaluation Report

27. In regards to the agency's law recommendation #39, which addresses S.C. Code Ann. 50-3-350, would the agency oppose amending the statute to require the agency to promulgate regulations describing the official badge to make it easier now, and in the future, for the agency to update the description of the official badge?

The agency agrees with the recommendation and would not oppose it.

28. In regards to the agency's law recommendations #46, 47, and 49, which relate to sending information return receipt requested, how much has the agency spent in the last three fiscal years sending information return receipt requested?

Over the last three fiscal years the agency has spent \$ 7,312.00 sending notices return receipt requested. If these had been sent through standard USPS it would have cost only \$547.00 over the last three fiscal years.

29. In regards to the agency's law recommendation #84, which relates to Regulations 123-2 through 123-9, the agency states the regulations are no longer needed because they are already codified. Please provide the statute numbers in which these regulations are codified.

The regulations have been codified in the following statutes: S.C. Code Ann. Sec. 50-21-130; 50-21-170; and 50-21-710; 50-23-310 through 360.

30. In regards to the agency's internal change recommendation #19, does the agency have a timeline for researching the information the agency believes is necessary and making a decision on implementation of electronic records management system, E-Citation system, and mobile data information systems for patrol officers?

Currently we are projecting FY 2019-2020 for implementation.

31. When does the agency anticipate it will be 100% on the E-Citation system?

As of November 13, 2017, the agency was informed by the SCDMV E-Citation project manager that the system is not fully functional due to issues with dissemination of un-adjudicated tickets to the appropriate magistrate's offices. The project manager has projected the system to be functional by December 2017. The agency is still determining an appropriate system for the DNR summons and intends to begin the process of budgeting and solicitation for a system in FY 2019-2020.

We greatly appreciate your guidance and direction during our oversight process. Thank you for your comments and suggestions in helping our agency improve to provide exceptional outdoor experiences for the citizens of South Carolina.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Taylor', with a long horizontal flourish extending to the right.

Alvin A. Taylor
Director

Attachment

cc: The Honorable Wm. Weston J. Newton (without attachments)
The Honorable Katherine E. "Katie" Arrington (without attachments)
The Honorable William M. "Bill" Hixon (without attachments)
The Honorable J. Todd Rutherford (without attachments)

EXHIBIT A

**SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES
LAW ENFORCEMENT DIVISION DIRECTIVE**

DIRECTIVE #: D 321

PAGE 1 OF 4

SUBJECT: COMPLAINT PROCEDURE, INTERNAL AFFAIRS

DATE: NOV 21, 1997

RELATED DIRECTIVES, STANDARDS, ETC.:

LAST REVISION: SEP 1, 2011

RESPONSIBLE AUTHORITY: DEPUTY DIRECTOR OF LAW ENFORCEMENT

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTANT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

PURPOSE: The purpose of this directive is to establish guidelines and procedures for receiving, reporting, investigating, and adjudicating allegations of officer misconduct.

DIRECTIVE: It is essential that the Division's personnel and the citizens of this state have confidence in these who exercise law enforcement authority. This requires procedures for adequate and expeditious processing of allegations of misconduct by employees.

All employees will comply with agency rules, regulations and directives. All employees will be held strictly accountable for properly exercising the authority they have been given. At the same time, employees must be protected against false allegations of misconduct. This can only be accomplished through a consistently thorough investigative process.

PROCEDURES:

A. Internal Affairs Function

- 1) The Deputy Director of Law Enforcement is responsible for the administration of internal affairs function. An Internal Affairs Officer (**IAO**) will assist the Deputy Director for Law Enforcement with this responsibility, by:
 - (a) Receiving, documenting, and maintaining files on all information pertaining to allegations of employee misconduct. These files will be maintained in a secure area separate from the personnel and other records.
 - (b) Conducting, supervising or coordinating the investigation of alleged or suspected misconduct within the Law Enforcement Division or within other Divisions upon authorization from the Director.
 - (c) Maintaining the confidentiality of all internal affairs investigations and records to the maximum extent allowed by law.

- 2) Appropriate logs for complaints will be maintained by both the IAO and each Region Captain or section head.

B. Categories of Complaint

- 1) Low Infraction-Allegations that involve:
 - (a) Misunderstandings between a citizen and an employee.
 - (b) Breaches of policies or directives of less serious nature.
- 2) High Infraction
 - (a) All allegations brought against an employee of a criminal nature or serious enough to warrant personnel action such as suspension or termination. Allegations of felonious conduct may be reported to SLED or other appropriate law enforcement authority.

C. Procedure for Accepting Allegations Against Agency Members

- 1) Any citizen complaint, regardless of category, shall be accepted whether it is in person, by phone, or in writing, and an appropriate investigation conducted. Irrational complaints and complainants who exhibit behavior generally associated with some form of dementia or substance abuse may be noted.
- 2) An employee who received an initial complaint shall direct the complaint or written complaint to the affected Region Captain or Deputy Director for Law Enforcement.

IMPORTANT: Nothing contained herein should be constructed so as to prevent any person with information about misconduct from going directly to the Deputy Director for Law Enforcement.

D. High Infraction

- 1) In all high infractions, the Deputy Director for Law Enforcement will be notified in a timely manner of the allegation. In addition the agency will acknowledge receipt of the complaint in the appropriate manner.

E. Assignment of the Investigation

Allegations of a high infraction shall be assigned for investigations in the following manner:

- 1) The Deputy Director for Law Enforcement shall assign a supervisor to investigate the allegation as soon as possible or refer the matter to the IAO or another investigative agency if he feels it is warranted.

F. Notification to Officers of Internal Affairs Investigation

- 1) The Employee of an internal affairs investigation will be informed of any allegations usually from the affected Captain, provided that investigations conducted by external authorities may control when the officer is informed.

G. Responsibilities of Employee

- 1) Employees will cooperate fully with any internal investigation. Employees are expected to answer questions specifically and narrowly related to the subject of the investigation and may be compelled to answer questions relating to non-criminal conduct or criminal conduct which will not be prosecuted.

H. Polygraph Examinations

- 1) The polygraph may be used in any matter for detection of deception, provided no employee shall be required to submit to examination except with the expressed approval of the Deputy Director for Law Enforcement or Director. Any ordered examination must be in accordance with the "Garrity" decision of the United States Supreme Court. Refusal

to submit to such examination may result in disciplinary action in accordance to the Standards of Disciplinary Action Policy #701.03.

I. Further Testing or Disclosures

- 1) The Deputy Director for Law Enforcement or Director may require an employee in any matter to submit to any following test or disclosure when specifically directed and narrowly related to the subject of an internal investigation. Failure to follow a direct order of this nature may result in disciplinary action against an employee in accordance to the Standards of Disciplinary Action, Policy #701.03.

J. Employee Rights

- 1) Employees have the same rights guaranteed to all citizens by the Constitution and laws of the State of South Carolina and of the United States.
- 2) For high infractions, internal investigations will be completed within 180 days from the start of initial complaint. If an extension is necessary, the assigned investigator will request an extension from the Deputy Director for Law Enforcement or Director citing the extenuating circumstances. Throughout the investigation the assigned investigator will keep the Deputy Director for Law Enforcement or the Director informed.
- 3) Employees have the right
 - (a) to be treated fairly,
 - (b) to be informed of allegations,
 - (c) to have complaints investigated, and
 - (d) to be afforded an opportunity to present evidence on their behalf.

K. Adjudication of Allegation of Employee Misconduct

- 1) For high infractions, internal investigations will be completed within 180 days from the start of initial complaint. If an extension is necessary, the assigned investigator will request an extension from the Deputy Director for Law Enforcement or Director citing the extenuating circumstances. Throughout the investigation the assigned investigator will keep the Deputy Director for Law Enforcement or the Director informed.
- 2) For low infractions, internal investigations will be completed within 180 days from the start of the initial complaint. If an extension is necessary, the assigned investigator will request an extension from the Deputy Director for Law Enforcement or the Director or respective Captain citing the extenuating circumstances. Throughout the investigation, the assigned investigator will keep the Deputy Director for Law Enforcement or Director or affected Captain informed.
- 3) Upon conclusion of an investigation the investigator will forward all information to the Deputy Director for Law Enforcement or Director or other senior staff members, or affected Captain.
- 4) The Deputy Director for Law Enforcement or Director or effected Captain shall review the facts and determine whether the complaint should be classified as:
 - (a) Unfounded-Evidence sufficient to conclude that the complaint is groundless.
 - (b) Exonerated-Actions taken by employee were lawful and proper.
 - (c) Not sustained-Insufficient evidence exists to either prove or disprove the complaint.
 - (d) Sustained-Sufficient evidence exists to conclude the allegation is correct.
- 5) If the allegation is sustained based on the facts of the investigation, the Deputy Director of Law Enforcement, Director, senior staff member or affected Captain will take appropriate disciplinary action in accordance with Standards of Disciplinary Action

- Policy after consultation with the office of Human Resources.
- 6) Complainants will be informed at the conclusion or resolution of an investigation.

NOTE: In all investigations where the complaint is classified as “Unfounded”, “Exonerated” or “Not Sustained” the employee will be notified in writing that the investigation has been closed and how the investigation was classified.

K. Criminal Prosecution Liaison

- 1) In the event of any criminal prosecution resulting from an investigation of alleged officer misconduct, the Deputy Director for Law Enforcement or his designee will maintain communication with the appropriate investigating agency and or prosecutor.

L. Notification of High Authority

- 1) The Deputy Director for Law Enforcement periodically will apprise the Director of all internal investigations and will promptly inform the Director of all serious allegations made against DNR officers.

APPROVED:



A.C. Frampton, Colonel