

SOUTH CAROLINA STATE REGISTER DISCLAIMER

While every attempt has been made to ensure the accuracy of this State Register, the Legislative Council makes no warranties or representations regarding its accuracy or completeness, and each user of this product understands that the Legislative Council disclaims any liability for any damages in connection with its use. This information is not intended for commercial use and its dissemination by sale or other commercial transfer is not authorized, absent a written licensing agreement with the Legislative Council. For further information contact the Legislative Council at 803-734-2145.

SOUTH CAROLINA STATE REGISTER

PUBLISHED BY
THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

STEPHEN T. DRAFFIN, DIRECTOR
LYNN P. BARTLETT, EDITOR

P.O. BOX 11489
COLUMBIA, SC 29211
TELEPHONE (803) 734-2145

Published September 24, 2004

Volume 28 Issue No.9

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.

2004 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	1/9	2/13	3/12	4/9	5/14	6/11	7/9	8/13	9/10	10/8	11/12	12/10
Publishing Date	1/23	2/27	3/26	4/23	5/28	6/25	7/23	8/27	9/24	10/22	11/26	12/24

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) 734-2145.

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

Subscriptions to the *South Carolina State Register* are available electronically through the South Carolina Legislature Online website at www.scstatehouse.net via an access code, 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 **either** format is \$95.00. Payment must be made by check payable to the Legislative Council. To subscribe complete the form below and mail with payment. Access codes for electronic subscriptions will be e-mailed to the address submitted on this form.

X-----X-----X

South Carolina State Register Subscription Order Form

Name		Title	
Firm			
Mailing Address			
Billing Address (if different from mailing address)			
Contact Person(s)		E-mail Address	
Phone Number		Fax Number	
Number of subscriptions: (Cost is \$95 per subscription. Checks payable to: Legislative Council)			
		Electronic	
		Printed	

Mail this form to:
South Carolina State Register
Lynn P. Bartlett, Editor
P.O. Box 11489
Columbia, SC 29211
 Telephone: (803) 734-2145

TABLE OF CONTENTS

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

Status and Legislative Review Expiration Dates..... 1

EXECUTIVE ORDERS

2004-18 Declaring a State of Emergency in SC for Hurricane Charley..... 2
2004-19 Declaring Mandatory Evacuation due to Hurricane Charley 2
2004-20 Updating Mandatory Evacuation due to Hurricane Charley 3
2004-21 Rescinding Mandatory Evacuation due to Hurricane Charley 4
2004-22 Rescinding State of Emergency in SC for Hurricane Charley 4
2004-23 Declaring a State of Emergency in SC for Tropical Storm Gaston..... 5
2004-24 Rescinding State of Emergency in SC for Tropical Storm Gaston 6
2004-25 Ordering New Senate Election District 30 6
2004-26 Ordering SC National Guard to Active Duty to Assist Florida..... 7
2004-27 Appointing Hugh Weathers Commissioner of Agriculture..... 8

NOTICES

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Certification of Need 9
Notice of Request for Supplemental Comments on Two Parts of the Draft 2004 SC Health Plan..... 10

**LABOR, LICENSE AND REGULATION, DEPARTMENT OF
OFFICE OF STATE FIRE MARSHAL**

Adoption of the National Fire Protection Association 58, Liquefied Petroleum Gas Code, 2004 Edition 13

DRAFTING NOTICES

CLEMSON UNIVERSITY, STATE CROP PEST COMMISSION

Pesticides 14
Soil Amendments 14

HIGHER EDUCATION, COMMISSION ON

HOPE Scholarship Program 14
LIFE Scholarship Program..... 15
Palmetto Fellows Scholarship Program..... 15

LABOR, LICENSING AND REGULATION, DEPARTMENT OF

Board of Dentistry

Examination 16
Re-examination 16

NATURAL RESOURCES, DEPARTMENT OF

Hunt Units and Wildlife Management Area Regulations..... 17

TABLE OF CONTENTS

PROPOSED REGULATIONS

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Document No. 2928 Statement of Policy and Specific Project Standards for Tidelands and Coastal Waters - Docks..... 18

Document No. 2929 Statement of Policy and Specific Project Standards for Tidelands and Coastal Waters - Marinas..... 23

Document No. 2930 Hotel-Motel Sanitation 28

Document No. 2926 Pasteurized Milk and Milk Products..... 30

Document No. 2927 Practice of Selling and Fitting Hearing Aids 41

**LABOR, LICENSING AND REGULATION, DEPARTMENT OF
Environmental Certification Board**

Document No. 2931 Chapter Revision 45

SOCIAL SERVICES, DEPARTMENT OF

Document No. 2924 Child Care Centers Operated by Churches or Religious Entities 46

Document No. 2925 Group Child Care Homes 52

EMERGENCY REGULATIONS

**CLEMSON UNIVERSITY
State Crop Pest Commission**

Document No. 2932 Designation of Plant Pests 58

NATURAL RESOURCES, DEPARTMENT OF

Document No. 2922 Croft State Natural Area WMA 58

Document No. 2920 Dove Management Areas..... 60

Document No. 2921 Hunting in Wildlife Management Areas..... 66

Document No. 2923 Hunt Units and Wildlife Management Area Regulations 71

FINAL REGULATIONS

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Document No. 2912 Air Pollution Control Regulations and Standards..... 74

Document No. 2913 Air Pollution Control Regulations and Standards..... 77

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date
 The history, status, and full text of these regulations are available on the
 South Carolina General Assembly Home Page: www.scstatehouse.net

DOC NO.	RAT FINAL NO. ISSUE	SUBJECT	EXP. DATE	AGENCY
2886		Pilot and Apprentice Age Limitations and Pilot Registration	1/11/05	LLR: Commissioners of Pilotage
2887		Residential Builders Commission	1/11/05	LLR: Residential Builders Commission
2753		LIFE Scholarship Program	1/15/05	Commission on Higher Education
2889		Barrier Free Design, Building Codes Council	1/17/05	LLR: Building Codes Council
2890		Chapter Revisions	1/17/05	LLR: Manufactured Housing Board
2873		Air Pollution	1/30/05	Department of Health and Envir Control
2800		Environmental Protection Fees	2/27/05	Department of Health and Envir Control
2905		Credit for Reinsurance	3/14/05	Department of Insurance
2900		Student Attendance	3/22/05	Board of Education
2897		State Primary Drinking Water	3/28/05	Department of Health and Envir Control
2908		Continuing Insurance Education	4/03/05	Department of Insurance
2906		Repeal Video Poker Regulations	4/03/05	Department of Revenue
2907		ABL - Drive Thru Prohibited	4/03/05	Department of Revenue
2909		Adoption of National Explosives Standards	4/03/05	LLR: Office of State Fire Marshal
2899		Certification Program for Public Librarians	4/10/05	State Library
2801		Individual Sewage Treatment and Disposal Systems	4/19/05	Department of Health and Envir Control
2903		Total Maximum Daily Loads for Pollutants in Water	4/24/05	Department of Health and Envir Control
2901		Child Care Centers Licensing Regulations	5/08/05	Department of Social Services

2 EXECUTIVE ORDERS

2004-18

WHEREAS, the National Hurricane Center has determined that the coastline of the State of South Carolina is presently vulnerable to the effects of a strengthening hurricane that continues to advance toward South Carolina; and

WHEREAS, I have been advised that Hurricane Charley is advancing in a north-northeast direction and represents a threat to the safety, security, welfare and property of citizens and transients living in South Carolina.

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, 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 direct that all prudent preparations be taken at the individual, local, and state levels to protect against the possible effects of Hurricane Charley. Further Proclamations and Orders deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued verbally by me, and thereafter published for dissemination within the succeeding twenty-four hour period.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 13th DAY OF AUGUST, 2004.**

MARK SANFORD
Governor

2004-19

WHEREAS, the National Hurricane Center advises that Hurricane Charley will strike the coast of South Carolina; and

WHEREAS, the force of Hurricane Charley represents an imminent threat to the safety, security and welfare of the residents and visitors of South Carolina; and

WHEREAS, a State of Emergency has been declared in South Carolina pursuant to Executive Order 2004-18 and the South Carolina Emergency Operations Plan was placed into effect in order to provide for the health, safety and welfare of residents and visitors located in the threatened areas where the effect of Hurricane Charley could be experienced; and

WHEREAS, I am authorized pursuant to Section 25-1-440 of the South Carolina Code of Laws, 1976, as amended, as the elected Chief Executive of the State “to direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life or other disaster mitigation, response, or recovery”; and

WHEREAS, I have determined that evacuation is necessary for the preservation of life in and surrounding the threatened area.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, I do hereby order a mandatory evacuation of all persons located on barrier islands and on beachfront property in Georgetown and Horry counties. Persons in inland counties near the projected path of Hurricane Charley should take all precautions to ensure their protection from potential high winds and inland flooding. This evacuation order is effective 6:00 PM, August 13, 2004. All persons are ordered to evacuate the area as expeditiously as possible.

Area specific details for the mandatory evacuation follow:

1. Georgetown County: All residents and tourists east of US 17 and US 17 Bypass in the northern portion of the county.
2. Horry County: All residents and tourists east of Business US 17 in the southern Grand Strand and east of US 17 in the northern Grand Strand area.

The scope of this order may be expanded to include such areas inland as are identified on a county-by-county basis by local emergency management officials for people who are deemed to be in immediate danger. However, hospital administrators may elect to shelter in place essential personnel and patients who cannot be moved pursuant to the approved evacuation plan for each facility, after consultation with emergency management personnel, and appropriate health care professionals.

Furthermore, county administrators, after consultation with emergency management personnel, may elect to shelter in place essential emergency response personnel who, by the nature of their duties, must remain and perform such duties before and immediately after landfall.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 13th DAY OF AUGUST, 2004.**

**MARK SANFORD
Governor**

2004-20

WHEREAS, on August 14, 2004, at 6:00 p.m., I ordered a mandatory evacuation for Georgetown and Horry counties due to the imminent danger posed by Hurricane Charley (Executive Order 2004-19); and

WHEREAS, on August 13, 2004, I issued verbal orders that are published herein.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, I hereby declare that hospital and nursing home administrators will be allowed the discretion to shelter patients and residents in-place if in their best interest, provided the following conditions are met:

1. The hurricane does not exceed Category 3.
2. A current critical data sheet is completed and on file with the Department of Health and Environmental Control. The data sheet must support the conclusion that the facility can withstand the forces of the storm.
3. Current data from the Army Corps of Engineers indicates the facility will not be affected by the storm surge.
4. Adequate staff must be available and on duty to provide continual care for the residents.
5. Emergency power supply is available.
6. Adequate medical supplies are available on site.
7. A seven-day supply of food and water is on site.

Facility administrators are cautioned that if the decision to shelter in place is made, evacuation assistance may not be possible. Once winds exceed thirty miles per hour, emergency vehicles may be prohibited from traveling and assistance may not be available for hours or until the storm passes. The facility has the responsibility for evacuation of its patients and residents. The state will continue to assist nursing homes and other facilities with all available resources during disasters and emergency situations. As state resources will be

4 EXECUTIVE ORDERS

in limited supply and unavailable in many situations, facilities are cautioned to consider all factors in determining whether to shelter in place.

The health care facilities that have discretion to shelter in place are: in Horry County – Grand Strand Regional Medical Center, Covenant Towers Health Care, and National Health Care; in Georgetown County – Winyah Convalescent Center.

FURTHER, I order that the specific details for the mandatory evacuation stated in numbered paragraphs one and two of Executive Order 2004-19 are clarified to mean for Georgetown and Horry counties: All residents and tourist east of or on US 17, US 17 Business, and US 17 Bypass.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 14th DAY OF AUGUST, 2004.

MARK SANFORD
Governor

2004-21

WHEREAS, effective August 13, 2004, the undersigned ordered a mandatory evacuation in Executive Order 2004-19, of citizens in designated areas of Georgetown and Horry counties due to the imminent danger posed by Hurricane Charley; and

WHEREAS, conditions now exist which justify the rescission of the mandatory evacuation order and the re-entry of persons into those evacuated areas of Georgetown and Horry counties, except damaged areas that may be restricted by local officials to ensure the safety of their citizens.

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, I hereby declare that persons affected by the mandatory evacuation set forth in Executive Order 2004-19 be allowed to return to Georgetown and Horry counties, and declare that the mandatory evacuation provisions of said Order are hereby rescinded effective August 14, 2004.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 14th DAY OF AUGUST, 2004.

MARK SANFORD
Governor

2004-22

WHEREAS, by Executive Order 2004-18, a state of emergency for the State of South Carolina was declared because of imminent danger posed by Hurricane Charley; and

WHEREAS, conditions now exist which justify the rescission of the order declaring a state of emergency.

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, I declare that a state of emergency no longer exists and hereby declare that Executive Order 2004-18 is cancelled, rescinded, and from this date declared null and void.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 20th DAY OF AUGUST 2004.**

MARK SANFORD
Governor

2004-23

WHEREAS, on August 29, 2004, I issued verbal orders that are published herein; and

WHEREAS, on August 29, 2004, the National Hurricane Center determined that the coastline of the State of South Carolina was vulnerable to the effects of a strong tropical storm that continued to advance toward South Carolina; and

WHEREAS, Tropical Storm Gaston represented a threat to the safety, security, welfare and property of citizens and transients living in South Carolina.

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, on August 29, 2004, I declared a State of Emergency in South Carolina. I directed that the South Carolina Emergency Operations Plan be placed into effect. I directed that all prudent preparations be taken at the individual, local, and state levels to protect against the possible effects of Tropical Storm Gaston.

FURTHER, I direct that the South Carolina National Guard be placed on a standby status and, at the discretion of the Adjutant General, in consultation with my office and the South Carolina Emergency Management Division, specified units of the National Guard be placed on active duty to assist civil authorities and to take all reasonable precautions as necessary for the preservation of life and property. Further Proclamations and Orders deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued verbally by me, and thereafter published for dissemination within the succeeding twenty-four hour period. This state of emergency continues until further order of this office.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 30th DAY OF AUGUST, 2004.**

MARK SANFORD
Governor

6 EXECUTIVE ORDERS

2004-24

WHEREAS, by Executive Order 2004-23, a state of emergency for the State of South Carolina was declared because of imminent danger posed by Tropical Storm Gaston; and

WHEREAS, conditions now exist which justify the rescission of the order declaring a state of emergency.

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, I declare that a state of emergency no longer exists and hereby declare that Executive Order 2004-23 is cancelled, rescinded, and from this date declared null and void.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 2nd DAY OF SEPTEMBER 2004.**

MARK SANFORD
Governor

2004-25

WHEREAS, the South Carolina Democratic Party Executive Committee (“Executive Committee”), pursuant to its authority under Article 5, Section 17, Title 7 of the South Carolina Code of Laws, (1976), as amended, voided the Democratic Primary election held on June 8, 2004, for Senate District 30; and

WHEREAS, on June 18, 2004, I received a request from the Executive Committee to set a new primary election for Senate District 30; and

WHEREAS, on June 25, 2004, candidate Kent Williams filed an action in the South Carolina Supreme Court and on June 30, 2004, candidate Maggie Glover filed an action in both the South Carolina Supreme Court and the Federal District Court, Florence Division, both challenging the Executive Committee’s invalidation of the primary results and request for a new election; and

WHEREAS, on July 20, 2004, the Supreme Court denied requests for petitions for certiorari by both candidates, and on September 3, 2004, the Federal District Court dismissed candidate Glover’s action; and

WHEREAS, the South Carolina State Election Commission has requested that the new election be held on September 28, 2004, in order to comply with the notice provisions in the South Carolina Code of Laws and the pre-clearance requirements of Section 5 of the Voting Rights Act of 1965; and

WHEREAS, Section 7-13-1170 of the South Carolina Code of Laws (1976), as amended, provides “when any election official of any political subdivision of this State charged with ordering, providing for, or holding an election has neglected, failed, or refused to order, provide for, or hold the election at the time appointed, or if for any reason the election is declared void by competent authority, and these facts are made to appear to the satisfaction of the Governor, he shall, should the law not otherwise provide for this contingency, order an election or a new election to be held at the time and place, and upon the notice being given which to him appears adequate to insure the will of the electorate being fairly expressed. To that end, he may designate the existing election official or other person as he may appoint to perform the necessary official duties pertaining to the election and to declare the result.”

NOW, THEREFORE, with no actions pertaining to the request for a new election for Senate District 30 currently pending in the state and federal courts, and pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby (a) order that a new primary election be held for Senate District 30 on September 28, 2004, subject to pre-clearance approval prior to this date by the United States Department of Justice, or at the earliest possible date and time after September 28, 2004, as is permitted by the United States Department of Justice; (b) recognize that a run-off election may be needed and should be allowed following the new primary election date in accordance with Article 1, Chapter 13, Title 7 of the South Carolina Code of Laws; and (c) designate the South Carolina State Election Commission and the applicable local election commissions to perform the necessary official duties pertaining to the election and to declare the result.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 7th DAY OF SEPTEMBER, 2004.**

**MARK SANFORD
Governor**

2004-26

WHEREAS, the State of Florida has been impacted by Hurricane Frances resulting in massive damages and has requested assistance from the State of South Carolina under the terms of the Emergency Management Assistance Compact, as provided in Section 25-9-420 of the South Carolina Code of Laws; and

WHEREAS, the State of Florida civil authorities have specifically requested the support of the South Carolina National Guard to assist in transportation, communications and resource distribution in response to this disaster; and

WHEREAS, the South Carolina National Guard is prepared to provide the personnel and equipment necessary to assist the impacted area.

NOW THEREFORE, pursuant to the powers conferred upon me by the Constitution and Laws of the State of South Carolina, I hereby direct the Adjutant General to place on state active duty and utilize the South Carolina National Guard personnel and equipment, as he deems necessary, in consultation with the Governor's Office, to fulfill the mission in support of the State of Florida during this time of emergency. National Guard personnel and equipment deployment and mission requirements should be coordinated through the Emergency Management Division in accordance with the Emergency Management Assistance Compact. This Executive Order is retroactive to September 4, 2004.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 8th DAY OF SEPTEMBER, 2004.**

**MARK SANFORD
Governor**

8 EXECUTIVE ORDERS

2004-27

WHEREAS, Charles Ray Sharpe was suspended as Commissioner of Agriculture for the State of South Carolina, effective July 29, 2004; and

WHEREAS, the undersigned is authorized to appoint an interim Commissioner of Agriculture as a result of Commissioner Sharpe's suspension from office pursuant to Section 8-1-100 of the South Carolina Code of Laws; and

WHEREAS, Hugh Weathers, residing at 334 Cascade Road, Bowman, South Carolina 29018, is a qualified and proper person to serve as Commissioner of Agriculture.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Hugh Weathers as Commissioner of Agriculture until the charges against Mr. Sharpe have been resolved.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 14th DAY OF SEPTEMBER, 2004.**

MARK SANFORD
Governor

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication September 24, 2004, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Charleston County

Replacement of a 1.0T Magnetic Resonance Imaging (MRI) unit with a 1.5T MRI unit
Southeastern Spine Institute, LLC
Mount Pleasant, South Carolina
Project Cost: \$1,422,599

Affecting Florence County

Renovation for the addition of a multi-slice Computed Tomography (CT) scanner, three (3) x-ray devices, and two (2) nuclear cameras at the McLeod Health Plaza.
McLeod Regional Medical Center
Florence, South Carolina
Project Cost: \$6,714,539

Affecting Horry County

Replace existing .23T Magnetic Resonance Imaging (MRI) unit with a 1.5T MRI, replace existing Computed Tomography (CT) scanner with a multi-slice CT and discontinue mobile MRI services.
Open MRI of Myrtle Beach, LLC
D/b/a Long Bay Diagnostic Imaging
North Myrtle Beach, South Carolina
Project Cost: \$2,738,203

Affecting Pickens County

Construction of a free-standing ambulatory surgery center with two (2) operating rooms.
The Surgery Center of Clemson, LLC
Clemson, South Carolina
Project Cost: \$4,344,877

Affecting York County

Construction and relocation of ten (10) Social Detoxification beds and four (4) Residential Treatment beds for a total of fourteen (14) licensed beds.
Keystone Inpatient Services
Rock Hill, South Carolina
Project Cost: \$1,199,226

10 NOTICES

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning September 24, 2004. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Charleston County

Asset purchase of Charleston Plastic Surgery Center, an existing licensed ambulatory surgery center with two (2) general operating rooms, by Roper Hospital, Inc.

Roper Hospital, Inc.
Charleston, South Carolina
Project Cost: \$1,910,000

Affecting Cherokee County

Addition of twelve (12) nursing home beds that do not participate in the Medicaid (Title XIX) Program for a total of ninety-seven (97) nursing home beds.

Cherokee County Long Term Care Facility
Gaffney, South Carolina
Project Cost: \$29,350

Affecting Greenville County

Renovation and expansion of the Emergency Trauma Center (ETC).

Greenville Memorial Hospital
Greenville, South Carolina
Project Cost: \$11,177,671

Upgrade of a previously approved 1.5T Magnetic Resonance Imaging (MRI) unit (SC-04-34) with a 3.0T MRI.

St. Francis Hospital, Inc.
Greenville, South Carolina
Project Cost: \$2,518,651

NOTICE OF REQUEST FOR SUPPLEMENTAL COMMENTS ON TWO PARTS OF THE DRAFT 2004 SOUTH CAROLINA HEALTH PLAN

The South Carolina Health Planning Committee is requesting supplemental comments on two parts of the Draft 2004 South Carolina Health Plan. Four public hearings were held on the Draft Plan and a number of comments received; however, supplemental comments will be received through October 15, 2004 only on the following two parts of the Draft Plan. Please send all comments to Albert N. Whiteside, Director, Division of Planning and Certification of Need, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201.

The **first part** pertains to the open heart surgery criteria under Section (5) A items 1 and 2 on page II-48 of the Draft Plan. This section reads:

(5) New open heart surgery services shall be approved only if the following conditions are met:

- A. Each existing unit in the service area (defined as all facilities within 60 minutes one way automobile travel, excluding any facilities located in either North Carolina or Georgia) is performing an annual minimum of 350 open heart surgery procedures per open heart surgery unit for adult services (70

percent of functional capacity). The standard for pediatric open heart case for pediatric services is 130 procedures per unit. An exception to this requirement may be authorized should an applicant meet both of the following criteria:

1. There are no open heart surgery programs located in the same county as the applicant; and
2. The proposed facility currently offers cardiac catheterization services and provided a minimum of 1,200 diagnostic equivalents in the previous year of operation.

A proposal has been made to delete the last sentence of paragraph A and subparts 1 and 2 and comments are solicited on this proposal.

The **second part** pertains to the Ambulatory Surgery Facility (ASF) criteria. The **highlighted** wording indicates proposed changes to the criteria that were originally published in the Draft Plan. The Committee is soliciting supplemental comments on the criteria.

Prior to the approval of additional Ambulatory Surgical Facilities or the addition of operating rooms/endoscopy suites to existing ASF's, the following criteria must be addressed:

1. The county in which the proposed facility is to be located is considered to be the service area for inventory purposes. The applicant may define a proposed service area that encompasses additional counties, but the majority of the patients to be served must originate from the county in which the facility is to be constructed.
2. For a new facility, the applicant must document where the potential patients for the facility will come from and where they are currently being served. For the expansion of an existing facility, the applicant must provide patient origin information on the current facility.
3. The applicant must document the need for the expansion of or the addition of an ASF, **based on the most current utilization data available**. The existing resources must be considered and documentation presented as to why the existing resources are not adequate to meet the needs of the community.
4. There must be support from the physicians in the area to be served. An application for ~~an~~ **a new ASF** must contain letters of support from physicians other than those affiliated with the proposed facility stating **their intent to utilize the facility and/or the number of patients they anticipate referring to the facility**.
5. The applicant must document the impact that the proposed new ASF or expansion will have upon the existing service providers and referral patterns.
6. All new Certificate of Need approvals by the Department will not restrict the specialties of Ambulatory Surgery Facilities. However, it is the position of the Department that Ambulatory Surgery Facilities open to **and equipped for** all surgical specialties will better serve the community than those targeted towards a single specialty or group of practitioners. For an ASF approved to only perform endoscopic procedures, another CON would be required before the center could provide other surgical specialties. **For an ASF approved for a single specialty, another CON is required before the facility can provide other surgical specialties.**
7. All proposed Ambulatory Surgical Facilities, other than those restricted to endoscopic procedures only, must have a minimum of two operating rooms.
8. Before a new Ambulatory Surgery Facility can be approved, all existing ASF's in the county where the proposed facility is to be located must have been licensed and operational for an entire year, **and submitted data on the Department's annual questionnaire to allow for a determination of their**

12 NOTICES

utilization. The data will not be prorated or projected into the future but based on actual utilization. For purposes of this standard, endoscopy suites are considered separately from other operating rooms. Endoscopy-only ASF's do not impact other ASF's. Before additional licensed endoscopy suites can be added in a county, all ASF's with licensed endoscopy suites must have had these suites licensed and operational for one year to allow for a determination of the utilization of the endoscopy providers.

9. **In no case can more than one new ASF in a county be approved at a single time. The approval of a new ASF in a county does not preclude an existing facility from applying to expand it's number of operating rooms and/or endoscopy suites.**
10. **Special consideration should be given to proposed ASF's that are the result of a joint venture between a hospital and physicians; such joint ventures are more likely to result in a positive situation for the overall local health care system.**

Facilities providing ambulatory surgery services must conform to local, state, and federal regulatory requirements, and should meet the full accreditation standards for the Joint Commission on Accreditation of Healthcare Organizations, if the facility is JCAHO accredited. Ambulatory surgical services are generally available within 30 minutes one-way automobile travel time of most of the residents of South Carolina. Most ASF's operate five days a week, with elective surgery being scheduled several days in advance.

RELATIVE IMPORTANCE OF PROJECT REVIEW CRITERIA

The following project review criteria are considered to be the most important in evaluating certificate of need applications for this service:

- a. Compliance with the Need Outlined in this Plan;
- b. Adverse Effects on Other Facilities.
- c. Community Need Documentation;
- d. Distribution (Accessibility);
- e. Financial Feasibility;
- f. Cost Containment;
- g. Projected Revenues;
- h. Projected Expenses;
- i. Ability of the Applicant to Complete the Project; and
- j. Staff Resources.

There has been a substantial increase in the past decade in both the number and percentage of ambulatory surgeries performed and the number of ASF's approved and licensed. This trend has generally been encouraged because many surgical procedures can be safely performed on an outpatient basis at a lower cost. However, there is serious concern that ASF's are being proposed as a method of increasing reimbursement for procedures currently being performed in physician's offices, through the "facility fee" built into the reimbursement mechanisms, to the detriment of hospitals' ability to provide the range of services needed. The benefits of improved accessibility are not outweighed by the adverse effects of duplication in evaluating Certificate of Need applications for this service.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF STATE FIRE MARSHAL**

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal intends to adopt the latest edition of the following nationally recognized code.

1. National Fire Protection Association 58, Liquefied Petroleum Gas Code, 2004 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is referenced by:
South Carolina Code of Laws Section 40-82-70
South Carolina Rules and Regulation 71-8304.1

The Office of State Fire Marshal specifically requests comments concerning sections of these editions that may be unsuitable for enforcement in South Carolina. Written comments may be submitted to Michael Platt at 141 Monticello Trail, Columbia, SC 29203, by fax at 803-896-9806, or by e-mail to plattm@llr.sc.gov.

If no comments are received within sixty (60) days of publication of this notice, the Office of State Fire Marshal will promulgate this latest edition without amendment.

14 DRAFTING

CROP PEST COMMISSION CLEMSON UNIVERSITY CHAPTER 27

Statutory Authority: 1976 Code Section 46-9-40

Notice of Drafting:

The State Crop Pest Commission is contemplating amending regulations 27-1070 through 27-1085. Please address all comments to Mr. Cam Lay, 511 Westinghouse Road, Pendleton, S. C. 29670. To be considered comments must be received no later than 5:00 P.M., October 25, 2004, the close of the drafting comment period.

Synopsis:

These regulations deal with the implementation of the South Carolina Pesticide Control Act, Title 46, Chapter 13, which is assigned to the jurisdiction of the State Crop Pest Commission and enforced by the Department of Pesticide Regulation, Clemson University. The amendments include definitions, licensing and certification of pesticide dealers and pesticide applicators, and termite treatment procedures.

Legislative review of this proposal will be required.

CROP PEST COMMISSION CLEMSON UNIVERSITY CHAPTER 27

Statutory Authority: 1976 Code Section 46-25-40

Notice of Drafting:

The State Crop Pest Commission is contemplating amending Regulation 27-182. Please address all comments to Dr. David Howle, 511 Westinghouse Road, Pendleton, S. C. 29670. To be considered comments must be received no later than 5:00 P.M., October 25, 2004, the close of the drafting comment period.

Synopsis:

This regulation deal with the implementation of the South Carolina Fertilizer Law of 1954, as it pertains to soil amendments. The Commission proposes to reduce the registration fee from \$5.00 per ton paid monthly to \$1.00 per ton paid quarterly.

Legislative review of this proposal will be required.

COMMISSION ON HIGHER EDUCATION CHAPTER 62

Statutory Authority: 1976 Code Section 59-150-370

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to revise existing regulation for the South Carolina HOPE Scholarship Program established under the South Carolina Education Lottery Act. Interested persons may submit comments to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. To be considered,

comments must be received no later than 5:00 p.m. on October 25, 2004, the close of the drafting comment period.

Synopsis:

In accordance with section 59-150-370 of the 1976 Code of Laws, revisions to the existing regulation for the SC HOPE Scholarship Program are being considered to clarify the policies and procedures for administering the program. Beginning with the 2005-06 academic year, the proposed amendments will allow active duty service members of the United States Armed Forces to receive the maximum number of terms of scholarship eligibility due to military mobilization. The proposed regulation also removes language from the definition of independent institutions discontinuing participation of Johnson and Wales University as an eligible independent institution since they have relocated out-of-state. There are also additional clarifications being proposed by adding several definitions and minor grammatical changes to promote consistency among the State scholarship and grant programs.

COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-149-10

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to draft new regulations for the Legislative Incentives for Future Excellence (LIFE) Scholarship Program established under Title 59 Section 59-149-10. Interested persons may submit comments to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on October 25, 2004, the close of the drafting comment period.

Synopsis:

In accordance with section 59-149-10 of the 1976 Code of Laws, the Commission on Higher Education shall promulgate regulations to set forth the administration of the LIFE Scholarship Program. The regulations will define the purpose of the LIFE Scholarship Program; program definitions; student eligibility including initial, continuing, and transfer student eligibility; terms of eligibility; regaining or earning eligibility; students with disability; enrollment in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs; military mobilization, refunds or repayments; appeals procedures; institutional policies and procedures for awarding; institutional disbursements; program administration and audits; and suspension and termination of institutional participation. There are also additional clarifications being proposed by adding several definitions and minor grammatical changes to promote consistency among the State scholarship and grant programs.

COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: Title 59 1976 Code Section 104-20

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to revise existing regulation for the Palmetto Fellows Scholarship Program established under Section 104-20 Title 59 Act No. 458. Interested persons should submit their comments in writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina

16 DRAFTING

Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on October 25, 2004, the close of the drafting comment period.

Synopsis:

In accordance with Section 59-104-20 of the 1976 Code, revisions to the existing regulation for the Palmetto Fellows Scholarship Program are being considered to clarify the policies and procedures for administering the program. Beginning with the 2005-06 academic year, one of the proposed amendments will allow students to rank within the top six percent of the class instead of the top five percent of the class in order to be eligible to apply for the scholarship. The classes used for eligibility have been expanded from the sophomore and junior classes to also include the senior class. Regarding the SAT, students will be allowed more opportunities to meet the minimum 1200 score requirement by adding language to extend the deadline through the June national test administration. Finally, another proposed amendment will allow active duty service members of the United States Armed Forces to receive the maximum number of terms of scholarship eligibility due to military mobilization. There are also additional clarifications being proposed by adding several definitions and minor grammatical changes to promote consistency among the State scholarship and grant programs.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF DENTISTRY
CHAPTER 39

Statutory Authority: 1976 Code Sections 40-1-40, 40-15-40, and 40-15-140

Notice of Drafting:

The Board of Dentistry is considering an amendment to Regulation 39-4 regarding examination of applicants for licensure to delete the requirement that the National Board examination must be passed within fifteen years. Written comments can be submitted to Rion Alvey, Board Administrator, at 110 Centerview Drive, 3rd Floor, Columbia, South Carolina, 29211-1329.

Synopsis:

The purpose of the amendment to Regulation 39-4 is to establish procedures for examination of applicants for licensure to delete the requirement that the National Board examination must be passed within fifteen years.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF DENTISTRY
CHAPTER 39

Statutory Authority: 1976 Code Sections 40-1-40, 40-15-40, and 40-15-140

Notice of Drafting:

The Board of Dentistry is considering proposing to add Regulation 39-4.1 to establish procedures for re-examination of applicants for licensure who have failed the licensing examination. Written comments can be submitted to Rion Alvey, Board Administrator, at 110 Centerview Drive, 3rd Floor, Columbia, South Carolina, 29211-1329.

Synopsis:

The purpose of the amendments is to add Regulation 39-4.1, so as to establish procedures for re-examination of applicants for licensure who have failed the licensing examination.

DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Section 50-11-2200

Notice of Drafting:

The Department of Natural Resources proposes to amend Regulation 123-40, "Hunt Units and Wildlife Management Area Regulations". The subject of the proposed action is to amend the regulation to modify existing seasons and methods and add new wildlife management areas to allow additional hunting opportunity. Any person interested may submit written comments to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Synopsis:

This amended regulation will allow the expansion of existing seasons and methods within the current season framework to allow additional opportunity on existing and new Wildlife Management Areas. The regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas.

18 PROPOSED REGULATIONS

Document No. 2928
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 30
Statutory Authority: S.C. Code Section 48-39-10 *et seq.*

- R.30-1 Statement of Policy, and
R.30-12 Specific Project Standards for Tidelands and Coastal Waters

Preamble:

The proposed regulatory changes will clarify language related to the permitting of docks. The clarifications will specify which standards apply to which types of docks. Additionally, language is proposed to provide the Department with more incentives for the construction of community docks in lieu of multiple private docks. The changes are proposed to address questions raised by permittees and interested parties regarding the administration of the regulations, and primarily reflect current administrative practice. Generally, additional language and modifications of existing language will make the Department's regulations more user-friendly and specific.

A Notice of Drafting for this proposed regulation was published in the State Register on May 28, 2004.

Discussion of Proposed Revisions:

The Department proposes to 1) clarify the definitions for docks, 2) encourage the construction of community docks in lieu of private docks, 3) clarify which standards apply to commercial and community docks, and 4) make other changes as necessary to provide clarity, consistency and correctness in the use of terms, grammar and punctuation.

<u>SECTION</u>	<u>CHANGE</u>
30-1.D(16)	Add a definition, in proper alphanumeric order, for docks that includes the existing definitions for commercial, community, and private docks and remove the separate individual definitions for these types of docks. Add definitions for boat storage docks and joint use docks within the new dock definition. Renumber following definitions appropriately.
30-12.A	Move the existing language defining docks from 30-12A(1) into this introductory section. Add language explaining that this section is now divided into five parts providing standards for 1) all, 2) private and joint use, 3) master planned, 4) commercial and 5) community docks. Provide references to the definitions for docks and marinas. Add language stating the Department's policy of encouraging one or more community docks in lieu of multiple private docks.
30-12.A(1)	Delete the existing language defining docks.
30-12.A(2)(a)-(p)	Renumber as section 30-12.A(1)(a) – (p) and designate that the standards in this section apply to all docks.
30-12.A(2)(a)	Renumbered to 30-12.A(1)(a). Delete the word normally and change impede navigation to restrict reasonable navigation. Renumbered 30-12.A(1)(b) – (e) remain the same.

- 30-12.A(2)(f) Renumbered to 30-12.A(1)(f). Delete language referring to walkway width from this section and move to 30-12.A(2)(b). Renumbered 30-12.A(1)(g) remains the same.
- 30-12.A(2)(h) Renumbered 30-12.A(1)(h). Make editorial changes to provide consistency in the use of the term dock master plan (DMP). Clarify that changes to subdivision plats must be submitted to the Department. Amend the alphanumeric references to conform to these amendments. Move the language exempting lots in subdivisions with DMPs and other lots of record to revised and renumbered 30-12.A(2)(c). Renumbered 30-12.A(1)(i) and (j) remain the same.
- 30-12.A(2)(k) Renumbered 30-12.A(1)(k). Move the portion of the language in this subsection limiting storage locker size to the section pertaining to private and joint use docks. Renumbered 30-12.A(1)(l) and (m) remain the same.
- 30-12.A(2)(n) Renumbered to 30-12.A(1)(n). Delete the word normally in the first sentence and add a new sentence explaining possible exceptions to the requirement to extend to the first navigable creek. Delete the first normally in the sentence requiring pierheads to be built over open water and change normal low tide to mean low tide. Make other grammatical corrections to clarify language.
- 30-12.A(2)(o), 30-12.A(2)(o)(i) and (ii) Renumbered to 30-12.A(1)(o), and 30-12.A(1)(o)(i) – (iii). Insert language clarifying that the water frontage requirements for community and commercial docks are 75 feet. Make the terms used to describe different dock types consistent with the new definition for docks. Renumbered 30-12.A(1)(o)(iii) remains the same.
- 30-12.A(2)(p) Renumbered to 30-12.A(1)(p). Make language more definitive by changing should normally to will be. Make terms consistent by changing common to joint use docks.
- 30-12.A(1)(q) New subsection added to include existing language moved from another section allowing docks to be rebuilt to their previous configuration.
- 30-12.A(1)(r) Add a new subsection clarifying the requirement for a new permit with a change in use.
- 30-12.A(2) Add new language designating this section as applicable to private and joint use docks.
- 30-12.A(2)(k) Renumbered to 30-12.A(2)(a). New section added to insert the partial language limiting the size of storage lockers into this section applicable to private and joint use docks.
- 30-12.A(2)(f) Renumbered to 30-12.A(2)(b). Insert existing language limiting walkway width to 4 feet.
- 30-12.A(2)(q)-(s) Renumber in proper alphanumeric sequence to 30-12.A(2)(c) – (e).
- 30-12.A(2)(q) Renumbered 30-12.A(2)(c) introductory paragraph. Add new language that will discourage structures that lift vessels in the air and create visual impacts by specifying that the area of boat storage docks larger than 8 feet by 20 feet as well as areas bounded by unroofed boat lifts and davits are included in the total allowable dock square footage determination. Add language to explain how the square footage impacts of boat lifts and davits will be calculated. Add language explaining how creek width will be measured in the absence of marsh vegetation. Insert the language exempting lots with approved DMPs and other lots of record that existed prior to May 24, 2002 from new sections 30-12.A(2)(c)(i) and (ii).

20 PROPOSED REGULATIONS

- 30-12.A(2)(q)(i)-(viii) Renumbered 30-12.A(2)(c)(i) – (ix). Create a separate subsection (i) that contains the language prohibiting docks in creeks less than 10 feet wide. Renumber all subsequent subsections in proper alphanumeric sequence. Make grammatical changes to language regarding measuring creek width from marsh vegetation on each side. Amend references to other code sections to reflect proper alphanumeric numbering. In renumbered 30-12.A(2)(c)(ii) clarify that total allowable dock square footage is restricted to 50 square feet and that boat lifts, davits and boat storage docks will not be permitted. In renumbered 30-12.A(2)(c)(viii) make language regarding restricting navigation consistent with other references in the regulations. In renumbered 30-12.A(2)(c)(ix) amend language to encourage boat storage docks as opposed to devices that lift vessels in the air for storage. Also insert language allowing the area of boat storage docks less than 8 feet by 20 feet in size to not be counted in the total allowable dock square footage provided and delete the definition of a boat storage dock.
- 30-12.A(2)(r) Renumbered to 30-12.A(2)(d). Make grammatical correction from which to that. Subitems 30-12.A(2)(d)(i) – (iii) remain the same.
- 30-12.A(2)(s) Renumbered to 30-12.A(2)(e) and 30-12.A(2)(e)(i) – (iii). Renumbered 30-12.A(2)(e)(i) and (ii) remain the same. Add language to renumbered 30-12.A(2)(e)(iii) stipulating that catwalks will be allowed to provide access to one side of a vessel.
- 30-12.A(2)(t) Delete from this section language allowing docks to be rebuilt and include in the previous section of standards applicable to all docks at renumbered 30-12.A(1)(q).
- 30-12.A(3), A(3)(a)-(c) Revised to 30-12.A(3) and 30-12.A(3)(a) – (e). Add language specifying that this section applies to docks covered by dock master plans, and make the language referring to dock master plans consistent throughout. Remove references to a general permit and add language clarifying that significant modifications to individual structures will not be permitted. Add a new subsection 30-12.A(3)(e) stating existing Department policy that allows for permit extensions to be granted upon a showing of significant activity.
- 30-12.A(4) Add a new section containing standards applicable to commercial docks.
- 30-12.A(5) Add a new section containing standards applicable to community docks.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invites the public and regulated community to attend a staff-conducted informational forum to be held on October 21, 1:00 p.m. in the 3rd floor conference room at the DHEC office at 1362 McMillan Avenue, Charleston, South Carolina. The purpose of the forum is to answer questions, clarify issues, and receive comments from interested persons on the proposed amendment to R.30-1, and R.30-12. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for public hearing scheduled for November 10, 2004, as noticed below.

Interested persons are also provided an opportunity to submit written comments on the proposed amendment to Debra Hernandez at S.C. DHEC-OCRM, 1362 McMillan Ave., Suite 400, Charleston, South Carolina 29405; telephone number (843)744.5838; fax (843)744.5847. Written comments must be received no later than 4:00 pm on October 25, 2004. Comments received by the deadline requested shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing, as noticed below.

Copies of the text of the proposed amendment for public notice and comment as published in the State Register on September 24, 2004, may be obtained by contacting Debra Hernandez at S.C. DHEC-OCRM, S.C. Department of Health and Environmental Control, 1362 McMillan Ave., Suite 400, Charleston, South Carolina 29405; telephone number (843)744.5838; fax (843)744.5847; e-mail: hernandl@dhec.sc.us.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on November 10, 2004. The public hearing will be held in the Board Room of the Commissioner's suite, third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull St., Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Department will publish the Board's agenda ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Debra L. Hernandez, S.C. DHEC-OCRM, 1362 McMillan Avenue, Suite 400, Charleston, SC 29405. Written comments must be received no later than October 25, 2004. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on November 10, 2004, as noticed above. Comments received by the deadline date shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Copies of the final proposed regulation for submission to the Board for public hearing may be obtained by contacting Ms. Hernandez at the above address; telephone number (843)744.5838; fax number (843)744.5847.

Preliminary Fiscal Impact Statement:

The Department estimates no additional cost will be incurred by the state or its political subdivisions as a result of the promulgation, approval, and implementation of these amendments; therefore, no additional state funding is being requested. Existing staff and resources have been utilized in preparation of these amendments and will further be utilized in the regulatory administration resulting from the amendments.

Statement of Need and Reasonableness:

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION:

- R.30-1, Statement of Policy, and
- R.30-12, Specific Project Standards for Tidelands and Coastal Waters

Purpose of Regulation: The proposed regulatory changes will clarify language related to the permitting of docks. The clarifications will specify which standards apply to which types of docks. Additionally, language is proposed to provide the Department with more incentives for the construction of community docks in lieu of multiple private docks. The changes are proposed to address questions raised by permittees and interested parties regarding the administration of the regulations, and primarily reflect current administrative practice. Generally, additional language and modifications of existing language will make the Department's regulations more user-friendly and specific.

Legal Authority: S.C. Code Section 48-39-10 *et seq.*, Coastal Tidelands and Wetlands Act, 1976

22 PROPOSED REGULATIONS

Plan for Implementation: The proposed amendments will make changes to and be incorporated into R. 30-1 and 12 upon approval of the Board of Health and Environmental Control and the General Assembly, and publication in the State Register. The proposed amendments will be implemented, administered, and enforced by existing staff and resources.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: These amendments are necessary to add clarity to existing regulations and enable Department staff to more effectively administer the regulatory program of the Coastal Division.

DETERMINATION OF COSTS AND BENEFITS: DETERMINATION OF COSTS AND BENEFITS:

1) Promulgation and administration of this amendment is estimated to have no significant economic impacts to the state. Benefits to the state will include improved management of coastal resources through increased clarity of the regulations and better protection of important coastal habitats.

2) Promulgation and administration of this amendment is estimated to have no significant economic impacts to entities regulated or result in cost increases to the general public. Those regulated may benefit from the increased incentives for the construction of community docks in lieu of multiple individual docks. Public benefits may be evident in improved management of coastal resources through increased clarity of the regulations and better management of public trust lands.

See Preliminary Fiscal Impact Statement.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed amendments will refine the Department's ability to manage public usage of coastal resources, and will enable the Department to provide a more effective response to those seeking to utilize the public trust areas of the coastal zone.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: Non-implementation of the regulations as proposed will hinder SCDHEC/OCRM's statutory directives to manage the state's coastal environment for its citizens.

Statement of Rationale Pursuant to S.C. Code Section 1-23-115(A)(3)(h):

These revisions are proposed to provide additional clarity and specificity to the existing regulations. The revisions are not significant changes and can be described as administrative refinement of existing Department policy. No new scientific studies or information precipitated the development of the proposed revisions. The experience and professional judgment of the Department's staff were relied upon in developing the regulation. The revisions are proposed based on staff judgment and to address question from the regulated community regarding particular sections of the existing regulations.

Text:

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

Document No. 2929
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
 CHAPTER 30
 Statutory Authority: S.C. Code Section 48-39-10 *et seq.*

R.30-1 Statement of Policy, and
 R.30-12 Specific Project Standards for Tidelands and Coastal Waters

Preamble:

The proposed regulatory changes will clarify language related to the permitting of marinas and add standards to make the marina regulations consistent with the dock regulations. Additionally, language is proposed to provide the Department with more incentives for the construction of community docks, which are defined as marinas if they can moor more than 10 vessels, in lieu of multiple private docks. The changes are proposed to address questions raised by permittees and interested parties regarding the administration of the regulations, and primarily reflect current administrative practice. Generally, additional language and modifications of existing language will make the Department’s regulations more user-friendly and specific.

A Notice of Drafting for this proposed regulation was published in the State Register on May 28, 2004.

Discussion of Proposed Revisions:

The Department proposes to 1) clarify the definitions for marinas, 2) encourage the construction of community docks in lieu of private docks, 3) establish standards for marinas consistent with the standards for docks, and 5) make other changes as necessary to provide clarity, consistency and correctness in the use of terms, grammar and punctuation.

<u>SECTION</u>	<u>CHANGE</u>
30-1.D(30)	Clarify that the marina definition relates to effective docking space. Correct punctuation and renumber.
30-12.E	Amend language to clarify that this section applies to all marinas defined in 30-1(D). Amend this section to remove confusing references to community and commercial docks and use the term marina consistently throughout. Make changes throughout this section to address issues related to grammar, punctuation and consistent use of terms and language. Renumber sections in proper alphanumeric sequence.
30-12.E(1) – (4)	30-12.E(1) – (4) is renumbered to 30-12.E(1)(a) – (x).
30-12.E(1)	Delete existing language and insert in revised 30-12.E(1) language explaining that the standards applicable to all marinas are included in this section. Move language related to water quality monitoring to renumbered 30-12.E(3). Make the requirement for an Operations and Maintenance Manual new subsection 30-12.E(1)(a).
30-12.E(2)	Delete.
30-12.E(3)	Renumber as subsections 30-12.E(1)(b) – (c) and E(1)(c)(i) – (iii). Renumber as subsection 30-12.E(1)(b) the language regarding marina impact on habitat and the requirement for a comprehensive site plan. Renumber as subsection 30-12.E(1)(c) the prohibition on new marinas in shellfish harvesting waters, add language referencing the

24 PROPOSED REGULATIONS

- marina definition, and add dry stack marinas to those allowed in shellfish harvesting waters.
- 30-12.E(3)(a) Renumber as subsection 30-12.E(1)(c)(i). Make grammar and usage corrections and add the abbreviation DNR.
- 30-12.E(3)(b) Renumber as subsection 30-12.E(1)(c)(ii) and renumber (i) through (xi) as (1) through (11), making no changes to the text.
- 30-12.E(3)(c) Renumbers as subsection 30-12.E(1)(c)(iii). Change OCRM to Department.
- 30-12.E(4) Delete 30-12.E(4) introductory language and renumber 30-12.E(4)(a) as subsection 30-12.E(1)(d).
- 30-12.E(1)(e) Add new subsection requiring marinas to extend to the first navigable creek and limiting the location of pierheads and floats to areas of open water.
- 30-12.E(1)(f) Add new subsection requiring a minimum 150 feet of frontage to provide equity with the dock regulations and protect the use and enjoyment of adjacent property owners.
- 30-12.E(1)(g) Add new subsection requiring marinas to stay within 20 feet of extended property lines to provide equity with the dock regulations and protect the use and enjoyment of adjacent property owners.
- 30-12.E(1)(h) Add new subsection allowing existing marinas to be rebuilt if destroyed. If they do not meet the frontage and offset requirements they can only expand in a channelward direction. When marinas are rebuilt or expanded they must meet the Department's existing operation standards.
- 30-12.E(1)(i) Add new subsection allowing marinas for the exclusive use of occupants of the adjacent development to be permitted only in lieu of multiple private docks, establishing a ratio of 50 feet of slip length for every private dock eliminated, and prohibiting the transfer of space to non-occupants.
- 30-12.E(1)(j) Add new subsection to include language prohibiting marinas from restricting navigation consistent with the standards in the dock regulations.
- 30-12.E(1)(k) Add new subsection to include language requiring marinas to minimize impacts on water flow, currents and circulation and prohibiting construction of dead-end or deep canals.
- 30-12.E(1)(l) Add new subsection to include language requiring marinas to be limited in size to that reasonable for the intended use consistent with the standards in the dock regulations.
- 30-12.E(1)(m) Add new subsection to include language requiring marinas to use the least environmentally damaging alignment consistent with the standards in the dock regulations.
- 30-12.E(4)(b)-(g) Renumber as 30-12.E(1)(n) – (s). In new 30-12.E(1)(n), change which to that in the second sentence. For new 30-12.E(1)(n) – (s), change semicolons to periods with no text changes except in new 30-12.E(1)(q), delete 'usually' for purposes of clarity.

- 30-12.E(4)(h) Renumber as 30-12.E(1)(t) and amend language to provide consistent reference to Department regulations.
- 30-12.E(4)(i) and (j) Renumber as 30-12.E(1)(u) and (v).
- 30-12.E(4)(k) Renumber as 30-12.E(1)(w). Add language clarifying that adequate parking is the greater of one space for every three slips or applicable local government parking regulations.
- 30-12.E(4)(l) Renumber as 30-12E.(1)(x).
- 30-12.E(5) Renumber as 30-12.E(2). Delete parenthetical explanation for consistency with marina definition.
- 30-12.E(5)(a) Renumber as 30-12.E(2)(a) and change SCDHEC to the Department for consistency.
- 30-12.E(5)(b) Renumber as 30-12.E(2)(b) and include existing language requiring remedial action of water quality monitoring indicates a decline in water quality.
- 30-12.E(5)(c) Renumber as 30-12.E(2)(c) and correct code reference.
- 30-12.E(5)(d) Renumber as 30-12.E(2)(d).
- 30-12.E(6) Renumber as 30-12.E(3). Add language clarifying that the requirement for an operations and maintenance manual can be waived by the Department if the uses of the facility so warrant. Renumbered subsections 30-12.E(3)(a), E(3)(a)(i) – (iv) remain the same. Renumbered 30-12.E(3)(b) and (b)(i) remain the same. Renumbered 30-12.E(3)(b)(ii) and (iii) rename SCDHEC to the Department. Renumbered 30-12.E(3)(b)(iv) – (x) remain the same. Renumbered 30-12.E(3)(c) is revised to add language clarifying that the water quality monitoring program may be discontinued or waived at the discretion of the Department. Renumbered 30-12.E(3)(c)(i), (iii) and (iv) remains the same. Renumbered 30-12.E(3)(c)(ii) is revised to correct acronym usage and remove unnecessary word. Renumbered 30-12.E(3)(d) remains the same.
- 30-12.E(7) Delete this section containing standards for community docks in its entirety.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invites the public and regulated community to attend a staff-conducted informational forum to be held on October 21, 1:00 p.m. in the 3rd floor conference room at the DHEC office at 1362 McMillan Avenue, Charleston, South Carolina. The purpose of the forum is to answer questions, clarify issues, and receive comments from interested persons on the proposed amendment to R.30-1, and R.30-12. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for public hearing scheduled for November 10, 2004, as noticed below.

Interested persons are also provided an opportunity to submit written comments on the proposed amendment to Debra Hernandez at S.C. DHEC-OCRM, 1362 McMillan Ave., Suite 400, Charleston, South Carolina 29405; telephone number (843)744.5838; fax (843)744.5847. Written comments must be received no later than 4:00 pm on October 25, 2004. Comments received by the deadline requested shall be submitted in a Summary of Public Comments and Department Responses for the Board’s consideration at the public hearing, as noticed below.

26 PROPOSED REGULATIONS

Copies of the text of the proposed amendment for public notice and comment as published in the State Register on September 24, 2004, may be obtained by contacting Debra Hernandez at S.C. DHEC-OCRM, S.C. Department of Health and Environmental Control, 1362 McMillan Ave., Suite 400, Charleston, South Carolina 29405; telephone number (843)744.5838; fax (843)744.5847; e-mail: hernandl@dhec.sc.us.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on November 10, 2004. The public hearing will be held in the Board Room of the Commissioner's suite, third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull St., Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Department will publish the Board's agenda ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Debra L. Hernandez, S.C. DHEC-OCRM, 1362 McMillan Avenue, Suite 400, Charleston, SC 29405. Written comments must be received no later than October 25, 2004. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on November 10, 2004, as noticed above. Comments received by the deadline date shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Copies of the final proposed regulation for submission to the Board for public hearing may be obtained by contacting Ms. Hernandez at the above address; telephone number (843)744.5838; fax number (843)744.5847.

Preliminary Fiscal Impact Statement:

The Department estimates no additional cost will be incurred by the state or its political subdivisions as a result of the promulgation, approval, and implementation of these amendments; therefore, no additional state funding is being requested. Existing staff and resources have been utilized in preparation of these amendments and will further be utilized in the regulatory administration resulting from the amendments.

Statement of Need and Reasonableness:

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION:

- R.30-1, Statement of Policy, and
- R.30-12, Specific Project Standards for Tidelands and Coastal Waters

Purpose of Regulation: The proposed regulatory changes will clarify language related to the permitting of marinas. New standards applicable to new marinas will be added to make the marina standards consistent with the dock standards. Additionally, language is proposed to provide the Department with more incentives for the construction of community docks, which are defined as marinas if they can moor more than 10 vessels, in lieu of multiple private docks. The changes are proposed to address questions raised by permittees and interested parties regarding the administration of the regulations, and primarily reflect current administrative practice. Generally, additional language and modifications of existing language will make the Department's regulations more user-friendly and specific.

Legal Authority: S.C. Code Section 48-39-10 *et seq.*, Coastal Tidelands and Wetlands Act, 1976

Plan for Implementation: The proposed amendments will make changes to and be incorporated into R. 30-1 and 12 upon approval of the Board of Health and Environmental Control and the General Assembly, and publication in the State Register. The proposed amendments will be implemented, administered, and enforced by existing staff and resources.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: These amendments are necessary to add clarity to existing regulations and enable Department staff to more effectively administer the regulatory and enforcement programs of the Coastal Division.

DETERMINATION OF COSTS AND BENEFITS:

1) Promulgation and administration of this amendment is estimated to have no significant economic impacts to the state. Benefits to the state will include improved management of coastal resources through increased clarity of the regulations and better protection of important habitats.

2) Promulgation and administration of this amendment may have limited economic impacts to entities regulated. However, the amendment will not result in cost increases to the general public. These amendments may result in increased cost for the construction of new marinas. However, the majority of existing marinas comply with the new requirements included herein, so increased costs should be minimal. These amendments, which contain new water frontage and adjacent property offsets, will protect public trust lands and waters as well as the use and enjoyment of property owners adjacent to new marinas. Those regulated may benefit from the increased incentives for the construction of community docks, which are marinas, in lieu of multiple individual docks. Public benefits may be evident in improved management of coastal resources through increased clarity of the regulations and better management of public trust lands.

See Preliminary Fiscal Impact Statement.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed amendments will refine the Department's ability to manage public usage of coastal resources, and will enable the Department to provide a more effective response to those seeking to utilize the public trust areas of the coastal zone.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: Non-implementation of the regulations as proposed will hinder SCDHEC/OCRM's statutory directives to manage the state's coastal environment for its citizens.

Statement of Rationale Pursuant to S.C. Code Section 1-23-115(A)(3)(h):

These revisions are proposed to provide additional clarity and specificity to the existing regulations. The revisions do include new standards that provide consistency between the marina and dock regulations. No new scientific studies or information precipitated the development of the proposed revisions. The experience and professional judgment of the Department's staff were relied upon in developing the regulation. The revisions are proposed based on staff judgment and to address questions from the regulated community regarding particular sections of the existing regulations.

Text:

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

28 PROPOSED REGULATIONS

Document No. 2930

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Sections 44-1-140(1); 1-23-10; -110

R. 61-41. Hotel – Motel Sanitation.

Preamble:

R.61-41 was last revised in 1984. The requirements and need for R.61-41 are outdated and obsolete. Due to dwindling resources and prioritization of programs, the Department has not routinely inspected hotels and motels under this regulation in over 10 years; the Department continues to investigate complaints in hotels and motels. Furthermore, the hotel – motel industry has become largely self-regulating; the business is very customer-driven and competition dictates that facilities be maintained and operated properly. The public health concerns that the R.61-41 was intended to address can be addressed through other department regulations, such as R.61-56, Individual Sewage Treatment and Disposal Systems, and R.61-46, Nuisances. Since this regulation is no longer needed, and in the interest of good government and efficiency, the Department proposes repeal of R.61-41.

Staff initiated the statutory process for the amendment of R.61-41 by publication of a Notice of Drafting in the *State Register* on July 23, 2004. The most recent drafting comment period ended on August 24, 2004; no comments were received during the comment period for the proposed repeal. See Statement of Need and Reasonableness herein.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a staff-conducted informational forum to be held on October 20, 2004, at 1:00 p.m. at Peeples Auditorium of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. The purpose of the forum is to answer questions, clarify issues and receive comments from interested persons on the proposed regulation repeal. Comments received shall be considered by staff in formulating the final staff proposal for the repeal of R.61-41 for submission to the Board of Health and Environmental Control for the Board public hearing scheduled for November 10, 2004, pursuant to S.C. Code Section 1-23-110 and -111 as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Mr. H. Michael Longshore, Bureau of Environmental Health, S. C. Department of Health and Environmental Control, 2600 Bull St., Columbia, S.C. 29201.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation repeal at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on November 10, 2004. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C., The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The agenda is published 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation repeal for public comment by writing to Mr. H. Michael Longshore at the above address. Written comments must be received no later than 5:00 p.m. on October 25, 2004. Comments received by the deadline date shall be considered by staff in formulating the final proposed repeal for public hearing on November 11, 2004, as noticed above. Comments received by the deadline will be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Copies of the final proposed regulation for public hearing before the DHEC Board may be obtained by contacting Mr. Longshore at the above address.

Preliminary Fiscal Impact Statement:

The Department estimates there will be no costs imposed on the State or its political subdivisions by this regulation repeal.

Statement of Need and Reasonableness and Rationale:

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION:

Purpose: The purpose of this action is to repeal in entirety R.61-41, Hotel-Motel Sanitation.

Legal Authority: The legal authority for R.61-41 is Section 44-1-140(4) et seq., S.C. Code of Laws.

Plan for Implementation: None.

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

The requirements and need for R.61-41 are outdated and obsolete. Due to dwindling resources and prioritization of programs, the Department has not routinely inspected hotels and motels under this regulation in over 10 years. The public health concerns that the R.61-41 was intended to address can be addressed through other department regulations, such as R.61-56, Individual Sewage Treatment and Disposal Systems, and R.61-46, Nuisances. Since this regulation is no longer needed, and in the interest of good government and efficiency, the Department proposes repeal of R.61-41.

DETERMINATION OF COSTS AND BENEFITS: There are no anticipated costs or benefits associated with the repeal of this regulation. The hotel – motel industry has become largely self-regulating; the business is very customer-driven and competition dictates that facilities be maintained and operated properly.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effect on the environment or public health by the repeal of R.61-41.

30 PROPOSED REGULATIONS

STATEMENT OF RATIONALE:

This regulation is no longer needed, and in the interest of good government and efficiency, the Department proposes repeal of R.61-41.

Text:

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

Document No. 2926
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Sections 44-1-140(3); 1-23-10; -110

R. 61-34.1. Pasteurized Milk And Milk Products

Preamble:

R.61-34.1 ensures that consumers are receiving safe, high quality Grade "A" milk and milk products. The Regulation was amended last in 1993. The proposed amendments will bring the Regulation into compliance with the latest guidelines of the Interstate Milk Shipments Conference Pasteurized Milk Ordinance and assure consumers that the latest sanitation requirements are being met by the dairy industry. Also, the United States Public Health Service, Food and Drug Administration (FDA) requires that South Carolina's dairy regulation be at least as stringent as the Pasteurized Milk Ordinance in order for South Carolina milk producers to ship their products in interstate commerce and market their product as Grade "A" milk products; the FDA has previously cited the South Carolina program for not meeting this requirement. Amendments will also insure that the regulation complies with the requirements of the federal Nutrition Labeling and Education Act, the federal Food, Drug and Cosmetic Act, and the South Carolina Administrative Procedures Act, and is compatible with R.61-36, *Frozen Desserts*. The Department may make other related editorial and stylistic changes as necessary to improve the overall quality of the regulation.

Staff initiated the statutory process for the amendment of R.61-34.1 by publication of a Notice of Drafting in the *State Register* on July 23, 2004. The most recent drafting comment period ended on August 24, 2004; no comments were received during the drafting comment period. See Discussion of Proposed Revision below and Statement of Need and Reasonableness herein.

Discussion of Proposed Revisions:

SECTION / REVISION

Contents Table of Contents revised

61-34.1 I.A. Twenty definitions added, nomenclature of one definition changed and thirteen definitions revised to be consistent with the current Pasteurized Milk Ordinance (PMO).

61-34.1 I. B. All specific product standards being deleted due to new federal regulations allowing for extensive flexibility in labeling. Product standards are now covered by reference to 21 Code of Federal Regulations, Chapter 1 - Parts 130-131 and Appendix L. of the current PMO. Standards added for whey products to be consistent with the current PMO.

- 61-34.1 II.A.6. Drug residue adulteration violations revised, reconditioning of adulterated milk added, and drug avoidance control measures revised to be consistent with the current PMO.
- 61-34.1 III.A.2. Language added to grant exemption to agents, brokers, etc.
- 61-34.1 III.A.3. Language added to require separate permits for non-Grade “A” condensed or dry milk products.
- 61-34.1 III.A.4. Language changed to clarify reasons for permit suspension.
- 61-34.1 III.B.1. Permit requirement added for milk tank truck cleaning facilities to be consistent with the current PMO.
- 61-34.1 III.B.2.a. The term “growth inhibitors (drugs)” changed to “drug residue standards”.
- 61-34.1 III.B.2.b. Added specific requirement to stop all manufacturing operations immediately upon permit suspension added to be consistent with the current PMO.
- 61-34.1 III.B.2.c. Language changed to clarify hearing process.
- 61-34.1 III.B.3.a. Language added to clarify process for permit reinstatement.
- 61-34.1 III.B.3.c. Additional sentence added for compliance with somatic cell violations to be consistent with the current PMO.
- 61-34.1 III.B.4. Language added to allow DHEC to deny an application for a new permit based on past history.
- 61-34.1 IV.A.1. Labeling references changed to be consistent with the current PMO.
- 61-34.1 IV.A.2.a. Labeling requirements changed to be consistent with the current PMO.
- 61-34.1 IV.A.2.b. The words “condensed and/or dried” added to be consistent with the current PMO.
- 61-34.1 IV.A.2.d. Requirements for reconstituting or recombining of condensed and dry milk products added to be consistent with the current PMO.
- 61-34.1 IV.A.2.f. The term “UHT” deleted to be consistent with the current PMO.
- 61-34.1 IV.A.2.g. Changed from “goat” or “sheep” to “hooved mammal” to be consistent with the current PMO.
- 61-34.1 IV.A.4. Changed to be consistent with the current PMO - proper identification and sealing of tank trucks.
- 61-34.1 IV.A.4.a. Additional requirements for proper tanker identification added to be consistent with the current PMO.
- 61-34.1 IV.A.4.h. Specific temperature requirement added to be consistent with the current PMO.
- 61-34.1 IV.A.4.j. Wording added to be consistent with the current PMO.
- 61-34.1 IV.A.4.l. Sealing requirement added to be consistent with the current PMO.

32 PROPOSED REGULATIONS

61-34.1 IV.A.5. Milk tank truck identification information changed to be consistent with the current PMO.

61-34.1 IV.A.6. Unnecessary milk shipping required information deleted to be consistent with the current PMO.

61-34.1 IV.B.2. Condensing and/or drying” added to be consistent with the current PMO.

61-34.1 IV.B.2.a. Additional plant product identification added to be consistent with the current PMO.

61-34.1 IV.B.3. Dry milk product labeling requirements and the objection to using descriptive labeling terms added to be consistent with the current PMO.

61-34.1 V.A.1. Requirement added for a DHEC inspection of a milk tank truck cleaning facility to be consistent with the current PMO.

61-34.1 V.A.1.a. Name change to be consistent with the current PMO.

61-34.1 V.A.1.b. Name change and requirement added for an inspection of dairy plant and industry plant samplers to be consistent with the current PMO.

61-34.1 V.A.1.c. Deleted current inspection criteria of a transfer station to be in compliance with the current PMO.

61-34.1 V.A.1.d. Hazard Analysis Critical Control Point (HACCP) based regulatory inspections added to be consistent with the current PMO.

61-34.1 V.A.1.e. Inspection requirements added for milk tank truck cleaning facilities and transfer stations to be consistent with the current PMO.

61-34.1 V.A.2. Penalties revised on second inspections/audits to be consistent with the current PMO.

61-34.1 V.A.3. This section moved to 61-34.1 V.A.2. to correct punctuation and to be consistent with the current PMO.

61-34.1 V.A.4. This section moved to 61-34.1 V.A.2. to be consistent with the current PMO.

61-34.1 V.A.4.(new) This section added to be consistent with the current PMO regarding inspections and investigations.

61-34.1 V.A.5. This was previously 61.34.1 V.A.6. and reworded to be consistent with the PMO.

61-34.1 V.B.1. Nomenclature changed, inspection frequencies added, and audit frequencies added to be consistent with the current PMO.

61-34.1 V.B.2. Title of section added.

61-34.1 V.B.3. Terminology changed and additional facilities subject to permit suspensions and/or court actions added for repeated violations to be consistent with the current PMO.

61-34.1 V.B.3.a. Terminology changed and additional permit holders subject to penalty actions added to be consistent with the current PMO.

- 61-34.1 V.B.3.b. Terminology changed, additional permit holders subject to penalty actions added and a time period added before regulatory actions can be taken to be consistent with the current PMO.
- 61-34.1 V.B.5. Terminology changed and new criteria added for certified industry inspections to be consistent with the current PMO.
- 61-34.1 V.B.6. Criteria for audit reports to be filed added and report retention time increased from 12 to 24 months to be consistent with the current PMO.
- 61-34.1 VI.A.1. Terminology changed to consistent with the current PMO.
- 61-34.1 VI.A.2. Revised sampling criteria to be consistent with the current PMO.
- 61-34.1 VI.A.3. Revised sampling criteria, including drug testing, to be consistent with the current PMO.
- 61-34.1 VI.A.4. Terminology changed and criteria added for averaging samples to be consistent with the current PMO.
- 61-34.1 VI.A.7. Criteria added for drug residue testing to be consistent with the current PMO.
- 61-34.1 VI.A.9. Terminology changed, allowances made for the use of in-line samplers, HACCP requirements added, additional criteria added and a requirement for vitamin testing laboratories to be certified added to be consistent with the current PMO.
- 61-34.1 VI.B.2. Terminology changed to be consistent with the current PMO.
- 61-34.1 VI.B.3. Laboratory testing procedures, standards and methods revised to be consistent with the current PMO.
- 61-34.1 VI.B.4. Laboratory reference made to the “Standard Methods for the Examination of Dairy Products” to be consistent with the current PMO.
- 61-34.1 VI.B.5. Reference made to App. B of the current PMO for milk hauling program requirements.
- 61-34.1 VII.A.2. Terminology and standards revised and/or added to be consistent with the current PMO. Specific requirements added for processing heat-treated cream, whey and buttermilk products.
- 61-34.1 VII.B.1.a. Abnormal milk terminology changed to be consistent with the current PMO. Reference made to Appendix Q of the current PMO for automatic milking installations.
- 61-34.1 VII.B.1.b. Terminology changed and requirement to properly maintain milking equipment used on animals with abnormalities added to be consistent with the current PMO.
- 61-34.1 VII.B.2.a.(1) Specific requirements added for convalescent pens to be consistent with the current PMO.
- 61-34.1 VII.B.2.b.(8) Feed storage requirements moved to 61-34.1 VII.B.3.a. to be consistent with the current PMO.
- 61-34.1 VII.B.3.a. Feed storage requirements moved from 61-34.1 VII.B.2.b.(8) to this section to be consistent with the current PMO.
- 61-34.1 VII.B.3.b.(8) Requirements moved from 61-34.1 VII.B.15 to be consistent with the current PMO.

34 PROPOSED REGULATIONS

61-34.1 VII.B.4. Terminology changed, cooling ponds allowed, and explanation of cow yard sanitation criteria added to be consistent with the current PMO.

61-34.1 VII.B.5.a.(5) Parlor added as an area that cannot connect directly to an area used for domestic purposes; allowances made for a single or double acting door; and additional allowances for screen vents added to be consistent with the current PMO.

61-34.1 VII.B.5.a.(8) Terminology changed and criteria added for the use of transportation tanks for cooling and storage of milk on a dairy farm.

61-34.1 VII.B.5.b.(6) 220 lux added to be consistent with the current PMO.

61-34.1 VII.B.5.b.(11) Parlor added as an area that cannot connect directly to an area used for domestic purposes; allowances made for a simple or double acting door; and additional allowances for screen vents added to be consistent with the current PMO.

61-34.1 VII.B.5.b.(13) Criteria added for allowing milk to be transferred from a bulk milk tank to a bulk milk pickup tanker by stubbing the milk transfer and associated mechanically cleaned lines outside the milk house wall to be consistent with the current PMO.

61-34.1 VII.B.5.b.(16) Requirement for a second wash vat made optional with DHEC approval to be consistent with the current PMO.

61-34.1 VII.B.5.b.(17) Requirement for a shelter over a transportation tank made optional and criteria added for the use of a milk tank truck for cooling and storage of milk on a dairy farm.

61-34.1 VII.B.7. “Flies” changed to “insects” to be consistent with the current PMO.

61-34.1 VII.B.8.b.(7) Sampling criteria for hauled water changed to be consistent with the current PMO.

61-34.1 VII.B.9.b.(6) Terminology changed to be consistent with the current PMO.

61-34.1 VII.B.9.b.(7) Terminology changed to be consistent with the current PMO.

61-34.1 VII.B.9.b.(10) Specific criteria not allowed in product contact surface areas added to be consistent with the current PMO.

61-34.1 VII.B.9.b.(13) Specific criteria for use of flexible, plastic hoses added to be consistent with the current PMO.

61-34.1 VII.B.9.b.(14) Specific criteria for use of transparent flexible plastic tubing added to be consistent with the current PMO.

61-34.1 VII.B.9.b.(15) Requirements for Automatic Milking Installations (AMIs) added to be consistent with the current PMO. Association name change in “Note” to be consistent with the current PMO.

61-34.1 VII.B.10 Additional criteria added for cleaning utensils and equipment to be consistent with the current PMO.

61-34.1 VII.B.11.(2) Sanitization criteria revised to be consistent with the current PMO.

- 61-34.1 VII.B.12.a. “Meters” added as equipment allowed to be stored in parlor to be consistent with the current PMO.
- 61-34.1 VII.B.12.b.(1) Additional criteria added for allowing seasonally enclosed holding areas to be consistent with the current PMO.
- 61-34.1 VII.B.13(old) Section deleted to be consistent with the numbering in current PMO and corresponding inspection report. Items previously in this Section covered under other “utensils and equipment” sections.
- 61-34.1 VII.B.13(new) Renumbered to be consistent with the current PMO and corresponding inspection report.
- 61-34.1 VII.B.13.a. “Cows” changed to “lactating animals” to be consistent with the current PMO. This change consistent throughout the revised regulation.
- 61-34.1 VII.B.13.b.(4) Udder and teat preparation revised to be consistent with the current PMO.
- 61-34.1 VII.B.15(old) Section deleted to be consistent with the current PMO. Criteria for sursingle milk stools and anti-kickers covered under other sections.
- 61-34.1 VII.B.16(old) Renumbered to be consistent with the current PMO.
- 61-34.1 VII.B.14.a.(new) Renumbered to be consistent with the current PMO and corresponding inspection report. Product contact surface and vehicle protection from contamination criteria moved to this section for consistency with the current PMO.
- 61-34.1 VII.B.14.b.(4) Wording changed to be consistent with the current PMO.
- 61-34.1 VII.B.14.b.(5) “Stable or parlor” added for clarification purposes to be consistent with the current PMO.
- 61-34.1 VII.B.14.b.(8) Reference to Appendix H. of the current PMO added for air criteria specifications.
- 61-34.1 VII.B.14.b.(9-11)(Old) Moved to VII.B.15 to be consistent with the current PMO.
- 61-34.1 VII.B.14.b.(9-10)(New) Moved from old VII.B.13. to be consistent with the current PMO.
- 61-34.1 VII.B.14.b.(11-14) Moved from old VII.B.20. to be consistent with the current PMO.
- 61-34.1 VII.B.15.(new) Chemical storage and drug storage and use criteria revised to be consistent with the current PMO.
- 61-34.1 VII.B.16(new) Info was previously in VII.B.17., but renumbered to be consistent with the current PMO.
- 61-34.1 VII.B.16.a.&b.(2) A requirement to have both hot and cold or warm running water at handwash sink added to be consistent with the current PMO.
- 61-34.1 VII.B.17.(new) Info was previously in VII.B.18, but renumbered to be consistent with the current PMO.
- 61-34.1 VII.B.17.b.(1) “Other approved hand drying device” added to be consistent with VII.B.17.a.

36 PROPOSED REGULATIONS

61-34.1 VII.B.17.b.(2) Terminology changed to be consistent with the current PMO.

61-34.1 VII.B.18.(new) In current regulation, but renumbered to be consistent with the current PMO and corresponding inspection report.

61-34.1 VII.B.18.a.&b. Specific raw milk cooling criteria, including recording thermometers, added to be consistent with the current PMO.

61-34.1 VII.B.19.(new) In current regulation, but renumbered to be consistent with the current PMO and corresponding inspection report.

61-34.1 VII.B.19.a.&b.(9-10) Specific criteria for the storage of feed added to this section to be consistent with the current PMO.

61-34.1 VII.B.19.b.(7) Reference added to Appendix C of the current PMO for insect and rodent control measures.

61-34.1 VII.B.20.(old) Deleted after moving requirements to VII.B.14 to be consistent with the current PMO and corresponding inspection report.

61-34.1 VII.B.21.(old) Deleted after moving criteria to VII.B.19. to be consistent with the current PMO and corresponding inspection report.

61-34.1 VII.C. Two paragraphs added for plants desiring to be regulated under a Hazard Analysis Critical Control Point (HACCP) system.

61-34.1 VII.C.1. Floor structure criteria also applied to plants manufacturing dry milk or mild products so as to be consistent with the current PMO.

61-34.1 VII.C.2.a. The word “packaged” added to be consistent with the current PMO.

61-34.1 VII.C.2.b.(1) Wording simplified and structural requirements applied for plants manufacturing dry milk or milk products so as to be consistent with the current PMO.

61-34.1 VII.C.3.e. “Flies” changed to “insects” to be consistent with the current PMO.

61-34.1 VII.C.4.a. Requirements for lighting and ventilation also applied to rooms where milk is packaged to be consistent with the current PMO.

61-34.1 VII.C.4.b.(1) Another acceptable way to measure light levels (lux) added to be consistent with the current PMO.

61-34.1 VII.C.4.b.(4) Ventilation requirement added for plants condensing and/or drying milk and milk products to be consistent with the current PMO.

61-34.1 VII.C.5.a. Section modified to include additional activities required to be done in separate rooms to be consistent with the current PMO.

61-34.1 VII.C.5.b.(1) Section rewritten to include additional activities in a plant that are required to be done in separate rooms to be consistent with the current PMO.

- 61-34.1 VII.C.5.b.(5) Note added as reference to requirements for facilities cleaning and sanitizing milk tank trucks to be consistent with the current PMO.
- 61-34.1 VII.C.6.b.(2) Processing rooms for condensed or dried products added to areas in which toilet room doors cannot open to be consistent with the current PMO.
- 61-34.1 VII.C.7.b.(2) Specific criteria added for individual water source criteria to meet the requirements of DHEC's R.61-58.
- 61-34.1 VII.C.7.b.(3) Air gap criteria added to be consistent with the current PMO.
- 61-34.1 VII.C.7.b.(5) "Milk products" added to be consistent with the current PMO.
- 61-34.1 VII.C.7.b.(7) Water frequency determination criteria added to be consistent with the current PMO.
- 61-34.1 VII.C.7.b.(10) Steam vacuum evaporation potable water supply criteria added to be consistent with the current PMO.
- 61-34.1 VII.C.9.a.&b.(1) Additional areas with equipment limitations added to be consistent with the current PMO.
- 61-34.1 VII.C.9.b.(5) Product dust control measures added to be consistent with the current PMO.
- 61-34.1 VII.C.10.a. Additional criteria for piping, fittings and connections added to be consistent with the current PMO.
- 61-34.1 VII.C.10.b.(2)(d) Section separated from (c) above to be consistent with the current PMO.
- 61-34.1 VII.C.10.b.(5)(a) Specific welded pipeline inspection criteria deleted to be consistent with the current PMO.
- 61-34.1 VII.C.10.b.(5)(b) "Pipe" added before "line" to be consistent with the current PMO.
- 61-34.1 VII.C.10.b.(8) Threaded or welded exception made for pipelines in drying chambers to be consistent with the current PMO.
- 61-34.1 VII.C.11.b.(3) Additional criteria for joints, unacceptability of tile floors in dryers and condition that grease and oil be kept out of milk and milk products added to be consistent with the current PMO.
- 61-34.1 VII.C.11.b.(4) "Distributor" changed to "similar equipment" to be consistent with the current PMO.
- 61-34.1 VII.C.11.b.(5) Additional criteria and exceptions made for product contact surfaces to be in compliance with the current PMO.
- 61-34.1 VII.C.11.b.(6) Exception made to allow threaded connections for safety purposes in high pressure lines to be in compliance with the current PMO.
- 61-34.1 VII.C.11.b.(8) "Dry whey" added to be consistent with the current PMO.
- 61-34.1 VII.C.11.b.(10) The word "Closures" added in name of Guidelines and criteria added for condensed and dry milk and milk product packaging.

38 PROPOSED REGULATIONS

61-34.1 VII.C.11.b.(11) Construction criteria for dry milk product sifters added, and Association name changed in "Note" to be consistent with the current PMO.

61-34.1 VII.C.12. Cleaning and sanitizing criteria for containers and equipment changed to be consistent with the current PMO. Specifically, requirements added for milk condensers, dryers and milk tank trucks; requirements added for allowances of extended runs; requirements added for recording devices for tanks; updates made for laboratory testing of multi-use and single-service containers and closures; and requirements updated for plants using multi-use plastic containers for pasteurized milk and milk products.

61-34.1 VII.C.13. Additional criteria for storage of multi-use containers, equipment and utensils added to be consistent with the current PMO.

61-34.1 VII.C.14. "Liners and bags" added to list of single-service material that must meet certain criteria to be consistent with the current PMO.

61-34.1 VII.C.15. The section contains many changes of which all are being made to be consistent with the current PMO. The minor changes include such things as adding "Grade A" before milk and milk products, revising nomenclature of "transport tankers" and Grade "A" dairy products, and adding "and milk products" after the word "milk" in several locations. Major changes include the allowances for sampling milk while the milk tank truck manhole is not adequately covered, adding criteria for air systems used on milk drying equipment, adding criteria for adequate separation of different types of products and adding specific objections for handling products in a milk plant that may create a public health hazard.

61-34.1 VII.C.16. New criteria listed for aseptic processing and handling milk or milk products by using reverse osmosis (RO), ultra-filtration (UF) evaporating and/or condensing equipment to be consistent with the current PMO.

61-34.1 VII.C.16.c. Batch pasteurizer criteria revised to be consistent with the current PMO.

61-34.1 VII.C.16.d. High-Temperature-Short-Time Pasteurizer criteria revised to be consistent with the current PMO.

61-34.1 VII.C.16.e. Aseptic Processing System criteria revised to be consistent with the current PMO.

61-34.1 VII.C.16.f. Criteria revised for pasteurizers and aseptic processing systems employing regenerative heating to be consistent with the current PMO.

61-34.1 VII.C.16.g. Pasteurization and aseptic processing records, equipment tests and examinations revised, including testing and temporarily sealing pasteurization equipment by trained plant employees, to be consistent with the current PMO.

61-34.1 VII.C.17. Cooling criteria for whey and whey products and additional criteria for use of re-circulated cold water added to be consistent with the current PMO.

61-34.1 VII.C.18. Additional criteria and wording added for mechanical packaging operations, including those for condensed and dry milk products, to be consistent with the current PMO.

61-34.1 VII.C.19. Section revised to include additional acceptable sealing processes and practices for milk and milk products, including dry milk products, to be consistent with the current PMO.

61-34.1 VII.C.20. Additional criteria added or revised to include the prohibited use of tobacco products in milk processing and handling areas and the need to provide and use specific protective clothing in milk drying chambers to be consistent with the current PMO.

61-34.1 VII.C.21. Additional criteria added or revised for milk tank cars, milk tank trucks, and portable shipping bins used to transport milk and milk products to be consistent with the current PMO.

61-34.1 VII.C.22.b.(5.) Criteria for keeping dry milk plant roofs clean added to be consistent with the current PMO.

61-34.1 VIII. Section revised to be consistent with the animal health criteria now required in the current PMO.

61-34.1 IX. Additional criteria added to ensure that only Grade “A” milk and milk products are sold to plants for the commercial preparation of Grade “A” milk and milk products to be consistent with the current PMO.

61-34.1 X.2. Deleted because no longer required by DHEC’s regulation governing food establishments.

61-34.1 XI. Requirements for selling milk and milk products in South Carolina from outside manufacturers extended to condensed and dried products, added criteria to allow milk and milk products to be sold in South Carolina from plants operating under a HACCP regulatory program and updated reciprocity requirements of the NCIMS program to be consistent with the current PMO.

61-34.1 XII. Added the requirement for DHEC to review plans for milk tank truck cleaning facilities to be consistent with the current PMO.

61-34.1 XIII. Revised and added criteria relating to personnel health for those employed by a milk plant to be consistent with the current PMO.

61-34.1 XIV. Revised actions that must be taken when employees who handle milk or milk products are found to have or highly suspected to have contagious infections to be consistent with the current PMO.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a staff-conducted informational forum to be held on October 20, 2004, at 10:00 a.m. at Peoples Auditorium of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. The purpose of the forum is to answer questions, clarify issues and receive comments from interested persons on the proposed regulation. Comments received shall be considered by staff in formulating the final staff proposal for the revision of R.61-34.1 for submission to the Board of Health and Environmental Control for the Board public hearing scheduled for November 10, 2004, pursuant to S.C. Code Section 1-23-110 and -111 as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Mr. Joe Neely, Division of Food Protection – Dairy Foods and Soft Drink Bottling Program, Bureau of Environmental Health, S. C. Department of Health and Environmental Control, 2600 Bull St., Columbia, S.C. 29201.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on November 10, 2004. The public hearing will be held in the Board Room of the Commissioner’s Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C., The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The agenda is published 24 hours in advance of

40 PROPOSED REGULATIONS

the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation for public comment by writing to Mr. Joe Neely at the above address. Written comments must be received no later than 5:00 p.m. on October 25, 2004. Comments received by the deadline date shall be considered by staff in formulating the final proposed repeal for public hearing on November 11, 2004, as noticed above. Comments received by the deadline will be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Copies of the final proposed regulation for public hearing before the DHEC Board may be obtained by contacting Mr. Neely at the above address.

Preliminary Fiscal Impact Statement:

The Department estimates there will be no new costs imposed on the State or its political subdivisions by this regulation.

Statement of Need and Reasonableness and Rationale:

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION:

Purpose: R.61-34.1 ensures that consumers are receiving safe, high quality Grade "A" milk and milk products. The Regulation was amended last in 1993. The proposed amendments will bring the Regulation into compliance with the latest guidelines of the Interstate Milk Shipments Conference Pasteurized Milk Ordinance and assure consumers that the latest sanitation requirements are being met by the dairy industry. Also, the United States Public Health Service, Food and Drug Administration (FDA) requires that South Carolina's dairy regulation be at least as stringent as the Pasteurized Milk Ordinance in order for South Carolina milk producers to ship their products in interstate commerce and market their product as Grade "A" milk products; the FDA has previously cited the South Carolina program for not meeting this requirement. Amendments will also insure that the regulation complies with the requirements of the federal Nutrition Labeling and Education Act, the federal Food, Drug and Cosmetic Act, and the South Carolina Administrative Procedures Act, and is compatible with R.61-36, *Frozen Desserts*. The Department may make other related editorial and stylistic changes as necessary to improve the overall quality of the regulation.

Legal Authority: The legal authority for R.61-34.1 is Section 44-1-140 et seq., S.C. Code of Laws.

Plan for Implementation: The proposed amendments will take effect upon approval by the Board of Health and Environmental Control and the General Assembly, and publication in the *State Register*. The majority of these latest requirements have already been implemented by the Department under the authority of the FDA and the need for the regulated community to meet minimum PMO requirements for interstate milk shipments. The regulated community will be provided copies of the regulation.

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

The proposed regulation will ensure that consumers are receiving safe, high quality Grade "A" milk and milk products, and will bring the regulation into compliance with the latest requirements and guidelines set forth by the United States Food and Drug Administration (FDA) Pasteurized Milk Ordinance requirements. Also, the

proposed regulation will update Administrative Procedures Act procedures, incorporate the federal Dry Milk Ordinance into this document and allow for a Hazard Analysis Critical Control Point Regulatory Program. The incorporated changes update the South Carolina regulation to meet FDA's minimum Pasteurized Milk Ordinance requirements.

DETERMINATION OF COSTS AND BENEFITS: There are no anticipated new costs associated with the implementation of this regulation. There will be a benefit to South Carolina's environment and the health of its citizens by ensuring that consumers are receiving safe, high quality Grade "A" milk and milk products.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed regulation will ensure that consumers are receiving safe, high quality Grade "A" milk and milk products.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: Not implementing the regulation will cause a decrease in the sanitary standards in Grade "A" milk and milk product manufacturing and processing facilities; this decrease in sanitary standards could have a detrimental effect on the health of South Carolina's citizens and visitors. Further delays in revising South Carolina's regulation governing pasteurized milk and milk products will also likely result in penalties imposed on the program by FDA and the National Conference on Interstate Milk Shipments.

STATEMENT OF RATIONALE:

The determination to revise this regulation was in response to an FDA evaluation of the South Carolina Dairy Program in 2002 (reported June 12, 2003) in which it was recommended that South Carolina should adopt into law or by reference the most current edition of the Pasteurized Milk Ordinance and related guidance documents. Due to legal difficulties involved in adopting this Ordinance into law or by reference, it was determined that the regulation should be rewritten to include all minimum Ordinance requirements. Another FDA state program survey is currently underway and it is anticipated that failure to have this regulation updated could result in increased criticism and possible FDA and IMS Conference penalties.

Text:

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

Document No. 2927

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61**

Statutory Authority: S.C. Code Ann. Section 40-25-10, *et seq.* (1976, as amended)

R.61-3, *The Practice of Selling and Fitting Hearing Aids*

Preamble:

S.C. Code Section 1-23-120 directs that staff of State agencies review their regulations every five years and update them if necessary. R.61-3 was last amended January 22, 1988. Since that time there have been certain exceptions, guidelines, directives, interpretations, and changes in Division policy that have led to the necessity to amend this regulation. This proposed amendment of R.61-3 will bring the regulation current and will comply with the statutory requirement. The Department proposes to revise the regulation in its entirety to include, but not be limited to; update and expand definitions, to include scope of practice; clarify licensing requirements; update licensing fee amounts; update enforcement action procedures, to include classification of

42 PROPOSED REGULATIONS

violations; update sections related to temporary permits and sponsor duties, to include a maximum number of temporary permits allowed per sponsor, and specific number of hours of training; increase continuing education requirement; update sales procedures to include requirements for a trial period, terms of sale, and specific verbiage for sales receipts; add infection control requirements; add exceptions related to hearing aid specialists; and change the title to: "The Practice of Specializing in Hearing Aids."

A Notice of Drafting for this proposed regulation was published in the *State Register* on January 23, 2004. Legislative review will be required.

Discussion of Proposed Regulation Revision:

The Title is: *The Practice of Specializing in Hearing Aids*:

SECTION 100 includes definitions and references.

SECTION 200 includes conditions for licensing, licensure examination, and fees.

SECTION 300 references the methods used in enforcing regulations, *i.e.*, investigations, inspections, and consultations.

SECTION 400 references the types of enforcement actions that may be taken by the Department, the classifications of violations, and the appeal process.

SECTION 500 includes requirements for Temporary Permit applicants including the requirements and duties of a sponsor.

SECTION 600 addresses the issues of conduct, ethics, and advertising.

SECTION 700 addresses the hearing aid evaluation process, medical referrals, and procedures.

SECTION 800 addresses the consumer record content and maintenance and equipment records.

SECTION 900 includes the requirements for continuing education and course approval.

SECTION 1000 addresses infection control including practices that promote the prevention of the spread of infectious diseases.

SECTION 1100 includes a severability clause that indicates that if a court of competent jurisdiction determines that part of the regulation is invalid or otherwise unenforceable then the remainder of the regulation will not be affected and will still be in force.

SECTION 1200 includes "general" that refers to any conditions that have not been addressed in the regulation.

Notice of Staff Informational Forum:

The staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a Staff Informational Forum on October 27, 2004, at 1:30 p.m. in the second floor conference room in the Heritage Building at 1777 St. Julian Place, Columbia, S.C. The purpose of this forum is to receive comments from interested persons regarding the proposed regulation revision. Comments received shall be considered by the staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for Public Hearing scheduled pursuant to S.C. Code Ann. Sections 1-23-110 and -111 (1976, as amended) as noticed below.

Interested persons are also provided an opportunity to submit written comments to the forum by writing to Dennis L. Gibbs, Director, Division of Health Licensing, DHEC, 2600 Bull Street, Columbia, S.C. 29201. To be considered, written comments for the forum and comment period must be received no later than 4:00 p.m. on October 27, 2004.

Oral and written comments received during the forum comment period shall be considered by the staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for Public Hearing on December 9, 2004, as noticed below. Comments received by the deadline date shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the Public Hearing.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Mr. Dennis L. Gibbs at the above address.

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

Interested members of the public and regulated community are invited to make oral or written comments regarding the proposed regulation at a Public Hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled Board meeting on December 9, 2004. The Public Hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The agenda is published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record.

Interested persons may also submit written comments during the public comment period by writing to Mr. Dennis L. Gibbs, Director, Division of Health Licensing, DHEC, 2600 Bull St., Columbia, S.C. 29201: Telephone number (803) 545-4370; Fax number (803) 545-4212. To be considered, written comments must be received before 4:00 p.m. on October 27, 2004. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for Public Hearing on December 9, 2004, as noticed above. Comments received shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the Public Hearing noticed above.

Copies of the final proposed regulation for consideration at the Public Hearing before the DHEC Board may be obtained by contacting Dennis L. Gibbs at the above address.

Preliminary Fiscal Impact Statement:

There will be no cost to the Department, the State and its political subdivisions. Cost of implementation will be met, in part, by licensing fees imposed by the proposed regulation. There will be minimal costs to the regulated community. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. Code Ann. Sections 1-23-115(C)(1)-(3) and (9)-(11) (1976, as amended).

44 PROPOSED REGULATIONS

DESCRIPTION OF REGULATION:

Purpose: The Department has conducted its five-year review of its regulations pursuant to S.C. Code, Section 1-23-120. R.61-3 has not been amended since January 22, 1988; it is necessary to amend the regulation to bring it current. See Preamble and Discussion of Proposed Revisions above.

Legal Authority: The Legal Authority for R.61-3 is Section 40-25-10, *et seq.* (1976, as amended).

Plan for Implementation: The proposed regulation revision will take effect upon publication in the *State Register* following approval by the Board of Health and Environmental Control and the S.C. General Assembly. The proposed amendment will be implemented by providing the regulated community with copies of the regulation, and enforced through inspections by the Department.

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

This regulation is needed and reasonable because its development will satisfy a legislative mandate pursuant to S.C. Code Ann. Section 1-23-120.

The regulation was last amended January 22, 1988. Since that time there have been certain guidelines, directives, interpretations, and changes in Division policy that have led to the necessity to amend these regulations in order to make them more up-to-date.

DETERMINATION OF COSTS AND BENEFITS: There will be no cost to political subdivisions of the state. The Department proposes fee increases; the resulting fees of \$100 and \$250 per year are not excessive on a per license basis. Cost to the state will be approximately \$35,000 in personnel costs, of which the proposed fees will generate approximately \$23,800.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect on the environment. The regulation will promote public health by updating standards for regulating the practice of specializing in hearing aids.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REVISED REGULATION IS NOT IMPLEMENTED: There will be an adverse effect on the public health if the regulation revision is not implemented since it is likely that continuing to utilize an outdated regulation for regulatory purposes would not advance the promotion of prevention of negative health outcomes.

Statement of Rationale:

Since the S.C. Code Ann. Section 1-23-120 directs that staff of State agencies review their regulations every five years and update them if necessary, Department staff determined during its review of R.61-3 that it was appropriate to revise the regulation. R.61-3 was last amended in 1988. See the Statement of Determination of Need and Reasonableness above for more information regarding the factors influencing the Department staff decision to revise the regulation.

Text:

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

Document No. 2931
DEPARTMENT OF LABOR, LICENSING AND REGULATION
ENVIRONMENTAL CERTIFICATION BOARD
 CHAPTER 51
 Statutory Authority: 1976 Code 40-23-70, 40-23-305, and 40-1-70

Preamble:

The South Carolina Environmental Certification Board proposes to amend Regulations 51-1 through 51-16 to give effect to 2002 Act No. 175. Some provisions of the existing regulations are no longer necessary under the Act. Others required significant revision to reflect the policies of the Act.

Section-by-Section Discussion:

- R. 51-1. Recodified existing Reg. 51-3. Requires Well Driller or CPO/Spa application to be completed within 12 months of initial filing.
- R. 51-2. Recodified and revised existing Reg. 51-6. Deletes provisions now addressed in statute. Provides specific authorization for accommodations under Americans with Disabilities Act.
- R. 51-3. Recodified and revised existing Reg. 51-8. Removed provisions now addressed in statute. Amended language to achieve consistency with 2002 Act No. 175. Added time frame for notification of change in status of employment.
- R. 51-4. Recodified existing Reg. 51-9 and revised wording for consistency with 2002 Act. No. 175. Added time frame and reinstatement fee.
- R. 51-5. Recodified existing Reg. 51-10 and revised to include all classes of operators, to clarify the requirement for direct supervision of operators-in-training and to delete references to Percolation Test Technicians and Well Drillers.
- R. 51-6. Recodified existing Reg. 51-12 and corrected citations to statutory authority and to fee caps.
- R. 51-7. Added definition for "direct supervision."

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Judge Division at 10 a.m. on November 18, 2004. Written comments may be directed to Dona Caldwell, Administrator, South Carolina Environmental Certification Board, Department of Labor, Licensing, and Regulation, Post Office Box 11409, Columbia, South Carolina 29211-1409, no later than 5:00 p.m., on November 4, 2004.

Preliminary Fiscal Impact Statement

There will be no cost incurred by the State of any of its political subdivisions.

Statement of Need and Reasonableness

This state of need and reasonableness was developed by staff analysis pursuant to S.C. Code Section 1-23-115(C).

DESCRIPTION OF REGULATION:

Purpose: Allows the regulations of the Environmental Certification Board to be consistent with the requirements of 2002 Act No. 185.

Legal Authority: 1976 Code, Section 40-23-70, 40-23-305, and 40-1-70

46 PROPOSED REGULATIONS

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Commission will notify all persons certified by the Environmental Certification Board. Regulations are posted on the LLR web site on the Environmental Certification Page.

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

The proposed regulation will eliminate conflicts and simplify the application and licensing process. It is procedural in nature.

DETERMINATION OF COSTS AND BENEFITS:

No costs or benefits will be accrued with this change.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no direct effect on the environment. This regulation contributes to the Board's function of protecting public health in the state of South Carolina by simplifying the procedures for licensure.

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

There will be no direct detrimental effect on the environment and public of this State if this regulation is not implemented. However, the operators of various water and waste facilities will be subjected to unnecessary conflicts between statute and existing regulations.

STATEMENT OF RATIONALE:

There were no scientific or technical basis relied upon in developing the regulation.

Text:

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

Document No. 2924

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: 1976 Code Sections 43-1-80 and 20-7-2980 et seq.

114-520. Regulations For The Registration Of
Child Care Centers Operated By Churches Or Religious Entities

Preamble:

The child care regulations have been completely revised and amended to enhance the standards of care for children. The purpose of these regulations is to establish standards that protect the health, safety and well being of children receiving care in child care facilities operated by churches or religious entities, through the formulation, application and enforcement of these regulations. These regulations include higher staff:child ratios, as well as limits on group size. Previously, group size was not limited in the regulations.

Section-by-Section Discussion

114-520. General Provisions.

A. Purpose. New text added to the general provision introductory paragraph to indicate the purpose of the regulation.

B. Applicability. New section has been added to incorporate Section 20-7-2700 from the Child Care Licensing Law.

C. Accessibility. New text added to comply with the Americans with Disabilities Act.

114-521. Definitions.

(1) Applicant: Added to define who can apply for a child care center registration.

(2) Blood-Borne Pathogens: Item added to definition to clarify medical biohazard.

(3) Center Director: Item revised to add language that would clarify responsibility.

(4) Center Co-Director: Item added to include provision of compliance when Center Director is away from center.

(5) Center Director Designee: Item added to define center director designee.

(6) Central Registry of Child Abuse and Neglect: Item added to clarify requirements of the Child Care Licensing Law.

(7) Child: Item added from the law to clarify the age range for participants in child care center.

(8) Child Care Center: Item added from the law to clarify type of facility addressed in these regulations.

(9) Complaint: Item added from law to clarify the meaning of a complaint as it relates to Child Care Centers.

(10) Complete Application: Item added to clarify requirement and timeframe.

(11) Department: Item added to identify agency responsible for child care licensing.

(12) Emergency Person: Item revised to include age and requirements.

(13) Group Size: Item added to clearly define new term for compliance with ratios.

(14) Infant: Item added to define ages.

(15) Lifeguard: Item added to clarify qualifications.

(16) Parent: Item revised to include adoptive parents and to clarify definition of parent.

(17) Preschool Child: Item added to define ages.

(18) Provisional Registration: Item added from the law to define type of temporary permit.

(19) Regular Registration: Item added from the law to define type of permit.

(20) Renewal: Item added to define renewal.

(21) School-Aged Child: Item added to define ages.

(22) Sex Offender Registry: Item added to explain process Department uses to identify sex offenders.

(23) Staff: Item revised to clearly define types of positions that constitute employees.

(24) Staff:Child Ratio: Item added to define ratio of teacher/caregivers to number of children in care.

(25) Student Teacher: Added to define college student who will serve in an internship capacity and to include requirements.

(26) Student Volunteer: Item added to define students who assist with duties in child care center to include provision of compliance.

(27) Supervision: The existing item was revised to address the staff:child ratio requirement.

(28) Suspend: Item added to define the action taken to void a registration.

(29) Teacher/Caregiver: Item added to include duties of teacher/caregiver.

(30) Toddler: Item added to define ages.

(31) Training: Item added to clarify meaning.

(32) Two-year olds: Item added to define age level.

(33) Volunteer: Item revised to clarify requirements and role.

48 PROPOSED REGULATIONS

114-522. Procedures.

A. Pre-application consultation

- (1) Text revised to clarify where to contact Department staff.
- (2) Text revised to clarify where to contact Department staff.
- (3) Text revised to clarify where to contact Department staff.**

B. Registration

- (1) Text revised to combine and clarify forms to be used and actions to be taken.
- (2) Text revised to include Department on-site visit and time frame.
- (3) Text revised to indicate that the Department shall request health and fire officials to inspect facilities.

(4) Text added to specify reports and forms to be reviewed.

(5-9) Text added for clarification of actions to be taken by the Department.

C. Provisions of the registration

- (1) Text added and revised to reflect that regular registration is valid for two years.
- (2) Text added to include provision for amending a provisional registration to a regular registration.

D.(3) Inspection and consultation. Text added to comply with statute

E. (1-2) Reasons for registration denial, suspension or non-renewal. Text added to define reasons for denial, suspension or non-renewal of registration.

F. (1) Reporting of changes affecting registration. Text added to define occurrences that should be reported to the Department.

114-523. Management.

A. Display of registration

- (1) Text added to address display of registration.
- (2) Text added per law (Act 220, 1999-2000 Session).

B. Capacity

(1) Text added to include provisions of compliance with staff:child ratios.

(2) Text added to include provision for providers to accept children due to a natural disaster or unscheduled closing of a child care center.

C. Child abuse. Section added to define centers' responsibilities regarding suspected child abuse or neglect.

D. Reporting of incidents. Section revised to include provisions for compliance on incidents that should be reported to parents or the Department.

E. Child records. Items (1-3) added to include information required and clarify that the child's record is available to the Department only in the event of a Child Protective Services (CPS) investigation.

F. Staff records. Text added to define staff information to be kept at the center.

G. Communication. This section was added to combine regulations for easy access.

H Staffing

(1) Child abuse check. New section added from the law to provide specific provision for compliance on child abuse checks.

(2) Background criminal history checks. New section added from the law to provide specific provision for compliance on criminal history.

(3) Center director and/or center co-director(s). Text added at the recommendation of the South Carolina Association of Christian Schools.

(4) Teacher(s)/caregiver(s). Text added at the recommendation of the South Carolina Association of Christian Schools.

(5(a&b) Text added to specify training in accordance with the South Carolina Child Care Training System and Occupational Safety and Health Administration (OSHA).

(5)(c) Text added to include provision for staff development when centers care for children with special needs.

(5)(d) Text added to include provision for staff development regarding developmental levels of children.

(5)(e) Text added regarding staff training records.

(5)(f) Text added to ensure that first aid and CPR training is provided by a representative of a recognized health organization.

114-524. Application of Staff:Child Ratios.

A. Section added to clarify requirements for supervision of children in child care setting.

B.-D. Ratios and group size. Sections have been added to include ratios and group size compliance with National Health and Safety Performance Standards (NHSPS) for out-of-home child care.

D. Water safety staffing

(1) Text added to clarify when staffing ratios apply.

(2) Text added to include South Carolina Department of Health and Environmental Control (DHEC) requirement of proper certificate, and when a certified lifeguard is required.

114-525. Health, Sanitation, and Safety.

A. Child health

(1) Text revised to include provision for compliance with health requirements.

(2) Text added to include provision for compliance with DHEC.

B. Sanitation. Section added to clarify requirements from DHEC.

C. Emergency medical plan. Section added to clarify emergency procedures.

D. Medications or medical procedures. Sections (1-4) added to revise and combine information on medication compliance.

F. Diapering

(1) Text revised to clarify.

(2) Text added to include provision regarding location of diaper changing area.

(3) Text added to comply with sanitation requirements.

(4-10) Text revised and combined per DHEC and OSHA requirements.

(11-14) Text revised and combined for clarity.

(15) Text revised to clarify timeframe for changing soiled diaper and clothing.

G. Staff health

(1-3) Text revised and combined to clarify health compliance for staff working directly with children.

(4) Text combined and revised to clarify requirements on hand washing for staff.

(5) Text added to include provision for compliance with DHEC.

H. Fire safety and emergency preparedness

(2) Text added to include specific provision for compliance when natural disaster or unscheduled closing occurs.

(3) Text revised for clarity regarding emergency plan.

I. Transportation. Section added to include provision to safeguard children who use transportation services provided by the center. Items were added to ensure compliance with state and federal laws.

114-526. Reserved For Future Use.

114-527. Physical Site.

A. Indoor space and conditions

(1-10) Section revised and combined to clarify and add DHEC requirements regarding square footage, ventilation, safety glass, lighting, environmental hazards, water supply, temperature, sanitation, doors, landings, stairs, handrails and railings.

(11) Electrical sources. Section added to specify regulations regarding electrical outlets and devices.

(12) Bathrooms. Text revised and combined for clarity.

B. Outdoor space

(1) Text added to define requirement of square footage of outdoor plan space.

(2-4) Text revised and combined to improve readability.

C. Furniture, toys, and recreational equipment. Section revised and combined for clarity and readability and some text was added to address U. S. Consumer Product Safety Commission (CPSC) guidelines.

D. Rest Equipment. Text revised and combined to clarify requirements and to improve readability.

50 PROPOSED REGULATIONS

E. Environmental Hazards. Text combined and revised for clarity.

114-528. Meal Requirements; Food Preparation and Serving; Storage and Protection of Food Supplies, Utensils and Equipment.

A. Meal requirements

- (1)(a) Text revised per DHEC regulations.
- (b) Text revised to correct time requirements.
- (d) Text added due to United States Department of Agriculture (USDA) guideline on whole milk.
- (e) Text revised due to changes in USDA guideline on reconstituted milk.
- (2) Text added to address food suitability and portions.
- (4) Text revised to include all food and to improve readability.
- (5) Word added per DHEC.
- (9-10) Text added in regard to dietary modifications and alternatives.

B. Food preparation

- (1) Text relating to water temperature added per DHEC requirement.
- (4) Text relating to exposed areas of arms added per DHEC requirement.
- (5) Text added per DHEC requirement.
- (7)(a&d) Text added per DHEC requirement.
- (10) Items combined to improve readability.

D. Storage

- (3) Text revised to include DHEC current requirement.

E. Cleaning, Storage, and Handling of Utensils and Equipment.

- (5) Text added re: air-drying.
- (7) (a) through (e) Text added per DHEC requirement.
- (10) Text added per DHEC requirement.

114-529. Infant and Toddler Care, Care for Mildly Ill Children, and Night Care.

A.(1-4) Infant and Toddler Care. Text added and revised to comply with NHSPS.

(3)(d) Text added to explain prohibition of stacked cribs as per the NHSPS.

B. Care for Mildly Ill Children. Section revised to improve readability and to include requirements from DHEC.

C. Night Care. Section combined and revised to improve readability and for clarification of requirements.

Notice of Public Hearing and Opportunity for Public Comment:

Written comments may be submitted to Rose Mary McGregor, Assistant General Counsel at the State Department of Social Services, P.O. Box 1520, Columbia, South Carolina, 29202. The public hearing before the Administrative Law Judge Division is set for November 10, 2004 at 10:00 AM at 1205 Pendleton Street, Suite 224, Columbia, SC.

Preliminary Fiscal Impact Statement:

The Department of Social Services estimates the costs incurred by the State and its political subdivisions in complying with the proposed regulation will be minimal. The type of data needed to determine the cost to child care providers to comply with the proposed regulations is not currently kept at the agency. Although providers will incur some costs, it is hoped that those costs can be minimized and grants to assist providers in meeting the new requirements may be available.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Regulations for the Registration of Child Care Centers Operated by Churches or Religious Entities.

Purpose of Regulation: The purpose of these regulations is to establish standards that protect the health, safety and well being of children receiving care in child care facilities, through the formulation, application and enforcement of these regulations.

Legal Authority: 1976 Code Sections 43-1-80 and 20-7-2980 et seq.

Plan for Implementation: The agency will implement the regulations with existing staff and resources.

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

Section 20-7-2980(c) states: The department shall conduct a comprehensive review of its regulations at least once each three years. The regulations have not been revised in ten years. A statewide child care task force recommended increasing staff:child ratios and placing limits on group size. These recommendations were considered and adopted by the Child Care Licensing Advisory Committee.

DETERMINATION OF COSTS AND BENEFITS:

Child care providers may experience some costs associated with coming into compliance with these regulations. Every step will be taken to insure that costs are minimized while maintaining health and safety for children. We do know, however, that research has consistently and repeatedly demonstrated that children benefit from appropriate staff:child ratios and regulated group size. Improved outcomes for children can be expected when regulations address these quality indicators. Furthermore, quality early childhood experiences have an economic and social benefit. Children are more likely to grow into contributing members of society rather than members of the welfare or corrections systems.

UNCERTAINTIES OF ESTIMATES:

The agency does not capture the type of data needed to quantify the costs that result from the implementation of these regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations are designed to enhance the safety and well being of children in child care settings. Lower group sizes, for example, result in fewer illnesses, particularly upper respiratory and diarrheal infections.

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

Research shows that higher staff:child ratios and smaller group size benefit children. Children's reasoning abilities, language development, and social competence are all enhanced when they can have more of their teacher's attention. That means they are more likely to be ready to be successful in school. South Carolina's current regulations are some of the most minimal in the nation.

STATEMENT OF RATIONALE:

A detailed statement of rationale which states the basis for the regulation, including the scientific or technical basis, and identifies studies, reports, policies, or statements of professional judgment or administrative need relied upon in developing the regulation can be obtained from Rose Mary McGregor, SCDSS, P.O. Box 1520, Columbia, SC, 29202.

Text:

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

52 PROPOSED REGULATIONS

Document No. 2925
DEPARTMENT OF SOCIAL SERVICES
CHAPTER 114

Statutory Authority: 1976 Code Sections 43-1-80 and 20-7-2980 et seq.

114-510. Regulations For The Licensing Of Group Child Care Homes

Preamble:

The child care regulations have been completely revised and amended to enhance the standards of care for children. The purpose of these regulations is to establish standards that protect the health, safety and well being of children receiving care in group child care homes, through the formulation, application and enforcement of these regulations.

Section-by-Section Discussion

114-510. General Provisions.

A.Purpose. New text added to the general provision introductory paragraph to indicate the purpose of the regulation.

B.Applicability. New section has been added to incorporate Section 20-7-2700 from the Child Care Licensing Law.

C. Accessibility. New text added to comply with the Americans with Disabilities Act.

114-511. Definitions.

(1) Applicant: Added to define who can apply for a child care center registration.

(2) Blood-Borne Pathogens: Item added to definition to clarify medical biohazard.

(3) Central Registry of Child Abuse and Neglect: Item added to clarify requirements of the Child Care Licensing Law.

(4) Child: Item added from the law to clarify the age range for participants in child care center.

(5) Complaint: Item added from law to clarify the meaning of a complaint as it relates to Child Care Centers.

(6) Complete Application: Item added to clarify requirement and timeframe.

(7) Department: Item added to identify agency responsible for child care licensing.

(8) Emergency Person: Item revised to include age and requirements.

(9) Group Child Care Home: Item added to define group child care home.

(10) Infant: Item added to define ages.

(11) License: Item added to define license.

(12) Lifeguard: Item added to clarify qualifications.

(13) Operator: Item added to define operator.

(14) Parent: Item revised to include adopted parent and to clarify definition of parent.

(15) Preschool Child: Item added to define ages.

(16) Provisional License: Item added from the law to define type of temporary license.

(17) Regular License: Item added from the law to define type of license.

(18) Renewal: Item added to define renewal.

(19) Revocation: Item added to define manner of voiding a regular license.

(20) School-Aged Child: Item added to define ages.

(21) Sex Offender Registry: Item added to explain process Department uses to identify sex offenders.

(22) Staff: Item revised to clearly define types of positions that constitute employees.

(23) Supervision: The existing item was revised to clarify.

(24) Teacher/caregiver: Item added to include duties of teacher/caregiver.

(25) Toddler: Item added to define ages.

(26) Training: Item was added to clarify meaning.

- (27) Two-year olds: Item added to define age level.
- (28) Volunteer: Item revised to clarify requirements and role.

114-512. Procedures.

A. Licensing

- (1) Text revised to clarify where to contact Department staff.
- (2) Text revised to clarify where to contact Department staff.
- (3) Text revised to clarify where to contact Department staff.**
- (5) Text added and revised to clarify forms and add language regarding correction notice.**
- (9)(a) Text added to include a form for corrective action plan.**
- (10) Text modified to clarify that Department of Social Services (DSS) Office of General Counsel**

to be notified to request an injunction.

B. Provisions of the license

- (1) Text added and revised to reflect that regular registration is valid for two years.
- (2) Text added to include provision for amending a provisional registration to a regular registration.

C. Inspection and consultation

- (3) Text added to comply with statute.
- (4) Text added for clarification.

D. Reasons for license denial, revocation or non-renewal

- (1-2) Text added to define reasons for denial, revocation or non-renewal of license.

E. Reporting of changes affecting license

- (1) Text added to define occurrences that should be reported to the Department.

114-513. Management, Administration, and Staffing.

A. Display of license

- (2) Text added per law (Act 220, 1999-2000 Session).

D. Reporting of incidents. Section revised to include provisions for compliance on incidents that should be reported to parents or the Department.

E. Death of a child. New section added to provide specific procedures for providers in the event a death occurs.

F.(1-4) Parent access and communication. Sections revised to clearly define parent access and communication with providers to safeguard children.

G. Child records

- (1-4) Item added to include provision for information required.
- (7) Item added to specify information needed when children are away from facility.
- (8) Item added to ensure provision of compliance on up-to-date information.

H. Staff records shall include the following:

- (2) Text revised to define types of policies.

I. Confidentiality and applicable laws and regulations. This section was added to include provisions pertaining to confidentiality.

J. Communication. This section was added to combine regulations for easy access.

K. Staffing

- (1)(b) Text added from the law to include Central Registry Check.

(2) Background criminal history checks. New section added from the law to provide specific provision for compliance on criminal history.

(3)(b) Section added to include requirement for on-site presence of operator or primary teacher/caregiver.

- (3)(c) Text revised to specify minimum age of operator.

(4) Teacher/caregiver: Teacher added to include language used by child care providers.

(4)(a)(ii) Text revised to clarify requirements to include specific provision for teacher(s)/caregiver(s) whose disability prevents obtaining high school diploma or GED.

- (4)(a)(iv) Text added to include specific education requirement for caregivers and teachers.**

54 PROPOSED REGULATIONS

(4)(b) Minimum age requirement for teacher/caregiver changed from 14 years to 16 or 17 years if continuously supervised.

(4)(c) Text revised to include appropriate guidelines and timeframe when there is a break in service.

(5)(a) Text items added to include specific internal training.

(5)(b) Text revised to include specific training requirements in accordance with the South Carolina Child Care Training System and Occupational Safety and Health Administration (OSHA).

(5)(c) Text revised to include specific training requirements in accordance with the South Carolina Child Care Training System and OSHA.

(5)(d) Text added to include provision for staff development when group child care homes care for children with special needs.

(5)(g) Text revised to ensure that first aid and CPR training is provided by a representative of a recognized health organization.

114-514. Supervision.

A. Section revised to clarify requirements for supervision of children in child care setting.

C. Water safety staffing

(1) Text added to clarify when staffing ratios apply.

(2) Text revised to include Department of Health and Environmental Control (DHEC) requirement of proper certification and specify when a certified lifeguard is necessary.

114-515. Health, Sanitation, and Safety.

A. Child health

(1) Text revised to include provision for compliance with health requirements.

B. Sanitation. Section added to clarify requirements from DHEC.

C. Emergency medical plan. Section added to clarify emergency procedures.

D. Medications or medical procedures. Sections (1-4) added to revise and combine information on medication compliance.

F. Diapering

(1) Text added to comply with sanitation requirements.

(2) Text reworded for clarity.

(3) Formula revised per OSHA requirements.

(6) Text revised to clarify timeframe for changing soiled diaper and clothing.

G. Staff health

(1)(b) Text revised to clarify compliance for staff working directly with children.

(4) Text combined and revised to clarify requirements on hand-washing for staff.

(5) Text added to include provision for compliance with DHEC.

H. Fire safety and emergency preparedness

(2) Text revised to include specific provision for compliance when natural disaster or unscheduled closing occurs.

I. Transportation

(1-2) Text revised to include provision for compliance to safeguard children who use transportation services provided by the group child care home. Items were added to ensure compliance with state and federal laws.

114-516. Program.

A. Program of activities

Sections (1-9) Text revised to improve readability and include current technological devices.

B. Discipline and behavior management

(2) Text added to include provision for compliance with corporal punishment.

114-517. Physical Site.

A. Indoor space and conditions

- (2) Ventilation. Section revised to combine and clarify requirements in accordance with DHEC.
- (4) Lighting. Section revised to combine lighting requirements.
- (5)(h) Environmental hazards. Text revised for clarify and per DHEC regulations.
- (7)(b) Temperature. Text added to include provision for compliance during summer season.
- (8) Sanitation. Text revised to improve readability, clarify requirements, and to comply with local health and sanitation standards.
- (10)(a-e) Landings, stairs, handrails, and railings. Sections added to clarify requirements to prevent injuries.
- (11) Text added to include provisions regarding electrical sources, outlets, and devices as per DHEC.
- (12)(g) Bathrooms. Text revised to improve readability and to include type of soap that can be used.
- C. Furniture, toys, and recreational equipment
 - (2) Text added to address U.S. Consumer Products Safety Commission (CPSC) guidelines.
 - (9) Text added per DHEC and National Playground Safety Equipment Guidelines Institute.
 - (14) Text added to include compliance with National Health and Safety Performance Standards (NHSPS).
 - (16) Requirement for bicycle helmets added per NHSPS.
- D. Rest equipment. Section revised to clarify requirements and to improve readability and comply with CPSC.
- E. Environmental hazards. Sections (1)-4) combined and revised for clarity.

114-518. Meal Requirements; Food Preparation and Serving; Storage and Protection of Food Supplies, Utensils and Equipment.

- A. Meal requirements
 - (1)(a) Text revised per DHEC regulations.
 - (b) Text revised to correct time requirements.
 - (e) Text revised due to changes in United States Department of Agriculture (USDA) guideline on reconstituted milk.
 - (4) Text revised to include all food and to improve readability.
 - (5) Word added per DHEC.
- B. Food preparation
 - (1) Text revised as per DHEC.
 - (4) Text relating to exposed areas of arms added per DHEC.
 - (5) Text added per DHEC.
 - (7)(a&d) Text added per DHEC.
 - (10) Items combined to improve readability.
- D. Storage
 - (3) Text revised to include DHEC current requirement.
 - (6) Text added per DHEC requirement.

114-519. Infant and Toddler Care, Care for Mildly Ill Children, and Night Care.

- A. Infant and toddler care
 - (3) Feeding, eating, and drinking.
 - (d) Text added regarding prohibition of heating infant formula, breastmilk, and beverages in a microwave as per NHSPS.
 - (e) Text added to comply with NHSPS.
 - (g) Text added to comply with NHSPS.
 - (5) Sleeping.
 - (a) Text added as per National Sudden Infant Death Syndrome (SIDS) Alliance.
 - (b) Text added to comply with NHSPS.
 - (c) Prohibition of stacked cribs in compliance with NHSPS, U.S. Department of Health and Human Services (USDHHS), and CPSC guidelines.
 - (6)(b) Equipment and materials. Prohibition of mobile walkers in compliance with NHSPS, USDHHS, and CPSC guidelines.

56 PROPOSED REGULATIONS

B. Care for mildly ill children. Section revised to improve readability and to include requirements from DHEC.

C. Night Care. Section combined and revised to improve readability and for clarification.

- (1) Text revised from the requirement that one adult must be awake at all times.
- (5) Text added to comply with NHSPS.

Notice of Public Hearing and Opportunity for Public Comment:

Written comments may be submitted to Rose Mary McGregor, Assistant General Counsel at the State Department of Social Services, P.O. Box 1520, Columbia, South Carolina, 29202. The public hearing before the Administrative Law Judge Division is set for November 10, 2004, at 10:00 AM at 1205 Pendleton Street, Suite 224, Columbia, SC.

Preliminary Fiscal Impact Statement:

The Department of Social Services estimates the costs incurred by the State and its political subdivisions in complying with the proposed regulation will be minimal. The type of data needed to determine the cost to child care providers to comply with the purposed regulation is not currently kept at the agency. Although providers will incur some costs, it is hoped that those costs can be minimized and grants to assist providers in meeting the new requirements may be available.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Regulations for the Licensing of Group Child Care Homes.

Purpose of Regulation: The purpose of these regulations is to establish standards that protect the health, safety and well being of children receiving care in group child care homes, through the formulation, application and enforcement of these regulations.

Legal Authority: 1976 Code Sections 43-1-80 and 20-7-2980 et seq.

Plan for Implementation: The agency will implement the regulations with existing staff and resources.

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

Section 20-7-2980(c) states: The Department shall conduct a comprehensive review of its regulations and family child care home suggested standards at least once each three years. The regulations have not been revised in ten years. A statewide child care task force recommended revising child care regulations to enhance the health and safety of children in child care. These recommendations were considered and adopted by the Child Care Licensing Advisory Committee.

DETERMINATION OF COSTS AND BENEFITS:

Child care providers may experience some costs associated with coming into compliance with these regulations. Every step will be taken to insure that costs are minimized while maintaining health and safety for children. We do know, however, that research has consistently and repeatedly demonstrated that children benefit from quality child care. Improved outcomes for children can be expected when regulations address quality indicators. Furthermore, quality early childhood experiences have an economic and social benefit. Children are more likely to grow into contributing members of society rather than members of the welfare or corrections systems.

UNCERTAINTIES OF ESTIMATES:

The agency does not capture the type of data needed to quantify the costs that result from the implementation of these regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations are designed to enhance the safety and well being of children in group child care homes.

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

Research shows that quality child care, including stronger health and safety requirements benefit children. Children in high quality child care are more likely to be ready to be successful in school. South Carolina's current regulations are some of the most minimal in the nation.

STATEMENT OF RATIONALE:

A detailed statement of rationale which states the basis for the regulation, including the scientific or technical basis, and identifies studies, reports, policies, or statements of professional judgment or administrative need relied upon in developing the regulation can be obtained from Rose Mary McGregor, SCDSS, P.O. Box 1520, Columbia, SC, 29202.

Text:

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

58 EMERGENCY REGULATIONS

Filed: September 10, 2004 8:30 am

Document No. 2932
STATE CROP PEST COMMISSION
CLEMSON UNIVERSITY
CHAPTER 27
Statutory Authority: 1976 Code Section 46-9-40

Emergency Situation:

The Sweet Potato Weevil is a pest affecting sweet potatoes. It has been discovered in Florence County. As a protective measure an adjacent state imposed a quarantine on sweet potatoes which originate in South Carolina. Pending the addition of the sweet potato weevil (*Cylas formicarius elegantulus* Sum.) to Plant Pest list, Regulation 27-136.2, through the normal administrative process, the State Crop Pest Commission considers the situation sufficiently grave to warrant an emergency designation of the sweet potato weevil as a plant pest.

27-135 Designation of Plant Pests

Text:

Section 3. Sweet Potato Weevil (*Cylas formicarius elegantulus* Sum.) in all forms and stages is designated as a plant pest.

Filed: August 31, 2004, 3:00 pm

Document No. 2922
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Section 50-11-2200 and 50-11-2210

Emergency Situation:

This amended regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas. Amendments are needed to allow a special deer herd reduction hunt on Croft State Natural Area. Because the hunts begin on September 15 it is necessary to file these regulations as emergency so they take effect immediately.

123-40 Hunt Units and Wildlife Management Area Regulations

1.2 (X) Croft State Natural Area WMA

Archery Only Deer Hunts	September 15-16 September 22-23	3 Deer Per Day, either-sex Max. 1 antlered buck per day
Archery-Crossbow Deer Hunts	October 13-14 November 10-11	3 Deer Per Day, either-sex Max. 1 antlered buck per day

Hunt Procedure/ Special Rules and Regulations

1. All hunters are required to check-in and obtain a daily permit at the checkpoint at the Shop near the main gate each day of the hunt period. On or prior to opening day of each hunt period, all hunters must report to the checkpoint to check-in and present their hunting license for a daily permit. The check point will be open on the

day of the hunt approximately 2 hours before official sunrise and the day before each hunt period from 3:00 pm to 8:00 pm.

2. All hunters must leave their hunt area immediately after dark and must report to the checkpoint to checkout no later than one hour after official sunset. Failure to checkout in a timely manner will result in a citation. Those persons needing to return to the hunt area to look for a wounded deer or to retrieve a dead deer must notify PRT or DNR personnel at that time.
3. Scouting is allowed during normal park hours and days prior to each hunt period.
4. Parking is allowed only on park property inside the property boundaries and along roads inside the interior portion of the park. The daily hunt permit must be displayed on the dash of all vehicles parked on state park property. A parking area will be provided near the old ammo dump just off Dairy Ridge Road but parking is not allowed along Dairy Ridge Road. Do not park where a gate is being blocked. See map for designated parking areas.
5. Portable stands may be placed one day prior to your scheduled hunt and must be removed no later than one day following each hunt period. Screw-in steps must be removed and no permanent spikes or nails are allowed.
6. Only archery equipment will be permitted during September hunts. Crossbows will not be allowed during the September hunts unless a person has an upper limb disability and has complied with all legal requirements (Section 50-11-565) to utilize a crossbow. Archery equipment or crossbows will be permitted during the October and November hunts. Hunters are allowed to carry only one type of equipment at a time.
7. Hunters must wear either a hat, coat or vest of international orange during all hunts except while occupying an elevated stand more than six feet above the surface level.
8. Hunters may use boats with electric trolling motors only to enhance hunter access. Running lights and all other safety equipment are required.
9. The use of a trail dog on a leash will be allowed for the recovery of wounded deer from 11:00 am to 3:00 pm and after dark. You must notify PRT or DNR before a dog is utilized.
10. Hunters will not be allowed to use ATV's.
11. Camping is available at Croft State Natural Area. Reservations for individuals (2 nights minimum) can be made in advance.
12. The daily bag limit is 3 deer per day including no more than one antlered buck.
13. Field dressing of deer is allowed in the woods but entrails should not be left closer than 200 yards from any road, trail or facility. Hunters should not attempt to dig in the ground to bury entrails because of safety concerns regarding buried ordnance (See safety requirements sheet). Field dressing of deer will not be allowed at the check station near the Shop.
14. All harvested deer must be promptly brought to the deer check station at the Shop near the main gate.
15. Firearms or alcoholic beverages are not allowed within the park.
16. All State Parks, Recreation and Tourism (PRT) and all Wildlife Management Area (WMA) rules and regulations apply.
17. All appropriate hunting licenses including a valid WMA Permit and Big Game Permit are required.

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow a special deer herd reduction hunt on Croft State Park. Because the hunts begin on September 17, it is necessary to file these regulations as emergency so they take effect immediately.

60 EMERGENCY REGULATIONS

Fiscal Impact Statement:

This amendment of Regulation 123.40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Filed: August 31, 2004, 2:57 pm

Document No. 2920
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 50-11-10; 50-11-2200

Emergency Situation:

These emergency regulations establish the dove seasons and dove limits statewide and establish seasons, limits and special restrictions for dove hunting on Dove Management Areas. Because the dove season begins September 4 it is necessary to file these emergency regulations.

WILDLIFE MANAGEMENT AREA PUBLIC DOVE FIELDS 2004-05

Dove Management Area Regulations: The following fields are open on a first-come basis, unless otherwise stated below. The number of hunters may be restricted on some fields. A Wildlife Management Area permit is required for all fields. Fields are open only as shown below. Please consider the other hunters as well as the landowners whose cooperation makes these fields possible. Signs will be placed along roads directing hunters to the fields. All federal and state laws apply. Fields are open only on days and times indicated. Fields denoted by an asterisk (*) require hunters to sign in (not before 12:00 noon) and sign out on opening-day hunts. No species other than mourning doves may be hunted during scheduled dove hunts. Please remove all litter, including spent shell hulls, from fields when leaving.

Season Dates: September 4 - October 9 (Sept 4-6 Afternoons only)
November 20- November 27 -- December 21 - January 15

Bag Limit: 12 doves per day

The following special regulations apply to all Wildlife Management Area Public Dove Fields: No entry onto fields before 12:00 noon. Hunters are limited to 50 shells per hunt. Fields will close at 6:00 p.m. during the first segment of the season (September 4 – October 9).

ABBEVILLE

U.S. Forest Service, Parson Mountain WMA, 5 mi. east of Abbeville on SC-72, ¼ mile south on Bass Rd., 20 acres. Special Youth Hunt on Sept. 4 (see Youth Hunt List for details). 1st season – Saturdays Only beginning Sept. 18, Afternoons only; 2nd and 3rd season – Open Mon – Sat

ANDERSON

Evans Property

US 178 at Lebanon, 25 acres, Saturdays Only, Afternoons Only, Dove Hunting Only. Opening day participants will be selected by drawing August 20 at Clemson DNR Office.

ANDERSON

Clemson University - Fant's Grove WMA, From US 76/ SC 28 south of Clemson Take SC 187 to Fant's Grove Rd. 1.5 miles W, 45 acres, Saturdays Only, Afternoons Only.

****BERKELEY**

U.S. Army Corps of Engineers - Canal WMA (Above Powerhouse) From St. Stephen Take SC 45 west for 1.5 miles or continue to County Rd 35. Go Left about .3 miles, 60 acres Sept 4, 18; Oct. 2; Nov. 20- Afternoons Only. Dove & Pigeon Hunting Only.

****BERKELEY**

U.S. Army Corps of Engineers - Canal WMA (Below Powerhouse) From St. Stephen Take SC 45 E for 2.5 miles Turn Left on Paved Road, 40 acres, Sept 4, 18; Oct. 2; Nov. 20; Afternoons Only. Dove & Pigeon Hunting Only

***CHEROKEE**

Gaffney Board of Public Works, Take I-85 to Gaffney Exit 95, 1.2 mi. N on SR82, near Lake Whelchel, field on west side of road only, 20 acres, Saturdays Only, Afternoons Only. Dove Hunting Only.

CHESTER

Chester County Airport Commission, 4.3 miles north of Chester on Sec Rd 1. Turn Right on Guy Rd. (dirt). Go about 1.2 miles Turn Right at Gate to Parking Area, 20 acres, Saturdays Only, Afternoons Only. Dove Hunting Only.

***CHESTER**

U.S. Forest Service - Worthy Bottoms, 10 miles west of Chester on SC 9, Left on Sec Rd 535, Turn Right on Worthy=s Ferry Rd. 30 acres, 1st season - Saturdays Only, Afternoons Only, 2nd & 3rd seasons - Open Mon -Sat
Afternoons Only All 3 seasons.

CHESTERFIELD

Taylor Property, 1.8 miles north of McBee on US 1, Left on SC 145 for 11.8 miles, Right on Sec Rd 29 for .6 miles. 40 acres, Saturdays Only, Afternoons Only. Dove Hunting Only.

***CHESTERFIELD**

DNR - McBee Tract, 4 miles west of McBee on US 1, Left (South) on Sec Rd 296 for about 2 miles, Field on Left, 20 acres Planted. 1st season – Saturdays Only, Afternoons Only, 2nd & 3rd seasons - Open Mon – Sat Afternoons Only All 3 seasons .

CHESTERFIELD

SC Forestry Commission - Sand Hills State Forest Wilkes Chapel Field, From Sand Hills Forest Headquarters on US 1, Go south on truck trail 141 for 1.3 miles, Right on Sec Rd 29 for .2 miles, Field on Right, 54 acres, 1st season – Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon – Sat Afternoons Only All 3 seasons.

****CLARENDON**

Santee Cooper – Santee Dam WMA, From the south end of SC 260 follow gravel road at Base of dam for approx. 5 mi., 137 acres. Sept. 18, Oct. 2, Nov. 27, Jan. 8. Dove Hunting Only.

****CLARENDON**

SC Forestry Commission Oak Lea WMA. From Summerton take SC 26 west for 2 mi. Go north on SC 41 for approx 5 mi. Field on right. Sept. 4, 18, Oct. 2, Nov. 27, Jan 8. Dove Hunting Only.

****COLLETON**

DNR - Bear Island WMA, About 17 miles southeast of Green Pond on Sec Rd 26, 100 acres, 1st season - noon to 6 PM, 2nd season - noon to Sunset, Sept 8, 22 & 29; Nov 27.

****COLLETON**

62 EMERGENCY REGULATIONS

DNR - Donnelley WMA

From US 17 E of Green Pond, Go southeast on Sec Rd 26 4 miles, Turn Right at Donnelley WMA Sign, Field 2 miles on Right, 100 acres, Sept 8, 15, & 29; Nov 27; Dec 22; Jan. 5 & 12. Afternoons only.

DARLINGTON

DeWitt Property, From I-20 (Exit 137) go South on SC 340 (towards Timmonsville) 2.1 miles to Meander Rd. Right on Meander. Go 1.7 miles to Lake Swamp Rd. Right on Lake Swamp Rd. Go 0.5 miles to Oak Stump Rd. Bear left on Oak Stump. Field 1 mile on left. 50 acres. Wed. Afternoons Only, Dove Hunting Only.

EDGEFIELD/ MCCORMICK

U.S. Forest Service - Forks WMA, 1 mile east of SC 28 on Sec Rd 112 near Furey's Ferry, 22 acres, 1st season – Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon-Sat.

EDGEFIELD/MCCORMICK

US Forest Services – Forks WMA, 1.5 miles east of SC-28 on Sec Rd 112, 0.2 miles north on USFS Rd 661 (Philpot Rd), 40 acre seed tree, 1st season – Saturdays Only, Afternoons Only. 2nd & 3rd seasons – Open Mon-Sat.

FAIRFIELD

Ridgeway Mining Co., 4.5 miles E of Ridgeway on SC 34, Right on dirt road for 0.5 miles, 28 acres Saturdays Only, Afternoons Only.

GEORGETOWN

DNR Samworth WMA, 15 miles north of Georgetown off US 701, Follow Signs, 65 acres Saturdays, Afternoons Only, Dove Hunting Only.

HAMPTON

DNR - Webb Wildlife Center, 3 miles west of Garnett on Augusta Stage Coach Rd., 100 acres Sept 8 & 22, Oct. 2, Nov. 24, Dec. 22, Jan 15 Afternoons Only.

HORRY

DNR - Waccamaw River Heritage Preserve, Schultz Tract, From Stephens Crossroads on SC 9, Turn north on Sec Rd 57 & Proceed 2.2 miles, Left on Sec Rd 111 & Proceed 2 miles, Left on Oscar Rd., Bear Left & Then Right to Field Entrance, 32 acres Saturdays only, afternoons only.

KERSHAW

Landfill, 5 miles north of Camden on US 1, Right on Sec Rd 489 for 1 mile, Right on Sec Rd 331 for .1 mile, Left at Gate under Power Line, 25 acres, Saturdays Only, Afternoons Only. Dove Hunting Only.

LAURENS

DNR - Gray Court Tract, 8 miles north of Laurens on SC 14, Right on tar & gravel road for .2 miles, Right on dirt road for .1 mile, 12 acres, 1st season – Saturdays Only, Afternoons Only, 2nd & 3rd seasons - Open Mon – Sat. Afternoons Only All 3 seasons.

LEE

Atkinson Property, From I-20, Go 2.7 miles southeast on SC 341 to Wisacky, Go 0.9 miles west on Cooper= Mill Rd. To Mt. Zion AME Church. Go 3.7 miles south on Dog Island Rd. Field on both sides of road. From US 401, Go 1.1 miles northwest on Dog Island Rd., 70 acres. Wednesday Afternoons only. Dove Hunting Only.

LEXINGTON

Hallman Field, From I-20 take 178 south for 2.5 miles to Truex Rd. take left 0.5 miles to Tom Adams Rd. take right, to 0.9 miles to stop sign, turn left on Rish Rd., go 0.3 miles to parking area. 45 acres, Saturdays Only, Afternoons Only – Dove Hunting Only.

MARLBORO

DNR - Lake Wallace WMA, northwest of Lake Wallace on Sec Rd 47 Bennettsville, Beauty Spot Rd., 50 acres Saturdays, Afternoons Only. Dove Hunting Only.

***MCCORMICK**

U.S. Army Corps of Engineers - Clarks Hill WMA Waterfowl Area, 2.5 miles south of Bordeaux on Sec Rd 110, 40 acres, Sept 4 & 22; Nov 24, Jan 12 only, afternoons only.

MCCORMICK

U.S. Army Corps of Engineers - Clarks Hill WMA , 3 miles south of Willington on Sec Rd 135, 2 miles southwest on Forest Service Rd. 563F, 25 acres, 1st season – Wednesdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon - Sat.

MCCORMICK

US Army Corps of Engineers – Key Bridge WMA, 0.25 mile north of Parksville on SC-28, 22 acres. 1st season – Saturdays Only, Afternoons Only. 2nd & 3rd seasons – Open Mon.- Sat.

MCCORMICK

U.S. Army Corps of Engineers - Key Bridge WMA, 2 miles west of Plum Branch on Sec Rd 57, 30 acres 1st season – Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon-Sat.

NEWBERRY

International Paper Company, From Intersection of Hwy 56 & 39 near Chappells, Go 1 mile northwest on Hwy 39 & Turn Left on gravel road at Sign, 20 acres. 1st season – Saturdays Only, Afternoons Only. 2nd & 3rd seasons Open Mon-Sat. Afternoons Only All 3 seasons.

NEWBERRY

U.S. Forest Service, 10 miles north of Newberry on SC 121, Turn Right on Forest Service Rd 490, Go 1 mile., Field at end of road on Left, 22 acres. 1st season - Sept. 4, 11, 18, 25, Oct. 2, 9, Saturdays Only, Afternoons Only, 2nd & 3rd seasons Open Mon-Sat. Afternoons Only -All 3 seasons.

OCONEE

S.C. Forestry Commission, Piedmont Nursery, From SC 130 north of Salem Turn Left on SC 11 & follow signs to nursery, 18 acres, Saturdays Only, Afternoons Only. Dove hunting only. 3rd season – Closed.

OCONEE

U.S. Forest Service - Ross Mtn. Field, About 7 miles north of Walhalla on SC 28, Turn on Tunneltown Rd., Turn on Ross Mtn. Rd, Field on Both Sides of road, 35 acres, Saturdays, Afternoons Only, Beginning Sept 11.

****ORANGEBURG**

Santee Cooper - Santee Cooper WMA, .5 miles northeast of Eutaw Springs, 70 acres, Entire WMA under Dove Area Regulations. Sept 4, 18; Oct. 2; Nov. 20. Afternoons Only. Dove Hunting Only.

PICKENS

Crescent Resources, From Seneca Take SC 130 north to SC 183, Turn Right on SC 183. Go about 1.5 miles to Gated road, Field on Left, 20 acres, 1st season - Sept 4, 11, 18, 25, Oct. 2, 9, Saturdays Only, Afternoons Only, 2nd & 3rd seasons - Open Mon -Sat Afternoons Only.

64 EMERGENCY REGULATIONS

PICKENS

DNR Property, South of Pickens off Sec Rd 304 near SC Highway Dept. Bldg., 40 acres, Saturdays Only, Afternoons Only.

PICKENS

Clemson University - Gravelly WMA - Causey Tract, From SC 11 Go south on Sec Rd 112 at Cendy's Store, Turn east on Sec Rd 114 & Go 0.5 miles; 25 acres, Saturdays Only, Afternoons Only.

PICKENS

Porter Field, 183 from Pickens, Go 5 miles to Mtn. View Church Rd. Right 1/10 miles, Field on Right Saturdays - Afternoons Only beginning Sept. 11. 3rd season closed.

RICHLAND *

Richland County – Landfill, From Columbia Take SC 215 north from I-20 for about 6 miles, Turn Left, Then back Right at Landfill Signs & Follow Arrows to Field, 30 acres, Sept 4 & 11 only. Afternoons Only. Dove Hunting Only.

SALUDA

S.C. Electric and Gas, Murray WMA, 12 mi. N of Saluda on SC-121, 1 mi. E on Tostie Creek Rd., 40 acres. 1st season – Saturdays Only. Afternoons Only, 2nd & 3rd seasons – Mon.-Sat.

SPARTANBURG

Santee Cooper, From intersection of US 176 & West Main St. (Sec. Rd. 227) approx. 2.5 miles W. of Pacolet, go 0.1 mile east on West Main St. and turn left on Goldmine Rd. (Sec. Rd. 108) for 4.3 miles then turn right on Hatchet Dr. Field at end of road. 15 acres. Saturdays only, Afternoons Only.

SUMTER

S.C. Forestry Commission - Manchester State Forest, Field locations posted at Forestry Headquarters, Batten's at SC 261 & SC 763 in Wedgefield, or Shop-N-Go on SC 120, the Pinewood Rd., multiple fields, 150 acres. 1st season - Wed or Sat Afternoons (Designated Fields), 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

***UNION**

DNR Thurmond Tract, 4.3 miles North on SC9 from the intersection of SC 9 and SC 49 at Lockhart. Field is on left. 15 acres. 1st season – Saturdays Only, Afternoons Only, 2nd & 3rd seasons open Mon – Sat. Afternoons Only All 3 Seasons.

UNION

U.S. Forest Service, 3 miles E of Cross Keys on Sec Rd 18 at Intersection of Sec Rd 80 near Sedalia , 15 acres 1st season - Sept 11, 18, 25, Oct. 2, 9, 2nd & 3rd seasons - Open Mon - Sat. Afternoons Only All 3 seasons.

***YORK**

DNR - Draper Tract, 3.5 miles E of McConnell on SC 322, Turn Right on Sec Rd 165, Go .5 miles, Turn Right, Two 30 acres Fields. 1st season – Saturdays Only, Afternoons Only, 2nd & 3rd seasons Open Mon - Sat. Afternoons Only All 3 seasons. Opening day participants selected by drawing. Apply in writing by Aug 16 to DNR, 1571 Rock Hill Hwy., York, SC 29745. Limited space available.

YORK

York County – Worth Mountain WMA, From Hickory Grove at the intersection of SC Hwy 97 and SC Hwy 211, take Hwy 211 South approx. 4 miles and turn left on Scenic View Rd, go .75 miles and field is on right. 25 acres planted. 1st season – Saturdays only, Afternoons only. 2nd & 3rd seasons Open Mon-Sat, Afternoons Only

SPECIAL YOUTH DOVE HUNTS:

Eligibility for these hunts requires adults 21 years or older to bring 1 or 2 youths 5 to 15 years of age. The following regulations also apply on Special Youth Dove Hunts: (1) Adults may actively participate in hunting, but adults may not shoot while accompanying youths are shooting. Adult's gun must be unloaded when accompanying youth is shooting; youths' guns must be unloaded when adult is shooting. (2) Bag limit is 12 birds per youth participant. Birds harvested by adult hunters will count towards this bag limit. Birds harvested by individual hunters must be kept separate, and in no instance may an individual hunter harvest more than 12 birds.

ABBEVILLE YOUTH HUNT

U.S. Forest Service – Parson Mountain WMA, Sept. 4. Participants selected by drawing Call (864) 223-2731 August 9-13 to pre-register

****CLARENDON YOUTH HUNT**

Santee Dam WMA, From the south end of SC260 follow gravel road at base of dam for approx. 5 mi., 137 acres. Sept. 4. No pre-registration required. Dove Hunting Only

OCONEE YOUTH HUNT

U.S. Forest Service, Ross Mtn. Field, September 4. Participants selected by drawing. Apply by Aug. 17 to DNR, 153 Hopewell Rd., Pendleton, SC 29670. Limited Space Available.

PICKENS YOUTH HUNT

Porter Field -- Sept 4, Participants selected by drawing. Apply by Aug. 17 to DNR, 153 Hopewell Rd., Pendleton, SC 29670. Limited Space Available.

SUMTER YOUTH HUNT

Manchester State Forest near Wedgefield, September 4, Limited space available. Call (803) 734-3887 beginning August 11 but prior to August 20 for field location and to pre-register.

UNION YOUTH HUNT

U.S. Forest Service near Sedalia, September 4. Participants selected by drawing. Apply in writing or call by Aug 20 to DNR, 153 Hopewell Rd., Pendleton, SC 29670. Limited space available.

YORK YOUTH HUNT

DNR Draper WMA, September 4. Participants selected by drawing. Apply in writing or call by Aug 20 to DNR, 1571 Rock Hill Hwy., York, SC 29745. Limited Space Available.

** Hunters must sign in and out on all hunts. No entry until 12:00 noon

Statement of Need and Reasonableness:

Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on new WMAs as well as expanding use opportunities on existing WMAs. Since the availability of specific fields changes each year and season dates changed as allowed by Federal Regulation it is necessary to file Dove Field regulations annually. Because these hunts begin on September 4, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

66 EMERGENCY REGULATIONS

This amendment of Regulation 123.40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Filed: August 31, 2004, 2:55 pm

Document No. 2921
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-210, 50-3-100, 50-11-10, 50-11-65, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-430, 50-11-500, 50-11-520, 50-11-530, 50-11-854 and 50-11-2200.

Emergency Situation:

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Numbers 123-40 and 123-52. These regulations set open and closed seasons, bag limits and methods of taking wildlife; define special use restrictions related to hunting and methods for taking wildlife on Department-owned Wildlife Management Areas. Because the hunting seasons on many of these areas begin September 1, it is necessary to file these regulations as emergency.

HUNTING IN WILDLIFE MANAGEMENT AREAS

Wildlife Management Area Regulations.

1.1 The following regulations amend South Carolina Department of Natural Resources regulation Numbers 123-40 and 123-52.

1.2 The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking of wildlife, and bag limits for Wildlife Management Areas are as follows:

(A) Game Zone 1

Chauga, Franklin L. Gravely, Caesar's Head and Keowee WMAs

Archery Only Hunts For Deer on WMA (No dogs)	Dec. 23 – Jan. 1	Total of 2 deer for all archery only hunts. 2 per day, either-sex.
--	------------------	--

Glassy Mountain Archery Only Area – Chestnut Ridge Heritage Preserve

Located on the southwest side of the South Pacolet River and west of the junction of the South Pacolet River and its' main tributary creek as posted.

Archery Only Hunts For Deer (No dogs)	Oct. 1 – Oct. 16 Oct. 31 – Dec. 22 Dec. 23 – Jan. 1	Total 2 deer, 2 per day, either-sex.
--	---	---

(S) Other Small WMAs

Chesterfield, Kershaw & Marlboro Counties

Archery Only Hunts	Sept. 1 – 30	Total of 3 deer for all Archery hunts, either-sex
--------------------	--------------	--

Still Gun Hunts And Archery (No dogs)	Oct. 1 – Jan. 1	Sept. 15 – 30, 2 per day. Total 10 deer for all gun hunts, 2 per day, buck only except on either-sex days as specified in Reg. 4.2. Limit may not include more than 5 bucks. Male deer require 2 inches of visible antler above the hairline to be legal. Male fawns (button bucks) are considered antlerless deer, legal only during either-sex hunts; however, they apply toward the buck limit. Archers are allowed to take either-sex during entire period; however, daily and season bag limits apply.
--	-----------------	--

(D) Draper WMA

Deer	Game Zone 4 seasons.	Game Zone 4 limits.
Small Game		
Quail	Sat. after Thanksgiving, 2 nd Sat. and 4 th Wed. in Dec., 1 st Wed. in Jan. Sunrise until 4:00pm.	10 per day
Rabbit	1 st Wed. after Thanksgiving, 1 st and 3 rd Wed. in Dec., Wed. and Sat. beginning 2 nd Sat. in Jan. to Mar. 1.	3 per day

(G) Francis Marion National Forest

During still gun hunts for deer there shall be no hunting or shooting from, on or across any road open to vehicle traffic. No buckshot on still gun hunts. During deer hunts when dogs are used buckshot only is permitted.	Total of 8 deer for all gun hunts on the Francis Marion
---	---

Wambaw WMA

Dog Hunts (Shotguns only) Still gun hunts only East of Hwy 17. Rifles allowed.	1 st Fri. and Sat. after Aug. 15, 2 nd Fri. and Sat. following the opening date on the WMA and Fri. and Sat. every 3 rd week Every 3 rd week thereafter through Jan. 1.	2 deer per day, buck only, except either-sex the Sat. of the 2 nd and 4 th Northampton dog hunt.
--	--	---

68 EMERGENCY REGULATIONS

Northampton WMA

Dog Hunts only,(Shotguns only)	1 st Fri. and Sat. following the 2 nd Wambaw hunt and Fri. and Sat. every 3 rd week thereafter through Jan. 1.	2 deer per day, buck except either-sex the Sat. of the 2 nd and 4 th Northampton dog hunt.
--------------------------------	---	--

Santee WMA

Dog Hunts (Shotguns only)	1 st Fri. and Sat. following the 1st Northampton hunt and Fri. and Sat. every 3 rd week thereafter through Jan. 1.	2 deer per day, buck only, except either-sex the Sat. of the 2 nd and 4 th Northampton dog hunt.
---------------------------	--	--

(N) Bear Island WMA

All hunters must sign in and out at the Bear Island Office. Hunting in designated areas only.

Deer

Archery	1 st Fri. and Oct. – 2 nd Sat. in Oct.	3 deer, either-sex. Hogs.
---------	--	---------------------------

Still Gun Hunts (No dogs) Rifles only.	Last 10 days in Oct.	3 deer either-sex, only 1 buck. Hogs
--	----------------------	--------------------------------------

(W) Marsh Furniture WMA

Special Hog Still Gun Hunt	3 rd Mon. in Nov. – following Sat. Mar. 1 st – 3 rd Sat. in Mar.	Hogs only, no limit, no buckshot, no bay or catch dogs.
----------------------------	---	---

Small Game Seasons open only for rabbit, squirrel, opossum, quail and woodcock.	Thanksgiving – Mar. 1 Wed. – Sat. only Woodcock – Wed. – Sat. only during Federal season.	Game Zone 10 bag limits. Woodcock – Fed. limits.
---	--	---

(AA) Little Pee Dee River Complex WMA

Special Hog Still Gun Hunt	Mar. 1 – 3 rd Sat. in Mar.	Hogs only, no limit, no buckshot, no bay or catch dogs.
----------------------------	---------------------------------------	---

(BB) Great Pee Dee River WMA

Special Hog Still Gun Hunt	1 st Mon. in Dec. – the following Sat. 2 nd Mon. in Dec. – the following Sat. 3 rd Mon. in Dec. – the following Sat. 1 st Mon. in Feb. – the following Sat. 2 nd Mon. in Feb – the following Sat.	Hogs only, no limit.
----------------------------	--	----------------------

(CC) Hickory Top WMA

Muzzleloader	1 st Mon. in Nov.	2 deer per day,
--------------	------------------------------	-----------------

(No dogs)	through Jan. 1	either-sex
Small Game (No open season for fox squirrels)	No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 9 seasons apply.	Game Zone 9 bag limits, except quail 8 per day.

(JJ) Longleaf Pine WMA

Deer

Still Gun Hunts	Mon. after the last Sat. in Oct. Through the 3 rd Sat. in Nov.	1 deer per day, either- sex during scheduled county-wide either-sex days.
-----------------	--	--

(VV) Bonneau Ferry WMA

Horse riding is prohibited. No camping is allowed. All terrain vehicles are prohibited. Hunting access by boat is prohibited. Adult/youth fishing only. For fishing, each youth may be accompanied by no more than two adults 18 years old or older. For deer and small game hunting Sides A and B will alternate each year. Bonneau Ferry WMA is closed to public access one hour after sunset until one hour before sunrise except, for special hunts regulated by DNR. All impoundments and adjacent posted buffers are closed to all public access Nov. 1 – Mar. 1 except for special waterfowl hunts regulated by DNR during the regular waterfowl season.

Deer

Side A (Adult/Youth Only)

Still Gun Hunts	Sept. 15 – Jan. 1, Wed., Fri., Sat., except week of Thanksgiving and 5 days before Christmas until Jan. 1.	2 deer per day, either-sex hogs no limit.
-----------------	--	--

Side B

Archery	1 st Mon. – Sat. in Sept. 1 st Mon. – Sat. after Sept. 15	Buck only, either-sex
---------	--	-----------------------

Still Gun Hunts	No open season except for hunters selected by computer drawing.	3 deer, either-sex except only one buck.
-----------------	--	---

Draw deer hunts are for two and one half days (afternoon on the first day and 2 full days). Hunt periods begin in early October and continue until early December. Hunters are required to have permit in possession and must sign in and sign out (Name, permit # and deer killed each day). Area is closed to the general public access during scheduled deer hunts.

Small Game

Side A (Adult/Youth Only)

Youth must be accompanied by an adult 21 years of age or older. Youth hunters must carry a firearm and hunt. Adults with youth hunters may also carry a firearm and hunt.

No open season for fox squirrels, quail or fox. Dogs allowed during gun	Jan. 2 – Mar. 1	Game Zone 6 bag limits
---	-----------------	------------------------

70 EMERGENCY REGULATIONS

seasons only.

Side B

No open season for fox squirrels, quail or fox.

Jan. 2 – Mar. 1

Game Zone 6 bag limits

Dogs allowed during gun seasons only.

2.12 On WMA lands, during the designated statewide youth deer hunt day, still hunting only, two deer, either-sex..

3.1 On WMA lands hunters may use any shotgun, rifle, bow and arrow or hand gun except that specific weapons may be prohibited on certain hunts. Small game hunters may possess or use shotguns with shot no larger than No. 2 or .22 rimfire rifles/handguns or primitive muzzle-loading rifles of .40 caliber or smaller. Small game hunters may not possess or use buckshot, slugs or shot larger than No. 2. Blow guns, dart guns or drugged arrows are not permitted. Small game hunters using archery equipment must use small game tips on the arrows (judo points, bludgeon points, etc.). The use of crossbows during any archery only season is unlawful except as allowed by 50-11-565.

3.3 On WMA lands, big game hunters are not allowed to use military or hard-jacketed bullets or .22 or smaller rimfire. Buckshot is prohibited during still hunts for deer or hogs on the Santee Coastal Reserve, Bucksport, Pee Dee Station Site, Lewis Ocean Bay, Great Pee Dee, Crackerneck, Webb Center, Marsh Furniture, Manchester State Forest, Palachucola, Waccamaw River Heritage Preserve, Donnelley, Francis Marion, and Moultrie WMA lands.

7.1 On all WMA lands during any gun and muzzleloader hunting seasons for deer, bear and hogs, all hunters must wear either a hat, coat, or vest of solid visible international orange, except hunters for dove and duck are exempt from this requirement while hunting for those species.

10.8 Sandy Beach Waterfowl Area is closed to hunting during the period 01 Nov.-01 Mar. except for special hunts designated by the Department.

10.10 Impoundments on Bear Island, Donnelly, Samworth, Santee Coastal Reserve and Santee Delta WMAs are closed to all public access during the period 15 Oct.- 31 Jan. except during special hunts designated by the Department. All public access during the period 01 Feb.- Oct. 14 is limited to designated areas.

10.15 Category I Designated Waterfowl Areas include Beaverdam, Bonneau Ferry, Broad River, Clemson, Santee Cooper, Sandy Beach, Samworth, Santee Coastal Reserve, Santee-Delta, Tibwin, Bear Island, and Donnelley Wildlife Management Areas. Hunting in Category I Designated Waterfowl Areas is by special permit obtained through annual computer drawing.

10.16 Category II Designated Waterfowl Areas include Biedler Impoundment, Lake Cunningham, Russell Creek, Monticello Reservoir, Parr Reservoir, Duncan Creek, Dunaway, Dungannon, Enoree River, Moultrie, Hatchery, Hickory Top, Hickory Top Greentree Reservoir, Lancaster Reservoir, Turtle Island, Little Pee Dee River Complex (including Ervin Dargan, Horace Tilghman), Great Pee Dee River, Oak Lea, Potato Creek Hatchery, Samson Island Unit (Bear Island), Tyger River, Marsh and Wee Tee Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

DESIGNATED WATERFOWL AREAS

Area

Bonneau Ferry

Open dates inclusive

Hunters selected by drawing during regular season.

Bag Limits

Federal Limits

Monticello Reservoir	Wed. and Sat. AM only during regular season.	Federal Limits
Wee Tee	Wed. and Sat. AM only during regular season.	Federal Limits

123-52. Deer Hunting on Private Lands in Game Zones 1, 2 and 4 (50-11-310, 50-11-350, 50-11-390).

- 2. Hunters may use any shotgun, rifle, bow and arrow or handgun except that specific weapons may be prohibited on certain hunts.
- 4. Hunters are not allowed to take deer with military or hard-jacketed bullets or .22 or smaller rimfire.

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow additional opportunity. Because some hunts begin on September 1, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

This amendment of Regulations 123.40, 123.51 and 123.52 will result in increased public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Filed: August 31, 2004, 3:00 pm

Document No. 2923
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123
 Statutory Authority: 1976 Code Section 50-11-2200 and 50-11-2210

Emergency Situation:

This amended regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas. Amendments are needed to allow a special deer herd reduction hunt on Santee State Park. Because the hunts begin on September 15 it is necessary to file these regulations as emergency so they take effect immediately.

123-40 Hunt Units and Wildlife Management Area Regulations

1.2 (Y) Santee State Park WMA

Archery-Crossbow Deer Hunts	September 15-16 September 28-29 October 12-13 October 26-27 November 5-6	3 Deer Per Day, either-sex Maximum 1 buck per day
-----------------------------	--	--

72 EMERGENCY REGULATIONS

Hunt Procedure/ Special Rules and Regulations

1. All hunters are required to check-in and obtain a daily permit at the checkpoint at the park shop near the park crossroads each day of the hunt period. On or prior to opening day of each hunt period, all hunters must report to the checkpoint to check-in and present their hunting license for a daily permit. The checkpoint will be open on the day of the hunt approximately 2 hours before official sunrise and the day before each hunt period from 3:00PM to 4:00PM.
2. All hunters must leave their hunt area immediately after dark and must report to the checkpoint to checkout no later than one hour after official sunset. Failure to check-out in a timely manner will result in a citation. Those persons needing to return to the hunt area to look for a wounded deer or to retrieve a dead deer must notify PRT or DNR personnel at that time.
3. Scouting is allowed during normal park hours and up to two days prior to each hunt period. Scouting is not allowed the two days prior to each hunt period.
4. Parking is allowed only on park property inside the property boundaries and along roads inside the interior portion of the park. The daily hunt permit must be displayed on the dash of all vehicles when parked on state park property. Do not park where a gate or road would be blocked. Designated parking areas will be shown on the hunt map.
5. Portable stands may be placed no earlier than Thursday before a scheduled Tuesday hunt date or no earlier than Sunday for a scheduled Friday hunt date. All stands must be removed no later than one day following each hunt period. Screw-in steps must be removed and no permanent spikes or nails are allowed. Only one stand per hunter allowed.
6. Only archery or crossbow equipment will be allowed. Only one weapon per person is allowed.
7. Crossbows can not be cocked and loaded until after the hunter is in their stand. The weapon must be uncocked and unloaded before the hunter leaves his stand and remain this way until placed in the vehicle.
8. Hunters must wear a hat, coat or vest of solid international orange during all hunts except while occupying an elevated stand more than six feet above the surface level.
9. Hunters may use bicycles to enhance hunter access.
10. Access by boats is not allowed.
11. Hunters will not be allowed to use ATV's.
12. The use of a trail dog on a leash will be allowed for the recovery of wounded deer from 11:00AM to 3:00PM and after dark. You must notify PRT or DNR before a dog is used. This can be done when you check in to begin your hunt.
13. Camping is available at Santee State Park Reservations for individuals (2 nights minimum) can be made in advance.
14. The daily bag limit is 3 deer per day including no more than one antlered buck.
15. Field dressing of deer will not be allowed in the woods. An area near the checkpoint will be provided for field dressing of deer.
16. All harvested deer must be promptly brought to the check station at the park shop.
17. Firearms or alcoholic beverages are not allowed within the park.
18. All State Parks, Recreation and Tourism (PRT) and all Wildlife Management Area (WMA) rules and regulations apply.
19. All appropriate hunting licenses including a valid WMA Permit and Big Game Permit are required.

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow a special deer herd reduction hunt on Santee State Park. Because the hunts begin on September 15, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

This amendment of Regulation 123.40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

74 FINAL REGULATIONS

Document No. 2912
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Section 48-1-10 *et seq.*

Regulation 61-62, *Air Pollution Control Regulations and Standards*, and the South Carolina State Implementation Plan

Synopsis:

Pursuant to S.C. Code Section 48-1-10 *et seq.*, the South Carolina Department of Health and Environmental Control (Department) has amended Regulation 61-62, *Air Pollution Control Regulations and Standards*, and the South Carolina State Implementation Plan (SIP), to make corrections and clarifications and to incorporate new Federal requirements into the existing regulations. The revision is an amendment of Regulation 61-62.5, Standard Number 2, *Ambient Air Quality Standards*, to incorporate Federal amendments to the ozone and particulate matter standards.

The amendment to Regulation 61-62, *Air Pollution Control Regulations and Standards* is necessary to maintain consistency with Federal rules and does not require legislative review.

Since this amendment is consistent with Federal law, neither a preliminary fiscal impact statement nor a preliminary assessment report is required.

Discussion of Revisions

SECTION CITATION:

EXPLANATION OF CHANGE:

R.61-62.5, Standard No. 2

Add new ozone measuring interval to 8 hours and standard to 0.08 ppm.

Add new Particulate Matter (PM) standard 2.5 μm and designate new standard for annual and 24 hour standards.

Revision to text above table to include new Appendices in the Code of Federal Regulations.

Instructions:

Amend Regulation 61-62, *Air Pollution Control Regulations and Standards*, pursuant to each individual instruction provided below with the text of the amendments.

Text of Amendments to R. 61-62.5, Standard No.2, Ambient Air Quality Standards:

Revise Regulation 61-62.5 Standard No. 2, to read:

The following table constitutes the ambient air quality standards for the State of South Carolina. The analytical methods to be used will be those applicable Federal Reference Methods published in 40 CFR 50, Appendices A-N as revised July 18, 1997. In the case of fluorides either the double paper tape sampler methods (ASTM D-3266-79) or the sodium bicarbonate-coated glass tube and particulate filter method (ASTM D3268-78) may be used.

Pollutant	Measuring Interval	Micrograms Per Cubic Meter Unless Noted Otherwise ⁽¹⁾⁽²⁾
Sulfur Dioxide	3 hours	1300 ⁽⁴⁾
	24 hours	365 ⁽⁴⁾
	annual	80
Total Suspended Particulates	Annual Geometric Mean	75
PM ₁₀	24 hours	150 ⁽³⁾
	annual	50 ⁽³⁾
PM _{2.5} (Primary and Secondary Standards)	24 hours	65 ⁽³⁾
	annual	15 ⁽³⁾
Carbon Monoxide	1 hour	40 mg per cubic meter
	8 hour	10 mg per cubic meter
Ozone	1 hour	0.12 ppm ⁽³⁾
Ozone	8 hours	0.08 ppm ⁽³⁾
Gaseous Fluorides (as HF)	12 hr. avg.	3.7
	24 hr. avg.	2.9
	1 wk. avg.	1.6
	1 mo. avg.	0.8
Nitrogen Dioxide	annual	100
Lead	Calendar Quarterly	1.5
	Mean	

⁽¹⁾ Arithmetic Average except in case of total suspended particulate matter

⁽²⁾ At 25^o C and 760 mm Hg.

⁽³⁾ Attainment determinations will be made based on the criteria contained in 40 CFR 50 Appendices H, I, K and N.

⁽⁴⁾ Not to be exceeded more than once a year.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: Amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards*.

Purpose of Regulation: These amendments and corrections will maintain conformity with Federal requirements and ensure compliance with Federal standards.

Legal Authority: The legal authority for Regulation 61-62, *Air Pollution Control Regulations and Standards*, is S.C. Code Section 48-1-10 *et seq.*

76 FINAL REGULATIONS

Plan for Implementation: The amendments will take effect upon approval and adoption by the South Carolina Board of Health and Environmental Control and publication in the *State Register*.

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

On July 18, 1997, the United States Environmental Protection Agency (EPA) promulgated amendments to the National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter. The amendments revised the existing 1-hour ozone standard to an 8-hour ozone standard at a level of 0.08 parts per million based on the 3-year average of the annual fourth-highest daily maximum 8-hour ozone concentration. Two new PM_{2.5} standards were also added. One is an annual standard set at 15 micrograms per cubic meter based on the 3-year average of annual arithmetic mean. The other is a 24-hour standard set at 65 micrograms per cubic meter based on the 3-year average of the 98th percentile PM_{2.5} concentration.

Shortly after promulgation, the amendments were challenged in the federal courts. On February 27, 2001, the United States Supreme Court issued a decision upholding how the EPA sets air pollution standards and affirming the principle that national air quality standards must be set to protect public health and cost does not have to be taken into consideration when the national standards are established. The court also ruled that the EPA did not exceed its authority to set standards without Congressional review. However, the court sent back to EPA the question of how or when to implement measures to improve air quality. The issue of implementation of the standards has delayed the EPA's designation of areas as being in either attainment or nonattainment of the new standards. The EPA has now made clear their intentions to designate areas for the 8-hour standard by April 15, 2004, and to designate areas for the PM_{2.5} standards by December 31, 2004.

The Department subsequently amended Regulation 61-62.5, Standard No. 2, *Ambient Air Quality Standards*, and the SIP, to incorporate the new Federal amendments to the ozone and PM_{2.5} NAAQS. While EPA's intent is to replace the 1-hour ozone standard with the 8-hour ozone standard, the method by which the 1-hour standard will be replaced has not been finalized. Therefore, the Department will leave the 1-hour ozone standard in place until such time that the EPA decides the implementation schedule for revocation of the 1-hour standard.

The amendments of Regulation 61-62, *Air Pollution Control Regulations and Standards*, are necessary to maintain consistency with Federal rules and will not require legislative review.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions as a result of these amendments. The standards to be adopted are already effective and applicable to the regulated community as a matter of Federal law.

UNCERTAINTIES OF ESTIMATES:

EPA has not provided cost estimates due to interpretation of section 109 of the Clean Air Act, which requires NAAQS to be set to protect public health, without consideration of costs.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the recent changes in Federal law through these amendments of Regulation 61-62, *Air Pollution Control Regulations and Standards*, will provide continued protection of the environment and public health.

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

While there is no specific detrimental effect on the environment and public health, the State's authority to implement Federal requirements, which are believed to be beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

Document No. 2913

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Regulation 61-62, *Air Pollution Control Regulations and Standards*

Synopsis:

Pursuant to S.C. Code Section 48-1-10 *et seq.*, the South Carolina Department of Health and Environmental Control (Department) has amended Regulation 61-62, *Air Pollution Control Regulations and Standards*, to make corrections and clarifications and to incorporate new Federal requirements into the existing regulations.

Among the revisions are amendments to Regulations 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*; 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*, also known as Maximum Achievable Control Technology (MACT); and 61-62.70, *Title V Operating Permit Program*, to incorporate recent federal amendments promulgated during the period from January 1, 2003, through December 31, 2003. Also, Regulation 61-62.61, *National Emission Standards for Hazardous Air Pollutants (NESHAP)* was added to incorporate by reference the general requirements and emission standards that have been promulgated in 40 CFR Part 61 for which the Department requested and received delegation of authority to implement and enforce. In addition, the Department incorporated recent Federal amendments to 61-62.68, *Chemical Accident Prevention Provisions*, promulgated April 9, 2004, to amend the reporting requirements of its chemical accident prevention regulations. Finally, the Department made typographical corrections and clarifications to R.61-62 as necessary.

The amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards* are necessary to maintain consistency with Federal rules and do not require legislative review.

Since this amendment is consistent with Federal law, neither a preliminary fiscal impact statement nor a preliminary assessment report is required.

Discussion of Revisions:

SECTION CITATION:

EXPLANATION OF CHANGE:

R. 61-62.60

Amended tables in Subparts A, Ec, Kb, GG, and XX to incorporate references for revisions which became effective in 2003.

R. 61-62.61

Subparts B, C, D, E, F, H, I, J, K, L, M, N, O, P, Q, R, T, V, W, Y, BB, FF, Appendix A, Appendix B, Appendix C, Appendix D, and Appendix E are added to incorporate by reference regulations for which the Department has been delegated the authority to implement and enforce.

R. 61-62.63

Revised existing tables in Subparts A, F, G, H, I, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH,

78 FINAL REGULATIONS

II, JJ, KK, LL, MM, OO, PP, QQ, RR, VV, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, RRR, TTT, VVV, XXX, SSSS, and XXXX in alpha-numeric order to incorporate by reference revisions which became effective in 2003.

- R. 61-62.63 Added new tables in Subparts AAAA, FFFF, KKKK, OOOO, QQQQ, RRRR, WWWW, BBBB, CCCC, FFFFF, GGGGG, HHHHH, IIII, JJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, RRRRR, SSSSS, and TTTTT in alpha-numeric order to incorporate by reference revisions which became effective in 2003.
- R. 61-62.63 Added Sections 63.50 to 63.56 and Tables 1 and 2 to Subpart B. These sections modify the content requirements of Part 2 applications, establish revised procedures for requests for applicability determinations, and establish a new timetable for the submission of section 112(j) Part 2 applications.
- R. 61-62.68.42(b)(11) Revised to clarify the information that is to be submitted as a result of an accident.
- R. 61-62.68.150 Revised to clarify the dates of submission and requirements of submission for a facility's Risk Management Plan (RMP).
- R. 61-62.68.155 Revised to eliminate the requirement to submit the worst case and alternative release scenarios of the RMP.
- R. 61-62.68.160 Revised to include the registration information that is included with the RMP.
- R. 61-62.68.190 Revised to clarify the dates of submissions for updates to the RMP.
- R. 61-62.68.195 Added to require facilities subject to the accident prevention regulations to submit information on any significant chemical accidents within six months of the incident and requires emergency contact information to be corrected within one month.
- R. 61-62.70.6(c)(5)(iii)(B) Revised paragraph to clarify the information that facilities must submit regarding the methods for determining compliance status.
- R. 61-62.70.6(c)(5)(iii)(C) Revised paragraph to require facilities to include whether compliance during the permitting period was continuous or intermittent and the status of compliance with the permit.
- R. 61-62.96.70(a)(1) Revised paragraph to correct typographical errors.

Instructions:

Amend Regulation 61-62, *Air Pollution Control Regulations and Standards*, pursuant to each individual instruction provided below with the text of the amendments.

Text of Amendments to Regulation 61-62, Air Pollution Control Regulations and Standards:

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

Subpart A - “General Provisions”

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

40 CFR Part 60 subpart A			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 36	December 23, 1971	[36 FR 24877]
Revision	Vol. 38	October 15, 1973	[38 FR 28565]
Revision	Vol. 39	March 8, 1974	[39 FR 9314]
Revision	Vol. 39	November 12, 1974	[39 FR 39873]
Revision	Vol. 40	April 25, 1975	[40 FR 18169]
Revision	Vol. 40	October 6, 1975	[40 FR 46254]
Revision	Vol. 40	November 17, 1975	[40 FR 53346]
Revision	Vol. 40	December 16, 1975	[40 FR 58418]
Revision	Vol. 40	December 22, 1975	[40 FR 59205]
Revision	Vol. 41	August 20, 1976	[41 FR 35185]
Revision	Vol. 42	July 19, 1977	[42 FR 37000]
Revision	Vol. 42	July 27, 1977	[42 FR 38178]
Revision	Vol. 42	November 1, 1977	[42 FR 57126]
Revision	Vol. 43	March 3, 1978	[43 FR 8800]
Revision	Vol. 43	August 3, 1978	[43 FR 34347]
Revision	Vol. 44	June 11, 1979	[44 FR 33612]
Revision	Vol. 44	September 25, 1979	[44 FR 55173]
Revision	Vol. 45	January 23, 1980	[45 FR 5617]
Revision	Vol. 45	April 4, 1980	[45 FR 23379]
Revision	Vol. 45	December 24, 1980	[45 FR 85415]
Revision	Vol. 47	January 8, 1982	[47 FR 951]
Revision	Vol. 47	July 23, 1982	[47 FR 31876]
Revision	Vol. 48	March 30, 1983	[48 FR 13326]
Revision	Vol. 48	May 25, 1983	[48 FR 23610]
Revision	Vol. 48	July 20, 1983	[48 FR 32986]
Revision	Vol. 48	October 18, 1983	[48 FR 48335]
Revision	Vol. 50	December 27, 1985	[50 FR 53113]
Revision	Vol. 51	January 15, 1986	[51 FR 1790]
Revision	Vol. 51	January 21, 1986	[51 FR 2701]
Revision	Vol. 51	November 25, 1986	[51 FR 42796]
Revision	Vol. 52	March 26, 1987	[52 FR 9781, 9782]
Revision	Vol. 52	April 8, 1987	[52 FR 11428]
Revision	Vol. 52	May 11, 1987	[52 FR 17555]

80 FINAL REGULATIONS

40 CFR Part 60 subpart A			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 52	June 4, 1987	[52 FR 21007]
Revision	Vol. 54	February 14, 1989	[54 FR 6662]
Revision	Vol. 54	May 17, 1989	[54 FR 21344]
Revision	Vol. 55	December 13, 1990	[55 FR 51382]
Revision	Vol. 57	July 21, 1992	[57 FR 32338, 32339]
Revision	Vol. 59	March 16, 1994	[59 FR 12427, 12428]
Revision	Vol. 59	September 15, 1994	[59 FR 47265]
Revision	Vol. 61	March 12, 1996	[61 FR 9919]
Revision	Vol. 62	February 24, 1997	[62 FR 8328]
Revision	Vol. 62	September 15, 1997	[62 FR 48348]
Revision	Vol. 63	May 4, 1998	[63 FR 24444]
Revision	Vol. 64	February 12, 1999	[64 FR 7463]
Revision	Vol. 65	August 10, 2000	[65 FR 48914]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 65	December 6, 2000	[65 FR 76350, 76378]
Revision	Vol. 65	December 14, 2000	[65 FR 78268]
Revision	Vol. 66	February 6, 2001	[66 FR 9034]
Revision	Vol. 67	June 28, 2002	[67 FR 43550]
Revision	Vol. 68	April 14, 2003	[68 FR 17990]
Revision	Vol. 68	May 28, 2003	[68 FR 31611]

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

Subpart Ec - “Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996”

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

40 CFR Part 60 subpart Ec			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 62	September 15, 1997	[62 FR 48382]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 68	October 30, 2003	[68 FR 61759]

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

Subpart Kb - “Standards of Performance For Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984”

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

40 CFR Part 60 subpart Kb			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 52	April 8, 1987	[52 FR 11429]
Revision	Vol. 52	June 16, 1987	[52 FR 22780]
Revision	Vol. 54	August 11, 1989	[54 FR 32973]
Revision	Vol. 62	October 8, 1997	[62 FR 52641]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 65	December 14, 2000	[65 FR 78268]
Revision	Vol. 68	October 15, 2003	[68 FR 59328]

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

Subpart GG - “Standards of Performance for Stationary Gas Turbines”

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

40 CFR Part 60 subpart GG			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 44	September 10, 1979	[44 FR 52798]
Revision	Vol. 47	January 27, 1982	[47 FR 3770]
Revision	Vol. 52	November 5, 1987	[52 FR 42434]
Revision	Vol. 54	February 14, 1989	[54 FR 6674]
Revision	Vol. 54	June 27, 1989	[54 FR 27016]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 68	April 14, 2003	[68 FR 17990]

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

Subpart XX - “Standards of Performance for Bulk Gasoline Terminals”

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

40 CFR Part 60 subpart XX			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 48	August 18, 1983	[48 FR 37590]
Revision	Vol. 48	December 22, 1983	[48 FR 56580]
Revision	Vol. 54	February 14, 1989	[54 FR 6678]
Revision	Vol. 54	May 17, 1989	[54 FR 21344]
Revision	Vol. 64	February 12, 1999	[64 FR 7466]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 68	December 19, 2003	[68 FR 70960]

Regulation 61-62.61, “South Carolina Designated Facility Plan And New Source Performance Standards” shall be added in its entirety to read as follows:

82 FINAL REGULATIONS

**SOUTH CAROLINA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
AIR POLLUTION CONTROL REGULATIONS AND STANDARDS**

**REGULATION 61-62.61
SOUTH CAROLINA DESIGNATED FACILITY PLAN AND NEW SOURCE PERFORMANCE
STANDARDS**

Subpart A – [Reserved]

Subpart B – “National Emission Standards For Radon Emissions From Underground Uranium Mines”

The provisions of Title 40 CFR Part 61, subpart B, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart B			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 54	December 15, 1989	[54 FR 51694]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart C – “National Emission Standard For Beryllium”

The provisions of Title 40 CFR Part 61, subpart C, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart C			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 38	April 6, 1973	[38 FR 8826]
Revision	Vol. 50	November 7, 1985	[50 FR 46294]
Revision	Vol. 58	April 7, 1993	[58 FR 18014]

Subpart D – “National Emission Standard For Beryllium Rocket Motor Firing”

The provisions of Title 40 CFR Part 61, subpart D, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart D			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 38	April 6, 1973	[38 FR 8826]
Revision	Vol. 50	November 7, 1985	[50 FR 46294]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart E – “National Emission Standard For Mercury”

The provisions of Title 40 CFR Part 61, subpart E, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart E			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 38	April 6, 1973	[38 FR 8826]
Revision	Vol. 40	October 14, 1975	[40 FR 48302]
Revision	Vol. 47	June 8, 1982	[47 FR 24704]
Revision	Vol. 49	September 12, 1984	[49 FR 35770]
Revision	Vol. 50	November 7, 1985	[50 FR 46294]
Revision	Vol. 52	March 19, 1987	[52 FR 8726]
Revision	Vol. 53	September 23, 1988	[53 FR 36972]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart F – “National Emission Standard For Vinyl Chloride”

The provisions of Title 40 CFR Part 61, subpart F, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart F			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 41	October 21, 1976	[41 FR 46564]
Revision	Vol. 41	December 3, 1976	[41 FR 53017]
Revision	Vol. 42	June 7, 1977	[42 FR 29006]
Revision	Vol. 47	September 8, 1982	[47 FR 39486]
Revision	Vol. 50	November 7, 1985	[50 FR 46295]
Revision	Vol. 51	September 30, 1986	[51 FR 34908]
Revision	Vol. 53	September 23, 1988	[53 FR 36972]
Revision	Vol. 53	November 21, 1988	[53 FR 46976]
Revision	Vol. 55	July 10, 1990	[55 FR 28348]
Revision	Vol. 57	December 23, 1992	[57 FR 60999]
Revision	Vol. 58	April 7, 1993	[58 FR 18014]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart G - [Reserved]

Subpart H – “National Emission Standards For Emissions Of Radionuclides Other Than Radon From Department Of Energy Facilities”

The provisions of Title 40 CFR Part 61, subpart H, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart H			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 54	December 15, 1989	[54 FR 51695]
Revision	Vol. 61	December 30, 1996	[61 FR 68972]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 67	September 9, 2002	[67 FR 57159]

84 FINAL REGULATIONS

Subpart I – “National Emission Standards For Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees And Not Covered By Subpart H”

The provisions of Title 40 CFR Part 61, subpart I, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart I			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 54	December 15, 1989	[54 FR 51695]
Revision	Vol. 56	April 24, 1991	[56 FR 18736]
Revision	Vol. 56	August 5, 1991	[56 FR 37160]
Revision	Vol. 60	September 5, 1995	[60 FR 46206]
Revision	Vol. 61	December 30, 1996	[61 FR 68972]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 67	September 9, 2002	[67 FR 57159]

Subpart J – “National Emission Standard For Equipment Leaks (Fugitive Emission Sources) Of Benzene”

The provisions of Title 40 CFR Part 61, subpart J, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart J			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 49	June 6, 1984	[49 FR 23513]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 65	December 14, 2000	[65 FR 78268]

Subpart K – “National Emission Standards For Radionuclide Emissions From Elemental Phosphorus Plants”

The provisions of Title 40 CFR Part 61, subpart K, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart K			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 54	December 15, 1989	[54 FR 51699]
Revision	Vol. 56	December 19, 1991	[56 FR 65943]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart L – “National Emission Standard For Benzene Emissions From Coke By-Product Recovery Plants”

The provisions of Title 40 CFR Part 61, subpart L, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart L			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 54	September 14, 1989	[54 FR 38073]
Revision	Vol. 55	April 13, 1990	[55 FR 14037]
Revision	Vol. 55	September 14, 1990	[55 FR 38073]
Revision	Vol. 56	September 19, 1991	[56 FR 47406]
Revision	Vol. 64	February 12, 1999	[64 FR 7458]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart M – “National Emission Standard For Asbestos”

The provisions of Title 40 CFR Part 61, subpart M, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart M			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 49	April 5, 1984	[49 FR 13661]
Revision	Vol. 49	June 21, 1984	[49 FR 25453]
Revision	Vol. 51	March 10, 1986	[51 FR 8199]
Revision	Vol. 53	September 23, 1988	[53 FR 36972]
Revision	Vol. 55	November 20, 1990	[55 FR 48414]
Revision	Vol. 56	January 16, 1991	[56 FR 1669]
Revision	Vol. 58	April 7, 1993	[58 FR 18014]
Revision	Vol. 59	June 17, 1994	[59 FR 31157]
Revision	Vol. 60	June 19, 1995	[60 FR 31917]
Revision	Vol. 64	February 12, 1999	[64 FR 7458]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 68	September 18, 2003	[68 FR 54790]

Subpart N – “National Emission Standard For Inorganic Arsenic Emissions From Gas Manufacturing Plants”

The provisions of Title 40 CFR Part 61, subpart N, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart N			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 51	August 4, 1986	[51 FR 28025]
Revision	Vol. 51	October 3, 1986	[51 FR 35355]
Revision	Vol. 55	May 31, 1990	[55 FR 22027]
Revision	Vol. 64	February 12, 1999	[64 FR 7458]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart O – “National Emission Standard For Inorganic Arsenic Emissions From Primary Copper Smelters”

The provisions of Title 40 CFR Part 61, subpart O, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

86 FINAL REGULATIONS

40 CFR Part 61 subpart O			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 51	August 4, 1986	[51 FR 28029]
Revision	Vol. 55	May 31, 1990	[55 FR 22027]
Revision	Vol. 58	April 7, 1993	[58 FR 18014]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart P – “National Emission Standard For Inorganic Arsenic Emissions From Arsenic Trioxide And Metallic Arsenic Production Facilities”

The provisions of Title 40 CFR Part 61, subpart P, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart P			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 51	August 4, 1986	[51 FR 28033]
Revision	Vol. 51	October 3, 1986	[51 FR 35355]
Revision	Vol. 58	April 7, 1993	[58 FR 18014]

Subpart Q – “National Emission Standards For Radon Emissions From Department Of Energy Facilities”

The provisions of Title 40 CFR Part 61, subpart Q, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart Q			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 54	December 15, 1989	[54 FR 51701]
Original Promulgation	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart R – “National Emission Standards For Radon Emissions From Phosphogypsum Stacks”

The provisions of Title 40 CFR Part 61, subpart R, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart R			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 57	June 3, 1992	[57 FR 23305]
Revision	Vol. 64	February 3, 1999	[64 FR 5574]
Revision	Vol. 64	October 1, 1999	[64 FR 53212]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart S - [Reserved]

Subpart T – “National Emission Standards For Radon Emissions From The Disposal Of Uranium Mill Tailings”

The provisions of Title 40 CFR Part 61, subpart T, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart T			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 54	December 15, 1989	[54 FR 51702]
Revision	Vol. 56	December 31, 1991	[56 FR 67542]
Revision	Vol. 59	July 15, 1994	[59 FR 36280]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart U - [Reserved]

Subpart V – “National Emission Standard For Equipment Leaks (Fugitive Emission Sources)”

The provisions of Title 40 CFR Part 61, subpart V, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart V			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 49	June 6, 1984	[49 FR 23513]
Revision	Vol. 49	October 2, 1984	[49 FR 38946]
Revision	Vol. 49	October 31, 1984	[49 FR 43647]
Revision	Vol. 51	January 21, 1986	[51 FR 2702]
Revision	Vol. 51	September 30, 1986	[51 FR 34915]
Revision	Vol. 53	September 23, 1988	[53 FR 36972]
Revision	Vol. 54	September 14, 1989	[54 FR 38076]
Revision	Vol. 55	July 10, 1990	[55 FR 28349]
Revision	Vol. 58	April 7, 1993	[58 FR 18014]
Revision	Vol. 65	December 14, 2000	[65 FR 78268]

Subpart W – “National Emission Standards For Radon Emissions From Operating Mill Tailings”

The provisions of Title 40 CFR Part 61, subpart W, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart W			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 54	December 15, 1989	[54 FR 51703]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]

Subpart X - [Reserved]

Subpart Y – “National Emission Standard For Benzene Emissions From Benzene Storage Vessels”

The provisions of Title 40 CFR Part 61, subpart Y, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

88 FINAL REGULATIONS

40 CFR Part 61 subpart Y			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 54	September 14, 1989	[54 FR 38077]
Revision	Vol. 54	December 11, 1989	[54 FR 50887]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 65	December 14, 2000	[65 FR 78268]

Subparts Z - AA - [Reserved]

Subpart BB – “National Emission Standard For Benzene Emissions From Benzene Transfer Operations”

The provisions of Title 40 CFR Part 61, subpart BB, as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart BB			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 55	March 7, 1990	[55 FR 8341]
Revision	Vol. 55	April 3, 1990	[55 FR 12444]
Revision	Vol. 55	October 31, 1990	[55 FR 45804]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 65	December 14, 2000	[65 FR 78268]

Subparts CC - EE [Reserved]

Subpart FF – “National Emission Standard For Benzene Waste Operations”

The provisions of Title 40 CFR Part 61, subpart FF as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 subpart FF			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 55	March 7, 1990	[55 FR 8346]
Revision	Vol. 55	April 3, 1990	[55 FR 12444]
Revision	Vol. 55	May 2, 1990	[55 FR 18331]
Revision	Vol. 55	September 10, 1990	[55 FR 37231]
Revision	Vol. 57	March 5, 1992	[57 FR 8016]
Revision	Vol. 58	January 7, 1993	[58 FR 3095]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 67	November 12, 2002	[67 FR 68526]
Revision	Vol. 68	February 6, 2003	[68 FR 6062]
Revision	Vol. 68	December 4, 2003	[68 FR 67932]

Appendix A to Part 61 - “National Emission Standards For Hazardous Air Pollutants, Compliance Status Information”

The provisions of Title 40 CFR Part 61, Appendix A as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 appendix A			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 40	October 14, 1975	[40 FR 48303]
Revision	Vol. 43	March 3, 1978	[43 FR 8800]
Revision	Vol. 50	September 9, 1985	[50 FR 46295]

Appendix B to Part 61 – “Test Methods”

The provisions of Title 40 CFR Part 61, appendix B as originally published in the *Federal Register* and as subsequently amended upon publication in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 61 appendix B			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 38	April 6, 1973	[38 FR 8826]
Revision	Vol. 50	November 7, 1985	[50 FR 46295]
Revision	Vol. 61	April 25, 1996	[61 FR 18260]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 67	September 9, 2002	[67 FR 57159]

Appendix C to Subpart 61 – “Quality Assurance Procedures”

The provisions of Title 40 CFR Part 61, appendix C as originally published in the *Federal Register* are incorporated by reference as if fully repeated herein.

40 CFR Part 61 appendix C			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 47	September 7, 1982	[47 FR 39178]

Appendix D to Subpart 61 – “Methods For Estimating Radionuclide Emissions”

The provisions of Title 40 CFR Part 61, appendix D as originally published in the *Federal Register* are incorporated by reference as if fully repeated herein.

40 CFR Part 61 appendix D			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 54	December 15, 1989	[54 FR 51711]

Appendix E to Subpart 61 – “Compliance Procedures Methods For Determining Compliance With Subpart I”

The provisions of Title 40 CFR Part 61, appendix E as originally published in the *Federal Register* are incorporated by reference as if fully repeated herein.

40 CFR Part 61 appendix E			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 54	December 15, 1989	[54 FR 51711]

90 FINAL REGULATIONS

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

Subpart A - "General Provisions"

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

40 CFR Part 63 subpart A			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	March 16, 1994	[59 FR 12430]
Revision	Vol. 59	April 22, 1994	[59 FR 19453]
Revision	Vol. 59	December 6, 1994	[59 FR 62589]
Revision	Vol. 60	January 25, 1995	[60 FR 4963]
Revision	Vol. 60	June 27, 1995	[60 FR 33122]
Revision	Vol. 60	September 1, 1995	[60 FR 45980]
Revision	Vol. 61	May 21, 1996	[61 FR 25399]
Revision	Vol. 61	December 17, 1996	[61 FR 66227]
Revision	Vol. 62	December 10, 1997	[62 FR 65024]
Revision	Vol. 63	May 4, 1998	[63 FR 24444]
Revision	Vol. 63	May 13, 1998	[63 FR 26465]
Revision	Vol. 63	September 21, 1998	[63 FR 50326]
Revision	Vol. 63	October 7, 1998	[63 FR 53996]
Revision	Vol. 63	December 1, 1998	[63 FR 66061]
Revision	Vol. 64	January 28, 1999	[64 FR 4300]
Revision	Vol. 64	February 12, 1999	[64 FR 7468]
Revision	Vol. 64	April 12, 1999	[64 FR 17562]
Revision	Vol. 64	June 10, 1999	[64 FR 31375]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 67	February 14, 2002	[67 FR 6968]
Revision	Vol. 67	February 27, 2002	[67 FR 9156]
Revision	Vol. 67	April 5, 2002	[67 FR 16582]
Revision	Vol. 67	June 10, 2002	[67 FR 39794]
Revision	Vol. 67	July 23, 2002	[67 FR 48254]
Revision	Vol. 68	February 18, 2003	[68 FR 7706]
Revision	Vol. 68	April 21, 2003	[68 FR 19375]
Revision	Vol. 68	May 6, 2003	[68 FR 23898]
Revision	Vol. 68	May 8, 2003	[68 FR 24653]
Revision	Vol. 68	May 20, 2003	[68 FR 27646]
Revision	Vol. 68	May 23, 2003	[68 FR 28606]
Revision	Vol. 68	May 27, 2003	[68 FR 28774]
Revision	Vol. 68	May 28, 2003	[68 FR 31746]
Revision	Vol. 68	May 29, 2003	[68 FR 32172]
Revision	Vol. 68	May 30, 2003	[68 FR 32586]
Revision	Vol. 68	November 13, 2003	[68 FR 64432]
Revision	Vol. 68	December 19, 2003	[68 FR 70960]

The title of Regulation 61-62.63, Subpart B shall be revised as follows:

Subpart B - "Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)"

Regulation 61-62.63, Subpart B shall be revised as follows to include section 63.50 through section 63.56 and Tables 1 and 2:

Section 63.50 Applicability

(a) *General applicability.*

(1) The requirements of this section through §63.56 implement section 112(j) of the Clean Air Act (as amended in 1990). The requirements of this section through §63.56 apply in each State beginning on the effective date of an approved title V permit program in such State. The requirements of this section through §63.56 do not apply to research or laboratory activities as defined in §63.51.

(2) The requirements of this section through §63.56 apply to:

(i) The owner or operator of affected sources within a source category or subcategory under this part that are located at a major source that is subject to an approved title V permit program and for which the Administrator has failed to promulgate emission standards by the section 112(j) deadlines. If title V applicability has been deferred for a source category, then section 112(j) is not applicable for sources in that category within that State, local or tribal jurisdiction until those sources become subject to title V permitting requirements; and

(ii) Permitting authorities with an approved title V permit program.

(b) Relationship to State and local requirements. Nothing in §§63.50 through 63.56 shall prevent a State or local regulatory agency from imposing more stringent requirements, as a matter of State or local law, than those contained in §§63.50 through 63.56.

(c) The procedures in §§63.50 through 63.56 apply for each affected source only after the section 112(j) deadline for the source category or subcategory in question has passed, and only until such time as a generally applicable Federal standard governing that source has been promulgated under section 112(d) or 112(h) of the Act. Once a generally applicable Federal standard governing that source has been promulgated, the owner or operator of the affected source and the permitting authority are not required to take any further actions to develop an equivalent emission limitation under section 112(j) of the Act.

(d) Any final equivalent emission limitation for an affected source which is issued by the permitting authority pursuant to §§63.50 through 63.56 prior to promulgation of a generally applicable Federal standard governing that source under section 112(d) or 112(h) of the Act shall be deemed an applicable Federal requirement adopted pursuant to section 112(j) of the Act. Each such equivalent emission limitation shall take effect upon issuance of the permit containing that limitation under section 112(j)(5) of the Act, and shall remain applicable to the source until such time as it may be revised or supplanted pursuant to the procedures established by §§63.50 through 63.56. Such a final equivalent emission limitation, and all associated requirements adopted pursuant to §63.52(f)(2), are directly enforceable under Federal law regardless of whether or not any permit in which they may be contained remains in effect.

Section 63.51 Definitions.

Terms used in §§63.50 through 63.56 that are not defined in this section have the meaning given to them in the Act, or in subpart A of this part.

(a) “Affected source” means the collection of equipment, activities, or both within a single contiguous area and under common control that is in a section 112(c) source category or subcategory for which the Administrator has failed to promulgate an emission standard by the section 112(j) deadline, and that is addressed by an applicable MACT emission limitation established pursuant to this subpart.

92 FINAL REGULATIONS

(b) “Available information” means, for purposes of conducting a MACT floor finding and identifying control technology options under this subpart, any information that is available as of the date on which the first Part 2 MACT application is filed for a source in the relevant source category or subcategory in the State or jurisdiction; and, pursuant to the requirements of this subpart, is additional relevant information that can be expeditiously provided by the Administrator, is submitted by the applicant or others prior to or during the public comment period on the section 112(j) equivalent emission limitation for that source, or information contained in the information sources in paragraphs (1) through (5) of this definition.

(1) A relevant proposed regulation, including all supporting information;

(2) Relevant background information documents for a draft or proposed regulation.

(3) Any relevant regulation, information or guidance collected by the Administrator establishing a MACT floor finding and/or MACT determination.

(4) Relevant data and information available from the Clean Air Technology Center developed pursuant to section 112(l)(3) of the Act.

(5) Relevant data and information contained in the Aerometric Information Retrieval System (AIRS).

(6) Any additional information that can be expeditiously provided by the Administrator, and

(7) Any information provided by applicants in an application for a permit, permit modification, administrative amendment, or Notice of MACT Approval pursuant to the requirements of this subpart.

(8) Any additional relevant information provided by the applicant.

(c) “Control technology” means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants including, but not limited to, measures which:

(1) Reduce the quantity, or eliminate emissions, of such pollutants through process changes, substitution of materials or other modifications;

(2) Enclose systems or processes to eliminate emissions;

(3) Collect, capture, or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

(4) Are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

(5) Are a combination of paragraphs (1) through (4) of this definition.

(d) “Enhanced review” means a review process containing all administrative steps needed to ensure that the terms and conditions resulting from the review process can be incorporated using title V permitting procedures.

(e) “Equivalent emission limitation” means an emission limitation, established under section 112(j) of the Act, which is equivalent to the MACT standard that EPA would have promulgated under section 112(d) or (h) of the Act.

(f) “Maximum achievable control technology (MACT) emission limitation for existing sources” means the emission limitation reflecting the maximum degree of reduction in emissions of hazardous air pollutants (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration

the cost of achieving such emission reductions, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by sources in the category or subcategory to which such emission standard applies. This limitation shall not be less stringent than the MACT floor.

(g) “Maximum achievable control technology (MACT) emission limitation for new sources” means the emission limitation which is not less stringent than the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of reduction in emissions of hazardous air pollutants (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by sources in the category or subcategory to which such emission standard applies.

(h) “Maximum Achievable Control Technology (MACT) floor” means:

(1) For existing sources:

(i) The average emission limitation achieved by the best performing 12 percent of the existing sources in the United States (for which the Administrator has emissions information), excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate (as defined in section 171 of the Act) applicable to the source category and prevailing at the time, in the category or subcategory, for categories and subcategories of stationary sources with 30 or more sources; or

(ii) The average emission limitation achieved by the best performing five sources (for which the Administrator has or could reasonably obtain emissions information) in the category or subcategory, for categories or subcategories with fewer than 30 sources;

(2) For new sources, the emission limitation achieved in practice by the best controlled similar source.

(i) “New affected source” means the collection of equipment, activities, or both, that if constructed after the issuance of a section 112(j) permit for the source pursuant to §63.52, is subject to the applicable MACT emission limitation for new sources. Each permit must define the term “new affected source,” which will be the same as the “affected source” unless a different collection is warranted based on consideration of factors including:

(1) Emission reduction impacts of controlling individual sources versus groups of sources;

(2) Cost effectiveness of controlling individual equipment;

(3) Flexibility to accommodate common control strategies;

(4) Cost/benefits of emissions averaging;

(5) Incentives for pollution prevention;

(6) Feasibility and cost of controlling processes that share common equipment (*e.g.*, product recovery devices);

(7) Feasibility and cost of monitoring; and

(8) Other relevant factors.

94 FINAL REGULATIONS

(j) "Permitting authority" means the permitting authority as defined in part 70 of this chapter.

(k) "Research or laboratory activities" means activities whose primary purpose is to conduct research and development into new processes and products where such activities are operated under the close supervision of technically trained personnel and are not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner; and where the source is not in a source category, specifically addressing research or laboratory activities, that is listed pursuant to section 112(c)(7) of the Act.

(l) "Section 112(j) deadline" means the date 18 months after the date for which a relevant standard is scheduled to be promulgated under this part, except that for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1994, the section 112(j) deadline is November 15, 1996, and for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1997, the section 112(j) deadline is December 15, 1999.

(m) "Similar source" means that equipment or collection of equipment that, by virtue of its structure, operability, type of emissions and volume and concentration of emissions, is substantially equivalent to the new affected source and employs control technology for control of emissions of hazardous air pollutants that is practical for use on the new affected source.

Source category schedule for standards means the schedule for promulgating MACT standards issued pursuant to section 112(e) of the Act.

Section 63.52 Approval process for new and existing affected sources

(a) *Sources subject to section 112(j) as of the section 112(j) deadline.* The requirements of paragraphs (a)(1) and (2) of this section apply to major sources that include, as of the section 112(j) deadline, one or more sources in a category or subcategory for which the Administrator has failed to promulgate an emission standard under this part on or before an applicable section 112(j) deadline. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued to the source pursuant to the requirements of the subpart, must apply to such sources.

(1) The owner or operator must submit an application for a title V permit or for a revision to an existing title V permit or a pending title V permit meeting the requirements of §63.53(a) by the section 112(j) deadline if the owner or operator can reasonably determine that one or more sources at the major source belong in the category or subcategory subject to section 112(j).

(2) If an application was not submitted under paragraph (a)(1) of this section and if notified by the permitting authority, the owner or operator must submit an application for a title V permit or for a revision to an existing title V permit or a pending title V permit meeting the requirements of §63.53(a) within 30 days after being notified in writing by the permitting authority that one or more sources at the major source belong to such category or subcategory. Permitting authorities are not required to make such notification.

(3) The requirements in paragraphs (a)(3)(i) through (ii) of this section apply when the owner or operator has obtained a title V permit that incorporates a case-by-case MACT determination by the permitting authority under section 112(g) or has submitted a title V permit application for a revision that incorporates a case-by-case MACT determination under section 112(g), but has not submitted an application for a title V permit revision that addresses the emission limitation requirements of section 112(j).

(i) When the owner or operator has a title V permit that incorporates a case-by-case MACT determination by the permitting authority under section 112(g), the owner or operator must submit an application meeting the requirements of §63.53(a) for a title V permit revision within 30 days of the section 112(j) deadline or within 30 days of being notified in writing by the permitting authority that one or more sources at the major source belong in such category or subcategory. Using the procedures established in

paragraph (e) of this section, the permitting authority must determine whether the emission limitations adopted pursuant to the prior case-by-case MACT determination under section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt pursuant to section 112(j) for the source in question. If the permitting authority determines that the emission limitations previously adopted to effectuate section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt to effectuate section 112(j) for the source, then the permitting authority must retain the existing emission limitations in the permit as the emission limitations to effectuate section 112(j). The title V permit applicable to that source must be revised accordingly. If the permitting authority does not retain the existing emission limitations in the permit as the emission limitations to effectuate section 112(j), the MACT requirements of this subpart are satisfied upon issuance of a revised title V permit incorporating any additional section 112(j) requirements.

(ii) When the owner or operator has submitted a title V permit application that incorporates a case-by-case MACT determination by the permitting authority under section 112(g), but has not received the permit incorporating the section 112(g) requirements, the owner or operator must continue to pursue a title V permit that addresses the emission limitation requirements of section 112(g). Within 30 days of issuance of that title V permit, the owner or operator must submit an application meeting the requirements of §63.53(a) for a change to the existing title V permit. Using the procedures established in paragraph (e) of this section, the permitting authority must determine whether the emission limitations adopted pursuant to the prior case-by-case MACT determination under section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt pursuant to section 112(j) for the source in question. If the permitting authority determines that the emission limitations previously adopted to effectuate section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt to effectuate section 112(j) for the source, then the permitting authority must retain the existing emission limitations in the permit as the emission limitations to effectuate section 112(j). The title V permit applicable to that source must be revised accordingly. If the permitting authority does not retain the existing emission limitations in the permit as the emission limitations to effectuate section 112(j), the MACT requirements of this subpart are satisfied upon issuance of a revised title V permit incorporating any additional section 112(j) requirements.

(b) *Sources that become subject to section 112(j) after the section 112(j) deadline and that do not have a title V permit addressing section 112(j) requirements.* The requirements of paragraphs (b)(1) through (4) of this section apply to sources that do not meet the criteria in paragraph (a) of this section on the section 112(j) deadline and are, therefore, not subject to section 112(j) on that date, but where events occur subsequent to the section 112(j) deadline that would bring the source under the requirements of this subpart, and the source does not have a title V permit that addresses the requirements of section 112(j).

(1) When one or more sources in a category or subcategory subject to the requirements of this subpart are installed at a major source, or result in the source becoming a major source due to the installation, and the installation does not invoke section 112(g) requirements, the owner or operator must submit an application meeting the requirements of §63.53(a) within 30 days of startup of the source. This application shall be reviewed using the procedures established in paragraph (e) of this section. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued pursuant to the requirements of this subpart, shall apply to such sources.

(2) The requirements in this paragraph apply when one or more sources in a category or subcategory subject to this subpart are installed at a major source, or result in the source becoming a major source due to the installation, and the installation does require emission limitations to be established and permitted under section 112(g), and the owner or operator has not submitted an application for a title V permit revision that addresses the emission limitation requirements of section 112(j). In this case, the owner or operator must apply for and obtain a title V permit that addresses the emission limitation requirements of section 112(g). Within 30 days of issuance of that title V permit, the owner or operator must submit an application meeting the requirements of §63.53(a) for a revision to the existing title V permit. Using the procedures established in paragraph (e) of this section, the permitting authority must determine whether the emission limitations adopted pursuant to the prior

96 FINAL REGULATIONS

case-by-case MACT determination under section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt pursuant to section 112(j) for the source in question. If the permitting authority determines that the emission limitations previously adopted to effectuate section 112(g) are substantially as effective as the emission limitations which the permitting authority would otherwise adopt to effectuate section 112(j) for the source, then the permitting authority must retain the existing emission limitations in the permit as the emission limitations to effectuate section 112(j). The title V permit applicable to that source must be revised accordingly. If the permitting authority does not retain the existing emission limitations in the permit as the emission limitations to effectuate section 112(j), the MACT requirements of this subpart are satisfied upon issuance of a revised title V permit incorporating any additional section 112(j) requirements.

(3) The owner or operator of an area source that, due to a relaxation in any federally enforceable emission limitation (such as a restriction on hours of operation), increases its potential to emit hazardous air pollutants such that the source becomes a major source that is subject to this subpart, must submit an application meeting the requirements of §63.53(a) for a title V permit or for an application for a title V permit revision within 30 days after the date that such source becomes a major source. This application must be reviewed using the procedures established in paragraph (e) of this section. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued pursuant to the requirements of this subpart, must apply to such sources.

(4) On or after April 5, 2002, if the Administrator establishes a lesser quantity emission rate under section 112(a)(1) of the Act that results in an area source becoming a major source that is subject to this subpart, then the owner or operator of such a major source must submit an application meeting the requirements of §63.53(a) for a title V permit or for a change to an existing title V permit or pending title V permit on or before the date 6 months after the date that such source becomes a major source. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued pursuant to the requirements of this subpart, shall apply to such sources.

(c) *Sources that have a title V permit addressing section 112(j) requirements.* The requirements of paragraphs (c)(1) and (2) of this section apply to major sources that include one or more sources in a category or subcategory for which the Administrator fails to promulgate an emission standard under this part on or before an applicable section 112(j) deadline, and the owner or operator has a permit meeting the section 112(j) requirements, and where changes occur at the major source to equipment, activities, or both, subsequent to the section 112(j) deadline.

(1) If the title V permit already provides the appropriate requirements that address the events that occur under paragraph (c) of this section subsequent to the section 112(j) deadline, then the source must comply with the applicable new source MACT or existing source MACT requirements as specified in the permit, and the section 112(j) requirements are thus satisfied.

(2) If the title V permit does not contain the appropriate requirements that address the events that occur under paragraph (c) of this section subsequent to the section 112(j) deadline, then the owner or operator must submit an application for a revision to the existing title V permit that meets the requirements of §63.53(a). The application must be submitted within 30 days of beginning construction and must be reviewed using the procedures established in paragraph (e) of this section. Existing source MACT requirements (including relevant compliance deadlines), as specified in a title V permit issued pursuant to the requirements of this subpart, shall apply to such sources.

(d) *Requests for applicability determination or notice of MACT approval.*

(1) An owner or operator who is unsure of whether one or more sources at a major source belong in a category or subcategory for which the Administrator has failed to promulgate an emission standard under this part may, on or before an applicable section 112(j) deadline, request an applicability determination from the

permitting authority by submitting an application meeting the requirements of §63.53(a) by the applicable deadlines specified in paragraphs (a), (b), or (c) of this section.

(2) In addition to meeting the requirements of paragraphs (a), (b), and (c) of this section, the owner or operator of a new affected source may submit an application for a Notice of MACT Approval before construction, pursuant to §63.54.

(e) Permit application review.

(1) Each owner or operator who is required to submit to the permitting authority a Part 1 MACT application which meets the requirements of §63.53(a) for one or more sources in a category or subcategory subject to section 112(j) must also submit to the permitting authority a timely Part 2 MACT application for the same sources which meets the requirements of §63.53(b). Each owner or operator shall submit the Part 2 MACT application for the sources in a particular category or subcategory no later than the applicable date specified in Table 1 to this subpart. The submission date specified in Table 1 to this subpart for Miscellaneous Organic Chemical Manufacturing shall apply to sources in each of the source categories listed in Table 2 to this subpart. When the owner or operator is required by §§63.50 through 63.56 to submit an application meeting the requirements of §63.53(a) by a date which is after the date for a Part 2 MACT application for sources in the category or subcategory in question established by Table 1 to this subpart, the owner or operator shall submit a Part 2 MACT application meeting the requirements of §63.53(b) within 60 additional days after the applicable deadline for submission of the Part 1 MACT application. Part 2 MACT applications must be reviewed by the permitting authority according to procedures established in §63.55. The resulting MACT determination must be incorporated into the source's title V permit according to procedures established under title V, and any other regulations approved under title V in the jurisdiction in which the affected source is located.

(2) Notwithstanding paragraph (e)(1) of this section, the owner or operator may request either an applicability determination or an equivalency determination by the permitting authority as provided in paragraphs (e)(2)(i) and (ii) of this section.

(i) Each owner or operator who submitted a request for an applicability determination pursuant to paragraph (d)(1) of this section on or before May 15, 2002, which remains pending before the permitting authority on May 30, 2003, and who still wishes to obtain such a determination, must resubmit that request by July 29, 2003, or by the date which is 60 days after the Administrator publishes in the Federal Register a proposed standard under section 112(d) or 112(h) of the Act for the category or subcategory in question, whichever is later. Each request for an applicability determination which is resubmitted under this paragraph (e)(2)(i) must be supplemented to discuss the relation between the source(s) in question and the applicability provision in the proposed standard for the category or subcategory in question, and to explain why there may still be uncertainties that require a determination of applicability. The permitting authority must take action upon each properly resubmitted and supplemented request for an applicability determination within an additional 60 days after the applicable deadline for the resubmitted request. If the applicability determination is positive, the owner or operator must submit a Part 2 MACT application meeting the requirements of §63.53(b) by the date specified for the category or subcategory in question in Table 1 to this subpart. If the applicability determination is negative, then no further action by the owner or operator is necessary.

(ii) As specified in paragraphs (a) and (b) of this section, an owner or operator who has submitted an application meeting the requirements of §63.53(a) may request a determination by the permitting authority of whether emission limitations adopted pursuant to a prior case-by-case MACT determination under section 112(g) that apply to one or more sources at a major source in a relevant category or subcategory are substantially as effective as the emission limitations which the permitting authority would otherwise adopt pursuant to section 112(j) for the source in question. Such a request must be submitted by the date for the category or subcategory in question specified in Table 1 to this subpart. Any owner or operator who previously submitted such a request under a prior version of this paragraph (e)(2)(ii) need not resubmit the request. Each request for an equivalency determination under this paragraph (e)(2)(ii), regardless of when it was submitted,

98 FINAL REGULATIONS

will be construed in the alternative as a complete application for an equivalent emission limitation under section 112(j). The process for determination by the permitting authority of whether the emission limitations in the prior case-by-case MACT determination are substantially as effective as the emission limitations which the permitting authority would otherwise adopt under section 112(j) must include the opportunity for full public, EPA, and affected State review prior to a final determination. If the permitting authority determines that the emission limitations in the prior case-by-case MACT determination are substantially as effective as the emission limitations which the permitting authority would otherwise adopt under section 112(j), then the permitting authority must adopt the existing emission limitations in the permit as the emission limitations to effectuate section 112(j) for the source in question. If more than 3 years remain on the current title V permit, the owner or operator must submit an application for a title V permit revision to make any conforming changes in the permit required to adopt the existing emission limitations as the section 112(j) MACT emission limitations. If less than 3 years remain on the current title V permit, any required conforming changes must be made when the permit is renewed. If the permitting authority determines that the emission limitations in the prior case-by-case MACT determination under section 112(g) are not substantially as effective as the emission limitations which the permitting authority would otherwise adopt for the source in question under section 112(j), the permitting authority must make a new MACT determination and adopt a title V permit incorporating an appropriate equivalent emission limitation under section 112(j). Such a determination constitutes final action for purposes of judicial review under 40 CFR 70.4(b)(3)(x) and corresponding State title V program provisions.

(3) Within 60 days of submittal of the Part 2 MACT application, the permitting authority must notify the owner or operator in writing whether the application is complete or incomplete. The Part 2 MACT application shall be deemed complete on the date it was submitted unless the permitting authority notifies the owner or operator in writing within 60 days of the submittal that the Part 2 MACT application is incomplete. A Part 2 MACT application is complete if it is sufficient to begin processing the application for a title V permit addressing section 112(j) requirements. In the event that the permitting authority disapproves a permit application or determines that the application is incomplete, the owner or operator must revise and resubmit the application to meet the objections of the permitting authority. The permitting authority must specify a reasonable period in which the owner or operator is required to remedy the deficiencies in the disapproved or incomplete application. This period may not exceed 6 months from the date the owner or operator is first notified that the application has been disapproved or is incomplete.

(4) Following submittal of a Part 1 or Part 2 MACT application, the permitting authority may request additional information from the owner or operator. The owner or operator must respond to such requests in a timely manner.

(5) If the owner or operator has submitted a timely and complete application as required by this section, any failure to have a title V permit addressing section 112(j) requirements shall not be a violation of section 112(j), unless the delay in final action is due to the failure of the applicant to submit, in a timely manner, information required or requested to process the application. Once a complete application is submitted, the owner or operator shall not be in violation of the requirement to have a title V permit addressing section 112(j) requirements.

(f) *Permit content.* The title V permit must contain an equivalent emission limitation (or limitations) for the relevant category or subcategory determined on a case-by-case basis by the permitting authority, or, if the applicable criteria in subpart D of this part are met, the title V permit may contain an alternative emission limitation. For the purposes of the preceding sentence, early reductions made pursuant to section 112(i)(5)(A) of the Act must be achieved not later than the date on which the relevant standard should have been promulgated according to the source category schedule for standards.

(1) The title V permit must contain an emission standard or emission limitation that is equivalent to existing source MACT and an emission standard or emission limitation that is equivalent to new source MACT for control of emissions of hazardous air pollutants. The MACT emission standards or limitations must be determined by the permitting authority and must be based on the degree of emission reductions that can be achieved if the control technologies or work practices are installed, maintained, and operated properly. The

permit must also specify the affected source and the new affected source. If construction of a new affected source or reconstruction of an affected source commences after a title V permit meeting the requirements of section 112(j) has been issued for the source, the new source MACT compliance dates must apply.

(2) The title V permit must specify any notification, operation and maintenance, performance testing, monitoring, and reporting and recordkeeping requirements. In developing the title V permit, the permitting authority must consider and specify the appropriate provisions of subpart A of this part. The title V permit must also include the information in paragraphs (f)(2)(i) through (iii) of this section.

(i) In addition to the MACT emission limitation required by paragraph (f)(1) of this section, additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure practicable enforceability of the MACT emission limitation.

(ii) Compliance certifications, testing, monitoring, reporting and recordkeeping requirements that are consistent with requirements established pursuant to title V and paragraph (h) of this section.

(iii) Compliance dates by which the owner or operator must be in compliance with the MACT emission limitation and all other applicable terms and conditions of the permit.

(A) The owner or operator of an affected source subject to the requirements of this subpart must comply with the emission limitation(s) by the date established in the source's title V permit. In no case shall such compliance date be later than 3 years after the issuance of the permit for that source, except where the permitting authority issues a permit that grants an additional year to comply in accordance with section 112(i)(3)(B) of the Act, or unless otherwise specified in section 112(i), or in subpart D of this part.

(B) The owner or operator of a new affected source, as defined in the title V permit meeting the requirements of section 112(j), that is subject to the requirements of this subpart must comply with a new source MACT level of control immediately upon startup of the new affected source.

(g) *Permit issuance dates.* The permitting authority must issue a title V permit meeting section 112(j) requirements within 18 months after submittal of the complete Part 2 MACT application.

(h) *Enhanced monitoring.* In accordance with section 114(a)(3) of the Act, monitoring shall be capable of demonstrating continuous compliance for each compliance period during the applicable reporting period. Such monitoring data shall be of sufficient quality to be used as a basis for directly enforcing all applicable requirements established under this subpart, including emission limitations.

(i) *MACT emission limitations.*

(1) The owner or operator of affected sources subject to paragraphs (a), (b), and (c) of this section must comply with all requirements of this subpart that are applicable to affected sources, including the compliance date for affected sources established in paragraph (f)(2)(iii)(A) of this section.

(2) The owner or operator of new affected sources subject to paragraph (c)(1) of this section must comply with all requirements of this subpart that are applicable to new affected sources, including the compliance date for new affected sources established in paragraph (f)(2)(iii)(B) of this section.

Section 63.53 Application content for case-by-case MACT determinations

(a) *Part 1 MACT application.* The Part 1 application for a MACT determination must contain the information in paragraphs (a)(1) through (4) of this section.

(1) The name and address (physical location) of the major source.

100 FINAL REGULATIONS

(2) A brief description of the major source and an identification of the relevant source category.

(3) An identification of the types of emission points belonging to the relevant source category.

(4) An identification of any affected sources for which a section 112(g) MACT determination has been made.

(b) *Part 2 MACT application.*

(1) In compiling a Part 2 MACT application, the owner or operator may cross-reference specific information in any prior submission by the owner or operator to the permitting authority, but in cross-referencing such information the owner or operator may not presume favorable action on any prior application or request which is still pending. In compiling a Part 2 MACT application, the owner or operator may also cross-reference any part of a standard proposed by the Administrator pursuant to section 112(d) or 112(h) of the Act for any category or subcategory which includes sources to which the Part 2 application applies.

(2) The Part 2 application for a MACT determination must contain the information in paragraphs (b)(2)(i) through (b)(2)(v) of this section.

(i) For a new affected source, the anticipated date of startup of operation.

(ii) Each emission point or group of emission points at the affected source which is part of a category or subcategory for which a Part 2 MACT application is required, and each of the hazardous air pollutants emitted at those emission points. When the Administrator has proposed a standard pursuant to section 112(d) or 112(h) of the Act for a category or subcategory, such information may be limited to those emission points and hazardous air pollutants which would be subject to control under the proposed standard.

(iii) Any existing Federal, State, or local limitations or requirements governing emissions of hazardous air pollutants from those emission points which are part of a category or subcategory for which a Part 2 application is required.

(iv) For each identified emission point or group of affected emission points, an identification of control technology in place.

(v) Any additional emission data or other information specifically requested by the permitting authority.

(3) The Part 2 application for a MACT determination may, but is not required to, contain the following information:

(i) Recommended emission limitations for the affected source and support information consistent with §63.52(f). The owner or operator may recommend a specific design, equipment, work practice, or operational standard, or combination thereof, as an emission limitation.

(ii) A description of the control technologies that would be applied to meet the emission limitation including technical information on the design, operation, size, estimated control efficiency and any other information deemed appropriate by the permitting authority, and identification of the affected sources to which the control technologies must be applied.

(iii) Relevant parameters to be monitored and frequency of monitoring to demonstrate continuous compliance with the MACT emission limitation over the applicable reporting period.

Section 63.54 Preconstruction review procedures for new affected sources

The requirements of this section apply to an owner or operator who constructs a new affected source subject to §63.52(c)(1). The purpose of this section is to describe alternative review processes that the permitting authority may use to make a MACT determination for the new affected source.

(a) Review process for new affected sources.

(1) If the permitting authority requires an owner or operator to obtain or revise a title V permit before construction of the new affected source, or when the owner or operator chooses to obtain or revise a title V permit before construction, the owner or operator must follow the procedures established under the applicable title V permit program before construction of the new affected source.

(2) If an owner or operator is not required to obtain or revise a title V permit before construction of the new affected source (and has not elected to do so), but the new affected source is covered by any preconstruction or preoperation review requirements established pursuant to section 112(g) of the Act, then the owner or operator must comply with those requirements in order to ensure that the requirements of section 112(j) and (g) are satisfied. If the new affected source is not covered by section 112(g), the permitting authority, in its discretion, may issue a Notice of MACT Approval, or the equivalent, in accordance with the procedures set forth in paragraphs (b) through (f) of this section, or an equivalent permit review process, before construction or operation of the new affected source.

(3) Regardless of the review process, the MACT determination shall be consistent with the principles established in §63.55. The application for a Notice of MACT Approval or a title V permit, permit modification, or administrative amendment, whichever is applicable, shall include the documentation required by §63.53.

(b) Optional administrative procedures for preconstruction or preoperation review for new affected sources. The permitting authority may provide for an enhanced review of section 112(j) MACT determinations for review procedures and compliance requirements equivalent to those set forth in paragraphs (b) through (f) of this section.

(1) The permitting authority will notify the owner or operator in writing as to whether the application for a MACT determination is complete or whether additional information is required.

(2) The permitting authority will approve an applicant's proposed control technology, or the permitting authority will notify the owner or operator in writing of its intention to disapprove a control technology.

(3) The owner or operator may present in writing, within a time frame specified by the permitting authority, additional information, considerations, or amendments to the application before the permitting authority's issuance of a final disapproval.

(4) The permitting authority will issue a preliminary approval or issue a disapproval of the application, taking into account additional information received from the owner or operator.

(5) A determination to disapprove any application will be in writing and will specify the grounds on which the disapproval is based.

(6) Approval of an applicant's proposed control technology must be set forth in a Notice of MACT Approval (or the equivalent) as described in §63.52(f).

(c) Opportunity for public comment on Notice of MACT Approval. The permitting authority will provide opportunity for public comment on the preliminary Notice of MACT Approval prior to issuance, including, at a minimum,

102 FINAL REGULATIONS

(1) Availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of the permitting authority's tentative determination;

(2) A period for submittal of public comment of at least 30 days; and

(3) A notice by prominent advertisement in the area affected of the location of the source information and analysis specified in §63.52(f). The form and content of the notice must be substantially equivalent to that found in §70.7 of this chapter.

(4) An opportunity for a public hearing, if one is requested. The permitting authority will give at least 30 days notice in advance of any hearing.

(d) *Review by the EPA and affected States.* The permitting authority must send copies of the preliminary notice (in time for comment) and final notice required by paragraph (c) of this section to the Administrator through the appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in affected States. The permitting authority must provide EPA with a review period for the final notice of at least 45 days and shall not issue a final Notice of MACT Approval until EPA objections are satisfied.

(e) *Compliance with MACT determinations.* An owner or operator of a major source that is subject to a MACT determination must comply with notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements established under §63.52(h), under title V, and at the discretion of the permitting authority, under subpart A of this part. The permitting authority must provide the EPA with the opportunity to review compliance requirements for consistency with requirements established pursuant to title V during the review period under paragraph (d) of this section.

(f) *Equivalency under section 112(l).* If a permitting authority requires preconstruction review for new source MACT determinations under this subpart, such requirement shall not necessitate a determination under subpart E of this part.

Section 63.55 Maximum achievable control technology (MACT) determinations for affected sources subject to case-by-case determination of equivalent emission limitations

(a) *Requirements for permitting authorities.* The permitting authority must determine whether the §63.53(a) Part 1 and §63.53(b) Part 2 MACT application is complete or an application for a Notice of MACT Approval is approvable. In either case, when the application is complete or approvable, the permitting authority must establish hazardous air pollutant emissions limitations equivalent to the limitations that would apply if an emission standard had been issued in a timely manner under section 112(d) or (h) of the Act. The permitting authority must establish these emissions limitations consistent with the following requirements and principles:

(1) Emission limitations must be established for the equipment and activities within the affected sources within a source category or subcategory for which the section 112(j) deadline has passed.

(2) Each emission limitation for an existing affected source must reflect the maximum degree of reduction in emissions of hazardous air pollutants (including a prohibition on such emissions, where achievable) that the permitting authority, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable by affected sources in the category or subcategory for which the section 112(j) deadline has passed. This limitation must not be less stringent than the MACT floor which must be established by the permitting authority according to the requirements of section 112(d)(3)(A) and (B) and must be based upon available information.

(3) Each emission limitation for a new affected source must reflect the maximum degree of reduction in emissions of hazardous air pollutants (including a prohibition on such emissions, where achievable) that the

permitting authority, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable. This limitation must not be less stringent than the emission limitation achieved in practice by the best controlled similar source which must be established by the permitting authority according to the requirements of section 112(d)(3). This limitation must be based upon available information.

(4) The permitting authority must select a specific design, equipment, work practice, or operational standard, or combination thereof, when it is not feasible to prescribe or enforce an equivalent emission limitation due to the nature of the process or pollutant. It is not feasible to prescribe or enforce a limitation when the Administrator determines that hazardous air pollutants cannot be emitted through a conveyance designed and constructed to capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law, or the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.

(5) Nothing in this subpart shall prevent a State or local permitting authority from establishing an emission limitation more stringent than required by Federal regulations.

(b) *Reporting to EPA.* The owner or operator must submit additional copies of its Part 1 and Part 2 MACT application for a title V permit, permit revision, or Notice of MACT Approval, whichever is applicable, to the EPA at the same time the material is submitted to the permitting authority.

Section 63.56 Requirements for case-by-case determination of equivalent emission limitations after promulgation of subsequent MACT standard

(a) If the Administrator promulgates a relevant emission standard that is applicable to one or more affected sources within a major source before the date a permit application under this paragraph (a) is approved, the title V permit must contain the promulgated standard rather than the emission limitation determined under §63.52, and the owner or operator must comply with the promulgated standard by the compliance date in the promulgated standard.

(b) If the Administrator promulgates a relevant emission standard under section 112(d) or (h) of the Act that is applicable to a source after the date a permit is issued pursuant to §63.52 or §63.54, the permitting authority must incorporate requirements of that standard in the title V permit upon its next renewal. The permitting authority must establish a compliance date in the revised permit that assures that the owner or operator must comply with the promulgated standard within a reasonable time, but not longer than 8 years after such standard is promulgated or 8 years after the date by which the owner or operator was first required to comply with the emission limitation established by the permit, whichever is earlier. However, in no event shall the period for compliance for existing sources be shorter than that provided for existing sources in the promulgated standard.

(c) Notwithstanding the requirements of paragraph (a) or (b) of this section, the requirements of paragraphs (c)(1) and (2) of this section shall apply.

(1) If the Administrator promulgates an emission standard under section 112(d) or (h) that is applicable to an affected source after the date a permit application under this paragraph is approved under §63.52 or §63.54, the permitting authority is not required to change the emission limitation in the permit to reflect the promulgated standard if the permitting authority determines that the level of control required by the emission limitation in the permit is substantially as effective as that required by the promulgated standard pursuant to §63.1(e).

(2) If the Administrator promulgates an emission standard under section 112(d) or (h) of the Act that is applicable to an affected source after the date a permit application is approved under §63.52 or §63.54, and the level of control required by the promulgated standard is less stringent than the level of control required by any emission limitation in the prior MACT determination, the permitting authority is not required to incorporate any less stringent emission limitation of the promulgated standard in the title V permit and may in its discretion

104 FINAL REGULATIONS

consider any more stringent provisions of the MACT determination to be applicable legal requirements when issuing or revising such a title V permit.

TABLE 1 TO SUBPART B OF PART 63—SECTION 112(J) PART 2 APPLICATION DUE DATES	
Due date	MACT standard
10/30/03	Combustion Turbines. Lime Manufacturing. Site Remediation. Iron and Steel Foundries. Taconite Iron Ore Processing. Miscellaneous Organic Chemical Manufacturing (MON). ¹ Organic Liquids Distribution. Primary Magnesium Refining. Metal Can (Surface Coating). Plastic Parts and Products (Surface Coating). Chlorine Production. Miscellaneous Metal Parts and Products (Surface Coating) (and Asphalt/Coal Tar Application_Metal Pipes). ²
4/28/04	Industrial Boilers, Institutional/Commercial Boilers and Process Heaters. ³ Plywood and Composite Wood Products. Reciprocating Internal Combustion Engines. ⁴ Auto and Light-Duty Truck (Surface Coating).
8/13/05	Industrial Boilers, Institutional/Commercial Boilers, and Process Heaters. ⁵ Hydrochloric Acid Production. ⁶

¹ Covers 23 source categories, see Table 2 to this subpart.

² Two source categories.

³ Includes all sources in the three categories, Industrial Boilers, Institutional/Commercial Boilers, and Process Heaters that burn no hazardous waste.

⁴ Includes engines greater than 500 brake horsepower.

⁵ Includes all sources in the three categories, Industrial Boilers, Institutional/Commercial Boilers, and Process Heaters that burn hazardous waste.

⁶ Includes furnaces that produce acid from hazardous waste at sources in the category Hydrochloric Acid Production.

TABLE 2 TO SUBPART B OF PART 63—MON SOURCE CATEGORIES

Manufacture of Paints, Coatings, and Adhesives.
 Alkyd Resins Production.
 Maleic Anhydride Copolymers Production.
 Polyester Resins Production.
 Polymerized Vinylidene Chloride Production.
 Polymethyl Methacrylate Resins Production.
 Polyvinyl Acetate Emulsions Production.
 Polyvinyl Alcohol Production.
 Polyvinyl Butyral Production.
 Ammonium Sulfate Production-Caprolactam By-Product Plants.
 Quaternary Ammonium Compounds Production.
 Benzyltrimethylammonium Chloride Production.
 Carbonyl Sulfide Production.
 Chelating Agents Production.
 Chlorinated Paraffins Production.
 Ethylidene Norbornene Production.
 Explosives Production.
 Hydrazine Production.
 OBPA/1,3-Diisocyanate Production.
 Photographic Chemicals Production.
 Phthalate Plasticizers Production.
 Rubber Chemicals Manufacturing.
 Symmetrical Tetrachloropyridine Production.

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

Subpart F - “National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry”

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

40 CFR Part 63 subpart F			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	April 22, 1994	[59 FR 19454]
Revision	Vol. 59	September 20, 1994	[59 FR 48176]
Revision	Vol. 59	October 24, 1994	[59 FR 53360]
Revision	Vol. 59	October 28, 1994	[59 FR 54132]
Revision	Vol. 60	January 27, 1995	[60 FR 5321]
Revision	Vol. 60	April 10, 1995	[60 FR 18023]
Revision	Vol. 60	April 10, 1995	[60 FR 18028]
Revision	Vol. 60	December 12, 1995	[60 FR 63626]
Revision	Vol. 61	February 29, 1996	[61 FR 7718]
Revision	Vol. 61	June 20, 1996	[61 FR 31439]
Revision	Vol. 61	December 5, 1996	[61 FR 64574]

106 FINAL REGULATIONS

40 CFR Part 63 subpart F			
Federal Register Citation	Volume	Date	Notice
Revision	Vol. 62	January 17, 1997	[62 FR 2729]
Revision	Vol. 63	May 12, 1998	[63 FR 26081]
Revision	Vol. 64	April 26, 1999	[64 FR 20191]
Revision	Vol. 65	May 8, 2000	[65 FR 26491]
Revision	Vol. 66	January 22, 2001	[66 FR 6922]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart G - “National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater”

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

40 CFR Part 63 subpart G			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	April 22, 1994	[59 FR 19468]
Revision	Vol. 59	June 6, 1994	[59 FR 29201]
Revision	Vol. 59	October 24, 1994	[59 FR 53360]
Revision	Vol. 60	January 27, 1995	[60 FR 5321]
Revision	Vol. 60	April 10, 1995	[60 FR 18024]
Revision	Vol. 60	April 10, 1995	[60 FR 18029]
Revision	Vol. 60	December 12, 1995	[60 FR 63626]
Revision	Vol. 61	February 29, 1996	[61 FR 7718]
Revision	Vol. 61	December 5, 1996	[61 FR 64575]
Revision	Vol. 62	January 17, 1997	[62 FR 2742]
Revision	Vol. 63	December 9, 1998	[63 FR 67792]
Revision	Vol. 64	April 26, 1999	[64 FR 20191]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 65	December 14, 2000	[65 FR 78268]
Revision	Vol. 66	January 22, 2001	[66 FR 6922]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart H – “National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks”

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

40 CFR Part 63 subpart H			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	April 22, 1994	[59 FR 19568]
Revision	Vol. 59	September 20, 1994	[59 FR 48176]
Revision	Vol. 59	October 24, 1994	[59 FR 53360]
Revision	Vol. 60	January 27, 1995	[60 FR 5321]
Revision	Vol. 60	April 10, 1995	[60 FR 18024]
Revision	Vol. 60	April 10, 1995	[60 FR 18029]
Revision	Vol. 60	December 12, 1995	[60 FR 63631]
Revision	Vol. 61	June 20, 1996	[61 FR 31439]
Revision	Vol. 62	January 17, 1997	[62 FR 2788]
Revision	Vol. 64	April 26, 1999	[64 FR 20198]
Revision	Vol. 65	December 14, 2000	[65 FR 78268]
Revision	Vol. 66	January 22, 2001	[66 FR 6922]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart I - “National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks”

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

40 CFR Part 63 subpart I			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	April 22, 1994	[59 FR 19587]
Revision	Vol. 59	September 20, 1994	[59 FR 48178]
Revision	Vol. 59	October 24, 1994	[59 FR 53360]
Revision	Vol. 59	October 28, 1994	[59 FR 54132]
Revision	Vol. 60	January 27, 1995	[60 FR 5321]
Revision	Vol. 60	April 10, 1995	[60 FR 18025]
Revision	Vol. 60	April 10, 1995	[60 FR 18030]
Revision	Vol. 61	February 29, 1996	[61 FR 7718]
Revision	Vol. 61	June 20, 1996	[61 FR 31441]
Revision	Vol. 62	January 17, 1997	[62 FR 2792]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart L - “National Emission Standards for Coke Oven Batteries”

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

108 FINAL REGULATIONS

40 CFR Part 63 subpart L			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 58	October 27, 1993	[58 FR 57911]
Revision	Vol. 59	January 13, 1994	[59 FR 1992]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart M - “National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities”

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

40 CFR Part 63 subpart M			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 58	September 22, 1993	[58 FR 49376]
Revision	Vol. 58	December 20, 1993	[58 FR 66289]
Revision	Vol. 61	June 3, 1996	[61 FR 27788]
Revision	Vol. 61	June 11, 1996	[61 FR 29485]
Revision	Vol. 61	September 19, 1996	[61 FR 49265]
Revision	Vol. 64	December 14, 1999	[64 FR 69637]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart N - “National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks”

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

40 CFR Part 63 subpart N			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 60	January 25, 1995	[60 FR 4963]
Revision	Vol. 60	May 24, 1995	[60 FR 27598]
Revision	Vol. 60	June 27, 1995	[60 FR 33122]
Revision	Vol. 61	June 3, 1996	[61 FR 27787]
Revision	Vol. 62	January 30, 1997	[62 FR 4465]
Revision	Vol. 62	August 11, 1997	[62 FR 42920]
Revision	Vol. 64	December 14, 1999	[64 FR 69637]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart O - “Ethylene Oxide Emission Standards for Sterilization Facilities”

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

40 CFR Part 63 subpart O			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	December 6, 1994	[59 FR 62589]
Revision	Vol. 61	June 3, 1996	[61 FR 27788]
Revision	Vol. 62	December 9, 1997	[62 FR 64736]
Revision	Vol. 63	December 4, 1998	[63 FR 66994]
Revision	Vol. 64	December 14, 1999	[64 FR 69637]
Revision	Vol. 66	November 2, 2001	[66 FR 55577]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart Q - “National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers”

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

40 CFR Part 63 subpart Q			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	September 8, 1994	[59 FR 46350]
Revision	Vol. 63	July 23, 1998	[63 FR 39519]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart R - “National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)”

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

40 CFR Part 63 subpart R			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	December 14, 1994	[59 FR 64318]
Revision	Vol. 60	February 8, 1995	[60 FR 7627]
Revision	Vol. 60	June 26, 1995	[60 FR 32913]
Revision	Vol. 60	August 18, 1995	[60 FR 43260]
Revision	Vol. 60	December 8, 1995	[60 FR 62992]
Revision	Vol. 61	February 29, 1996	[61 FR 7723]
Revision	Vol. 62	February 28, 1997	[62 FR 9092]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]
Revision	Vol. 68	December 19, 2003	[68 FR 70960]

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

Subpart S - “National Emission Standards for Hazardous Air Pollutants From the Pulp and Paper Industry”

110 FINAL REGULATIONS

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

40 CFR Part 63 subpart S			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 63	April 15, 1998	[63 FR 18616]
Revision	Vol. 63	August 7, 1998	[63 FR 42239]
Revision	Vol. 63	September 16, 1998	[63 FR 49459]
Revision	Vol. 63	December 28, 1998	[63 FR 71389]
Revision	Vol. 64	April 12, 1999	[64 FR 17563]
Revision	Vol. 65	December 22, 2000	[65 FR 80755]
Revision	Vol. 66	May 14, 2001	[66 FR 24268]
Revision	Vol. 66	October 16, 2001	[66 FR 52537]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart T - “National Emission Standards for Halogenated Solvent Cleaning”

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

40 CFR Part 63 subpart T			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	December 2, 1994	[59 FR 61805]
Revision	Vol. 59	December 30, 1994	[59 FR 67750]
Revision	Vol. 60	June 5, 1995	[60 FR 29485]
Revision	Vol. 63	May 5, 1998	[63 FR 24751]
Revision	Vol. 63	December 11, 1998	[63 FR 68400]
Revision	Vol. 64	July 13, 1999	[64 FR 37687]
Revision	Vol. 64	October 18, 1999	[64 FR 56173]
Revision	Vol. 64	December 3, 1999	[64 FR 67793]
Revision	Vol. 65	September 8, 2000	[65 FR 54419]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart U - “National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins”

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

40 CFR Part 63 subpart U			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 61	September 5, 1996	[61 FR 46924]
Revision	Vol. 62	January 14, 1997	[62 FR 1837]
Revision	Vol. 62	March 17, 1997	[62 FR 12549]
Revision	Vol. 62	July 15, 1997	[62 FR 37722]
Revision	Vol. 64	March 9, 1999	[64 FR 11542]
Revision	Vol. 64	May 7, 1999	[64 FR 24511]
Revision	Vol. 64	June 30, 1999	[64 FR 35028]
Revision	Vol. 65	June 19, 2000	[65 FR 38030]
Revision	Vol. 66	July 16, 2001	[66 FR 36924]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart W - “National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production”

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

40 CFR Part 63 subpart W			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 60	March 8, 1995	[60 FR 12676]
Revision	Vol. 65	May 8, 2000	[65 FR 26491]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart X - “National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting”

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

40 CFR Part 63 subpart X			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 60	June 23, 1995	[60 FR 32594]
Revision	Vol. 61	June 3, 1996	[61 FR 27788]
Revision	Vol. 61	December 12, 1996	[61 FR 65336]
Revision	Vol. 62	June 13, 1997	[62 FR 32216]
Revision	Vol. 63	August 24, 1998	[63 FR 45011]
Revision	Vol. 64	January 29, 1999	[64 FR 4572]
Revision	Vol. 64	December 14, 1999	[64 FR 69637]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart Y - “National Emission Standards for Marine Tank Vessel Loading Operations”

112 FINAL REGULATIONS

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

40 CFR Part 63 subpart Y			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 60	September 19, 1995	[60 FR 48399]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart AA - “National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants”

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

40 CFR Part 63 subpart AA			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 10, 1999	[64 FR 31376]
Revision	Vol. 66	December 17, 2001	[66 FR 65072]
Revision	Vol. 67	June 12, 2002	[67 FR 40578]
Revision	Vol. 67	June 13, 2002	[67 FR 40814]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart BB - “National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizer Production Plants”

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

40 CFR Part 63 subpart BB			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 10, 1999	[64 FR 31382]
Revision	Vol. 66	December 17, 2001	[66 FR 65072]
Revision	Vol. 67	June 13, 2002	[67 FR 40814]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart CC - “National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries”

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

40 CFR Part 63 subpart CC			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 60	August 18, 1995	[60 FR 43260]
Revision	Vol. 60	September 27, 1995	[60 FR 49976]
Revision	Vol. 61	February 23, 1996	[61 FR 7051]
Revision	Vol. 61	June 12, 1996	[61 FR 29878]
Revision	Vol. 61	June 28, 1996	[61 FR 33799]
Revision	Vol. 62	February 21, 1997	[62 FR 7938]
Revision	Vol. 63	March 20, 1998	[63 FR 13537]
Revision	Vol. 63	May 18, 1998	[63 FR 27212]
Revision	Vol. 63	June 9, 1998	[63 FR 31361]
Revision	Vol. 63	August 18, 1998	[63 FR 44140]
Revision	Vol. 65	May 8, 2000	[65 FR 26491]
Revision	Vol. 65	July 6, 2000	[65 FR 41594]
Revision	Vol. 66	May 25, 2001	[66 FR 28840]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart DD - “National Emission Standards for Hazardous Air Pollutants From Off-Site Waste and Recovery Operations”

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

40 CFR Part 63 subpart DD			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 61	July 1, 1996	[61 FR 34158]
Revision	Vol. 64	July 20, 1999	[64 FR 38963]
Revision	Vol. 66	January 8, 2001	[66 FR 1263]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart EE - “National Emission Standards for Magnetic Tape Manufacturing Operations”

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

40 CFR Part 63 subpart EE			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 59	December 15, 1994	[59 FR 64596]
Revision	Vol. 64	April 9, 1999	[64 FR 17464]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart GG - “National Emission Standards for Aerospace Manufacturing and Rework Facilities”

114 FINAL REGULATIONS

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

40 CFR Part 63 subpart GG			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 60	September 1, 1995	[60 FR 45956]
Revision	Vol. 61	February 9, 1996	[61 FR 4903]
Revision	Vol. 61	December 17, 1996	[61 FR 66227]
Revision	Vol. 63	March 27, 1998	[63 FR 15016]
Revision	Vol. 63	September 1, 1998	[63 FR 46532]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 65	December 8, 2000	[65 FR 76941]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart HH - “National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities”

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

40 CFR Part 63 subpart HH			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 17, 1999	[64 FR 32628]
Revisions	Vol. 66	June 29, 2001	[66 FR 34548]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart II - “National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)”

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

40 CFR Part 63 subpart II			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 60	December 15, 1995	[60 FR 64336]
Revision	Vol. 61	June 18, 1996	[61 FR 30816]
Revision	Vol. 61	December 17, 1996	[61 FR 66227]
Revision	Vol. 65	October 17, 2000	[65 FR 61744]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart JJ - “National Emission Standards for Wood Furniture Manufacturing Operations”

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

40 CFR Part 63 subpart JJ			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 60	December 7, 1995	[60 FR 62936]
Revision	Vol. 62	June 3, 1997	[62 FR 30259]
Revision	Vol. 62	June 9, 1997	[62 FR 31363]
Revision	Vol. 63	December 28, 1998	[63 FR 71380]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart KK - “National Emission Standards for the Printing and Publishing Industry”

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

40 CFR Part 63 subpart KK			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 61	May 30, 1996	[61 FR 27140]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart LL - “National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants”

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

40 CFR Part 63 subpart LL			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 62	October 7, 1997	[62 FR 52407]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart MM - “National Emission Standards For Hazardous Air Pollutants For Chemical Recovery Combustion Sources At Kraft, Soda, Sulfite, And Stand-Alone Semichemical Pulp Mills”

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

116 FINAL REGULATIONS

40 CFR Part 63 subpart MM			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 66	January 12, 2001	[66 FR 3180]
Revision	Vol. 66	March 26, 2001	[66 FR 16400]
Revision	Vol. 66	July 19, 2001	[66 FR 37591]
Revision	Vol. 66	August 6, 2001	[66 FR 41086]
Revision	Vol. 68	February 18, 2003	[68 FR 7706]
Revision	Vol. 68	May 8, 2003	[68 FR 24653]
Revision	Vol. 68	July 18, 2003	[68 FR 42603]
Revision	Vol. 68	December 5, 2003	[68 FR 67953]

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

Subpart OO - “National Emission Standards for Tanks - Level 1”

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

40 CFR Part 63 subpart OO			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 61	July 1, 1996	[61 FR 34184]
Revision	Vol. 64	July 20, 1999	[64 FR 38985]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart PP - “National Emission Standards for Containers”

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

40 CFR Part 63 subpart PP			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 61	July 1, 1996	[61 FR 34186]
Revision	Vol. 64	July 20, 1999	[64 FR 38987]
Revision	Vol. 66	January 8, 2001	[66 FR 1263]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart QQ - “National Emission Standards for Surface Impoundments”

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

40 CFR Part 63 subpart QQ			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 61	July 1, 1996	[61 FR 34190]
Revision	Vol. 64	July 20, 1999	[64 FR 38988]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart RR - “National Emission Standards for Individual Drain Systems”

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

40 CFR Part 63 subpart RR			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 61	July 1, 1996	[61 FR 34193]
Revision	Vol. 64	July 20, 1999	[64 FR 38989]
Revision	Vol. 66	January 8, 2001	[66 FR 1263]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart VV - “National Emission Standards for Oil-Water Separators and Organic-Water Separators”

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

40 CFR Part 63 subpart VV			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 61	July 1, 1996	[61 FR 34195]
Revision	Vol. 64	July 20, 1999	[64 FR 38991]
Revision	Vol. 66	January 8, 2001	[66 FR 1263]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart YY - “National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards”

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

118 FINAL REGULATIONS

40 CFR Part 63 subpart YY			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 29, 1999	[64 FR 34921]
Revision	Vol. 64	November 22, 1999	[64 FR 63695]
Revision	Vol. 64	December 22, 1999	[64 FR 71852]
Revision	Vol. 66	November 2, 2001	[66 FR 55844]
Revision	Vol. 67	June 7, 2002	[67 FR 39301]
Revision	Vol. 67	July 12, 2002	[67 FR 46258, 46289]
Revision	Vol. 68	February 10, 2003	[68 FR 6635]

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

Subpart CCC - “National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCI Process Facilities and Hydrochloric Acid Regeneration Plants”

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

40 CFR Part 63 subpart CCC			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 22, 1999	[64 FR 33218]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart DDD - “National Emission Standards for Hazardous Air Pollutants for Mineral Wood Production”

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

40 CFR Part 63 subpart DDD			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 1, 1999	[64 FR 29503]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart EEE - “National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors”

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

40 CFR Part 63 subpart EEE			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 63	June 19, 1998	[63 FR 33820]
Revision	Vol. 64	September, 30, 1999	[64 FR 53027]
Revision	Vol. 64	November 19, 1999	[64 FR 63209]
Revision	Vol. 65	July 10, 2000	[65 FR 42292]
Revision	Vol. 65	November 9, 2000	[65 FR 67268]
Revision	Vol. 66	May 14, 2001	[66 FR 24270]
Revision	Vol. 66	July 3, 2001	[66 FR 35087]
Revision	Vol. 66	October 15, 2001	[66 FR 52361]
Revision	Vol. 66	December 6, 2001	[66 FR 63313]
Revision	Vol. 67	February 13, 2002	[67 FR 6792]
Revision	Vol. 67	February 14, 2002	[67 FR 6968]
Revision	Vol. 67	December 19, 2002	[67 FR 77687]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart GGG - “National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production”

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

40 CFR Part 63 subpart GGG			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 63	September 21, 1998	[63 FR 50326]
Revision	Vol. 65	August 29, 2000	[65 FR 52588]
Revision	Vol. 66	August 2, 2001	[66 FR 40121]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart HHH - “National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities”

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

40 CFR Part 63 subpart HHH			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 17, 1999	[64 FR 32647]
Revision	Vol. 66	June 29, 2001	[66 FR 34548]
Revision	Vol. 66	September 27, 2001	[66 FR 49299]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

120 FINAL REGULATIONS

Subpart III - “National Emission Standards for Hazardous Air Pollutants From Flexible Polyurethane Foam Production”

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

40 CFR Part 63 subpart III			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 63	October 7, 1998	[63 FR 53996]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart JJJ - “National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins”

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

40 CFR Part 63 subpart JJJ			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 61	September 12, 1996	[61 FR 48229]
Revision	Vol. 61	October 18, 1996	[61 FR 54342]
Revision	Vol. 62	January 14, 1997	[62 FR 1838]
Revision	Vol. 62	June 6, 1997	[62 FR 30995]
Revision	Vol. 62	July 15, 1997	[62 FR 37722]
Revision	Vol. 63	February 27, 1998	[63 FR 9944]
Revision	Vol. 63	March 31, 1998	[63 FR 15315]
Revision	Vol. 64	March 9, 1999	[64 FR 11547]
Revision	Vol. 64	June 8, 1999	[64 FR 30409]
Revision	Vol. 64	June 30, 1999	[64 FR 35028]
Revision	Vol. 65	June 19, 2000	[65 FR 38094]
Revision	Vol. 65	August 29, 2000	[65 FR 52588]
Revision	Vol. 65	October 26, 2000	[65 FR 64161]
Revision	Vol. 66	February 23, 2001	[66 FR 11233]
Revision	Vol. 66	February 26, 2001	[66 FR 11543]
Revision	Vol. 66	July 16, 2001	[66 FR 36924]
Revision	Vol. 66	August 6, 2001	[66 FR 40903]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart LLL - “National Emission Standards for the Portland Cement Manufacturing Industry”

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

40 CFR Part 63 subpart LLL			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 14, 1999	[64 FR 31925]
Revision	Vol. 64	September 30, 1999	[64 FR 53070]
Revision	Vol. 67	April 5, 2002	[67 FR 16614]
Revision	Vol. 67	December 6, 2002	[67 FR 72580]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart MMM - “National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production”

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

40 CFR Part 63 subpart MMM			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 23, 1999	[64 FR 33589]
Revision	Vol. 66	November 21, 2001	[66 FR 58393]
Revision	Vol. 67	March 22, 2002	[67 FR 13508, 13514]
Revision	Vol. 67	May 1, 2002	[67 FR 21579]
Revision	Vol. 67	June 3, 2002	[67 FR 38200]
Revision	Vol. 67	September 20, 2002	[67 FR 59336]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart NNN - “National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing”

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

40 CFR Part 63 subpart NNN			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 14, 1999	[64 FR 31708]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart OOO - “National Emission Standards for Hazardous Air Pollutants: Manufacture Of Amino/Phenolic Resins”

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

122 FINAL REGULATIONS

40 CFR Part 63 subpart OOO			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 65	January 20, 2000	[65 FR 3276]
Revision	Vol. 65	February 22, 2000	[65 FR 8768]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart PPP - “National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production”

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

40 CFR Part 63 subpart PPP			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 1, 1999	[64 FR 29439]
Revision	Vol. 64	June 14, 1999	[64 FR 31895]
Revision	Vol. 65	May 8, 2000	[65 FR 26491]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart RRR - “National Emission Standards for Hazardous Air Pollutant Emissions for Secondary Aluminum Production”

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

40 CFR Part 63 subpart RRR			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 65	March 23, 2000	[65 FR 15690]
Revision	Vol. 67	June 14, 2002	[67 FR 41118]
Revision	Vol. 67	August 13, 2002	[67 FR 52616]
Revision	Vol. 67	September 24, 2002	[67 FR 59787]
Revision	Vol. 67	November 8, 2002	[67 FR 68038]
Revision	Vol. 67	December 30, 2002	[67 FR 79808]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart TTT - “National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting”

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

40 CFR Part 63 subpart TTT			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	June 4, 1999	[64 FR 30204]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart VVV - “National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works”

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

40 CFR Part 63 subpart VVV			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	October 26, 1999	[64 FR 57572]
Revision	Vol. 66	March 23, 2001	[66 FR 16140]
Revision	Vol. 67	October 10, 2002	[67 FR 64742]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

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

Subpart XXX - “National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese”

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

40 CFR Part 63 subpart XXX			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 64	May 20, 1999	[64 FR 27458]
Revision	Vol. 66	March 22, 2001	[66 FR 16007]
Revision	Vol. 68	June 23, 2003	[68 FR 37334]

Subpart YYY – ZZZ - (Reserved)

Regulation 61-62.63, Subpart AAAA, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart AAAA –“National Emission Standards For Hazardous Air Pollutants: Municipal Solid Waste Landfills”

The provisions of Title 40 CFR Part 63, subpart AAAA, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart AAAA			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	January 16, 2003	[68 FR 2227]

124 FINAL REGULATIONS

Subpart BBBB - (Reserved)

Subpart DDDD – EEEE - (Reserved)

Regulation 61-62.63, Subpart FFFF, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart FFFF –“National Emission Standards For Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing”

The provisions of Title 40 CFR Part 63, subpart FFFF, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart FFFF			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	November 10, 2003	[68 FR 63852]

Regulation 61-62.63, Subpart KKKK, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart KKKK –“National Emission Standards For Hazardous Air Pollutants: Surface Coating Of Metal Cans”

The provisions of Title 40 CFR Part 63, subpart KKKK, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart KKKK			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	November 13, 2003	[68 FR 64432]

Subpart LLLL - MMMM - (Reserved)

Regulation 61-62.63, Subpart OOOO, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart OOOO –“National Emission Standards For Hazardous Air Pollutants: Printing, Coating, And Dyeing Of Fabrics And Other Textiles”

The provisions of Title 40 CFR Part 63, subpart OOOO, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart OOOO			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 29, 2003	[68 FR 32172]

Subpart PPPP – (Reserved)

Regulation 61-62.63, Subpart QQQQ, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart QQQQ –“National Emission Standards For Hazardous Air Pollutants: Surface Coating Of Wood Building Products”

The provisions of Title 40 CFR Part 63, subpart QQQQ, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart QQQQ			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 28, 2003	[68 FR 31746]

Regulation 61-62.63, Subpart RRRR, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart RRRR –“National Emission Standards For Hazardous Air Pollutants: Surface Coating Of Metal Furniture”

The provisions of Title 40 CFR Part 63, subpart RRRR, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart RRRR			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 23, 2003	[68 FR 28606]

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

Subpart SSSS - “National Emission Standards For Hazardous Air Pollutants: Surface Coating of Metal Coil”

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

40 CFR Part 63 subpart SSSS			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	June 10, 2002	[67 FR 39794]
Revision	Vol. 68	March 17, 2003	[68 FR 12590]

Regulation 61-62.63, Subpart WWWW, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart WWWW – “National Emissions Standards For Hazardous Air Pollutants: Reinforced Plastic Composites Production”

The provisions of Title 40 CFR Part 63, subpart WWWW, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart WWWW			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	April 21, 2003	[68 FR 19375]

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

Subpart XXXX - “National Emission Standards For Hazardous Air Pollutants for Rubber Tire Manufacturing”

126 FINAL REGULATIONS

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

40 CFR Part 63 subpart XXXX			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 67	July 9, 2002	[67 FR 45588]
Revision	Vol. 68	March 12, 2003	[68 FR 11745]

Subpart YYYY – AAAAA - (Reserved)

Regulation 61-62.63, Subpart BBBBB, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart BBBBB – “National Emission Standards For Hazardous Air Pollutants For Semiconductor Manufacturing”

The provisions of Title 40 CFR Part 63, subpart BBBBB, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart BBBBB			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 22, 2003	[68 FR 27913]

Regulation 61-62.63, Subpart CCCCC, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart CCCCC – “National Emission Standards For Hazardous Air Pollutants For Coke Ovens: Pushing, Quenching, And Battery Stacks”

The provisions of Title 40 CFR Part 63, subpart CCCCC, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart CCCCC			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	April 14, 2003	[68 FR 18008]

Subpart DDDDD – EEEEE – (Reserved)

Regulation 61-62.63, Subpart FFFFF, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart FFFFF – “National Emission Standards For Hazardous Air Pollutants For Integrated Iron And Steel Manufacturing Facilities”

The provisions of Title 40 CFR Part 63, FFFFF, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart FFFFF			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 20, 2003	[68 FR 27646]

Regulation 61-62.63, Subpart GGGGG, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart GGGGG – “National Emission Standards For Hazardous Air Pollutants: Site Remediation”

The provisions of Title 40 CFR Part 63, subpart GGGGG, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart GGGGG			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	October 8, 2003	[68 FR 58172]

Regulation 61-62.63, Subpart HHHHH, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart HHHHH – “National Emission Standards For Hazardous Air Pollutants: Miscellaneous Coating Manufacturing”

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

40 CFR Part 63 subpart HHHHH			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	December 11, 2003	[68 FR 69164]
Revision	Vol. 68	December 29, 2003	[68 FR 75033]

Regulation 61-62.63, Subpart IIIII, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart IIIII – “National Emission Standards For Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants”

The provisions of Title 40 CFR Part 63, subpart IIIII, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart IIIII			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	December 19, 2003	[68 FR 70904]

Regulation 61-62.63, Subpart JJJJJ, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart JJJJJ – “National Emission Standards For Hazardous Air Pollutants For Brick And Structural Clay Products Manufacturing”

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

128 FINAL REGULATIONS

40 CFR Part 63 subpart JJJJJ			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 16, 2003	[68 FR 26690]
Revision	Vol. 68	May 28, 2003	[68 FR 31744]

Regulation 61-62.63, Subpart KKKKK, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart KKKKK – “National Emission Standards For Hazardous Air Pollutants For Clay Ceramics Manufacturing”

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

40 CFR Part 63 subpart KKKKK			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 16, 2003	[67 FR 26690]
Revision	Vol. 68	May 28, 2003	[68 FR 31744]

Regulation 61-62.63, Subpart LLLLL, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart LLLLL – “National Emission Standards For Hazardous Air Pollutants: Asphalt Processing And Asphalt Roofing Manufacturing”

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

40 CFR Part 63 subpart LLLLL			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	April 29, 2003	[68 FR 22976]
Revision	Vol. 68	May 7, 2003	[68 FR 24562]

Regulation 61-62.63, Subpart MMMMM, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart MMMMM – “National Emission Standards For Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations”

The provisions of Title 40 CFR Part 63, subpart MMMMM, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart MMMMM			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	April 14, 2003	[68 FR 18062]

Regulation 61-62.63, Subpart NNNNN, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart NNNNN – “National Emission Standards For Hazardous Air Pollutants: Hydrochloric Acid Production”

The provisions of Title 40 CFR Part 63, subpart NNNNN, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart NNNNN			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	April 17, 2003	[68 FR 19076]

Subpart OOOOO – (Reserved)

Regulation 61-62.63, Subpart PTTTT, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart PTTTT – “National Emission Standards For Hazardous Air Pollutants For Engine Test Cells/Standards”

The provisions of Title 40 CFR Part 63, subpart PTTTT, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart PTTTT			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	May 27, 2003	[68 FR 28774]

Regulation 61-62.63, Subpart RRRRR, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart RRRRR – “National Emission Standards For Hazardous Air Pollutants: Taconite Iron Ore Processing”

The provisions of Title 40 CFR Part 63, subpart RRRRR, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart RRRRR			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	October 30, 2003	[68 FR 61868]

Regulation 61-62.63, Subpart SSSSS, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart SSSSS – “National Emission Standards For Hazardous Air Pollutants For Refractory Products Manufacturing”

The provisions of Title 40 CFR Part 63, subpart SSSSS, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart SSSSS			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	April 16, 2003	[68 FR 18730]

130 FINAL REGULATIONS

Regulation 61-62.63, Subpart TTTTT, which was formerly reserved, shall be added in alpha-numeric order as follows:

Subpart TTTTT – “National Emissions Standards For Hazardous Air Pollutants For Primary Magnesium Refining”

The provisions of Title 40 CFR Part 63, subpart TTTTT, as originally published in the *Federal Register* as listed below, are incorporated by reference as if fully repeated herein.

40 CFR Part 63 subpart TTTTT			
Federal Register Citation	Volume	Date	Notice
Original Promulgation	Vol. 68	October 10, 2003	[68 FR 58615]

Regulation 61-62.68, Subpart B, Section 68.42 (b) (11), shall be revised as follows:

(11) Operational or process changes that resulted from investigation of the release and that have been made by the time this information is submitted in accordance with Sec. 68.168.

Regulation 61-62.68, Subpart G, Section 68.150 (a), shall be revised as follows:

(a) The owner or operator shall submit a single RMP that includes the information required by Secs. 68.155 through 68.185 for all covered processes. The RMP shall be submitted in a method and format to the central point as specified by EPA as of the date of submission.

Regulation 61-62.68, Subpart G, Section 68.150 shall be revised by adding a new (c), and the existing (c), (d), and (e) shall be reassigned as follows:

(c) The owner or operator of any stationary source for which an RMP was submitted before June 21, 2004, shall revise the RMP to include the information required by Sec. 68.160(b)(6) and (14) by June 21, 2004 in the manner specified by EPA prior to that date. Any such submission shall also include the information required by Sec. 68.160(b)(20) (indicating that the submission is a correction to include the information required by Sec. 68.160(b)(6) and (14) or an update under Sec. 68.190).

(d) RMPs submitted under this section shall be updated and corrected in accordance with Sections 68.190 and 68.195.

(e) Notwithstanding the provisions of Sections 68.155 to 68.190, the RMP shall exclude classified information. Subject to appropriate procedures to protect such information from public disclosure, classified data or information excluded from the RMP may be made available in a classified annex to the RMP for review by Federal and Department representatives who have received the appropriate security clearances.

(f) Procedures for asserting that information submitted in the RMP is entitled to protection as confidential business information are set forth in Sections 68.151 and 68.152.

Regulation 61-62.68, Subpart G, Section 68.155 (c), shall be deleted and (d), (e), and (f) shall be reassigned as follows:

(c) The general accidental release prevention program and chemical- specific prevention steps;

(d) The five-year accident history;

- (e) The emergency response program; and
- (f) Planned changes to improve safety.

Regulation 61-62.68, Subpart G, Section 68.160 (b) (5) shall be revised as follows:

(5) The name and title of the person or position with overall responsibility for RMP elements and implementation, and (optional) the e-mail address for that person or position;

Regulation 61-62.68, Subpart G, Section 68.160 (b) (6) shall be revised as follows:

(6) The name, title, telephone number, 24 - hour telephone number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists) of the emergency contact;

Regulation 61-62.68, Subpart G, Section 68.160 (b) shall be revised by adding a new (14), and the existing (14), (15), (16), (17), (18), and (19) shall be reassigned as follows:

(14) As of June 21, 2004, the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any);

(15) Source or Parent Company E-mail Address (Optional);

(16) Source Homepage address (Optional);

(17) Phone number at the source for public inquiries (Optional);

(18) Local Emergency Planning Committee (Optional);

(19) OSHA Voluntary Protection Program status (Optional); and

Regulation 61-62.68, Subpart G, Section 68.160 (b) shall be revised by adding a new (20) as follows:

(20) As of June 21, 2004, the type of and reason for any changes being made to a previously submitted RMP; the types of changes to RMP are categorized as follows:

- (i) Updates and re-submissions required under Sec. 68.190(b);
- (ii) Corrections under Sec. 68.195 or for purposes of correcting minor clerical errors, updating administrative information, providing missing data elements or reflecting facility ownership changes, and which do not require an update and re-submission as specified in Sec. 68.190(b);
- (iii) De-registrations required under Sec. 68.190(c); and
- (iv) Withdrawals of an RMP for any facility that was erroneously considered subject to this part 68.

Regulation 61-62.68, Subpart G, Section 68.190 (a), (b) (1), and (c) shall be revised as follows:

(a) The owner or operator shall review and update the RMP as specified in paragraph (b) of this section and submit it in a method and format to a central point specified by EPA as of the date of submission.

(b) The owner or operator of a stationary source shall revise and update the RMP submitted under Section 68.150 as follows:

(1) At least once every five years from the date of its initial submission or most recent update required by paragraphs (b)(2) through (b)(7) of this section, whichever is later. For purposes of determining the date of initial submissions, RMPs submitted before June 21, 1999 are considered to have been submitted on that date.

132 FINAL REGULATIONS

(c) If a stationary source is no longer subject to this part, the owner or operator shall submit a de-registration to EPA within six months indicating that the stationary source is no longer covered.

Section 68.191-194 [Reserved]

Regulation 61-62.68, Subpart G, Section 68.195, which was formerly reserved, shall be added in alpha-numeric order as follows:

Section 68.195 Required corrections.

The owner or operator of a stationary source for which a RMP was submitted shall correct the RMP as follows:

(a) New accident history information — For any accidental release meeting the five-year accident history reporting criteria of Sec. 68.42 and occurring after April 9, 2004, the owner or operator shall submit the data required under Secs. 68.168, 68.170(j), and 68.175(l) with respect to that accident within six months of release or by the time the RMP is updated under Sec. 68.190, whichever is earlier.

(b) Emergency contact information — Beginning June 21, 2004, within one month of any change in the emergency contact information required under Sec. 68.160(b)(6), the owner or operator shall submit a correction of that information.

Section 68.196-199 [Reserved]

Regulation 61-62.70, Section 70.6 shall be amended by revising paragraphs (c) (5) (iii) (B) and (C) as follows:

(B) The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means shall include, at a minimum, the methods and means required under paragraph (a)(3) of this section;

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in paragraph (c)(5)(iii)(B) of this section. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under Part 64 of this chapter occurred; and

Regulation 61-62.96, Section 96.70 shall be revised to correct typographical errors in (a) (1) as follows:

(1) Install all monitoring systems required under this subpart for monitoring NO_x mass. This includes all systems required to monitor NO_x emission rate, NO_x concentration, heat input, and flow, in accordance with 40 CFR parts 75 sections 75.71 and 75.72.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-2-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards*.

Purpose of Regulation: These amendments and corrections will maintain conformity with Federal requirements and ensure compliance with Federal standards.

Legal Authority: The legal authority for Regulation 61-62, *Air Pollution Control Regulations and Standards*, is S.C. Code Section 48-1-10 *et seq.*

Plan for Implementation: The amendments will take effect upon approval and adoption by the South Carolina Board of Health and Environmental Control and publication in the *State Register*.

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

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR Parts 60, 63, and 70 throughout each calendar year. Recent federal amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and State Operating Permits Program. The Department is amending Regulations 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*; 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*, also known as Maximum Achievable Control Technology (MACT) standards; and 61-62.70, *Title V Operating Permit Program*, to incorporate recent federal amendments promulgated during the period from January 1, 2003, through December 31, 2003.

The Department also is adding a new *Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP)*. Prior to the promulgation of MACT standards for source categories, EPA promulgated emission standards for specific hazardous air pollutants in 40 CFR Part 61 NESHAP. The Department is incorporating by reference into this new regulation, R.61-62.61, the general requirements and emission standards that have been promulgated in 40 CFR Part 61 for which the Department requested and received delegation of authority to implement and enforce. In addition, the Department is incorporating recent Federal amendments to 61-62.68, *Chemical Accident Prevention Provisions*, promulgated April 9, 2004, to amend the reporting requirements of its chemical accident prevention regulations.

The amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards*, are necessary to maintain consistency with Federal rules and will not require legislative review.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions as a result of these amendments. The standards are already effective and applicable to the regulated community as a matter of Federal law. The amendments will benefit the regulated community by clarifying the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

EPA has provided the estimated costs and benefits for these standards in the *Federal Register* notices that are cited within this document.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the recent changes in Federal law through the amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards*, will provide continued protection of the environment and public health.

134 FINAL REGULATIONS

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

While there is no specific detrimental effect on the environment and public health, the State's authority to implement Federal requirements, which are believed to be beneficial to the public health and environment, would be compromised if these amendments are not adopted in South Carolina.