

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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of the
GENERAL ASSEMBLY

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2016 PUBLICATION SCHEDULE

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

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

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

REPRODUCING OFFICIAL DOCUMENTS

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

SUBSCRIPTIONS

The *South Carolina State Register* is available electronically through the South Carolina Legislature Online website at www.scstatehouse.gov, or in a printed format. Subscriptions run concurrent with the State of South Carolina's fiscal year (July through June). The annual subscription fee for the printed format is \$100.00. Payment must be made by check payable to the Legislative Council. To subscribe, complete the form below and mail with payment.

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In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

| DOC. NO. | RAT. NO. | FINAL ISSUE | SUBJECT | EXP. DATE | AGENCY |
|---------------------|---------------------|------------------------|--|----------------------|--------------------------------|
| 4624 | | | Professional Employer Organizations | 5/10/17 | Department of Consumer Affairs |
| 4625 | | | Licensing Standards for Continuing Care Retirement Communities | 5/10/17 | Department of Consumer Affairs |
| 4649 | | | Securities Division | 5/10/17 | Secretary of State |
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2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

| DOC. No. | SUBJECT | HOUSE COMMITTEE | SENATE COMMITTEE |
|---------------------|--|------------------------|-------------------------|
| 4624 | Professional Employer Organizations | | |
| 4625 | Licensing Standards for Continuing Care Retirement Communities | | |
| 4649 | Securities Division | | |
| 4656 | At-Risk Students | | |
| 4657 | Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts | | |
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| 4659 | School Resource Officers | | |
| 4664 | Hotels, Motels, and Similar Facilities | | |
| 4665 | Examples of the Application of Tax to Various Charges Imposed by Hotels, Motels, and Other Facilities | | |

Executive Order No. 2016-39

WHEREAS, on October 11, 2016, the President of the United States of America issued a Major Disaster Declaration for the State of South Carolina due to the effects of Hurricane Matthew, which included in certain parts of the state 6.2 feet of storm surge, 10 to 15 inches of rain, 60 to 88 miles per hour wind gusts, and river levels 1.85 to 3.89 feet above major flood stage; and

WHEREAS, damage from downed trees, other debris, and flooding has caused more than 481 road and bridge closures, more than 861,000 power outages, and damage to more than 1,800 homes, approximately 675 of which are uninhabitable; and

WHEREAS, the State continues to support counties or local governments in response and recovery operations, fulfilling more than 790 requests for additional resources or assistance to address infrastructure, public safety, and public health concerns; and

WHEREAS, while local, state, and federal officials continue to conduct damage assessments throughout the central and coastal areas, there are parts of the state still conducting limited evacuations and life safety operations, especially within the river basins of the Pee Dee region; and

WHEREAS, it is necessary to maintain the activation of the National Guard and other state emergency operations to support the health, safety, and welfare of the public.

NOW THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, effective at 12:01 a.m. on Wednesday, October 19, 2016, I hereby declare that a State of Emergency exists in South Carolina. I direct that the South Carolina Emergency Operations Plan be placed into effect. I further direct that all prudent measures be taken at the individual, local, and state levels to protect against the ongoing effects of Hurricane Matthew.

FURTHER, I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty pursuant to my authority under Section 25-1-1840 of the South Carolina Code of Laws, and I will do so by directing the Adjutant General to issue supplemental orders. I further order the activation of the South Carolina National Guard personnel and utilization of appropriate equipment at the discretion of the Adjutant General and in coordination with the Director of the South Carolina Emergency Management Division, to take necessary and prudent actions to assist the citizens of this state.

I also order Dual Status Command to allow the Adjutant General or his designee to serve as commander over both federal (Title 10) and state forces (National Guard in Title 32 and/or State Active Duty status) as necessary.

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

I also note that the prohibitions against price gouging stated in Section 39-5-145 of the South Carolina Code of Laws are in effect due to the State of Emergency.

4 EXECUTIVE ORDERS

Further proclamations and regulations deemed necessary to insure the fullest protection of life and property during this state of emergency shall be issued orally by me and thereafter reduced to writing within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 18th DAY OF OCTOBER, 2016.**

**NIKKI R. HALEY
Governor**

Executive Order No. 2016-40

WHEREAS, on October 4, 2016, I issued Executive Order 2016-26, declaring a State of Emergency as a result of Hurricane Matthew approaching the State of South Carolina, and that same day, I subsequently issued Executive Order 2016-29, closing public schools and state, county, and municipal government offices from Wednesday, October 5, 2016 through Friday, October 7, 2016 for the purpose of supporting shelter operations and mass transportation needs in anticipation of a coastal evacuation, which did occur from Wednesday, October 5, 2016 through Friday, October 7, 2016 pursuant to Executive Orders 2016-31, -32, and -33; and

WHEREAS, as a result of my order, state offices were closed from Wednesday, October 5, 2016 through Friday, October 7, 2016 in the following counties: Beaufort, Jasper, Colleton, Hampton, Allendale, Bamberg, Barnwell, and Aiken (Southern Conglomerate); Charleston, Berkeley, Dorchester, Orangeburg, Calhoun, Richland, and Lexington (Central Conglomerate), and Horry, Georgetown, Williamsburg, Marion, Florence, Dillon, Clarendon, Sumter, Darlington, Lee, and Marlboro (Northern Conglomerate); and

WHEREAS, pursuant to Section 8-11-57 of the South Carolina Code of Laws, the governor of this State may authorize leave with pay for affected state employees who were absent from work due to a State of Emergency.

NOW, THEREFORE, pursuant to the authority vested in me by the laws and Constitution of the State of South Carolina, I hereby grant leave with pay to state employees absent from work as directed on Wednesday, October 5, 2016, Thursday, October 6, 2016, and Friday, October 7, 2016 as a result of the State of Emergency.

This order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 20th DAY OF OCTOBER, 2016.**

**NIKKI R. HALEY
Governor**

Executive Order No. 2016-41

WHEREAS, on Saturday, October 8, 2016, the effects of Hurricane Matthew began impacting the coastal and inland areas of South Carolina, including in certain parts of the state 6.2 feet of storm surge, 10 to 15 inches of rain, 60 to 88 miles per hour wind gusts, and river levels 1.85 to 3.89 feet above major flood stage, all of which led to flash flooding and downed trees, power lines, and other debris that caused roadways and bridges to be dangerous and impassable; and

WHEREAS, as a result of the hazardous weather conditions, state government offices in the following counties were closed in accordance with county government offices as follows: Aiken, October 8, 2016; Allendale, October 8-10, 2016; Bamberg, October 8, 2016; Barnwell, October 8, 2016; Beaufort, October 8-11, 2016; Berkeley, October 8-10, 2016; Calhoun, October 8-10, 2016; Charleston, October 8-10, 2016; Clarendon, October 8-10, 2016; Colleton, October 8-10, 2016; Darlington, October 8-11, 2016; Dillon, October 8-11, 2016; Dorchester, October 8-10, 2016; Florence, October 8-11, 2016; Georgetown, October 8-10, 2016; Hampton, October 8-10, 2016; Horry, October 8-10, 2016; Jasper, October 8-11, 2016; Lee, October 8-11, 2016; Lexington, October 8, 2016; Marion, October 8-11, 2016; Marlboro, October 8-10, 2016; Orangeburg, October 8-11, 2016; Richland, October 8, 2016; Sumter, October 8-10, 2016; Williamsburg, October 8-12, 2016; and

WHEREAS, pursuant to Section 8-11-57 of the South Carolina Code of Laws, the governor of this State may authorize leave with pay for affected state employees who were absent from work due to the hazardous weather conditions.

NOW, THEREFORE, pursuant to the authority vested in me by the laws and Constitution of the State of South Carolina, I hereby grant leave with pay to state employees absent from work as directed from Saturday, October 8, 2016 through Wednesday, October 12, 2016 as a result of the hazardous weather conditions.

This order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 20th DAY OF OCTOBER, 2016.**

**NIKKI R. HALEY
Governor**

Executive Order No. 2016-42

WHEREAS, on October 4, 2016, I issued Executive Order 2016-26, declaring a State of Emergency as a result of Hurricane Matthew approaching the State of South Carolina and directed that all prudent preparations be taken at the individual, local, and state levels to protect against the possible effects of Hurricane Matthew; and

WHEREAS, I subsequently issued Executive Order 2016-29, closing public schools and state, county, and municipal government offices from Wednesday, October 5, 2016 through Friday, October 7, 2016 for the purpose of supporting shelter operations and mass transportation needs in anticipation of a coastal evacuation, which thereby did occur upon my order through Executive Orders 2016-31, 32, and 33 for the preservation of life and the health, safety, and welfare of residents and visitors located in the threatened areas; and

WHEREAS, as a result of these actions and the hazardous weather conditions that occurred, it became necessary for many banks and savings and loan institutions to close from October 5, 2016 through October 12, 2016; and

WHEREAS, Section 53-5-55 of the South Carolina Code of Laws authorizes the Governor to declare legal holidays for banks and savings and loan institutions whenever the Governor finds such additional holidays to be necessary or appropriate; and

WHEREAS, October 10, 2016, is already deemed a federal holiday for banks.

6 EXECUTIVE ORDERS

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Laws of the State of South Carolina Code, I hereby declare October 5, 6, 7, 8, 9, 11, and 12, 2016 to be legal holidays for banks and savings and loan institutions in the State of South Carolina that were forced to close due to my Orders, other State actions, or hazardous weather conditions caused as a result of Hurricane Matthew.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 1st DAY OF NOVEMBER, 2016.**

NIKKI R. HALEY
Governor

Executive Order No. 2016-43

WHEREAS, the Domestic Violence Task Force, established by Executive Order 2015-04 and 2016-02, issued 50 Recommendations to comprehensively address the cultural issues surrounding domestic violence within the criminal justice system, victim and offender services, and community awareness, education, and outreach; and

WHEREAS, finding that there was no statewide, concerted effort against domestic violence and no statewide, central agency responsible for crime victims in general, Recommendation 42 by the Domestic Violence Task Force proposed to convene state and local government and nonprofit entities to develop a consensus of proposing a restructuring solution for streamlining the State's multiple crime victim related agencies and services; and

WHEREAS, it has been presented to me that stakeholders from government and nongovernment organizations are in agreement to consolidate, co-locate, and coordinate crime victims services in the State of South Carolina under the Attorney General's Office to be called, South Carolina Crime Victims Services, and to be composed of multiple agencies and services throughout state government; and

WHEREAS, I am mindful of the need to supplement such proposed statutory changes with a detailed transition plan that addresses administrative matters to ensure that members of the General Assembly, the public, and the crime victims community are satisfied with the manner and method of how such a transition would take place.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina, I hereby establish the Crime Victims Services Transition Team to address operational matters surrounding the execution of consolidating and co-locating crime victims services from multiple state agencies and services to the Attorney General's Office, Crime Victims Services.

Members of the Transition Team shall include representatives appointed by the Attorney General and by the Directors of the Department of Public Safety and the Department of Administration with staff support also provided by Department of Administration.

The Transition Team shall develop a Transition Plan that takes into account human resources, finance, information technology, and other administrative matters as deemed necessary to effect efficiency and cost-savings.

The Transition Plan shall be submitted to the Governor's Office no later than Tuesday, January 10, 2017, the first day of the General Assembly's 2017 Session.

This Order shall be effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 3rd DAY OF NOVEMBER, 2016.**

NIKKI R. HALEY
Governor

Executive Order No. 2016-44

WHEREAS, a declaration of emergency exists in the State of Georgia due to the temporary shutdown of a primary fuel pipeline, threatening the public welfare and causing a need for the uninterrupted supply of gasoline throughout the State of Georgia; and

WHEREAS, the Governor of the State of Georgia has suspended federal regulations limiting the hours operators of commercial motor vehicles may drive pursuant to the Federal Motor Carrier Safety regulations, 49 CFR § 390, et seq.; and

WHEREAS, whenever a declaration of emergency is declared in Georgia that triggers relief under 49 CFR § 390.23, an emergency must be declared in this State pursuant to Section 56-5-70(B) of the South Carolina Code of Laws.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina and of the United States of America, I hereby determine that an emergency exists in the State South Carolina for the limited purpose of complying with the declaration of emergency in the State of Georgia and hereby suspend of Part 395 (drivers' hours of service) of Title 49 of the Code of Federal Regulations. I further direct the South Carolina Department of Transportation and the South Carolina Department of Public Safety, and the State Transport Police as needed, to suspend the federal rules and regulations that limit the hours operators of commercial vehicles may drive, in order to ensure the uninterrupted supply of equipment, goods, services, and any other item needing to be moved on the highways of the States of Georgia and South Carolina.

Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 C.F.R. § 383 or the financial requirements in 49 C.F.R. § 387.

This Order shall take effect at 12:01 a.m. on Friday, November 4, 2016, and shall expire at 11:59 p.m. on Tuesday, November 15, 2016, the date set for the termination of the emergency declaration in the State of Georgia. Nothing herein shall affect the waiver authorized by Executive Order 2016-28 on October 4, 2016, regarding certain registration, permitting, length, width, weight, and load restrictions, which remains in effect through midnight on February 1, 2017, unless otherwise amended.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 3rd DAY OF NOVEMBER, 2016.**

NIKKI R. HALEY
Governor

8 EXECUTIVE ORDERS

Executive Order No. 2016-45

WHEREAS, pursuant to Section 1-3-240(A)(3) of the South Carolina Code of Laws, when it appears to the satisfaction of the governor that a county officer is guilty of malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity, the county officer is subject to removal by the governor after having been informed in writing of the specific charges brought against him or her and after having been given an opportunity on reasonable notice to be heard; and

WHEREAS, I have been asked by members of the Richland County Legislative Delegation to remove members of the Richland County Recreation Commission (“RCRC”) Board for the foregoing causes by letter dated October 13, 2016, allegations to which the RCRC Board responded by letter dated October 18, 2016; and

WHEREAS, although I believe that local matters should be resolved at the local level and thus have encouraged the Delegation to initiate legislation to give removal authority of RCRC Board members to local officials, Section 1-3-240(A)(3) authorizes the governor to remove RCRC Board members for cause; and

WHEREAS, upon receiving information from the Delegation and the RCRC Board, I requested additional information from the RCRC Board by letter dated October 19, 2016, to which a response with documentation was sent by the RCRC Board by letter dated October 28, 2016; and

WHEREAS, from the information presented to me from the Delegation and from the RCRC Board, I find that sufficient evidence exists to move forward under Section 1-3-240(A)(3) in further consideration of removal by providing written notice of specific charges brought against individual members and by providing an opportunity on reasonable notice to be heard.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Laws of the State of South Carolina, I hereby provide written notice to all members of the Richland County Recreation Commission (“RCRC”) Board of the specific charges brought against them showing cause for removal from office. I hereby provide reasonable notice of an opportunity to be heard at a public hearing to be held on November 30, 2016 in Columbia, South Carolina at a specific time and location to be determined.

FURTHER, I hereby declare that I shall appoint a three-person panel to preside at the hearing to serve as hearing officers for the limited purpose of taking testimony and receiving additional evidence in order to find facts and make recommendations to me.

FURTHER, I hereby present in writing specific charges brought against all seven members of the RCRC Board as follows with additional details included in the attached “Charges” report:

Charge I Neglect of Duty and Incompetency Section 1-3-240(A)(3): The Board neglected its duty to review nepotism complaints involving the Executive Director James Brown, III, and had knowledge he had family members working at the RCRC.

Charge II Neglect of Duty Section 1-3-240(A)(3): The Board neglected its duty in making compensation decisions regarding the Executive Director James Brown, III.

Charge III Neglect of Duty, Misfeasance, and Malfeasance, Section 1-3-240(A)(3): The Board neglected its duty and was misfeasant and malfeasant by failing to investigate claims of harassment, retaliation, and intimidation and in improperly delegating its duty to investigate Brown to Brown’s subordinate.

FINALLY, I hereby order that any member of the RCRC Board not exercising his or her opportunity to be heard shall accordingly be removed from office on December 1, 2016.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 10th DAY OF NOVEMBER, 2016.**

**NIKKI R. HALEY
Governor**

10 NOTICES

DEPARTMENT OF CONSUMER AFFAIRS

NOTICE OF GENERAL PUBLIC INTEREST

28-55. Assignment of Wages

The South Carolina Department of Consumer Affairs elected to terminate the promulgation process on Regulation Document No. 4648, relating to Revocable Assignment of Wages.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

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

SC Regulation 61-62.5, Standard No. 7, *Prevention of Significant Deterioration* (“PSD”), limits the activities a facility may be able to start prior to receiving an issued PSD Construction Permit. “Begin actual construction” is defined in SC Regulation 61-62.5, Standard No. 7 as meaning, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature.

The Department issued a guidance document, in the form of a memo, on August 16, 2006, addressing the types of activities that can be undertaken prior to receiving a PSD Construction Permit. This guidance document was revised on July 27, 2016, to add additional activities. This guidance is maintained by the Department, and notice of revisions is published in the South Carolina State Register. This guidance will be maintained on the DHEC website at: <http://www.scdhec.gov/Environment/AirQuality/Training>.

If you have questions or comments, please contact Christopher Hardee, Division of Engineering Services, at (803) 898-4123.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication November 25, 2016 for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201 at (803) 545-3495.

Affecting Greenville County

CARC, Inc. d/b/a Clemson Area Retirement Center (Clemson Downs)

Conversion of twenty-two (22) existing institutional beds to twenty-two (22) non-institutional/community nursing home beds for a total of sixty-eight (68) community nursing home beds that will not participate in the Medicaid (Title XIX) Program.

CMC II, LLC d/b/a Consulate Health Care

Construction of a 70 bed skilled nursing facility in Greenville County at a total project cost of \$14,272,602.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from November 25, 2016. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-3495.

Affecting Beaufort County

Sprenger Healthcare of Bluffton, Inc. d/b/a Sprenger Healthcare of Bluffton

Construction of a 65 long term care bed nursing facility in Beaufort County at a total project cost of \$13,205,200.

Affecting Greenville County

CARC, Inc. d/b/a Clemson Area Retirement Center (Clemson Downs)

Conversion of twenty-two (22) existing institutional beds to twenty-two (22) non-institutional/community nursing home beds for a total of sixty-eight (68) community nursing home beds that will not participate in the Medicaid (Title XIX) Program.

Affecting York County

Piedmont Medical Center d/b/a Fort Mill Freestanding Emergency Department

Development of a freestanding Emergency Department at a total project cost of \$15,273,688.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Termination of State Register Document No. 4668

The Department of Health and Environmental Control ("Department") published a Notice of Proposed Regulation identified as Document No. 4668 in the State Register on September 23, 2016 to amend R.61-47, *Shellfish*.

A new Notice of Proposed Regulation for amendment of R.61-47 will be published under a separate document number in the *State Register* on November 25, 2016. The new Notice of Proposed Regulation supersedes Document No. 4668. Public comments that were received for Document No. 4668 will be retained and considered by the Department as comments for the new Notice of Proposed Regulation for amendment of R.61-47 published November 25, 2016.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Termination of State Register Document No. 4669

Effective upon publication of this notice, the Department of Health and Environmental Control is terminating the proposed amendment of Regulation 61-12, *Standards for Licensing Abortion Clinics*. This amendment was published as Document No. 4669 on September 23, 2016, in the *State Register* Vol. 40, Issue 9.

12 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Public Hearing Postponement for State Register Document No. 4670

The Department of Health and Environmental Control (“Department”) published a Notice of Proposed Regulation, identified as Document No. 4670, in the State Register on September 23, 2016 to amend R.61-68, *Water Classifications and Standards*.

Because of the volume and scope of the comments received during the public comment period for Document No. 4670, the Department has decided to take additional time to ensure satisfactory consideration of the public feedback. This Notice hereby postpones the previously scheduled December 8, 2016 public hearing for Document No. 4670 indefinitely.

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF OCCUPATIONAL SAFETY AND HEALTH

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF PUBLIC HEARING OCCUPATIONAL SAFETY AND HEALTH STANDARDS

South Carolina Department of Labor, Licensing and Regulation (SC DLLR) does hereby give notice under Section 41-15-220, SC Code of Laws, 1976, as amended, that a public hearing will be held on January 4th, 2017 at the SC DLLR, Kingstree Building Room 108, 110 Centerview Drive, Columbia, SC at which time interested persons will be given the opportunity to appear and present views on the occupational safety and health standards being considered for adoption.

The hearing is to determine if the Director of the SC DLLR will promulgate, revoke, or modify Rules and Regulations pursuant to Section 41-15-210, SC Code of Laws, 1976.

OSH Rules and Regulations being considered at the hearing are as follows:

In Subarticle 6 (General Industry):
Revisions to Sections: 1910.1000,

In Subarticle 7 (Construction):
Revisions to Sections: 1926.55,

Summary of changes: SC OSHA is correcting typographical errors in the final rule for respirable crystalline silica published March 25, 2016.

Any omissions or corrections to the occupational safety and health standards being considered for adoption published in the FEDERAL REGISTER prior to this hearing may be presented at this hearing. These revisions are necessary to comply with federal law and copies of them can be obtained or reviewed at the SC DLLR during normal business hours by contacting the OSHA office at 803-896-5811.

Persons desiring to speak at the hearing shall file with the Director of the SC DLLR a notice of intention to appear and the approximate amount of time required for her/his presentation on the particular matter no later than December 22, 2016. Any person who wishes to express her/his views, but is unable or does not desire to appear and testify at the hearing, should submit those views in writing on or before December 22, 2016.

Emily Farr, Interim Director
SC DLLR
Post Office Box 11329
Columbia, SC 29211-1329

14 DRAFTING NOTICES

**CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
CHAPTER 27**

Statutory Authority: 1976 Code Section 59-119-50

Notice of Drafting:

Clemson University is considering the implementation of new regulations which govern, to the extent authorized by the S.C. Code, Title 59, Chapter 119, related to parking and traffic regulations at Clemson University.

Interested parties should submit written comments to Dan Hofmann, Director of Parking and Transportation Services, Clemson University, G-01 Edgar Brown Union Clemson, SC 29634-4014.

To be considered, comments should be received no later than December 30, 2016, the close of the drafting comment period.

Synopsis:

The proposed amendments will update and clarify the current regulations as they relate to parking and traffic at Clemson University. In addition, Clemson University is also contemplating additional or new provisions that will cover the use new permit types and updated technologies.

These proposed regulations will require legislative action.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
RESIDENTIAL BUILDERS COMMISSION
CHAPTER 106**

Statutory Authority: 1976 Code Section 40-59-70

Notice of Drafting:

The South Carolina Residential Builders Commission proposes to amend the types of work that may be performed within certain residential specialty contractor classifications in Regulation 106-1. Interested persons may submit comments to Janet Baumberger, Administrator, Residential Builders Commission, Post Office Box 11329, Columbia, S.C. 29211-1139.

Synopsis:

The South Carolina Residential Builders Commission proposes to amend the types of work that may be performed within certain residential specialty contractor classifications in Regulation 106-1.

Legislative review of this amendment is required.

Document No. 4732

DEPARTMENT OF CONSUMER AFFAIRS

CHAPTER 28

Statutory Authority: 1976 Code Sections 37-2-305, 37-3-305, 37-6-104, 37-6-402, 37-6-403, and 37-6-506

- 28-4. Method of Operations.
- 28-6. Application of Federal Truth in Lending Act.
- 28-9. Other Cases - Summary Procedure.
- 28-30. Delinquent Notification Filing and Fee Payment.
- 28-70. Filing and Posting Maximum Rate Schedules.

Preamble:

The department proposes to amend and modify Regulations 28-4, 28-6, 28-9, 28-30, and 28-70. The purposes of these proposed amendments are to revise and edit regulatory language to conform to current operations, statutory requirements and to delete obsolete provisions. South Carolina Code sections 37-6-104 and 37-6-403 authorize the department to promulgate regulations necessary to effectuate the purposes of the chapter.

The proposed regulations will require legislative review.

Notice of Drafting for the proposed regulations was published in the *State Register* on August 26, 2016. Comments were solicited for consideration in drafting the proposed regulation.

Section-by-Section Discussion

- 28-4 No changes.
- 28-4(A) Revised to correct number and names of Department Divisions.
- 28-4(A)(1) Revised language to conform with current Administration Division functions.
- 28-4(A)(2) Revised language to conform with current Consumer Services Division functions.
- 28-4(A)(3) Revised language to conform with current Advocacy Division functions.
- 28-4(A)(4) Revised subsection to describe the Public Information and Education Division.
- 28-4(A)(5) Added a new subsection to describe the Identity Theft Unit.
- 28-4(A)(6) Subsection relabeled. Previously was 28-4(A)(4). Also revised for accuracy and statutory changes.
- 28-4(B) No changes.
- 28-4(B)(1) Added language for complaint filing method.
- 28-4(B)(2) Revised language to conform with Department information request policy.
- 28-4(B)(3) No changes
- 28-4(B)(4) No changes

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- 28-4(B)(5) Revised Division name.
- 28-4(B)(6) No changes
- 28-6(A) No changes.
- 28-6(B) Deleted incorrect reference to promulgating agency.
- 28-9(A) Clarified topics for which an informal complaint may be made.
- 28-9(B) Revised language to include reference to Record Retention Policy.
- 28-9(C) Revised language to reflect Department authority outside of Consumer Protection Code.
- 28-9(D) No changes.
- 28-9(D)(1) Revised language to clarify settlement agreements are permitted.
- 28-9(D)(2) No changes.
- 28-9(D)(3) No changes.
- 28-9(D)(4) No changes.
- 28-9(D)(5) No changes.
- 28-9(D)(6) Added new subsection o reference criminal authority.
- 28-9(D)(7) Added new catchall section to reflect Department authority outside of Consumer Protection Code.
- 28-9(E) No changes.
- 28-30(A) Revised grace period downward.
- 28-30(B) Revised language to reflect Department’s statutory enforcement authority.
- 28-30(C) Revised credit grantor notification late penalty structure.
- 28-70(A) Created subsections to reduce language duplication.
- 28-70(A)(1) Added new subsection to reduce language duplication.
- 28-70(A)(2) Deleted duplicate language, revised language to conform to statutory amendments and relocated language relevant to the section’s topic.
- 28-70(B) Added subsection for organization. Relocated language to (A)(2).
- 28-70(C) Created subsections for organization.
- 28-70(C)(1) Added subsections number. Deleted incorrect reference to federal agency.
- 28-70(C)(2) Created new subsection number for organization. No change to language.

- 28-70(C)(3) Created new subsection number for organization. No change to language.
- 28-70(D) Revised language to clarify effective date of maximum rate schedule.
- 28-70(E) No changes.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons should submit comments to Kelly Rainsford, Deputy for Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, SC 29250 by December 30, 2016. Should a public hearing be requested by at least twenty-five persons, the hearing will be held at the Department on January 10, 2017 at 2:00 p.m. in the Conference Room, 2221 Devine Street, Suite 200, Columbia, SC 29205.

Preliminary Fiscal Impact Statement:

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATIONS: 28-4. Method of Operations, 28-6. Application of Federal Truth in Lending Act, 28-9. Other Cases - Summary Procedure, 28-30. Delinquent Notification Filing and Fee Payment, and 28-70. Filing and Posting Maximum Rate Schedules.

Purpose: R.28-4 and R.28-6 were last amended with an effective date of February 26, 1993; R.28-9 and R.28-70 were last amended with an effective date of May 24, 2013; and R.28-30 was last amended with an effective date of April 11, 1980. The purposes of the proposed changes to these regulations are to conform to current statutory requirements, delete obsolete provisions, clarify provisions and accurately reflect the Department's enforcement authority.

Legal Authority: 1976 Code Sections 37-2-305, 37-3-305, 37-6-104, 37-6-402, 37-6-403, and 37-6-506.

Plan for Implementation: Administrative.

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

The Department has been engaged in a regulatory review since 2012, including a review of promulgated regulations. The majority of the proposed revisions to these regulations are intended to reflect the changes statutory changes at the state and federal levels. Remaining changes are to conform the regulations to current operations of the agency and to delete obsolete provisions.

DETERMINATION OF COSTS AND BENEFITS:

The proposed regulations impose no additional costs.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

The South Carolina Consumer Protection Code specifically provides for the Department to promulgate regulations necessary to effectuate the purposes of the Code and these changes are being made to conform regulations to current statutory law.

Text:

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

Document No. 4733

DEPARTMENT OF CONSUMER AFFAIRS

CHAPTER 28

Statutory Authority: 1976 Code Sections 37-6-104, 37-6-402, 37-6-403, and 37-6-506

Preamble:

The South Carolina Department of Consumer Affairs proposes to promulgate R.28-55 addressing the revocable assignment of wages.

Sections 37-2-410, 37-2-710 and 37-3-403 permit a revocable assignment of wages in consumer transactions. Sections 37-6-104, 37-6-402, 37-6-403 and 37-6-506 allow the Department to promulgate regulations necessary to effectuate the purposes of Title 37.

The proposed regulation will require legislative review.

Notice of Drafting for the proposed regulation was published in the *State Register* on August 26, 2016. Comments were solicited for consideration in drafting the proposed regulation.

Section-by-Section Discussion

28-55 Added to provide a framework for the provision of a revocable assignment of wages, including required content of an assignment and disclosures.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons are invited to submit their views in writing to Kelly Rainsford, Deputy for Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, South Carolina 29250-5757. To be considered, comments must be received no later than December 30, 2016, the close of the drafting comment period. Should a public hearing be requested, the hearing will be held at the Department on January 10, 2017, at 2:00 p.m. in the Conference Room, 2221 Devine Street, Suite 200, Columbia, S.C. 29204.

Preliminary Fiscal Impact Statement:

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Revocable Assignment of Wages.

Purpose: The purpose of the regulation is to provide a framework for the provision of a revocable assignment of wages, including required content of an assignment authorization and consumer disclosures.

Legal Authority: 1976 Code Sections 37-2-410, 37-2-710, 37-3-403, 37-6-104, 37-6-402, 37-6-403 and 37-6-506.

Plan for Implementation: Administrative.

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

The regulation is needed to clarify when an assignment of wages would be deemed revocable, thus compliant with the South Carolina Consumer Protection Code.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of this regulation will not require additional resources. There is no anticipated additional cost to the Department or state government due to any inherent requirements of the regulation. The framework provided by the regulation will provide guidance to consumers and businesses.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

Sections 37-2-410, 37-2-710 and 37-3-403 prohibit an assignment of wages unless a consumer has the ability to revoke the assignment. Sections 37-6-104, 37-6-402, 37-6-403 and 37-6-506 allow the department to promulgate regulations necessary for the implementation of the South Carolina Consumer Protection Code. It is necessary to promulgate a regulation to clarify when an assignment of wages would be deemed revocable, thus compliant with the South Carolina Consumer Protection Code.

Text:

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

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Document No. 4736

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Section 44-1-140

61-47. Shellfish

Preamble:

Regulation R.61-47 was last substantively amended on June 26, 2015. The regulation contains requirements for the safe and sanitary harvesting, storing, processing, handling and transportation of molluscan shellfish (oysters and clams) to protect the health of consumers of shellfish. For South Carolina shellfish to be acceptable for interstate and international commerce, the regulation must be consistent with the requirements of the National Shellfish Sanitation Program (NSSP), as determined by the US Food and Drug Administration (FDA).

The Department proposes to amend R.61-47 to provide further clarification and specific technical requirements regarding the harvesting and handling of molluscan shellfish during the warmer months of the year (*i.e.*, months that require additional temperature controls). The amendments will allow for the harvest of molluscan shellfish during months that require additional temperature controls in a manner that is consistent with national shellfish sanitation program and protects the health of the consumers of molluscan shellfish. The amendment will include a requirement for certified shippers to only accept shellfish from harvesters that have received annual training on key regulatory requirements and safe and sanitary practices related to the harvesting and handling of shellfish in South Carolina. The amendment will update the reference date for the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish from 2013 to 2015 (the latest version of the document). The amendment will include stylistic changes to correct for spelling, clarity, readability, grammar, and codification for overall improvement of the text of the regulation.

A Notice of Drafting for this proposed regulation was published in the *State Register* on May 27, 2016.

This Notice of Proposed Regulation for R.61-47 supersedes the Notice of Proposed Regulation for R.61-47 published in the *State Register* on September 23, 2016 (Document No. 4668). This Notice of Proposed Regulation includes a new 30-day public comment period and provides a date change for the public hearing before the Board of Health and Environmental Control. Public comments received on the Notice of Proposed Regulation published in the *State Register* on September 23, 2016 (Document No. 4668) will be retained and considered as comments on this Notice of Proposed Regulation.

Section-by-Section Discussion of Proposed Regulations:

61-47.A.2(II).

The amendment is to change the reference date of the document to the latest version of the document.

61-47.C.1(f)

This amendment is added to require harvesters to have Department approved annual training and certified shippers to only receive shellfish from harvesters that have completed Department approved annual training. The annual training for harvesters will include a discussion of state regulations and overview of best practices for the safe and sanitary harvesting and handling of shellfish. The training is needed given the more stringent harvesting and handling requirements on the harvester during the warmer months of the year. The training will be provided at no cost to the harvesters.

61-47.C.2.(b)

Two subsections (61-71.C.2.(b) and (c)) are combined to create this new subsection. This amendment is to improve readability and to more clearly explain the meaning of shellstock temperature control and how and when shellstock temperature control is to be applied by certified shippers.

61-47.C.2.(c)

This subsection includes the same text found in the first sentence in the current subsection 61-47.C.2.(c)(1).

61-47.C.2.(d)

This subsection is added to clarify that the months that require additional temperature controls will be determined annually and presented in the South Carolina Vibro Control Plan. This plan uses existing data, such as air and water temperatures, to develop the procedures that South Carolina will follow to reduce the health risk posed by Vibro bacteria to the consumers of shellfish harvested in the state. The plan is a requirement for South Carolina to remain in compliance with the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

61-47.C.2.(e)

This text is new and clarifies that only maricultured shellfish and clams of the species *Mercenaria mercenaria*, unless other clam species are approved by Department, can be harvested in the state during months that require additional temperature controls.

61-47.C.2.(e)(1)

This subsection includes similar text to the text found in the second and third sentences of the current item 61-47.C.2.(c)(1) and describes the temperature control requirements for clams during months that require additional temperature controls. Text is added to clarify that clams in this subsection means clams of the species *Mercenaria mercenaria*. This is the only clam species commercially harvested in the state and is specifically required to have controls for Vibro bacteria by the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. The text does allow the Department to consider other clam species under this subsection.

61-47.C.2.(e)(2)

This subsection is new text and includes technical requirements for the harvesting and handling of maricultured oysters during months that require additional temperature controls. These harvesting and handling requirements are based on the following: the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish that is administered by the U.S. Food and Drug Administration (FDA), the Vibro bacteria risk calculator provided by FDA, requirements used by other states for months that require additional temperature controls, and consultation with FDA Shellfish Specialists.

61-47.C.2.(e)(3)

This subsection is new text and allows other maricultured shellfish to be harvested during months that require additional temperature controls in the same manner as maricultured oysters as described in item 61-47.C.2.(e)(2). The subsection does allow other requirements to be used if approved by the Department.

61-47.C.2.(f)

This is a new subsection with a new heading to clarify the contents of this subsection.

61-47.C.2.(f)(1) and (2)

These subsections include text found in the current regulation under items 61-47.C.2.(c)(2) and (3). These items are moved to this subsection to provide clarity about the purpose of the items and to accommodate new subsection that have been added.

61-47.C.2.(g)

Subsection renumbered and subsection cross reference renumbered to match amended text.

61-47.C.2.(h)

Subsection renumbered.

61-47.C.2.(i)

Subsection renumbered.

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61-47.C.2.3(c)(b)(4)

Subsection cross reference added to include newly added text.

61-47.I.4

Wording change to be consistent with wording of amended text in C.2.(b).

61-47.I.5

Subsection cross reference added to include newly added text and renumbered subsection.

61-47.I.6

Subsection cross reference renumbered to match amended text.

61-47.I.7

Subsection cross reference renumbered to match amended text.

61-47.O.6.(a)

Text is added to clarify that the required operation plan should include the operational requirements found in 61-47.C.2.(e)(2).

61-47.O.6.(e)

Change punctuation.

61-47.O.6.(f)

This subsection is added to require the operational plan to include the record keeping procedures that will be used to document compliance with the requirements found in item C.2.(e)(2).

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons are provided an opportunity to submit written comments on the proposed regulation by writing to Charles Gorman, P.G., Bureau of Water, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201 or by e-mail at gormancm@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on December 28, 2016 the close of the public comment period. Written comments received by the December 28, 2016 deadline shall be considered by the Department in formulating the final proposed regulations for public hearing on January 5, 2017 as noticed below. The Department will submit a summary of public comments and Department responses to the Board for its consideration at the public hearing.

Copies of the proposed amendments for public comment as published in the State Register on November 25, 2016, may be obtained online in the DHEC Regulation Development Update at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>. In the Update, click on the Water category and scan down to the proposed amendments of R.61-47. A copy can also be obtained by contacting Charles Gorman at the above address, by calling (803) 898-3993, or by email at gormancm@dhec.sc.gov.

Interested members of the public and regulated community are also invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control on January 5, 2017. The Board will conduct the public hearing, Third Floor, Aycock Building of the S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting at the following address: <http://www.scdhec.gov/Agency/docs/AGENDA.pdf>. The agenda will also provide notice of cancellation or any change in meeting times. Persons desiring to make oral comments at the hearing are asked to limit their

statements to five minutes or less, and, as a courtesy, are asked to provide written copies of their presentation for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front desk.

Preliminary Fiscal Impact Statement:

Implementation of these amendments may require additional resources to support the increased number of field and facility compliance inspections needed to monitor the increased shellfish harvesting and sales during the warmer months of the year. For example, inspections will be needed to ensure maricultured shellfish are brought under temperature control in accordance with the regulation to protect public health. The resource demands on the Department and State government will depend on how much the shellfish industry grows and harvesting activities increase during the warmer months of the year in response to the additional business opportunities created by these amendments.

Statement of Need and Reasonableness:

The following is based on an analysis of the factors listed in 1976 Code Section 1-23-115(C)(1)-(3) and (9) through (11):

DESCRIPTION OF REGULATION:

Purpose: The Department proposes to amend R.61-47 to provide further clarification and specific technical requirements regarding the harvesting and handling of molluscan shellfish during the warmer months of the year (*i.e.*, months that require additional temperature controls). The amendments will allow for the harvest of molluscan shellfish during months that require additional temperature controls in a manner that is consistent with national shellfish sanitation program and protects the health of the consumers of molluscan shellfish. The amendment will include a requirement for certified shippers to only accept shellfish from harvesters that have received annual training on key regulatory requirements and safe and sanitary practices related to the harvesting and handling of shellfish in South Carolina. The amendment will update the reference date for the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish from 2013 to 2015 (the latest version of the document). The amendment will include stylistic changes to correct for spelling, clarity, readability, grammar, and codification for overall improvement of the text of the regulation.

Legal Authority: 1976 Code Section 44-1-140.

Plan for Implementation:

Upon approval by the General Assembly and publication in the State Register as final regulations, a copy of R.61-47, to include these amendments, will be available electronically on the Department’s internet site at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/LawsAndRegulations/Water/> under the Water category and subsequently in the Code of Regulations of the S.C. Code of Regulations. Printed copies will be available for a fee from the Department’s Freedom of Information Office.

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

The proposed amendments are needed and reasonable because they will allow the South Carolina shellfish industry to expand their markets through the sale of maricultured oysters harvested during the warmer months of the year in a manner that is consistent with the national shellfish sanitation program and protects the health of the consumers of molluscan shellfish. Historically, South Carolina oysters have not been available for sale during the warmer (summer) months of the year. Oysters currently are available for purchase during the summer in South Carolina and other states. These oysters are obtained from other states that allow the summer harvest of oysters. Most other states that produce oysters allow the summer harvest of oysters for sale and consumption.

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Oysters harvested during summer months in other states are harvested and handled under more restrictive conditions than oysters harvested during non-summer months to protect the consumers of summer oysters. The proposed amendments will include more restrictive harvesting and handling requirements for the summer months to protect public health.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of these amendments may require additional resources to support the increased number of field and facility compliance inspections needed to monitor the increased shellfish harvesting and sales during the warmer months of the year. For example, inspections will be needed to ensure maricultured shellfish are brought under temperature control in accordance with the regulation to protect public health. The resource demands on the Department and State government will depend on how much the shellfish industry grows and harvesting activities increase during the warmer months of the year in response to the additional business opportunities created by these amendments.

External Costs: There will be external costs for implementing the amendments to this regulation. The external costs will be incurred by shellfish harvesters and certified shippers that decide to expand their operations to participate in the harvesting, handling or sale of shellfish, especially maricultured oysters, during the warmer months of the year. However, these costs will be offset by the below External Benefits.

External Benefits: The amendments will provide the South Carolina shellfish industry the opportunity to sell South Carolina maricultured oysters during months of year when, historically, South Carolina oysters have not been available for sale.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There is no anticipated detrimental effect on the environment.

The amendments can effect public health by allowing the public to consume South Carolina maricultured oysters that have been harvested during the warmer months of the years. Naturally occurring harmful bacteria, such as Vibro bacteria, occur at higher levels in shellfish during the warmer months due to the higher water and air temperatures. Vibro bacteria can cause severe illness or death if consumed by individuals with compromised immune systems. The amendments include more restrictive harvesting and handling requirements for Shellfish during the warmer months of the year to mitigate the increased risk posed by harmful bacteria, especially Vibro bacteria, during those months.

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

There is no anticipated detrimental effect on the environment.

If the amendments are not implemented, there will be no detrimental effect on public health because molluscan shellfish harvesting and sales during the warmer months would remain limited to only clams as is currently the case in South Carolina.

Statement of Rationale:

The Department is amending this regulation to provide further clarification and specific technical requirements regarding the harvesting and handling of molluscan shellfish during the warmer months of the year (i.e., months

that need additional temperature controls). These amendments will allow the South Carolina shellfish industry to expand their markets through the sale of maricultured oysters harvested during these warmer months of the year in a manner that is consistent with national shellfish sanitation program and protects the health of the consumers of molluscan shellfish.

Text:

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

Document No. 4729
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-149-10

62-600 through 62-612. Determination of Rates of Tuition and Fees.

Preamble:

R.62-600 through 62-612 of Chapter 62 is being amended. Revisions to the existing regulation for the SC Residency Regulation are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, the definition of an independent is clarified to provide flexibility for the student and institution in determining if a student meets the definition. In addition, clarification is being given to the list of items that serve as indicia of intent for South Carolina Residency. There are also additional clarifications being proposed, such as correctly identifying the Federal Agency which issues permanent residency cards to new residents of the United States. The revisions seek to promote consistency among the State institutions and their residency classification processes.

The proposed regulation will require legislative review.

A Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on July 22, 2016.

Section-by-Section Discussion

- | | |
|----------------|---|
| Section 62-602 | Sets forth clarifications to definition used in the regulation. “Dependent” is clarified to be consistent with CHE Guidance issued in 2015. Definition of “Family Domicile in this state is terminated” was struck to ensure that regulation is consistent with Section 59-112-30 of SC Code of Laws. Definition of “Independent” is clarified to identify institutional cost of attendance as support measure. |
| Section 62-603 | Amended title for this section to include “Establishing Residency”. |
| Section 62-604 | Clarifies that the federal agency responsible for issuance of permanent residency is the US Citizenship and Immigration Services |
| Section 62-605 | Sets forth the requirements to demonstrate intent to become a South Carolina resident for tuition and fee purposes. Clarification for vehicle registrations is provided. |

26 PROPOSED REGULATIONS

- Section 62-606 Provides the necessary requirements for active duty military members stationed outside of South Carolina, who are looking to maintain South Carolina Residency for tuition and fee purposes.
- Section 62-607 Amended to ensure that regulation is consistent with Section 59-112-30 of SC Code of Laws, related to independent individuals who leave the state while they have a dependent enrolling in college in the immediate future.
- Section 62-609 Amended to ensure that regulation is consistent with Section 59-112-50 of SC Code of Laws, related to active duty military members and veterans. Changes were necessary due to the passage of Act 33 of 2012, related to military members transferred away from South Carolina while their dependents were enrolled in higher education. Changes were also necessary due to the passage of Act 11 of 2015, related to veterans who are receiving federal educational benefits. Finally, changes were made to develop Sections B & C, concerning determining residency requirements for the SREB contract program and the Academic Common Market Program.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the South Carolina Commission on Higher Education on January 5, 2017, to be held in the Main Conference Room at 1122 Lady Street, Suite 300, Columbia, SC. The meeting will commence at 1:00 p.m. at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be published by the Commission ten days in advance of the meeting.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1122 Lady Street, Suite 300, Columbia, SC 29201. Comments must be received no later than 5:00 p.m. on December 28, 2016. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on January 5, 2017, as noticed above. Comments received by the deadline shall be submitted to the Commission in summary of public comments for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 62-600 through 62-612. DETERMINATION OF RATES OF TUITION AND FEES.

Purpose: R.62-600 through 62-612 of Chapter 62 is being amended and replaced in its entirety. Revisions to the existing regulation for the SC Residency Regulation are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, the definition of a dependent is clarified and the use of voter registration cards to prove SC residency will be prohibited. In addition, institutional residency officers will be allowed to develop an appeal process for students to challenge institutional residency decisions. There are also additional clarifications being proposed, such as adding definitions and minor grammatical changes to promote consistency among the State institutions and their residency classification processes.

Legal Authority: The legal authority for R.62-600 through 62-612 is 1976 Code Section 59-149-10.

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

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

The proposed regulation is needed to provide information to South Carolina residents concerning the requirements to receive in state tuition and fee classification and to provide guidance to state institutions when classifying students as in state students for tuition and fee purposes.

DETERMINATION OF COSTS AND BENEFITS:

Promulgation of this regulation will not result in additional costs to the state or its political subdivisions. It is believed that the proposed regulation will benefit our state by providing students with requirements for receiving in state classification and institutions by providing guidance in determining student residency classification.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

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

Not applicable.

Statement of Rationale:

R.62-600 through 62-612 of Chapter 62 is being amended. Revisions to the existing regulation for the SC Residency Regulation are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, the definition of an independent is clarified to provide flexibility for the student and institution in determining if a student meets the definition. In addition, clarification is being given to the list of items that serve as indicia of intent for South Carolina Residency. There are also additional clarifications being proposed, such as correctly identifying the Federal Agency which issues permanent residency cards to new residents of the United States. The revisions seek to promote consistency among the State institutions and their residency classification processes.

Text:

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

28 PROPOSED REGULATIONS

Document No. 4728
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-111-330

62-1100 through 62-1170. Free Tuition for Residents Sixty Years of Age.

Preamble:

R.62-1100 through 62-1170 of Chapter 62 is being amended. Revisions to the existing regulation for the Regulation governing the Free Tuition for Residents Sixty Years of Age Program are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, the requirement that a recipient of the tuition waiver cannot be full-time employed, is being removed. The revisions seek to comply with recent changes to statute during the 2015-2016 Legislative Session (Act 50 of 2015).

The proposed regulation will require legislative review.

A Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on July 22, 2016.

Section-by-Section Discussion

Section 62-1110 Strikes language preventing recipient from working full-time.

Section 62-1130 Removes definition for "Full-time Employee".

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the South Carolina Commission on Higher Education on January 5, 2017, to be held in the Main Conference Room at 1122 Lady Street, Suite 300, Columbia, SC. The meeting will commence at 1:00 p.m. at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be published by the Commission ten days in advance of the meeting.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1122 Lady Street, Suite 300, Columbia, SC 29201. Comments must be received no later than 5:00 p.m. on December 28, 2016. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on January 5, 2017, as noticed above. Comments received by the deadline shall be submitted to the Commission in summary of public comments for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 62-1100 through 62-1170. FREE TUITION FOR RESIDENTS SIXTY YEARS OF AGE.

Purpose: R.62-1100 through 62-1170 of Chapter 62 is being amended and replaced in its entirety. Revisions to the existing regulation for the Free Tuition for Residents Sixty Years of Age Program are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, language providing the requirement that a recipient of the tuition waiver cannot be working full-time, was removed. In addition, the definition of a full-time employee is removed, to be consistent with recently passed state law.

Legal Authority: The legal authority for R.62-1100 through 62-1170 is 1976 Code Section 59-111-330.

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

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

The proposed regulation is needed to provide information to South Carolina residents concerning the requirements to receive in state tuition and fee classification and to provide guidance to state institutions when classifying students as in state students for tuition and fee purposes, based upon being at least 60 years of age.

DETERMINATION OF COSTS AND BENEFITS:

Promulgation of this regulation will not result in additional costs to the state or its political subdivisions. It is believed that the proposed regulation will benefit our state by providing students with requirements for receiving in state classification and institutions by providing guidance in determining student residency classification.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

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

Not applicable.

Statement of Rationale:

R.62-1100 through 62-1170 of Chapter 62 is being amended. Revisions to the existing regulation for the Regulation governing the Free Tuition for Residents Sixty Years of Age Program are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, the requirement that a recipient of the tuition waiver cannot be full-time employed, is being removed. The revisions seek to promote consistency among the State institutions

Text:

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

30 PROPOSED REGULATIONS

Document No. 4730
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-114-75

62-250 through 62-262. South Carolina National Guard College Assistance Program.

Preamble:

The South Carolina Commission on Higher Education promulgates Regulation 62-250 through 62-262 that governs requirements for the operation and administration of the South Carolina National Guard College Assistance Program under SC Code of Laws, Section 59-114-10 et seq. The program is administered by the Commission in coordination with the South Carolina National Guard and provides financial assistance for eligible enlisted guard members enrolled in undergraduate programs. The Commission proposes amendments to the regulation for further clarification of administrative procedures and additional definitions for clarification. These amendments include: 1) removal of the language that allows the recipient to receive the full annual benefit in the final semester of enrollment as required for degree completion 2) revision to the language regarding the proration of awards for less than full-time students; and 3) added definitions for qualified member, good standing, and four years.

The proposed regulation will require legislative review.

A Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on July 22, 2016.

Section-by-Section Discussion

| | |
|----------------|---|
| Section 62-251 | Sets forth additions to definitions used in the regulation. Definitions for “Qualified Member”, “Good Standing and “Four Years” are added. |
| Section 62-252 | Clarifies definitions by striking “Qualifying” and adding “Qualified”. Strikes “Sequential” and adds “Succeeding”. Strikes the language that allows the recipient to receive the full annual benefit in the final semester of enrollment as required for degree completion. Strikes “Pell Grant Model” from language. |
| Section 62-253 | Strikes “Technical Training” and adds “Initial Active Duty Training” (IADT). Language is added to clarify that enlisted personnel are not eligible for benefits after the discharge date. |
| Section 62-256 | Language added to clarify eligibility is in accordance with the eligibility requirements listed in section 62-253. |
| Section 62-258 | Clarification made to language, striking “Subsequent” and adding “Succeeding”. Language added to clarify eligibility is in accordance with the eligibility requirements listed in section 62-253. |
| Section 62-259 | Language added to clarify ineligibility is in accordance with the eligibility requirements listed in section 62-253 C. (1) |
| Section 62-260 | Clarification is made to language, striking “Audit Policies and Procedures for Benefit and Grant Programs Manual” from the language. |

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the South Carolina Commission on Higher Education on January 5, 2017, to be held in the Main Conference Room at 1122 Lady Street, Suite 300, Columbia, SC. The meeting will commence at 1:00 p.m. at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission’s agenda to be published by the Commission ten days in advance of the meeting.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1122 Lady Street, Suite 300, Columbia, SC 29201. Comments must be received no later than 5:00 p.m. on December 28, 2016. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on January 5, 2017, as noticed above. Comments received by the deadline shall be submitted to the Commission in summary of public comments for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 62-250 THROUGH 62-262. SOUTH CAROLINA NATIONAL GUARD COLLEGE ASSISTANCE PROGRAM.

Purpose: R.62-250 through R.62-262 of Chapter 62 is being amended and replaced in its entirety. Revisions to the existing regulation for the SC National Guard College Assistance Program are being considered to clarify the policies and procedures for administering the program. In the proposed amendment, further clarification of administrative procedures is provided and additional definitions for clarification are included. These amendments include: 1) removal of the language that allows the recipient to receive the full annual benefit in the final semester of enrollment as required for degree completion 2) revision to the language regarding the proration of awards for less than full-time students; and 3) added definitions for qualified member, good standing, and four years.

Legal Authority: The legal authority for R.62-250 through 62-262 is 1976 Code Section 59-114-75.

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

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

The proposed regulation is needed to provide clarification for institutions administering the SC National Guard College Assistance Program, which provides financial assistance for eligible enlisted guard members enrolled in undergraduate programs.

DETERMINATION OF COSTS AND BENEFITS:

Promulgation of this regulation will not result in additional costs to the state or its political subdivisions. It is believed that the proposed regulation will benefit our state by providing institutions clarifying language regarding the requirements for receiving assistance through the SC National Guard College Assistance Program.

32 PROPOSED REGULATIONS

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Not applicable.

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

Not applicable.

Statement of Rationale:

The South Carolina Commission on Higher Education promulgates Regulation 62-250 through 62-262 that governs requirements for the operation and administration of the South Carolina National Guard College Assistance Program under SC Code of Laws, Section 59-114-10 et seq. The program is administered by the Commission in coordination with the South Carolina National Guard and provides financial assistance for eligible enlisted guard members enrolled in undergraduate programs. The Commission proposes amendments to the regulation for further clarification of administrative procedures and additional definitions for clarification. These amendments include: 1) removal of the language that allows the recipient to receive the full annual benefit in the final semester of enrollment as required for degree completion; 2) revision to the language regarding the proration of awards for less than full-time students; and 3) added definitions for qualified member, good standing, and four years.

Text:

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

Document No. 4734

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF PHARMACY
CHAPTER 99

Statutory Authority: 1976 Code Sections 40-1-70 and 40-43-60(D)(5)

99-47. Purpose of Regulations.

99-48. Definitions.

99-49. Training for Pharmacists and Technicians Engaging in Sterile and Nonsterile Compounding.

99-50. Nonsterile and Sterile Compounding; Current Minimum Good Compounding Practices.

99-51. Nonsterile Compounding; Beyond-Use Date.

99-52. Nonsterile Compounding; "Simple Compounding" Exempt.

99-53. Nonsterile Compounding; Specifically Designated and Adequate Area for Compounding.

99-54. Sterile Compounding; Current Minimum Good Compounding Practices.

Preamble:

The South Carolina Board of Pharmacy proposes to promulgate a regulation setting forth the minimum specifications and practice standards governing pharmacies and pharmacists engaged in sterile and nonsterile compounding.

Section-by-Section Discussion

99-47. Purpose of Regulations

99-48. Definitions.

Establishes terms not specifically defined in statute.

99-49. Training for Pharmacists and Technicians Engaging in Sterile and Nonsterile Compounding.

Establishes minimum compounding training for pharmacists and technicians.

99-50. Nonsterile and Sterile Compounding; Current Minimum Good Compounding Practices.

Sets forth the minimum current good compounding practices by pharmacists.

99-51. Nonsterile Compounding; Beyond-Use Date.

Establishes process for labeling excess compounded preparations.

99-52. Nonsterile Compounding; “Simple Compounding” Exempt.

Provides an exemption for pharmacies performing “simple compounding.”

99-53. Nonsterile Compounding; Specifically Designated and Adequate Area for Compounding.

Sets forth the requirements for the area used for nonsterile compounding.

99-54. Sterile Compounding; Current Minimum Good Compounding Practices.

Sets forth the standards for the preparation, labeling, storing, dispensing and distribution of sterile preparations by pharmacies and other facilities permitted by the board.

A Notice of Drafting was published in the *State Register* on October 28, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on December 29, 2016. Written comments may be directed to Lee Ann Bundrick, Chief Drug Inspector and Administrator, Board of Pharmacy, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., December 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions for these regulations.

Statement of Need and Reasonableness:

These regulations are amended to establish the minimum specifications for the physical facilities, technical equipment, environment, supplies, personnel, and procedures for the storage, compounding or dispensing, or both, of drugs or devices, and for the monitoring of drug therapy. The requirements set forth herein supplement, and are in addition to, any and all requirements of the South Carolina Pharmacy Practice Act, as set forth in S.C. Code 40-43-10, *et seq.* The purpose of these regulations is to set forth an objective standard of care for the practice of compounding in South Carolina and to provide guidance to licensees on the standards by which they will be inspected. These regulations do not apply to licensees who perform only simple compounding, as defined.

34 PROPOSED REGULATIONS

DESCRIPTION OF REGULATION:

Purpose: The proposed regulations will establish the minimum specifications for the physical facilities, technical equipment, environment, supplies, personnel, and procedures for the storage, compounding or dispensing, or both, of drugs or devices, and for the monitoring of drug therapy. The requirements set forth herein supplement, and are in addition to, any and all requirements of the South Carolina Pharmacy Practice Act, as set forth in S.C. Code 40-43-10, *et seq.* The purpose of these regulations is to set forth an objective standard of care for the practice of compounding in South Carolina and to provide guidance to licensees on the standards by which they will be inspected. These regulations do not apply to licensees who perform only simple compounding, as defined.

Legal Authority: 1976 Code Sections 40-1-70 and 40-43-60(D)(5).

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will establish the minimum specifications for the physical facilities, technical equipment, environment, supplies, personnel, and procedures for the storage, compounding or dispensing, or both, of drugs or devices, and for the monitoring of drug therapy. The requirements set forth herein supplement, and are in addition to, any and all requirements of the South Carolina Pharmacy Practice Act, as set forth in S.C. Code 40-43-10, *et seq.* The purpose of these regulations is to set forth an objective standard of care for the practice of compounding in South Carolina and to provide guidance to licensees on the standards by which they will be inspected. These regulations do not apply to licensees who perform only simple compounding, as defined below.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

Statement of Rationale:

The updated regulations will establish the minimum specifications for the physical facilities, technical equipment, environment, supplies, personnel, and procedures for the storage, compounding or dispensing, or both, of drugs or devices, and for the monitoring of drug therapy. The requirements set forth herein supplement, and are in addition to, any and all requirements of the South Carolina Pharmacy Practice Act, as set forth in S.C.

Code 40-43-10, *et seq.* The purpose of these regulations is to set forth an objective standard of care for the practice of compounding in South Carolina and to provide guidance to licensees on the standards by which they will be inspected. These regulations do not apply to licensees who perform only simple compounding, as defined.

Text:

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

Document No. 4727
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123
 Statutory Authority: 1976 Code Section 50-13-2011

123-209. Term and Conditions for the Public’s Use of State Lakes and Ponds Owned by the Department of Natural Resources.

123-210. Term and Conditions for the Public’s Use of State Lakes and Ponds Leased by the Department of Natural Resources.

Preamble:

The Department of Natural Resources (the department) proposes to establish revised Regulation 123-209 setting the terms and conditions for the public use of lakes and ponds owned the department for the purpose of providing public fishing and Regulation 123-210 setting terms and conditions for the public’s use of lakes and ponds leased by the department for the purpose of providing public fishing. The following is a section by section summary of the proposed changes and revisions:

123-209. Term and Conditions for the Public’s Use of State Lakes and Ponds Owned by the Department of Natural Resources.

- A. No Change.
 - a. Draper WMA State Lakes in York County – no change.
 - b. Lake Cherokee in Cherokee County – no change
 - c. Lake Edgar Brown in Barnwell County – no change.
 - d. Lake George Warren in Hampton County – no change.
 - e. Lake John D. Long in Union County – no change.
 - f. Mountain Lakes in Chester County – no change.
 - g. Lake Paul Wallace in Marlboro County – allow for permitting of a swimming area and permitting the use of fireworks..
 - h. Lake Thicketty in Cherokee County – no change.
 - i. Webb Center Lakes in Hampton County – no change.

123-210. Term and Conditions for the Public’s Use of State Lakes and Ponds Leased by the Department of Natural Resources.

- A. No change
 - a. Lake Ashwood in Lee County – provide for closure of lake for flood related repairs.
 - b. Dargan’s Pond in Darlington County – provide for closure of lake for flood related repairs.
 - c. Lake Edwin Johnson in Spartanburg County – no change.
 - d. Jonesville Reservoir in Union County – no change.
 - e. Lancaster Reservoir in Lancaster County - no change.
 - f. Lake Oliphant in Chester County – no change.
 - g. Star Fort Pond in Greenwood County – no change.

36 PROPOSED REGULATIONS

h. Sunrise Lake in Lancaster County – extend closure period for 12 months

The Notice of Drafting regarding these regulations was published on October 28, 2016 in the *South Carolina State Register*, Volume 40, Issue No. 10.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Board of the Department of Natural Resources, 1000 Assembly Street, Columbia, SC on January 19, 2017 at 10:00 am. Written comments may be directed to Emily Cope, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202. Written comments should be submitted on or before 9:00 am on January 5, 2017. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

The amendment of regulations 123-109 and 123-110 will not result in any additional costs to the State. The State and local communities will continue to benefit economically from the activities of the public accessing and utilizing the lakes and ponds for recreational fishing and outdoor recreation.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATIONS:

Purpose: These revised regulations will provide for activities at Lake Wallace requested by the Lake Paul Wallace Authority, will extend the renovation closure periods at Sunrise Lake and will provide for a closure for repairs at Lake Ashwood and Dargan's Pond.

Legal Authority: The amended 1976 Code Section 50-11-2200 prohibits certain acts and conduct on department owned lands and state lakes owned or leased by the department unless the department establishes regulations to allow any of the acts or conduct under prescribed conditions.

Plan for Implementation: Once the regulation has been approved by the General Assembly, the Department will incorporate all regulations in the annual Rules and Regulations Brochure. The public will be notified through this publication, through signage posted at each lake or pond, and through news releases and other Department media outlets and publications.

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

The repeal of 1976 Code Section 50-13-2011 has rendered the existing regulations defining the terms and conditions for the public's use of state lakes and ponds leased by the department unenforceable. These proposed regulations will define the terms and conditions for public use to insure protection of the natural resources and facilities associated with these state lakes and ponds. The establishment of these regulations will allow for the continued sustainable use of these areas by the public. Additionally, proposed regulations will revise and standardize language in the regulations defining the terms and conditions for the public's use of state lakes and ponds owned by the department.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state or to the angling community.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on public health.

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

No detrimental impact on public health or the environment will occur if this proposed regulation is not implemented. Failure to implement this regulation will prevent positive benefits to public.

Statement of Rationale:

Regulation 123-209 is amended to reflect statutory changes and to clarify and up-date the terms and conditions to provide for the public's use of state lakes and ponds owned by the department for the purpose of providing public fishing.

Regulation 123-210 is amended to comply with statutory changes in order to establish the terms and conditions to provide for the public's use of state lakes and ponds leased by the department for the purpose of providing public fishing

Text:

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

Document No. 4731
DEPARTMENT OF REVENUE
CHAPTER 117
Statutory Authority: 1976 Code Section 12-4-320

117-305.5. Exemption Meals Sold to School Children.

Preamble:

The South Carolina Department of Revenue is considering amending SC Regulation 117-305.5 to comply with Code Section 12-36-2120(10). Code Section 12-36-2120(10)(a) provides a sales tax exemption for sales of meals to school children and sales of foodstuffs to schools which are used in furnishing meals to school children, if the sales or use are within school buildings and are not for profit. SC Regulation 117-305.5 discusses sales of meals under Code Section 12-36-2120(10)(a), but it does not address sales of foodstuffs.

The proposal will clarify that there is a sales tax exemption under Code Section 12-36-2120(10) for sales of foodstuffs to schools which are used in furnishing meals to school children, if the sales or use are within school buildings and are not for profit.

Section-by-Section Discussion

117-305.5. Exemption Meals Sold to School Children.

38 PROPOSED REGULATIONS

Amends the first paragraph of Regulation 117-305.5 to clarify that there is a sales tax exemption for sales of foodstuffs to schools which are used in furnishing meals to school children, if the sales or use are within school buildings and are not for profit.

The Notice of Drafting was published in the *State Register* on September 23, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

All comments concerning this proposal should be mailed to the following address by 5:00 p.m. on Wednesday, December 28, 2016: S.C. Department of Revenue, Legislative Services - Mr. Meredith Cleland, P.O. Box 125, Columbia, South Carolina 29214.

The S.C. Department of Revenue has scheduled a public hearing before the Administrative Law Court in the Edgar Brown Building (Suite 224) on the Capitol Complex (1205 Pendleton Street) in Columbia, South Carolina for Wednesday, January 18, 2017 at 10:00 a.m. if the requests for a hearing meet the requirements of Code Section 1-23-110(A)(3). The public hearing, if held, will address a proposal by the Department to amend SC Regulation 117-305.5 to clarify that Code Section 12-36-2120(10) provides a sales tax exemption for sales of foodstuffs to schools which are used in furnishing meals to school children, if the sales or use are within school buildings and are not for profit. The department will be asking the Administrative Law Court, in accordance with S.C. Code Ann. Section 1-23-111 (2005), to issue a report that the proposal to amend the regulation is needed and reasonable.

Preliminary Fiscal Impact Statement:

There will be no impact on state or local political subdivisions expenditures in complying with this proposed legislation.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: For 117-305.5. Exemption Meals Sold to School Children.

Purpose: To amend SC Regulation 117-305.5 to clarify that Code Section 12-36-2120(10) provides a sales tax exemption for sales of foodstuffs to schools which are used in furnishing meals to school children, if the sales or use are within school buildings and are not for profit.

Legal Authority: 1976 Code Section 12-4-320.

Plan for Implementation: After approval by the General Assembly and publication in the State Register, the regulation would be effective upon publication in the State Register.

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

The proposal to amend SC Regulation 117-305.5 is needed to ensure that the public has clarity concerning the sales tax exemption provided by Code Section 12-36-2120(10) for sales of foodstuffs to schools which are used in furnishing meals to school children, if the sales or use are within school buildings and are not for profit.

DETERMINATION OF COSTS AND BENEFITS:

Promulgation of this regulation will not have an impact on state or local political subdivisions expenditures. Promulgation of this regulation will also benefit the State and taxpayers by ensuring that the public has clarity concerning the sales tax exemption provided by Code Section 12-36-2120(10) for sales of foodstuffs to schools

which are used in furnishing meals to school children, if the sales or use are within school buildings and are not for profit.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

The purpose of this amendment to SC Regulation 117-305.5 is to clarify that there is a sales tax exemption provided by Code Section 12-36-2120(10) for sales of foodstuffs to schools which are used in furnishing meals to school children, if the sales or use are within school buildings and are not for profit.

Text:

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

Document No. 4735

WORKERS' COMPENSATION COMMISSION

CHAPTER 67

Statutory Authority: 1976 Code Section 42-3-30

- 67-201. Application of Regulations
- 67-205. Filing with the Commission, Defined
- 67-207. Requesting a Hearing, Claimant
- 67-211. Service of Forms and Documents
- 67-213. Service of Orders, Hearing Notices, and Review Hearing Notices
- 67-214. Subpoenas
- 67-215. Motions
- 67-413. Periodic Report
- 67-504. Terminating Payment of Temporary Total or Temporary Partial Compensation During the First One Hundred Fifty Days After Employer's Notice of the Accident
- 67-611. Pre-hearing Brief
- 67-613. Postponement or Adjournment of the Scheduled Hearing
- 67-615. Transcripts of Hearings
- 67-712. Requesting Higher Court Review
- 67-802. Settlement, Form 16, Form 16A
- 67-804. Informal Conference
- 67-1515. Confidentiality of Information
- 67-1602. Payment of Compensation
- 67-1802. Mediation Required with Certain Claims
- 67-1804. Selection of Mediator and Required Schedule

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67-1809. Forms Required Upon Completion

Preamble:

The South Carolina Workers' Compensation Commission proposes to amend regulations to Chapter 67 for clarification of certain regulations. The Notice of Drafting regarding this regulation was published on October 28, 2016 in the *State Register*.

Section by Section Discussion

Reg. 67-201: In response to *Rhame v. Charleston Co. School Dist.*, the Commission needs to clarify that Article 2 of the Regulations applies to all levels of proceedings before the Commission.

Reg. 67-205: Clarification that the effective date of service when service is made electronically is the date it is sent and received as indicated by the parties' electronic mail service provider.

Reg. 67-207: In order to streamline the procedure for requesting a Hearing, the Commission is abolishing the use of a superfluous form, the Form 15, Section III, and directing claimants requesting a Hearing on any issues involving the merits to use a Form 50 Employee Request for Hearing.

Reg. 67-211: Clarification that the effective date of service when service is made electronically is the date it is sent and received as indicated by the parties' electronic mail service provider.

Reg. 67-213: Clarification that the effective date of service when service is made electronically is the date it is sent and received as indicated by the parties' electronic mail service provider.

Reg. 67-214: Amend the process of a pro se litigant obtaining a subpoena to compel discovery. The amendments will provide Commission supervision of the content of the subpoenas before they are signed by a representative of the Commission on the pro se party's behalf. This will ensure an unrepresented litigant's access to meaningful discovery is preserved and reduce the use of subpoenas for abusive practices.

Reg. 67-215: In response to *Rhame v. Charleston Co. School Dist.*, the Commission needs to clarify that the Commission will not consider Motions addressing the merits, including Motions for Reconsideration of substantive issues, at any level of proceedings before the Commission.

Reg. 67-413: Eliminate the use of the Form 18 to request an informal conference by deleting subsection (A)(2) which currently reads "[file a Form 18 Status Report] to request an informal conference". Line 6 on the current Form 18 reading "Informal Conference is Requested: _Yes _No (check one)" will be eliminated from the Form 18. This is necessary to implement the use of the Form 18 as Second Report of Injury (SROI) through Electronic Document Interface (EDI).

Reg. 67-504: In order to streamline the procedure for requesting a Hearing, the Commission is abolishing the superfluous Form 15, Section III, and directing claimants requesting a Hearing under this section to use a Form 50 Employee Request for Hearing.

Reg. 67-611: The changes clarify a deadline for making amendments to a Pre-Hearing Brief. They are a result of the decision in *Fore v. Griffco of Wampee*, 409 S.C. 360, 762 S.E.2d 37 (S.C. App. 2014).

Reg. 67-613: The changes eliminate provisions of the regulation that are inconsistent with the Commission's current practice in which postponements are not passed on to the next jurisdictional Commissioner.

Reg. 67-615: Amending language to direct parties to contact the Court Reporter directly for a copy of a transcript, not the Commission. This change is needed to reflect the changes made to S.C. Code Ann. Section 42-3-60 and Section 42-3-170.

Reg. 67-712: In response to *Rhame v. Charleston Co. School Dist.*, the Commission needs to clarify that a party aggrieved by a final decision on the merits of the Commission must appeal in accordance with S.C. Code Ann. Section 42-17-60 instead of filing a Motion for Reconsideration.

Reg. 67-802: Amending the process for requesting an informal conference by clarifying that the employers' representative must file a letter requesting that an informal conference be held and file a current Form 18. Line 6 on the current Form 18 reading "Informal Conference is Requested: _Yes_ _No (check one)" will be eliminated from the Form 18. This is necessary to implement the use of the Form 18 as SROI through EDI.

Reg. 67-804: Amending the process for requesting an informal conference by clarifying that the employer's representative must file a letter requesting that an informal conference be held and file a current Form 18. Line 6 on the current Form 18 reading "Informal Conference is Requested: _Yes_ _No (check one)" will be eliminated from the Form 18. This is necessary to implement the use of the Form 18 as SROI through EDI.

Reg. 67-1515: Correction of a typographical error; removal of the word "the" from the clause ". . .the effective date of *the* such insurance program, . . ."

Reg. 67-1602: The Commission will consider adopting the amendments recommended by the Debit Card Advisory Committee.

Reg. 67-1802: The Commission will alter the listing of situations where mediation is mandatory to clarify that mandatory mediation is only triggered for claimants claiming permanent and total disability when the claimant has reached maximum medical improvement.

Reg. 67-1804: The change provides grammatical amendments and clarifies the timing in which a mediator must be selected.

Reg. 67-1809: The Commission will provide sanctions for the failure of the parties to file a Form 70 Report of Mediation in a timely manner by barring the processing of a Form 19 until the Form 70 has been received.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the South Carolina Workers' Compensation Commission, attention Gary M. Cannon, Executive Director, Post Office Box 1715, Columbia, South Carolina 29202-1715. To be considered, comments must be received no later than 5:00 p.m. on Monday, December 26, 2016.

The South Carolina Workers' Compensation Commission has scheduled a public hearing for January 5, 2017 at 10:30 a.m. in Hearing Room A at the SC Workers' Compensation Commission, 1333 Main Street, Columbia, SC 29202.

Preliminary Fiscal Impact Statement:

The fiscal impact of the proposed changes to this regulation is \$0.

Statement of Need and Reasonableness:

The Workers' Compensation Commission is the regulatory agency of the State of South Carolina responsible for overseeing and administering the South Carolina Workers' Compensation Act. SC Code Ann. § 42-1-10 et

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seq. (1976). The Commission shall promulgate all regulations relating to the administration of the workers' compensation laws.

DESCRIPTION OF REGULATIONS: South Carolina Workers' Compensation Regulations Chapter 67.

Purpose: To amend regulations to Chapter 67 for clarification of certain regulations; to amend the subpoena process of a pro se litigant; to eliminate the use of the Form 18 to request an informal conference; to streamline the procedures for requesting a Hearing by abolishing the Form 15, Section III; to amend language to provide instructions for requesting copies of transcripts; to correct a typographical error; to adopt amendments recommended by Debit Card Advisory Committee; and to require parties to file a Form 70 at completion of mediation.

Legal Authority: The Commission is authorized to promulgate rules and regulations relating to the administration of the workers' compensation laws necessary to implement the provisions of this title Section 42-3-30. The regulation will cover claims pursuant to Title 42 of the SC Code of Laws.

Plan for Implementation: After approval by the General Assembly and publication in the *State Register*, the proposed regulation will take effect on July 1, 2017. The proposed amendments will be implemented by providing the regulated community a copy of the regulations on the Commission's website: www.wcc.sc.gov.

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

The proposed amendments further clarify that Article 2 of the Regulations applies to all levels of proceedings before the Commission; clarify the Commission's judicial ruling that the effective date of service when made electronically is the date it is sent and received as indicated by the parties' electronic mail service provider; streamline the procedure for requesting a hearing; reduce the use of subpoenas for improper purposes; establish regulatory procedures governing the use of Motions before the Full Commission; eliminate the use of the Form 18 to request an informal conference; clarify a deadline for making amendments to a Pre-Hearing Brief; provides instructions for requesting a copy of a transcript; clarify the process for appealing a Decision of the Commission to the Courts; allow the option for carriers to make claimants' indemnity payments by electronic transfer or debit card; provide sanctions for the failure of the parties to file a Form 70 at the completion of mediation.

DETERMINATION OF COSTS AND BENEFITS:

There are no additional costs to the agency related to the proposed regulations. The proposed changes will allow the Commission to implement the statutory requirements of Title 42 in an more efficient and effective manner.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

The amendments to Chapter 67 are necessary for clarification of certain regulations; to amend the subpoena process of a pro se litigant; to facilitate the electronic submission of certain forms and documents; to eliminate the use of the Form 18 to request an informal conference; to streamline the procedure for requesting a Hearing by abolishing the Form 15, Section III; to amend language to provide instructions for requesting copies of transcripts; to correct a typographical error; to adopt amendments recommended by Debit Card Advisory Committee; and to require parties to file a Form 70 at completion of mediation.

Text:

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

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Filed: October 31, 2016 1:46pm

Document No. 4726

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 1-23-130 and 44-29-150 through -170

61-22. The Evaluation of School Employees for Tuberculosis.

Emergency Situation:

The Department of Health and Environmental Control hereby re-files the emergency regulation for Regulation 61-22, originally filed on August 3, 2016 at 12:58 p.m. and published as Document No. 4654 in the South Carolina State Register on August 26, 2016.

Section 44-29-150 of the South Carolina Code of Laws provides that “[n]o person will be initially hired to work in any public or private school, kindergarten, nursery or day care center for infants and children until appropriately evaluated for tuberculosis according to guidelines approved by the Board of Health and Environmental Control.” In addition, section 44-29-160 requires that “[a]ny person applying for a position in any of the public or private schools, kindergartens, nurseries, or day care centers for infants and children of the State shall, as a prerequisite to employment, secure a health certificate from a licensed physician certifying that such person does not have tuberculosis in an active stage.” In furtherance of these statutory requirements, the South Carolina Department of Health and Environmental Control (“DHEC” or the “Department”) first promulgated Regulation 61-22 effective May 22, 1981, setting forth guidance for the evaluation of school employees for tuberculosis. Except as discussed below, DHEC’s last revision to Regulation 61-22 occurred in 1986 (the “Prior Regulation”).

In 2015, DHEC initiated the required statutory process to amend the Prior Regulation. DHEC submitted proposed revisions to the S.C. General Assembly on January 25, 2016, and the revised Regulation 61-22 (the “Revised Regulation”) took effect as law by publication as Document No. 4609 in the S.C. State Register, Volume 40, Issue 6, on June 24, 2016.

DHEC recognized that the short time period between adoption of the Revised Regulation and the start of the new school year created significant hardships for schools, nurseries and day cares in meeting the Revised Regulation’s new requirements. Consequently, DHEC determined that there existed the real likelihood that the new regulatory requirements could not be implemented before school begins, which placed the public’s welfare in imminent peril. To alleviate strain on school, nursery and day care operations, and to eliminate risk to the public’s welfare, DHEC found the enactment of an emergency regulation necessary and filed the same on August 3, 2016. DHEC finds that the conditions supporting the filing of the emergency regulation continue to exist and that re-filing and enactment of this emergency regulation is necessary.

Through this emergency regulation, DHEC will continue to toll the implementation of the Revised Regulation and reinstate the Prior Regulation, thereby enacting requirements both protective of public health and attainable with respect to compliance.

Text:

61-22. The Evaluation of School Employees for Tuberculosis.

(Statutory Authority: 1976 Code Sections 44-29-150, 44-29-160, 44-29-170)

(Public or Private School, Kindergarten, Nursery or Day Care Center)

I. INTRODUCTION

In April, 1979, the South Carolina General Assembly amended Section 44-29-150 and Section 44-29-160 of the 1976 Code of Laws pertaining to evaluation of school employees for tuberculosis. Section 44-29-150 authorizes the Department of Health and Environmental Control to establish guidelines for the evaluation of school employees for tuberculosis as required by the law. The amended law and the guidelines modernize the approach to screening for tuberculosis and take into account contemporary scientific and epidemiologic principles. Under the amended law and the guidelines, most school employees will need to be screened for tuberculosis only one time and will not be required to be evaluated annually. This selective screening policy, based on epidemiologic information, is combined with a policy concerning preventive treatment of tuberculosis infection. These policies will afford children greater protection against exposure to tuberculosis in the school environment than do previous policies.

II. RATIONALE

Tuberculin skin testing and preventive treatment are emphasized rather than x-ray screening for the following reasons:

A. Most individuals who are infected with living tubercle bacilli have normal chest x-rays. Most of these same individuals, however, are tuberculin reactors, i.e., they have a positive reaction to a tuberculin skin test.

B. Only about 10% of individuals infected with tubercle bacilli will ever develop tuberculosis disease. "Infected" individuals are not sick, are not contagious, and are not counted as cases of tuberculosis. "Diseased" individuals are sick, are often contagious, and are considered to be TB cases. X-rays cannot prevent infection from progressing to disease. This progression may occur years, or decades, after the actual date of infection. X-rays can only reveal tuberculosis disease after it has developed. Preventive treatment of infection with the anti-tuberculosis drug isoniazid (INH) can prevent infection from progressing to disease. These points are summarized in the table below:

| | Value for detecting TB infection | Value for detecting TB disease | Value for preventing infection from pro- gressing to disease |
|-------------------------------------|--|--------------------------------------|--|
| Chest x-ray | Limited | Excellent | No value |
| Tuberculin skin test | Excellent | Limited | No value |
| Preventive treatment with INH | No value | No value | Excellent |

A school employee who is not infected (a non-reactor to the tuberculin skin test) has a negligible chance of ever becoming infected with tubercle bacilli. Therefore, many such employees will not need routine annual screening for tuberculosis. Unusual circumstances in which non-routine screening may be required are discussed below.

Employees who are found to be infected, i.e., reactors to the tuberculin skin test (about 5-10% anticipated), will require a chest x-ray to verify that they do not also have disease. Most (over 99%) will be found to be free of disease, but they retain a lifelong risk of developing disease. INH preventive treatment will be medically recommended for some, but not for all, infected individuals. Employees who are infected, but who either should not or will not take preventive treatment, shall have a notation made in their school personnel record that the

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individual is considered to be infected with tubercle bacilli and remains at lifelong risk of developing tuberculosis disease. Employees who are found to have current or past tuberculosis disease shall not be allowed to work until the individual receives written certification by a licensed physician that the individual is non-contagious.

III. DEFINITIONS

For the purpose of the evaluation of school employees for tuberculosis, the following definitions and clarifications shall apply:

- A. School employees: Teachers and all other persons employed by the Board of Trustees.
- B. New employee: Individual being initially hired.
- C. Regular employee: Individual hired in the past.
- D. Tuberculin skin test: Test done by intradermal injection (Mantoux Method) of 5 tuberculin units (5TU) of purified protein derivative (PPD).
- E. Tuberculin reactor: Individual found to have 10mm or more of induration 48-72 hours after intradermal injection of 5TU-PPD.
- F. Non-reactor: Individual found to have less than 10mm of induration 48-72 hours after intradermal injection of 5TU-PPD.
- G. Tuberculosis infection: Presence of living tubercle bacilli in the body of an asymptomatic, non-infectious individual, as diagnosed by the tuberculin skin test.
- H. Tuberculosis disease: Illness, often contagious, usually diagnosed by chest x-ray and culture of tubercle bacilli from sputum.
- I. Preventive treatment with INH: Treatment to prevent tuberculosis disease from developing in tuberculin reactors.
- J. Adequate treatment: Therapy with anti-tuberculosis drugs that is determined to be sufficient for the treatment of infection or disease.
- K. Non-routine screening: Screening that may be required in special circumstances where there is epidemiologic evidence that school employees may have become infected or infectious. Examples of such circumstances are: (1) whenever employees are identified as close contacts of tuberculosis cases; (2) whenever tuberculosis cases are known to have occurred in the school environment; (3) whenever employees are observed to have signs or symptoms suggestive of tuberculosis.

IV. GUIDELINES FOR SCREENING/EVALUATION

- A. Required screening/evaluation:
 - 1. New employees shall have a tuberculin skin test prior to employment.
 - 2. Regular employees with no documented 5TU-PPD tuberculin skin test shall have a tuberculin skin test as a condition for continued employment.
 - 3. Regular employees documented to have been tuberculin reactors to a prior tuberculin skin test shall not be required to have a tuberculin skin test but shall have their records reviewed. If a prescribed course of preventive treatment with INH has been completed, no further evaluation shall be required. If preventive treatment with INH has not been completed, a notation shall be made in their school personnel record on DHEC Form 1420, that the individual is considered to be infected and remains at lifelong risk of developing TB disease.
 - 4. New or regular employees with a history of tuberculosis disease shall have their records reviewed by a licensed physician certifying them as non-infectious, on DHEC Form 1420 to be kept on file in their school personnel record.
- B. Disposition following results of screening/evaluation:

1. New or regular employees found to be non-reactors to a 5TU-PPD tuberculin skin test shall require no further routine annual screening.

2. New or regular employees found to be tuberculin reactors shall have a chest x-ray.

a. If a chest x-ray (and sputum cultures, if necessary) of a tuberculin reactor shows no evidence of current tuberculosis disease, the employee shall be evaluated for preventive treatment with INH.

(i) If INH is medically indicated and if the employee takes INH as prescribed, no further routine annual screening shall be required, except when medically indicated.

(ii) If INH is not medically indicated or if the employee for whom INH is indicated does not take INH preventive treatment, a notation shall be made in the employee's school personnel record on DHEC Form 1420, that the individual is considered to be infected and remains at lifelong risk of developing tuberculosis disease.

b. If a chest x-ray (and sputum cultures, if necessary) of a tuberculin reactor shows evidence of current tuberculosis disease, the employee shall not be allowed to work in any public or private school, kindergarten, nursery or day care center, until written certification by a licensed physician is received stating that the individual is noncontagious. Certification shall be subject to review by the Department of Health and Environmental Control or delegated representatives in county health departments. This provision applies to an employee found to have tuberculosis disease at the time of hiring or at any other time.

3. New employees with a history of tuberculosis disease shall be required to have their records reviewed by a licensed physician certifying them as non-infectious, on DHEC Form 1420, to be kept on file in their school personnel record.

C. Documentation of results of screening/evaluation:

1. Results of the required screening/evaluation and the subsequent disposition for each employee shall be recorded on DHEC Form 1420 as provided for in Section 44-29-170. These forms shall be kept on file by the principal (or the director/administrator) of the public or private school, kindergarten, nursery or day care center of current employment. These forms shall be available for review by representatives of the Department of Health and Environmental Control.

2. If an employee transfers to another public or private school, kindergarten, nursery or day care center, no additional screening/evaluation for tuberculosis shall routinely be required beyond that which is described above, provided the form on file at the place of immediate past employment is submitted to the principal (or the director/administrator) of the public or private school, kindergarten, nursery or day care center of current employment.

D. Non-routine screening:

Regular employees who would otherwise be exempt from routine annual screening may be required to undergo non-routine screening, if there is epidemiologic evidence that such employees may have become infected or infectious. Epidemiologic evidence includes:

a. Identification of employees as close contacts of tuberculosis cases;

b. Occurrence of tuberculosis in the school environment;

c. Observation of signs or symptoms in employees suggestive of tuberculosis.

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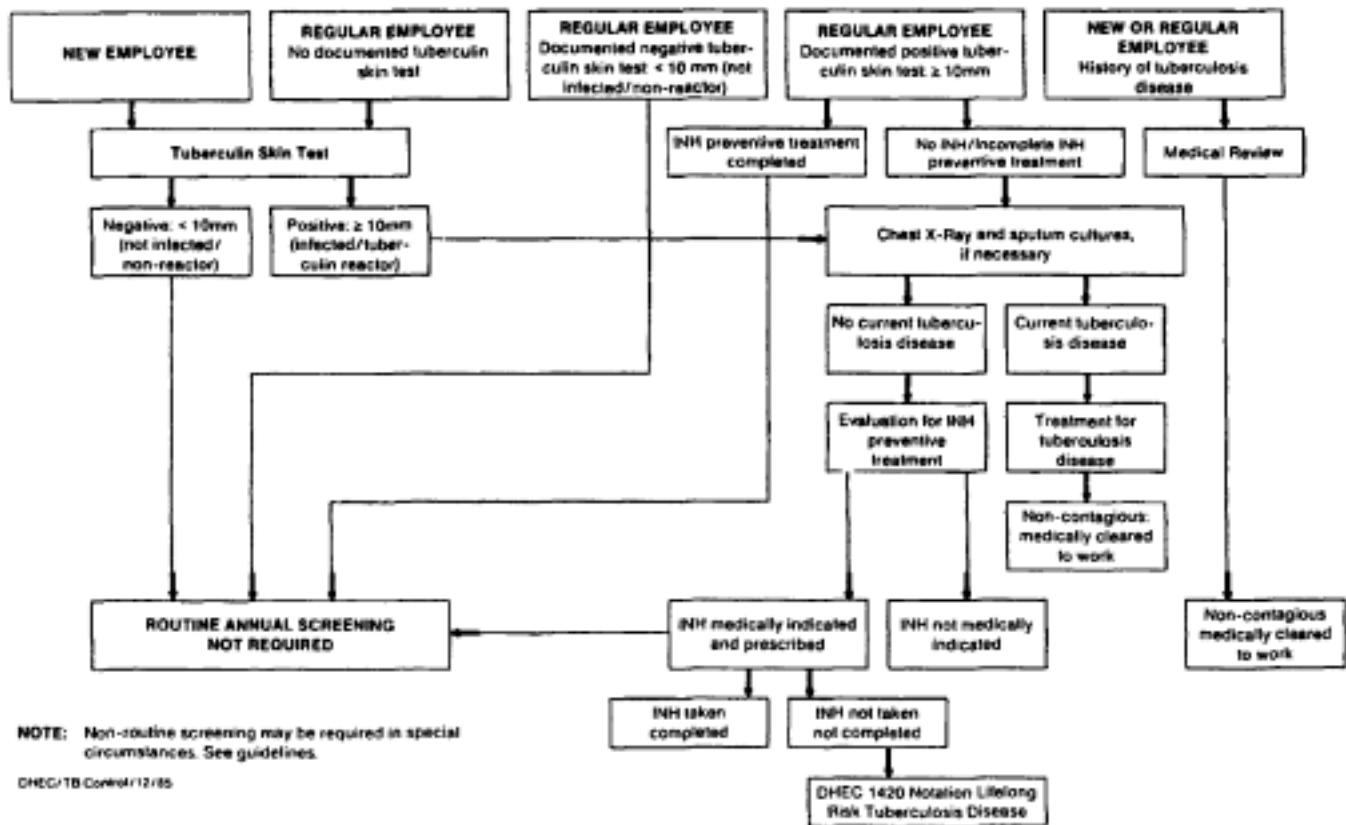
V. ADDITIONAL INFORMATION AND FORMS

Questions regarding the amended law and regulation may be addressed to personnel of the county health departments or the district offices of the Department of Health and Environmental Control. Questions which cannot be resolved at the local level may be referred to the Tuberculosis Control Division, Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201.

Examination and certification may be obtained by school employees from private physicians or from county health departments. County health departments establish schedules for services. Employees should call for an appointment and arrange to have the necessary screening and certification done before the start of a new school year. Certification forms (DHEC 1420) are available, upon request, from the Department of Health and Environmental Control.

A flow chart representation of the guidelines for the screening/evaluation of school employees for tuberculosis follows:

A FLOW CHART REPRESENTATION OF THE GUIDELINES FOR THE SCREENING/EVALUATION OF SCHOOL EMPLOYEES FOR TUBERCULOSIS



VI. EFFECT ON THE “REVISED REGULATION.”

This emergency regulation supersedes any and all provisions of the revised Regulation 61-22 that took effect as law by publication as Document No. 4609 in the S.C. State Register, Volume 40, Issue 6, on June 24, 2016.

Filed: October 21, 2016 3:22pm

Document No. 4725
DEPARTMENT OF INSURANCE
 CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-3-10 et seq., 38-3-110, 38-3-410 et seq., and Executive Order 2016-26

69-78. Moratorium on Cancellation Due to Nonpayment of Premiums and Certain Nonrenewals and Extension of Insurance-Related Provisions Affecting Insureds in South Carolina Impacted by Hurricane Matthew.

Emergency Situation:

Hurricane Matthew has impacted the public health, safety, and welfare of South Carolina consumers necessitating the immediate promulgation of an emergency regulation. Emergency Regulation 69-78 was promulgated to provide protections to insurance consumers in the coastal counties where evacuation orders had been in effect. Unfortunately, damage from Hurricane Matthew was not limited to the coastal counties listed in the emergency regulation. Torrential rains and hurricane force winds caused dam breaches resulting in flooding, power outages, other significant damage and displacement of residents in other South Carolina counties. The Federal Emergency Management Agency (FEMA) issued a disaster declaration (FEMA-4286-DR) for South Carolina based upon the damage in the counties impacted by Hurricane Matthew on October 11, 2016. That regulation has been amended by FEMA to add additional counties to the disaster declaration. Each of the added counties has been designated for Individual Assistance by the FEMA during the week of October 17, 2016. FEMA's designation is made after review of preliminary damage assessments by state and local agencies following Hurricane Matthew.

To help provide safeguards for consumers and to ensure that South Carolina insureds affected by this disaster do not suffer any additional unnecessary hardship, all individuals, entities, and persons licensed or authorized to transact insurance business in this State are hereby required to implement the safeguards listed below for all lines of business. These safeguards address problems consumers may face due to circumstances that make it difficult for them to take normal action required by policy language or otherwise required by insurer policies or procedures. These measures are intended to provide some peace of mind during the recovery process and help ensure that disaster victims do not lose important insurance coverage during the time they need it most.

Emergency Regulation 69-78 contained in Document No. 4672 is being amended to include other South Carolina counties designated for individual assistance by the Federal Emergency Management Agency.

Text:

Amendment No. 1

Section 2. Definitions

Subsection (5) is hereby amended to read as follows:

(5) "Impacted area" includes the counties of Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Clarendon, Colleton, Darlington, Dillon, Dorchester, Florence, Georgetown, Hampton, Horry, Jasper, Lee, Marion, Marlboro, Orangeburg, Sumter, and Williamsburg as well as any other counties designated for individual assistance by the Federal Emergency Management Agency by amendment to the major disaster declaration for the State of South Carolina (FEMA-4286-DR) after the effective date of this amendment to Emergency Regulation 69-78.

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Section 3. Scope and Applicability

Section 3 is hereby amended to add a second paragraph that reads as follows:

The consumer protections set forth in Emergency Regulation 69-78 apply to the counties set forth in this amendment as of the effective dates specified in Document No. 4672. Nothing in this amendment should be construed or interpreted as altering any of the effective dates in Emergency Regulation 69-78 as reflected in Document No. 4672.

Statement of Need and Reasonableness:

This amendment to the emergency regulation is needed to protect the interests of South Carolina insurance consumers and to expedite and facilitate the state's recovery from Hurricane Matthew.

Fiscal Impact Statement:

There will be no increased costs to the state or its political subdivisions as a result of this amendment.