

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

PUBLISHED BY
THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

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

South Carolina State Register

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2005 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	1/14	2/11	3/11	4/8	5/13	6/10	7/8	8/12	9/9	10/14	11/11	12/9
Publishing Date	1/28	2/25	3/25	4/22	5/27	6/24	7/22	8/26	9/23	10/28	11/25	12/23

REPRODUCING OFFICIAL DOCUMENTS

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

PUBLIC INSPECTION OF DOCUMENTS

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

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South Carolina General Assembly Home Page: www.scstatehouse.net

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2955		Motorist Insurance Identification Database (Repeal)	1/15/06	Department of Public Safety
2958		Voluntary Check-off Funds	1/17/06	Department of Revenue
2935		Property Tax (Repeal 117-8)	1/17/06	Department of Revenue
2915		Repeal of Bulk Sales Regulation	1/17/06	Department of Revenue
2936		Sales and Use Tax Exemption for Machines	1/17/06	Department of Revenue
2937		Alcoholic Beverages, Beer and Wine	1/17/06	Department of Revenue
2914		Electric Power Tax	1/17/06	Department of Revenue
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2968		Workers' Compensation Assigned Risk Rates	2/19/06	Department of Insurance
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2972		Transportation of Unmanufactured Forest Products	3/14/06	Department of Public Safety
2971		Assessment Program	3/22/06	Board of Education
2975		211 Network Provider Certification Requirements	4/09/06	Budget and Control Board
2970		Seasons, Limits, Restrictions on WMA's, Turkey Hunting	4/11/06	Department of Natural Resources
2969		Wildlife Management Area Regulations	4/11/06	Department of Natural Resources
2978		CSO Mortality Table	4/22/06	Department of Insurance
2974		Settlement, Proof of Compliance, Self-Ins, Financial, Audits	4/22/06	Workers' Compensation Commission

Committee Requested Withdrawal:

Permanently Withdrawn:

Resolution Introduced to Disapprove

2927	The Practice of Selling and Fitting Hearing Aids	Department of Health and Envir Control
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2 EXECUTIVE ORDERS

No. 2005-23

WHEREAS, the State of Texas will be impacted by Hurricane Rita 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, on September 22, 2005, the civil authorities in the State of Texas have specifically requested the support of the South Carolina National Guard to assist with aviation support; and

WHEREAS, the South Carolina National Guard is prepared to provide the personnel and equipment necessary to assist in the impending 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 duty and utilize the South Carolina National Guard personnel and equipment requested through the Emergency Management Division and in consultation with the Governor's Office, to fulfill the mission in support of the State of Texas. 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.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 22nd DAY OF
SEPTEMBER, 2005.**

**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 October 28, 2005, 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 Florence County

Replacement of a Single-Slice Computed Tomography (CT) scanner with a Multi-Slice (64-slice) CT scanner.
McLeod Regional Medical Center
Florence, South Carolina
Project Cost: \$1,627,000

Affecting Greenville County

Licensure of fifty (50) observation beds previously approved under SC-01-57 and E-03-86 as acute care beds for a total of seven hundred sixty (760) acute care beds.
Greenville Memorial Hospital
Greenville, South Carolina
Project Cost: \$0

Establishment of a mobile Positron Emission Tomography/Computed Tomography (PET/CT) unit to operate four (4) days per week.
Greenville Memorial Hospital
Greenville, South Carolina
Project Cost: 1,848,000

Affecting Horry County

Construction of a freestanding radiation therapy program and comprehensive cancer treatment center including the purchase and installation of a Varian Clinac iX, Eclipse Treatment Planning System, Varis Vision Record and Verity System, and a GE Light Speed RT multi-slice, wide-bore Computed Tomography (CT) unit.
Atlantic Cancer Treatment Center, LLC
Myrtle Beach, South Carolina
Project cost: \$6,972,981

Expansion of existing megavoltage therapy services to include the purchase and installation of a Tomo Therapy Hi-ART System linear accelerator.
Carolina Regional Cancer Center, P.A.
Myrtle Beach, South Carolina
Project Cost: \$4,380,258

Affecting Horry County

Addition of sixteen (16) psychiatric beds and eight (8) substance abuse beds for a total of forty-four (44) psychiatric beds and 8 substance abuse beds.
Lighthouse of Conway-Acute Care
Conway, South Carolina
Project Cost: \$1,200,471

4 NOTICES

Affecting Lexington County

Construction to establish a 15-bed inpatient hospice facility.

Ascension House, Inc.

Columbia, South Carolina

Project Cost: \$1,141,350

Affecting Richland County

Construction and renovation for the addition of 3 operating rooms (ORs) for a total of 18 operating rooms, obstetrical, and neonatal intensive care unit (NICU) and support space for each of the foregoing units.

Palmetto Health Baptist Hospital

Columbia, South Carolina

Project Cost: \$56,904,662

Affecting York County

Construction of a 100 bed acute care hospital to include one diagnostic cardiac catheterization laboratory, one Magnetic Resonance Imaging (MRI) unit and a sixty-four slice Computed Tomography Scanner to be located at the intersection of SC Highway 160 and Highway 21 Bypass.

Fort Mill Medical Center

Fort Mill, South Carolina

Project Cost: \$124,493,883

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 October 28, 2005. "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

Renovations and acquisition of a GE LightspeedPro 16-slice Computed Tomography (CT) scanner to replace a GE HiSpeed single-slice CT scanner.

East Cooper Community Hospital, Inc. d/b/a East Cooper Regional Medical Center

Mount Pleasant, South Carolina

Project Cost: \$1,278,582

Affecting Charleston County

Replacement of a single-slice Computed Tomography (CT) scanner with a new six-slice CT scanner at Farmfield Diagnostic Imaging and the subsequent transfer of the new CT to West Ashley Diagnostic Imaging and the relocation of remaining diagnostic equipment (ultrasound, Fluoroscopy/IVP) at Farmfield Diagnostic Imaging to West Ashley Diagnostic Imaging and the discontinuance of the single-slice CT at West Ashley Diagnostic Imaging.

West Ashley Diagnostic Imaging

Charleston, South Carolina

Project Cost: \$2,121,515

Affecting Florence County

Renovation of space for twenty-four (24) crisis stabilization (psychiatric) beds for a total of three hundred ten (310) general acute care beds, twenty-two (22) substance abuse beds, forty-two (42) rehabilitation beds, twenty-four (24) psychiatric beds, and twenty-six (26) nursing home beds.

Carolina Hospital System
 Florence, South Carolina
 Project Cost: \$867,207

Affecting Lexington County

Construction to establish a fifteen (15) bed inpatient hospice facility.

Ascension House, Inc.
 West Columbia, South Carolina
 Project Cost: \$1,141,350

Affecting York County

Construction of an ambulatory surgery facility with three (3) operating rooms.

The Center for Orthopaedic Surgery, LLC
 Rock Hill, South Carolina
 Project Cost: \$7,171,186

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Bureau of Land and Waste Management

South Lake Drive/Old Orangeburg Road Groundwater Contamination Superfund Site

NOTICE OF SETTLEMENT

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control ("SCDHEC") has entered into a Cost Recovery Settlement Agreement ("Icon Settlement") with Icon Identity Solutions ("Icon"). The Icon Settlement resolves without litigation any and all alleged liability to SCDHEC arising out of Paragraph X.A. of the July 17, 2003 Consent Decree ("Consent Decree") executed by the Honorable Margaret B. Seymour, United States District Judge. In the Icon Settlement, Icon agrees to pay to SCDHEC \$128,640.00 in full settlement of the Department's potential claims against Icon pursuant to Paragraph X.A. of the Consent Decree and Icon's alleged liability of costs of response incurred by any Person (as defined in Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") Section 101, 42 U.S.C. Section 9101 ("Person")) as a result of the Department's prosecution of an action against that Person in accordance with Paragraph X.A. of the Consent Decree. The Icon Settlement provides contribution protection upon Icon for the matters addressed in the Icon Settlement and is subject to a thirty-day public comment period, consistent with the CERCLA Section 122, 42 U.S.C. Section 9622 and the South Carolina Hazardous Waste Management Act ("SCHWMA") S.C. Code Ann. Section 44-56-200 (2004).

Notice of the Icon Settlement has been provided to all identified potentially responsible parties and shall be published in the State Register. Copies of the Icon Settlement may be viewed at www.scdhec.gov/lwm/pubs/notices/icon.pdf and/or obtained by providing a written Freedom of Information request to the South Carolina Department of Health and Environmental Control at: Freedom of Information Office, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201-1708. Any comments must be submitted in writing, postmarked no later than November 28, 2004, and addressed to:

6 NOTICES

Pat Vincent
Bureau of Land & Waste Management
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201

The July 17, 2003 Consent Decree related to civil action number 3-00-1759-25 entitled: South Carolina Department of Health and Environmental Control vs. Carolina Steel & Wire Corporation, Western Atlas (f/k/a Litton Industrial Automation Systems, Inc. and successor-in-interest to Litton Business Systems, Inc.), Monroe Systems for Business, Inc and Icon Identity Solutions (f/k/a Acme Wiley, Inc.). The Consent Decree related to the alleged release, and threatened release, of hazardous substances, pollutants, or contaminants at an area located in Lexington County, near the Town of Lexington, south of Interstate 20, east and west of the Highway 6 interchange, extending south to Crystal Lake, east to YMCA Road, and west to Red Ribbie Road, and surrounding areas impacted by the migration of hazardous substances, pollutants, or contaminants (collectively referred to as the "Site"). The Consent Decree provided for the recovery of response costs from potentially responsible parties; specifically, past response and remedial costs, future response and remedial costs, and, for assessing damages to and restoration of the nature resources at the Site.

UPON EXECUTION BY SCDHEC OF THE ICON SETTLEMENT, ANY AND ALL CLAIMS BY ANY AND ALL PERSONS AGAINST ICON SEEKING CONTRIBUTION FOR MATTERS ENCOMPASSED BY THE ICON SETTLEMENT SHALL BE FORECLOSED.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

Pursuant to Section IV.B.1. the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than November 29, 2005 to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Bureau of Land and Waste Management - Underground Storage Tank Program
Attn: Heather K. Price
2600 Bull Street
Columbia, SC 29201

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

Class IClass II

Geo-Systems Design & Testing, Inc. TolTest, Inc.

**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 54, National Fuel Gas Code, 2006 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

The Office of State Fire Marshal specifically requests comments concerning sections of these editions which 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@lrr.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.

**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 101, Life Safety Code, 2006 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269

8 NOTICES

3. The code is referenced by:
South Carolina Code of Laws, Section 23-45-140
South Carolina Rules and Regulations 71-8300.11(D)(2)(d)
South Carolina Rules and Regulations 71-8300.11(E)(6)(b)(I)
South Carolina Rules and Regulations 71-8300.11(E)(7)(b)(I)
South Carolina Rules and Regulations 71-8300.11(F)(1)(c)
South Carolina Rules and Regulations 71-8300.12(B)

The Office of State Fire Marshal specifically requests comments concerning sections of these editions which 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.

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 495, Explosive Materials Code, 2006 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 Rules and Regulations 71-8302 (A)

The Office of State Fire Marshal specifically requests comments concerning sections of these editions which 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.

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 1126, Standard for the Use of Pyrotechnics before a Proximate Audience, 2006 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 23-35-45

The Office of State Fire Marshal specifically requests comments concerning sections of these editions which 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@lfr.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.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS
NOTICE**

In accordance with Section 1-23-40 of the 1976 Code of Laws of South Carolina, as amended, notice is hereby given that the State Board of Medical Examiners of South Carolina has adopted the following statement as guidance for physicians in the practice of medicine under the South Carolina Medical Practice Act and the Principles of Medical Ethics as adopted by the Board. For purposes of discipline and licensure in matters before the Board, failure to practice in compliance with this statement may lead to discipline as a violation of the Medical Practice Act (40-47-5, et seq.).

**SOUTH CAROLINA BOARD OF MEDICAL EXAMINERS POLICY
RELATIVE TO MICROPIGMENTATION**

South Carolina Board of Medical Examiners believes that the revision, destruction, incision, or structural alteration of human tissue is the practice of medicine, as defined by 40-47-20. Permanent cosmetics and micropigmentation involves the placement of color in facial tissues for the purposes of cosmetic enhancement, medical correction, and/or aesthetic restoration. Because micropigmentation involves the structural alteration of facial tissue, this procedure requires specialized training and can only be performed under the direction of a physician. The Board recognizes that permanent cosmetics, cosmetic tattooing, and micropigmentation of the facial tissues is a separate specialty which is outside scope of tattooing in this state. See 44-34-100(E) (unlawful to tattoo any part of the head, face, or neck of another person). As set forth in Section 16-17-700, of the 1976 Code of Laws of South Carolina, as amended (Act 250 of 2004), "It is not unlawful for a licensed physician or surgeon to tattoo part of the body of a person of any age if in the physician's or of the surgeon's medical opinion it is necessary or appropriate; and it is not unlawful for a physician to delegate tattooing procedures to an employee in accordance with Section 40-47-60, subject to the regulations of the State Board of Medical Examiners." The safety of the patient must be the responsibility of the supervising physician as the patient's protection is paramount. The physician must direct the course of the patient's treatment, must directly supervise the person performing the procedure, and must be on site when the procedure is performed, so as to be immediately available in order to provide appropriate care as needed under the circumstances.

10 DRAFTING

DEPARTMENT OF AGRICULTURE

CHAPTER 5

Statutory Authority: 1976 Code Section 12-6-3580.

Notice of Drafting:

The South Carolina Department of Agriculture is considering the implementation of regulations which govern, to the extent authorized by the S.C. Code, Title 12, Chapter 6, the procedures and qualifications for a refundable income tax credit for resident milk producers.

Interested parties should submit written comments to Anne E. Crocker, South Carolina Department of Agriculture, P.O. Box 11280, Columbia, SC 29211-1280. To be considered, comments should be received no later than November 28, 2005, the close of the drafting comment period.

Synopsis:

The proposed regulations will establish the production price which will be used to determine eligibility of resident dairy producers for the income tax credit. The proposed regulations will also specify the filing procedures and schedule for qualification and receipt of the refundable the tax credit to eligible recipients.

These proposed regulations will require legislative action.

DEPARTMENT OF AGRICULTURE

CHAPTER 5

Statutory Authority: 1976 Code Section 39-39-160

Notice of Drafting:

The South Carolina Department of Agriculture is considering modernizing, clarifying and updating the existing regulations which govern, to the extent authorized by the S. C. Code, Title 39, Chapter 39, the inspection and regulation of eggs produced and sold in South Carolina.

Interested parties should submit written comments to Anne E Crocker, South Carolina Department of Agriculture, P. O Box 11280, Columbia, S. C, 29211-1280. To be considered, comments should be received no later than November 28, 2005, the close of the drafting comment period.

Synopsis:

These regulations are being amended to comply with and to adopt the United States Standards, Grades and Weight Classes for Shell Eggs (7 CFR Part 56). The proposed amendments will adopt the Federal Standards, except for state specific requirements, such as license renewal and record keeping requirements.

The proposed amendments to the regulations will not require legislative action.

DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
 Statutory Authority: 1976 Code Sections 40-68-10 *et seq.*
 Particularly 40-68-20 and 40-68-55.

Notice of Drafting:

The South Carolina Department of Consumer Affairs proposes to revise its Regulation Nos. 28-905 through 28-995 that address Staff Leasing services, which are now known as Professional Employer Organizations (PEO). Interested persons should submit their views in writing to Elliott F. Elam, Jr., South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, South Carolina 29250-5757 by December 1, 2005.

Synopsis:

In 2005, the General Assembly passed its Act No. 112, revising Title 40 Chapter 68 of the Code, which deals with the licensing and regulation of Professional Employer Organizations. The proposed revisions to the existing regulations will clean up and harmonize the Regulation with the revised Code, and explore a possible new regulation dealing with alternative licensing of PEOs which was provided for in Act No. 112.

Legislative review of this proposal will be required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOILER SAFETY PROGRAM
CHAPTER 71

Statutory Authority: 1976 Code Sections 41-14-10 through 41-14-150

Notice of Drafting:

The Department of Labor, Licensing and Regulation is proposing to establish regulations necessary to carry out and enforce the provisions of Title 41, Chapter 14, of the 1976 Code of Laws of South Carolina, as amended (Act 59 of 2005) regarding the registration and inspection of certain boilers within the State of South Carolina. Written comments can be submitted to the Department of Labor, Licensing and Regulation, Attn: Ronald Galloway, 110 Centerview Drive, Room 201, Columbia, South Carolina, 29211-1329.

Synopsis:

The purpose of the amendment is to establish necessary regulations to carry out and enforce the provisions of the Boiler Safety Act, Title 41, Chapter 14 of the 1976 Code of Laws of South Carolina, as amended (Act 59 of 2005) to provide for definitions, minimum construction standards for boilers, frequency of inspections, examination for certification of inspectors, notification of boiler accident, condemnation of certain boilers, and standards of operation for existing boilers.

12 DRAFTING

DEPARTMENT OF LABOR, LICENSING AND REGULATION MESSAGE/BODYWORK THERAPY ADVISORY PANEL CHAPTER 77

Statutory Authority: 1976 Code Sections 40-1-70 and 40-30-60(E)

Notice of Drafting:

The State Massage/Bodywork Therapy Advisory Panel proposes to amend its regulations to allow home study and distance learning hours as part of the curriculum of supervised study at an approved massage/bodywork school and to allow home study and distance learning hours to qualify for continuing education credits. The National Certification Board for Therapeutic Massage and Bodywork does accept home study and distance learning hours under certain conditions. Written comments can be submitted to Eddie Jones, Administrator, South Carolina Massage/Bodywork Therapy Advisory Panel, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The purpose of the amendment is to add a regulation regarding home study and distance learning hours.

DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF NURSING CHAPTER 91

Statutory Authority: 1976 Code Sections 40-1-70, 40-33-1335(4) and 40-33-1345(C).

Notice of Drafting:

The Board of Nursing is proposing to add a new Regulation 91-2 to implement the Nurse Licensure Compact (Compact). The Compact was enacted by Act 87 of 2005, which provides for the promulgation of uniform regulations that are developed by the Compact administrators (40-33-1335(4)). Those uniform regulations will be new Regulation 91-2. Written comments can be submitted to Administrator, South Carolina Board of Nursing, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The purpose of the regulation is to establish uniform regulations to implement the Nurse Licensure Compact.

DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF NURSING CHAPTER 91

Statutory Authority: 1976 Code Sections 40-1-70, 40-33-10(E), and 40-33-10(I)

Notice of Drafting:

The State Board of Nursing proposes to add a new Regulation 91-1 regarding supervising licensees. Written comments can be submitted to Renatta S. Loquist, Interim Administrator, South Carolina Board of Nursing, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The purpose of the amendment is to add a regulation regarding the supervision of other persons.

SOUTH CAROLINA LOTTERY COMMISSION**CHAPTER 44**

Statutory Authority: S.C. Code Ann. Section 59-150-70

Notice of Drafting:

The South Carolina Lottery Commission proposes to amend R. 44-40.10, *Instant Games*, relating to the claiming of instant prizes. The Commission also proposes to amend R. 44-50.10, *Online Games*, relating to the claiming of online prizes.

Interested persons may submit comments to Hogan Brown, Director, Office of Legal Services, South Carolina Education Lottery, P. O. Box 11949, Columbia, South Carolina 29211-1949. To be considered, comments must be received no later than 5:00 p.m. on December 12, 2005, the close of the initial drafting comment period.

Synopsis:

Pursuant to §59-150-70(D), the Commission proposes to amend Regulations 44-40.10.B. and 44-50-10.D., relating to claims, so as to authorize the Commission to permit a limited number of licensed lottery retailers to validate and pay claims in excess of \$500 but less than \$5,000.

Legislative review of this proposal will be required.

COMMISSION FOR MINORITY AFFAIRS**CHAPTER 139**

Statutory Authority: 1976 Code Section 1-31-40 (A)(6)(10), et seq.

Notice of Drafting:

The South Carolina Commission for Minority Affairs proposes to revise and draft new regulations that address State Recognition of Native American Indian entities in the State of South Carolina. Interested persons may submit comments to Ms. Janie A. Davis, Executive Director, and South Carolina Commission for Minority Affairs, Northeast Commerce Center, 6904 North Main Street – Suite 107, Columbia, S.C. 29203. To be considered, written comments must be received no later than 5:00 p.m. on November 25, 2005, the close of the drafting comment period. If you have questions, you may contact the Commission by calling (803) 333-9621, extension 11.

Synopsis:

The General Assembly approved regulations in 2004 governing the process for determining state recognition of Native American Indian entities. After having operated under the regulations for three application periods, the Commission is seeking to modify the regulations in order to ensure clarity, to remove any unnecessary barriers, and to add new wording to cover areas not addressed in the original law. Legislative review and approval of the proposal regulations is required

14 DRAFTING

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Section 50-15-55

Notice of Drafting:

The Department of Natural Resources proposes to promulgate regulations pursuant to 1976 Code Section 50-15-55, Criteria of designating land as certified management area for endangered species. The subject of the proposed action is to develop regulations that define the criteria for designating a landowners property as a certified management area for endangered species such that the landowner would qualify for income tax credit under 1976 Code Section 12-6-3520, Income tax credit for habitat management and construction and maintenance of critical habitat improvements. Any person interested may submit written comments to Breck Carmichael, Deputy Director, Wildlife and Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Synopsis:

These regulations will define the criteria used to qualify a landowner's property as a certified management area for endangered species. The regulations will provide a framework for application, evaluation and renewal of this certification.

DEPARTMENT OF REVENUE

CHAPTER 117

Statutory Authority: 1976 Code Section 12-4-320

Notice of Drafting:

The South Carolina Department of Revenue is considering amending SC Regulation 117-300.6 concerning retail licenses and partnerships. Presently, this regulation is out of date since this regulation references an annual license and the retail license is no longer issued on an annual basis. In addition, Federal law states that a partnership is terminated if there is a 50% change in ownership over a 12 month period; however, federal law states that the partnership does not need a new employer identification number ("EIN"). This proposed regulation would not require a new retail license in such cases (similar to the federal law that does not require a new EIN). The proposed regulation would also not require a new retail license with respect to certain conversions of partnerships to either limited liability partnerships or limited liability companies.

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on, November 28, 2005.

Synopsis:

The South Carolina Department of Revenue is considering amending SC Regulation 117-300.6 concerning retail licenses and partnerships. Presently, this regulation is out of date since this regulation references an annual license and the retail license is no longer issued on an annual basis. In addition, Federal law states that a partnership is terminated if there is a 50% change in ownership over a 12 month period; however, federal law states that the partnership does not need a new employer identification number ("EIN"). This proposed regulation would not require a new retail license in such cases (similar to the federal law that does not require a new EIN). The proposed regulation would also not require a new retail license with respect to certain conversions

Document No. 3007
CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
 CHAPTER 27
 Statutory Authority: Chapter 9, Title 46, 1976 Code

Preamble:

The Commission has previously determined the imported fire ant (*Solenopsis invicta* Buren) is a plant pest and has instituted appropriate quarantine measures. The purpose of these amendments is to amend the limits of the regulated areas of the quarantine as specified in SCRR Chapter 27, Article 9, Regulations 27-121 and 27-131, respectively. Notice of Drafting was published in the State Register on August 26, 2005. No comments were received.

Section-by Section Discussion

27-131 The imported fire ant has been discovered in all counties of the state and this amendment extends the quarantine to the entire state.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and the regulated community are invited to make oral or written comments on the proposed amendment at a public hearing to be conducted at the Center for Applied Technology, 511 Westinghouse Road, Pendleton, SC on December 6, 2005 at 9:00 AM. If no qualified request for public hearing is received prior to 4:00 PM on December 2, 2005, said hearing will be cancelled without further notice. Interested persons may submit written comments on the proposed amendment by writing to Dr David Howle, 511 Westinghouse Road, Pendleton, SC 29670.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 27-131, Regulated Areas

Purpose: Regulation 27-131 is being amended to protect the state nursery industry.

Legal Authority: S. C. Code Sections 46-9-40; 46-9-50; 46-9-60.

Plan for Implementation: The proposed amendment will take place upon approval by the General Assembly and Publication in the State Register. The Department will notify the regulated community of the amendments.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The regulation was amended to control the spread of the imported fire ant, which is a plant pest. These measures are considered reasonable and prudent to assist the state and national agricultural industry.

16 PROPOSED REGULATIONS

DETERMINATION OF COSTS AND BENEFITS: Treatment/ inspection of products originating in the quarantined areas is necessary to comply with state and national requirements.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: None. No treatments or quarantines will be necessary on un-infested lands.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: None.

DETAILED RATIONALE: A detailed statement of rationale may be obtained from the Director, Regulatory and Public Service Programs, 511 Westinghouse Road, Pendleton, SC 29670

Text:

- 27-131. Regulated Areas.
A. Generally Infested Areas.
1. The entire state.

Document No. 3008
CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
CHAPTER 27

Statutory Authority: Chapter 9, Title 46, 1976 Code

Preamble:

The Commission wishes to modify the definition of the term “soil amendment”, change the inspection fee and the frequency of submitting said fee, and to conform the remainder of SCRR Section 27-182 to conform to statutory changes. Notice of Drafting was published in the State Register on August 26, 2005. No comments were received.

Section-by Section Discussion

27-182.

A (1). The State Crop Pest Commission has been delegated the authority to regulate commercial fertilizers, including soil amendments. The change here is to substitute the Commission for the “Board of Trustees” and to define the term “Commission”. (Note: the term “Commission” is to be substituted for the term “board” wherever it appears through the regulation.)

(2) This section changes the definition of “soil amendment” by specifically defining those substances which are not “soil amendments”.

B (3). The term “ Director of the Agricultural Experiment Station” is changed to “Director of the Clemson Experiment Station” to conform to administrative re-alignment.

D (1) The fee charged for inspection is changed to \$1.00 per ton vice \$5.00 per ton.

(2) The inspection fee is changed to \$1.00 ton vice \$5.00 per ton.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and the regulated community are invited to make oral or written comments on the proposed amendment at a public hearing to be conducted at the Center for Applied Technology, 511 Westinghouse Road, Pendleton, SC on December 6, 2005 at 10.00 AM. If no qualified request for public hearing is received prior to 4:00 PM on December 2, 2005, said hearing will be cancelled without further notice.

Interested persons may submit written comments on the proposed amendment by writing to Dr David Howle, 511 Westinghouse Road, Pendleton, SC 29670.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 27-182 Requirements for Distribution, Labeling, and Sale of “Soil Amendments”.

Purpose: Regulation 27-182 is being amended conform the regulation to statutory changes and to reduce the inspection fee.

Legal Authority: S. C. Code Sections 46-9-40; 46-9-50; 46-9-60.

Plan for Implementation: The proposed amendment will take place upon approval by the General Assembly and Publication in the State Register. The Department will notify the regulated community of the amendments.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The regulation was amended to conform the regulation to the statutory law and to reduce the inspection fee. These measures are considered reasonable and prudent to assist the state and national agricultural industry.

DETERMINATION OF COSTS AND BENEFITS: The reduction of the inspection fee will result in a lower inspection fee

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: None

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: None.

DETAILED RATIONALE: A detailed statement of rationale may be obtained from the Director, Regulatory and Public Service Programs, 511 Westinghouse Road, Pendleton, SC 29670

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.

18 PROPOSED REGULATIONS

Document No. 3009
CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27

Statutory authority: 1976 Code Section 47-4-30 and 47-17-130

R.27-1023 State Meat Inspection Regulation

Preamble:

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce. These updated regulations are necessary to comply with the Federal Meat Inspection Act (21USCA 661, Section 301) which established Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations "at least equal to" those adopted by the federal government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements. The Notice of Drafting was published in the State Register on August 26, 2005.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on December 29, 2005 at 10:00 a.m. If no request is received by December 22, 2005 the hearing will be canceled. Written comments may be directed to Dr. Daniel E. Lafontaine, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than December 22, 2005.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Meat Inspection Regulations

Purpose: To modernize, clarify and update the existing regulations which govern the inspection of meat products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Meat Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be "at least equal to" applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

Legal Authority: 1976 Code Section 47-4-30, 47-17-130.

Plan for Implementation: The state meat inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update 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. 3010
CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27
 Statutory Authority: 1976 Code Section 47-4-30, 47-19-30, and 47-19-170

R 27-1022 State Poultry Regulations

Preamble:

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S.C. Code, Title 47, Chapter 4, the inspection of poultry products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Poultry Products Inspection Act (21USCA 454, Section 5) which establishes Federal-State Cooperative Poultry Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations “at least equal to” those adopted by the federal government. This regulation will, in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements. The Notice of Drafting was published in the State Register on August 26, 2005.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on December 29, 2005 at 10:00 a.m. If no request is received by December 22, 2005 the hearing will be canceled. Written comments may be directed to Dr. Daniel E. Lafontaine, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than December 22, 2005.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Poultry Inspection Regulations **Purpose:** To modernize, clarify and update the existing regulations which govern the inspection of poultry products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Poultry Products Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be “at least equal to” applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

Legal Authority: 1976 Code Section 47-4-30, 47-19-30 and 47-19-170 **Plan for Implementation:** The state poultry inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update 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.

20 PROPOSED REGULATIONS

Document No. 3011
CLEMSON UNIVERSITY
LIVESTOCK POULTRY HEALTH COMMISSION
CHAPTER 27
Statutory Authority: Chapter 4, Title 47, 1976 Code

Preamble:

The Commission has previously determined that scrapie was a serious disease involving sheep and goats. It is a priority item for federal animal health. Notice of Drafting was published in the State Register on August 26, 2005, initially involving modifications to Regulations 27-1010, 27-1013 and 27-1015. No comments were received. However as discussions unfolded it was determined to be administratively to modify Regulation 27-1020.

Section-by Section Discussion

27-1020 Intrastate Movement of Certain Animals

A. 1. this section defines the species of animals affected by this regulation. These definitions are taken from federal regulations as found in 9 CFR Part 79.

2. This section specifies certain procedures which must be performed should scrapie be detected in the designated species of animals.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and the regulated community are invited to make oral or written comments on the proposed amendment at a public hearing to be conducted at the Livestock-Poultry Health Building, 500 Clemson Road, Columbia, SC on December 5, 2005 at 2:00 PM. If no qualified request for public hearing is received prior to 4:00 PM on December 2, 2005, said hearing will be cancelled without further notice.

Interested persons may submit written comments on the proposed amendment by writing to Dr. Boyd Parr, Post Office Box 102406, Columbia, SC 29224-2406.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 27- 1020, Regulated Areas

Purpose: Regulation 27-1020 is being amended to protect the state livestock industry.

Legal Authority: S. C. Code Section 47-4-30

Plan for Implementation: The proposed amendment will take place upon approval by the General Assembly and Publication in the State Register. The Department will notify the regulated community of the amendments.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The regulation was amended in anticipation of a possible outbreak of the disease “Scrapie” in sheep and goats.

DETERMINATION OF COSTS AND BENEFITS: There is no need to quarantine any animals until the disease “Scrapie” is detected in sheep and/or goats.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: None. No treatments or quarantines will be necessary on un-infested lands.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: None.

DETAILED RATIONALE: A detailed statement of rationale may be obtained from the Director, Regulatory and Public Service Programs, 511 Westinghouse Road, Pendleton, SC 29670

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. 2995
DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
Statutory Authority: 1976 Code Section 37-7-101 et seq.
Particularly Sections 37-7-112 and 37-7-121

28-700. Fees and Charges of Consumer Credit Counseling Organization Licensees

Preamble:

The Department proposes to add Regulation 28-700. The General Assembly passed legislation in 2005 requiring the licensing of credit counseling organizations and credit counselors. These organizations and counselors provide credit counseling services to consumers, which include: distributing funds to creditors; offering to improve credit scores, histories, or ratings; and/ or negotiating with creditors to reduce a consumer’s obligations. The statute, under 1976 Code Section 37-7-112, requires the Department to set the fees a credit counseling organization can charge a consumer.

The proposed regulation states the fees credit counseling organizations licensed under 1976 Code Section 37-7-101 et seq. may charge the consumers. The regulation also addresses electronic record keeping.

Notice of Drafting for the proposed regulation was published in the State Register on July 22, 2005. Comments were solicited for consideration in drafting the proposed regulation.

Section-by-Section Discussion

28-700(A) Definitions

28-700(B) The Department proposes the fees that a credit counseling organization or credit counselor may charge a consumer. Fees will be adjusted via the Consumer Price Index.

22 PROPOSED REGULATIONS

28-700(C) Electronic databases are sufficient to satisfy requirements of the Consumer Credit Counseling Act under certain circumstances.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons should submit comments to Carri Grube, Program Coordinator - Consumer Credit Counseling, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, S.C. 29250-5757, by November 28, 2005. Should a public hearing be requested, the hearing will be held at the Commission on Consumer Affairs' meeting on December 13, 2005 at 2:00 p.m. in the Conference Room, Third Floor, 3600 Forest Drive, Columbia, S.C. 29204.

Preliminary Fiscal Impact Statement:

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0. Licensing fees are intended to offset administrative costs to the State and are based on experience with similar industries.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Fees and Charges of Consumer Credit Counseling Organization Licensees

Purpose: The proposed regulation will set the fees organizations licensed under 1976 Code Section 37-7-101 et seq. may charge consumers. Record keeping requirements are also included.

Legal Authority: 1976 Code Section 37-7-101 et seq., particularly Sections 37-7-112 and 37-7-121.

Plan for Implementation: Administrative.

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

The regulation is intended to set the fees organizations licensed under S.C. Code Section 37-7-101 et seq. can charge consumers. Abuse has occurred in the industries covered by the Consumer Credit Counseling Act with respect to excessive consumer fees. The intent of setting fees is to protect the consumer.

Allowing licensees to keep records via electronic database should make it easier for them to comply with the record keeping requirements of S.C. Code Section 37-7-101 et seq.

DETERMINATION OF COSTS AND BENEFITS:

Licensing fees assessed through S.C. Code Section 37-7-101 et seq. are at levels intended to offset the costs of administering the regulation.

UNCERTAINTIES OF ESTIMATES:

Estimates are based on agency experience with similar industries. Should the number of filings vary greatly, estimates could change. However, since costs to the State should be covered by the licensing fees set in S.C. Code Section 37-7-101 et seq., impact should be minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: None.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: None.

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. 2999
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 S.C. Code § 59-5-60 and § 59-25-110

R 43-62. Additional Areas of Certification

Preamble:

The Department proposes to amend Regulation 43-62, Additional Areas of Certification. The proposed amendments are for the purpose of updating course requirements for additional certification in Family and Consumer Science and eliminating Speech and Drama as a certification option.

Notice of Drafting for the proposed amendment was published in the *State Register* on June 24, 2005.

Section-by-Section Discussion

- | | |
|-------------------------|---|
| 43-62, Section II(Q) | Add-on certification requirements for Speech and Drama are deleted as a result of Theater add-on requirements now in place in Section II(R). |
| 43-62, Section II(R) | Becomes Section II(Q). |
| 43-62, Section IV(D)(4) | Add-on certification requirements for Family and Consumer Science have been updated to reflect current standards and terminology. The title will now be Family and Consumer Sciences. |

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on December 14, 2005, at 10:00 a.m. at the Rutledge Building, Basement Conference Room, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to provide copies of their presentation for the record.

Interested persons are also provided an opportunity to submit comments on the proposed amendments by writing to Dr. Janice Poda, Deputy Superintendent, Division of Educator Quality and Leadership, 500 Landmark Building, 3700 Forest Drive, Columbia, South Carolina 29204 or e-mail jpoda@scteachers.org. Comments must be received no later than 5:00 p.m. on November 28, 2005. Comments received shall be considered by the staff in formulating the final proposed regulation for public hearing on December 14, 2005, as noted above. Comments received by the deadline shall be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement:

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

24 PROPOSED REGULATIONS

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: R 43-62, Additional Areas of Certification

Purpose: Regulation 43-62 is being amended. The proposed amendments will delete add-on certification requirements in the field of Speech and Drama and update the requirements in Family and Consumer Science.

Legal Authority: S.C Code Ann. § 59-5-60 and § 59-25-110

Plans for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. The amended regulation will be provided to school district personnel administrators and posted on the State Department of Education's and Division of Educator Quality and Leadership's Web sites.

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

The proposed amendments will serve to update and strengthen requirements for adding certification areas to existing certificates.

DETERMINATION OF COSTS AND BENEFITS: N/A

UNCERTAINTIES OF ESTIMATES: N/A

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effects on the environment and public health if these amendments are not implemented.

Statement of Rationale:

A copy of the detailed statement of rationale can be obtained by writing to Dr. Janice H. Poda, Deputy Superintendent, Division of Educator Quality and Leadership, 500 Landmark Building, 3700 Forest Drive, Columbia, South Carolina 29204 or e-mail jpoda@scteachers.org. The proposed amendments will serve to update and strengthen requirements for adding certification areas to existing certificates.

Text:

R 43-62 REQUIREMENTS FOR ADDITIONAL AREAS OF CERTIFICATION

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. 2996
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. § 59-5-60 (2004) and 4 U.S.C. Section 1, *et seq.*

43-188. Displaying the Flag

Preamble:

The State Board of Education proposes to draft a new regulation that addresses the proper display of both the United States flag and the South Carolina flag.

The Notice of Drafting was published in the *State Register* March 25, 2005.

Section-by-Section Discussion

Sections I & II. Gives school districts guidance in the proper display of both the United States flag and the South Carolina flag.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on December 14, 2005, at 10:00 A.M., at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and are asked to provide, as a courtesy, a written copy of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Ms. Lucinda Saylor, Deputy Superintendent, Division of Curriculum Services and Assessment, Columbia, South Carolina 29204 or by e-mailing her at csaylor@sde.state.sc.us. Comments must be received no later than 5:00 P.M. on November 28, 2005. Comments received by the deadline will be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement: None

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

DESCRIPTION OF REGULATION: 43-188, Displaying the Flag

Purpose: R 43-188, Displaying the Flag, is a new regulation that will address the display and treatment of the United States flag and the South Carolina flag.

Legal Authority: The legal authority for Regulation 43-188 are S.C. Code Ann. § 59-5-60 (2004) and 4 U.S.C. Section 1, *et seq.*

Plan for Implementation: The proposed new regulation will be posted on the SDE Web site for review and comment. The regulation will take effect upon approval by the General Assembly and upon publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: To give school districts guidance in the proper display of both the United States flag and the South Carolina flag.

DETERMINATION OF COSTS AND BENEFITS: No additional cost to the state

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed regulation, if implemented, will have no effect on the environment or public health.

26 PROPOSED REGULATIONS

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effect on the environment and public health if the new regulation (R 43-188) is not implemented.

Statement of Rationale: The proposed new regulation will address the proper display of both the United States flag and the South Carolina flag.

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. 3000

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: S.C. Code Ann. Section 44-61-30 (Supp.2004) and Section 44-78-65 (2002).

R.61-7. Emergency Medical Services

Preamble:

The Department proposes to amend Regulation 61-7 to: bring it up to date with current statutes and practices; update and expand definitions within the document; add enforcement action procedures to include classification of violations and guidelines for monetary penalties; update licensing procedures and requirements; update the standards for ambulance permits; update equipment lists for both ground and air ambulances; update sections related to training and certification of EMTs; add a section which provides for patient records; and revise style, language and grammar for clarity, readability and consistency. See Discussion below and Statement of Need and Reasonableness and Rationale herein.

The Notice of Drafting for this proposed amendment was published in the *State Register* on July 22, 2005.

Discussion of Proposed Revisions:

Table of Contents

Section I

Section heading was renumbered from "I" to "100" for clarity and readability. Section title was amended for consistency with other regulations.

New Subsection 101

Subsection heading was added for codification purposes and clarity.

Section II

Section heading was renumbered from "II" to "200" for clarity and readability.

New Subsection 201

Subsection heading was added for codification purposes and clarity.

New Section 300

This entire section was added to address enforcement of regulation issues for consistency with other DHEC regulations. Subsection headings added for sections 301 through 304.

Former Section III

Section heading renumbered from "III" to "400" to accommodate insertion of new Section 300 as well as for clarity and readability. All subsections were renumbered to reflect the new section number.

New Subsections 402, 403, 404, 405, 406, 407, 409:

Notation added to each of the above subsection headings to delineate violation classification.

Old Subsection 304

Deleted heading as this category no longer exists.

Former Section IV

Section heading renumbered from “IV” to “500” to accommodate for insertion of new Section 300 as well as for clarity and readability. Second portion of heading deleted and moved to subsection for codification and clarity. Notation added to delineate violation classification.

New Subsection 501

Subsection heading was added for codification purposes and clarity.

Former Section V

Section heading renumbered from “V” to “600” to accommodate for insertion of new Section 300 as well as for clarity and readability. All subsections were renumbered to reflect the new Section number.

Former Section VI.

Section heading renumbered from “VI” to “700” to accommodate for insertion of new Section 300 as well as for clarity and readability. Notation added to delineate violation classification. All subsections were renumbered to reflect the new Section number.

Former Section VII.

Section heading renumbered from “VII” to “800” to accommodate for insertion of new Section 300 as well as for clarity and readability. All subsections were renumbered to reflect the new Section number.

New Subsections 804, 805, 809, 810, 811, 812, 813:

Notations added to each of the above subsection headings to delineate violation classification.

Former Section VIII

Section heading renumbered from “VIII” to “900” to accommodate for insertion of new Section 300 as well as for clarity and readability. Deleted archaic term from section title. All subsections were renumbered to reflect the new section number.

New Subsections 901, 902, 907:

Notations added to each of the above subsection headings to delineate violation classification.

New Subsection 907:

Deleted redundant term in title.

Former Section IX

Section heading renumbered from “IX” to “1000” to accommodate insertion of new Section 300 as well as for clarity and readability. Notation added to delineate violation classification.

Former Section X

Section heading renumbered from “X” to 1100 to accommodate insertion of new Section 300 as well as for clarity and readability. Notation added to delineate violation classification.

Former Section XI

Section heading renumbered from “XI” to “1200” to accommodate insertion of the new Section 300 as well as for clarity and readability. All subsections were renumbered to reflect the new Section number and notations added to each to delineate violation classification.

New Section 1300

Entire section added to address patient care reports and to be consistent with other DHEC regulations. Subsection headings added for 1301 through 1303.

28 PROPOSED REGULATIONS

Former Section XII

Section heading renumbered from “XII” to “1400” to accommodate insertion of new Sections 300 and 1300 as well as for clarity and readability. All subsections were renumbered to reflect the new Section number.

New Subsections 1405, 1406, 1407, 1408:

Notations added to each of the above subsection headings to delineate violation classification.

New Section 1500

This section was added to address severability to be consistent with other DHEC regulations. Subsection heading added for 1501.

New Section 1600

This section was added to address conditions which are not specifically outlined in these regulations to be consistent with other DHEC regulations. Subsection heading added for 1601.

Body of Document Section 100

Former Section I was renumbered to 100 to reflect new numbering system. Section title amended to be consistent with other DHEC regulations.

101

Subsection heading added for codification and consistency.

Section 200

Former Section II was renumbered to 200 to reflect new numbering system. Definitions within this section shall be moved and placed in alphabetical order.

201

Subsection heading added for codification and consistency.

201.A

First sentence deleted and moved to introduce this section. Definition from 200.J inserted to begin placement of definitions in alphabetical order. Added “ALS” for clarity.

201.B

Definition deleted and replaced with definition from 200.K.

201.C

Definition deleted and replaced with definition from 200.E.

201.D

Definition deleted and replaced with definition from 200.R. Punctuation inserted for grammatical consistency.

201.E

Definition deleted and replaced with new definition for “Condition Requiring an Emergency Response.”

201.F

Definition deleted and replaced with definition from former 200.C. Stylistic change made to first portion of inserted definition for clarity and consistency.

201.G

Definition deleted and replaced with new definition for “Convalescent Vehicle.”

201.H

Definition deleted and replaced with new definition for “Emergency Transport.”

201.I

Definition deleted and replaced with definition from former 200.B. Stylistic change made to first portion of inserted definition for consistency. Definition updated to include levels of certification for clarity.

201.J

	Definition deleted and replaced with definition from 200.Q. Punctuation inserted for grammatical consistency.
201.K	
	Definition deleted and replaced with definition from former 200.H.
201.L	
	Definition deleted and replaced with definition from former 200.G.
201.M	
	Definition deleted and replaced with definition from former 200.I.
201.N	
	Definition deleted and replaced with definition from 200.P. Deleted “Extended” from inserted definition to update for current practices.
201.O	
	Definition deleted entirely as this category shall no longer exist in the amended regulations and replaced with definition from former 200.L
201.P	
	Definition deleted and replaced with new definition for “Moral Turpitude.”
201.Q	
	Definition deleted and replaced with new definition for “Nonemergency Transport.”
201.R	
	Definition deleted and replaced with definition from former 200.M.
New 201.S	
	New item number added. Definition inserted from former 200.N. Stylistic change made for consistency.
New 201.T	
	New item added. New definition added for “Revocation.”
New 201.U	
	New item number added. Definition inserted from former 200.F.
New 201.V	
	New item number added. Definition inserted from former 200.D. Stylistic change made to beginning for clarity and consistency. Grammatical change for consistency.
New 201.W	
	New item added. New definition added for “Suspension.”
New 201.X	
	New item added. New definition added for “The Department.”
New Section 300	
	This entire section titled “Enforcing Regulations” was added to detail the enforcement of regulations by the Department. All subsections are pursuant to statute and consistent with other DHEC regulations.
New Subsection 301	
	This subsection addresses general provisions of enforcement and is consistent with other DHEC regulations.
New Subsection 302	
	This subsection addresses the inspection/investigation process and is consistent with other DHEC regulations.
New Subsection 303	
	This subsection addresses enforcement actions by the department and is consistent with other DHEC regulations.
New Subsection 304	
	This subsection addresses the violation of standards classifications, monetary penalty ranges, and appeal process.
Section 400	

30 PROPOSED REGULATIONS

	This entire section was moved from former Section III to allow for the insertion of the New Section 300 and renumbered to Section 400 to reflect new numbering system.
Subsection 401	
	Former subsection 301 renumbered to 401 to accommodate new section number.
401.A	
	The term “public entities” was added to the list of potential applicants for licensure to reflect new standards.
401.A.4	
	The service “director” was added to the list of notifications of change to the Department to reflect new standards.
401.A.5	
	“Address” was added to the requirements on the personnel roster so the Department may keep an updated address listing in the database for important notices.
401.A.10	
	Agent phone number and copy of insurance policy was added to the insurance requirement for verification purposes by the Department. The liability coverage and malpractice coverage amounts were increased pursuant to current standard insurance policies and practices in use today.
401.B	
	Appeal process for disapproved licensure was added for clarity and consistency.
New 401.C.1	
	This new subsection item was added pursuant to statute to address fines for point loss upon re-inspection of an ambulance.
401.D	
	Grammatical change for consistency.
401.H	
	Stylistic change for clarity and consistency.
Subsection 402	
	Former subsection 302 was renumbered to 402 to accommodate new section number. Notation added to heading to delineate monetary penalty category pursuant to statute.
402.A.1 - 4	
	Punctuation added for clarity and consistency.
New 402.G	
	This new subsection item was added to address the mandatory Medical Control Physician Workshop attendance of all new medical control physicians.
Subsection 403	
	Former subsection 303 was renumbered to 403 to accommodate new section number. Notation added to heading to delineate monetary penalty category pursuant to statute.
403.B	
	First part of sentence deleted due to change in licensure parameters and words “Shall have” inserted for grammatical purposes.
403.C	
	Term “onboard” inserted for clarity of personnel placement. Changed words “agreement” to plural form for consistency.
New 403.C.1	
	New subsection item added to clarify use of lights and sirens by non-emergent transport services.
New 403.C.2	
	New subsection item added to clarify exceptions made to 403.C.1.
403.D	
	Capitalized section reference for codification purposes. Reference change to reflect new numbering system.

- 403.E
Reference change to reflect new numbering system.
- 403.F
This subsection item was deleted due to current training standards addressed in Section 900.
- 403.G
This subsection item number was changed to item number 403.F to reflect deletion of former item.
- Former Subsection 304.
This entire subsection was deleted. This category no longer exists in current practice.
- Subsection 404
Former subsection 305 renumbered to 404 to accommodate new section number and deletion of former subsection 304. Notation added to heading to delineate monetary penalty category pursuant to statute. Term “extended” deleted from title and text as this term is no longer used. Words “onboard the ambulance” were added for clarity of personnel placement. Provisions added for initial applicants without call history to determine licensure category.
- Subsection 405
Former subsection 306 renumbered to 405 to accommodate new section number and deletion of former subsection 304. Notation added to heading to delineate monetary penalty category pursuant to statute. Words “onboard the ambulance” were added for clarity of personnel placement. Provisions added for initial applicants without call history to determine licensure category.
- Subsection 406
Former subsection 307 renumbered to 406 to accommodate new section number and deletion of former subsection 304. Notation added to heading to delineate monetary penalty category pursuant to statute.
- 406.A
Reference changes to reflect new numbering system. Verbiage changed for consistency.
- 406.B
Reference change to reflect new numbering system.
- 406.E
Reference change to reflect new numbering system.
- Subsection 407
Former subsection 308 renumbered to 407 to accommodate new section number and deletion of former subsection 304. Notation added to heading to delineate monetary penalty category pursuant to statute. Wording changes for clarity were made to delineate type of patient and placement of personnel. Verbiage changed from “the” to “these” for clarity.
- Subsection 408
Former subsection 309 renumbered to 408 to accommodate new section number and deletion of former subsection 304.
- Subsection 409
Former subsection 310 renumbered to 409 to accommodate new section number and deletion of former subsection 304. Notation added to heading to delineate monetary penalty category pursuant to statute.
- 409.A
Deleted percentage requirement to accommodate smaller agencies. Grammatical change due to deletion.
- 409.C
Reference change to reflect new numbering system.
- 409.D

32 PROPOSED REGULATIONS

This subsection item was deleted due to current training standards addressed in Section 900.

409.E

This subsection item was renumbered to 409.D to reflect deletion of former item.

Section 500

This entire section was moved from former Section IV to accommodate insertion of New Section 300 and renumbered to Section 500. Last portion of heading deleted and moved to create new subsection heading. Notation added to section title to delineate monetary penalty category pursuant to statute.

501

New subsection heading added for codification purposes and clarity.

501.A

Verbiage changed from “the” to “these” for clarity.

501.B

Verbiage added to clarify air ambulance permit display requirements.

Section 600

This entire section was moved from former Section V and renumbered to Section 600 to accommodate insertion of New Section 300 and new numbering system.

Subsection 601

Former subsection 501 renumbered to 601 to accommodate new section number. Design criteria referencing outdated Federal KKK Specifications have been deleted and verbiage added to clarify minimum criteria for South Carolina.

601.A

Specific reference to Federal KKK Specification deleted and term “most current edition” inserted in its place. Deleted obsolete mirror reference for consistency.

601.B

Color designation deleted and new verbiage lifting the restriction inserted as this requirement is no longer necessary for federal funding.

601.C

This entire subsection item has been deleted and revised to reflect color change. More specific wording was inserted for the location, type, size, color, and quality of markings and emblems for clarity.

601.D.1

Update verbiage to current term.

601.I.1

Update verbiage to current term.

601.I.2

Update verbiage to current term.

601.I.5

Deleted specific reference to type of mirror as it is no longer in use.

601.J

Item heading changed for codification purposes and clarity. All subsections contained within this item have been renumbered for codification purposes.

601.J.2

Added thermostatic option to update to current standards.

601.J.5

Grammatical change for consistency.

601.K

Deleted item for consistency with current practices.

601.L

Renumbered to 601.K to reflect deletion of former item number 601.K. Deleted outdated reference to Federal KKK Specification and inserted “most current edition” in

its place. Deleted specific anchoring requirements to bring it current with federal standards. Deleted redundant terminology for readability.

601.M

Renumbered to 601.L to reflect deletion of former item number 601.K. Deleted RF power requirement as this is no longer necessary with current technology. Added verbiage to clarify minimum transmission requirements. Deleted EMS Radio Communication Plan due to it being outdated and no longer used.

New 601.L.1

Added requirement that all radio frequencies be supplied to the Department for disaster situation purposes.

New 601.L.2

Added item to allow for future technological advancements in communication.

601.N

Renumbered to 601.M to reflect deletion of former item 601.K.

601.O

Deleted entire item as intercoms are no longer necessary with current ambulance design standards.

601.P

Renumbered to 601.N to reflect deletion of former items 601.K and 601.O. Deleted placement restriction due to current ambulance design standards.

601.Q

Renumbered to 601.O to reflect deletion of former items 601.K and 601.O.

Section 700

This entire section was moved from Section VI and renumbered to 700 to accommodate new numbering system and insertion of New Section 300. Notation was added to heading to delineate monetary penalty classification pursuant to statute.

Subsection 701

Former subsection 601 was renumbered to 701 accommodate new section number.

701.A

Update verbiage to current term.

701.A.1

Update verbiage to current term.

701.A.2

Update verbiage to current term.

701.B.2

Power supply delineation, valve requirement, and continuous suction requirements were deleted to accommodate current standard suction devices. Age and weight appropriateness added to allow for both pediatric and adult patients. Minimum reservoir verbiage added to allow for larger units.

701.D

Nasopharyngeal airways were added to this requirement to allow for secondary airway maintenance in the event of clenched teeth. As such, the sizes in millimeters were deleted to account for differing measurements between the two devices.

701.F.4

Quotation marks added for grammatical consistency.

701.G

Option for taped tongue blades deleted as commercial bite sticks are the new standard and much safer for the patient.

701.K

Deleted aluminum foil option as commercial occlusive dressings are the new standard and much safer for the patient. Grammatical change to accommodate deletion.

701.O.1

34 PROPOSED REGULATIONS

	Added appropriate straps to the requirement as these are necessary to secure the device to the patient. Grammatical changes made for clarity and readability.
701.O.2	
	Added appropriate straps to the requirement as these are necessary to secure the device to the patient.
701.T	
	Deleted poison kit from required list as Syrup of Ipecac is no longer recommended for use on pediatric patients and is seldom used for adults.
701.U	
	Renumbered to 701.T to accommodate for deletion of former item. Added requirement for pediatric and adult sizes to account for various patients.
701.V	
	Renumbered to 701.U to accommodate deletion of former item 701.T.
701.W	
	Renumbered to 701.V to accommodate deletion of former item 701.T.
701.X	
	Renumbered to 701.W to accommodate deletion of former item 701.T..
701.Y	
	Renumbered to 701.X to accommodate deletion of former item 701.T. Specific type of fire extinguisher added for clarity
701.Z	
	Renumbered to 701.Y to accommodate deletion of former item 701.T. Reflective vests for each crew member added for safety purposes.
701.AA.	
	Renumbered to 701.Z to accommodate deletion of former item 701.T.
New 701.AA	
	New items for head and eye protection added for crew member safety.
701.CC.4	
	New item added to ensure patent airway should intubation attempts fail.
701.CC.5	
	New item added to ensure visible objects lodged in airway can be cleared.
Subsection 702	
	Former subsection 602 was renumbered to 702 to reflect new section number. Reference changed to reflect new numbering system.
702.A	
	Added verbiage to allow this item to be carried as a medical control option.
702.B	
	Added size 24 to increase selection for newborn emergencies.
702.E.	
	Delineated this item as optional equipment according to the medical control physician as not all ambulances within this category should be required to carry it.
702.O	
	Deleted “ringers lactate” and combination exception from this item to allow for other appropriate solutions.
702.P	
	Deleted this item entirely from the list as MAST trousers are expensive, consume valuable space, and are rarely used.
Former 702.Q	
	Renumbered to 702.P to accommodate deletion of former item. Changed term from “needle” to “devices” for clarity and deleted needle size requirement to allow for both pediatric and adult sizes. Added requirements for both pediatric and adult due to new standards.
Former 702.R.	

	Renumbered to 702.Q to accommodate deletion of former item number 702.P. Added verbiage to allow for both adult and pediatric patients in need of monitoring. Corrected term for accuracy.
Former 702.S	
	Renumbered to 702.R to accommodate deletion for former item number 702.P. Added fluids to this requirement as they need to be approved by the Medical Control Committee prior to allowing their use.
Former 702.T.	
	Deleted entire item as this solution is not widely used and should not be mandatory.
New 702.S	
	Item added to be consistent with subsection 701.
New 702.T	
	Item added to be consistent with subsection 701.
New 702.U	
	Item added for consistency with best practices in needle safety.
Subsection 703	
	Former subsection 603 renumbered to 703 to reflect new section number. Former item numbers one through five and items ten and eleven have been deleted. These items are rarely used and take up much needed space. Former item numbers six through nine are renumbered for codification and to reflect the deletions. Minimum size requirements have been added to new item numbers C and D for clarity.
Former 703.B	
	This entire item has been deleted as it is redundant.
Subsection 704	
	Former subsection 604 renumbered to 704 to reflect new section number.
704.A	
	References changed to reflect new numbering system.
704.B	
	References changed to reflect new numbering system.
704.C	
	References changed to reflect new numbering system.
Subsection 705	
	Former subsection 605 renumbered to 705 to reflect new section number.
705.A	
	References changed to reflect new numbering system. Verbiage changed for consistency.
705.B	
	References changed to reflect new numbering system. Verbiage changed for consistency.
Subsection 706	
	Former subsection 606 renumbered to reflect new section number.
706.C	
	References changed to reflect new numbering system.
706.E	
	References changed to reflect new numbering system.
706.E.5	
	Solution requirement changed to be consistent with subsection 702.
706.E.6	
	Item deleted to be consistent with subsection 702.
706.E.7	
	Item renumbered to 706.E.6 to reflect deletion of former item.
706.E.8	
	Item deleted to be consistent with subsection 702.

36 PROPOSED REGULATIONS

706.E.9	Item renumbered to 706.E.7 to reflect deletion of former items.
706.E.10	Item renumbered to 706.E.8 to reflect deletion of former items.
706.F	Referenced changed to reflect new numbering system. Reference of “D” changed to “E” to correct error from previous edition. Verbiage changed to be consistent with changes in subsection 702.
Section 800	This entire section was moved from former Section VII and renumbered to accommodate insertion of new Section 300 and reflect new numbering system. Notation was added to section title to delineate monetary penalty classification pursuant to statute.
Subsection 801	Former subsection 701 was renumbered to 801 to reflect new section number.
Subsection 802	Former subsection 702 was renumbered to 802 to reflect new section number.
802.E	Verbiage added to allow other germicidal agents to be used for decontamination. Reference changed to reflect new numbering system.
802.H	Verbiage deleted to clarify use of cleaning solutions.
Subsection 803	Former subsection 703 was renumbered to 803 to reflect new section number.
803.B	Term updated to current verbiage.
Subsection 804	Former subsection 704 was renumbered to 804 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
804.D	Requirement that humidifier be dated upon initial use deleted because item is to be used one time only, cleaned and put away making date redundant.
Subsection 805	Former subsection 705 was renumbered to 805 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
Subsection 806	Former subsection 706 was renumbered to 806 to reflect new section number.
806.E	Reference changed to reflect new numbering system.
Subsection 807	Former subsection 707 was renumbered to 807 to reflect new section number.
Subsection 808	Former subsection 708 was renumbered to 808 to reflect new section number. Archaic term deleted from title for clarity.
808.A	Added verbiage to exempt single use items from the nonpermeable material requirement because such items are to be thrown away after use.
808.B	Deleted archaic term and stylistic change for clarity.
Subsection 809	

	Former subsection 709 was renumbered to 809 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
Subsection 810	
	Former subsection 710 was renumbered to 810 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
Subsection 811	
	Former subsection 711 was renumbered to 811 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
Subsection 812	
	Former subsection 712 was renumbered to 812 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
812.B	
	Term updated to be consistent with subsection 808.
812.C	
	Reference changed to reflect new numbering system.
Subsection 813	
	Former subsection 713 was renumbered to 813 to reflect new section number.
Subsection 814	
	Former subsection 714 was renumbered to 814 to reflect new section number.
Subsection 815	
	Former subsection 715 was renumbered to 815 to reflect new section number.
815.B	
	Item revised to address OSHA hand washing standard for clarity.
Section 900	
	This entire section was moved from former Section VIII and renumbered to accommodate insertion of new Section 300 and reflect new numbering system.
Subsection 901	
	Former subsection 801 was renumbered to 901 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.
901.A	
	Stylistic changes made for clarity and consistency. Verbiage added to denote only those institutions approved by the Department may conduct this training program. Regional EMS training offices were added to the list of approved institutions to disallow monopolies.
901.B	
	Stylistic changes made for clarity and consistency. Verbiage added to denote only those institutions approved by the Department may conduct this training program. A list of the approved institutions was added for consistency.
901.C	
	Stylistic changes made for clarity, consistency, and readability. Verbiage updated to bring item to current standards of paramedic training including the curriculum used and institutions approved to conduct this training.
901.D.1	
	Changed verbiage from “a state” to “the state” for clarity. Added requirement that the examinations must be approved by the Department to ensure quality. Deleted “developed” from this item because the state no longer develops courses.
901.D.2	

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- 901.D.3 Changed verbiage from “a state” to “the state” for clarity. Added requirement that the examinations must be approved by the Department to ensure quality.
- 901.D.4.a. Changed verbiage from “a state” to “the state” for clarity. Added requirement that the examinations must be approved by the Department to ensure quality. Stylistic changes made for consistency.
- 901.D.4.b. Changed verbiage from “a state” to “the state” for clarity. Stylistic changes made for consistency. Verbiage changed from “pursuing” to “recertifying” for clarity.
- 901.E.4 Deleted last portion of sentence as this exception is no longer applicable under current standards and practices.
- 901.F Deleted requirement for annual review of protocols because this item is already completed every two years for relicensure and not necessary annually.
- Subsection 902 Item changed to clarify procedures applicants must follow to obtain approval by the Department for any type of pilot program.
- 902.A Former subsection 802 renumbered to 902 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
- 902.A.1 Deleted outdated reference. Clarified position status on ambulance regarding patient care. Revised age for grammatical purposes.
- 902.A.3 Grammatical change for consistency.
- 902.A.4 Grammatical change for consistency. Deleted emergency room nurses since RNs are already named. Added “United States” for clarity. Corrected typographical error from “forced” to “forces”. Updated verbiage to include a refresher course and provide provisions for National Registry examinations.
- 902.C Grammatical change for consistency.
- 902.D Changed verbiage from “a state” to “the state” for clarity.
- 902.E Added verbiage to delineate this option is only for intermediate and paramedic levels. Added verbiage to clarify option for basic level reactivation under new National Registry guidelines.
- New 902.F Grammatical change for consistency. Reference change to reflect new numbering system.
- New 902.G Provision added for National Registry credential requirements since the state has adopted National Registry as the standard.
- Subsection 903 Provision added for denial of certification based on felony indictments or convictions mandated by statute.
- 903.A Former subsection 803 renumbered to 903 to reflect new section number.

	Grammatical change for consistency. Stylistic change for consistency. Verbiage changed to reflect new guidelines for reciprocity under the new National Registry standard.
903.B	
	Stylistic change for consistency. Added “state approved” to delineate which examination is acceptable.
Subsection 904	
	Former subsection 804 was renumbered to 904 to reflect new section number.
904.A	
	Stylistic changes for consistency.
904.A.2	
	Changed typographical error from “medial” to “medical” for clarity. Deleted examination procedures and inserted new guidelines for reciprocity under the new National Registry standard to be consistent with Section 903.
904.B	
	Added “approved” to be consistent with conditions in section 903. Changed verbiage from “advanced” to “paramedic” for clarity. Stylistic change made for consistency. Deleted sentence regarding out of state candidates as this is addressed in section 904.A.
Subsection 905	
	Former subsection 805 renumbered to 905 to reflect new section number.
905.A	
	Stylistic change for consistency.
New 905.B	
	Added provision that initial certifications must maintain National Registry credential to be consistent with state adoption as National Registry being the standard.
Subsection 906	
	Former subsection 806 renumbered to 906 to reflect new section number.
906.A	
	Stylistic change for consistency.
906.B	
	Former item 906.A.4 renumbered to 906.B for codification and clarity.
New 906.C	
	Added National Registry provision to be consistent with subsection 905.
Subsection 907	
	Former subsection 807 renumbered to 907 to reflect new section number. Notation added to heading to delineate monetary penalty classification pursuant to statute.
907.A	
	Verbiage added to include colleges as approved training institutions. Deleted “state certified” and added “certified and approved by the Department” for clarity.
907.B	
	Stylistic change for consistency.
907.C	
	Stylistic change for consistency.
Subsection 908	
	Former subsection 808 renumbered to 908 to reflect new section number.
908.A	
	Stylistic change for consistency. Added verbiage to clarify which course is acceptable.
908.B.1	
	Grammatical change for consistency.
908.B.3	
	Deleted entire item as requirement no longer used.

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908.B.4	Item renumbered to 908.B.3 to reflect deletion of former item. Verbiage changed for consistency.
908.B.5	Item renumbered to 908.B.4 to reflect deletion of former item 908.B.3.
908.B.6	Item renumbered to 908.B.5 to reflect item deletion.
908.B.7	Item renumbered to 908.B.6 to reflect item deletion.
908.C	Grammatical change for consistency.
908.C.1	National Registry and South Carolina credential added to requirement for clarity. Experience increased to five years for consistency. Age change grammatically for consistency.
908.C.2	Item deleted for consistency.
908.C.3	Item renumbered to 908.C.2 to reflect deletion of former item 908.C.2.
908.C.4	Item renumbered to 908.C.3 to reflect deletion. Added word “a” for grammatical purposes.
908.C.5	Item renumbered to 908.C.4 to reflect deletion.
908.C.6	Item renumbered to 908.C.5 to reflect deletion.
908.C.7	Item renumbered to 908.C.6 to reflect deletion. Deleted “a state” and added “the Department” for clarification.
908.D.2	Added South Carolina and National Registry credential for consistency.
908.D.5	Deleted first sentence for consistency with subsection 908.C.
New 908.E	New item added to clarify instructor revocation/suspension parameters pursuant to standards.
Section 1000	This entire section was moved from former Section IX and renumbered to accommodate insertion of new Section 300 and reflect new numbering system. Notations were added to section title to delineate monetary penalty classification pursuant to statute.
1000.B.4	Typographical error corrected.
New 1000.C	This item was added to comply with child labor laws and restrict operation of an emergency vehicle to persons over the age of eighteen.
New 1000.D	This item was added to restrict persons from attending a patient while under felony indictment or with felony convictions pursuant to statute.
New 1000.E	This item was added to identify such individuals undergoing felony indictment or with past felony convictions to the Department so action may be taken pursuant to statute.

Section 1100

This entire section was moved from former Section X and renumbered to accommodate insertion of new Section 300 and reflect new numbering system. Notations were added to section title to delineate monetary penalty classification pursuant to statute.

1100.A

Grammatical change for consistency. Verbiage added to delineate certificate holder.

1100.A.1

A service was added to the eligible complaints so as to allow persons to initiate complaints against a service. Added verbiage to allow the Department to initiate an investigation based upon information other than that of a paper letter.

1100.A.2

Grammatical change for consistency.

1100.B.1

Grammatical change for consistency.

1100.B.16

Grammatical change for consistency.

Section 1200

This entire section was moved from former Section XI and renumbered to accommodate insertion of new Section 300 and reflect new numbering system.

Subsection 1201

Former subsection 1101 was renumbered to 1201 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.

1201.A.1

References changed to reflect new numbering system. Grammatical change for consistency.

1201.A.2

Malpractice insurance coverage amount increased to update to standard coverage policies and practices in use today.

1201.B.2

Reference changed to reflect new numbering system.

1201.D.9

New item added to be consistent with best practices and requirements for ground ambulance.

1201.E.1.a

Minimum rotor craft flight hours increased to be consistent with current practices.

1201.E.1.c

Verbiage added to be consistent with criteria listed in 1201.E.1.b.

1201.G.1

Deleted "South Carolina" certification requirement for consistency.

1201.H.1

Second sentence deleted and moved for codification purposes.

1201.H.2

New item created from previous item for codification purposes. Verbiage added for clarity and readability.

Subsection 1202

Former subsection 1102 was renumbered to 1202 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.

1202.A

Updated verbiage to current term.

1202.B.1

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1202.D	Item revised to be consistent with item number 701.B.2.
1202.G	Item revised to be consistent with item number 701.D.
1202.K	Item revised to be consistent with item number 701.G.
1202.O.1	Item revised to be consistent with item number 701.K
1202.O.2	Deleted verbiage to allow this to be an optional piece of equipment. Added verbiage for clarity.
1202.T	Item revised to be an optional piece of equipment.
1202.U	Item deleted to be consistent with former item number 701.T.
1202.V	Item number changed to 1202.T to reflect deletion of former item. Verbiage added to be consistent with new item number 701.T.
1202.W	Item number changed to 1202.U to reflect deletion of former item 1202.T.
1202.X	Item number changed to 1202.V to reflect deletion of former item 1202.T.
1202.Y	Item number changed to 1202.W to reflect deletion of former item 1202.T.
1202.Z	Item number changed to 1202.W to reflect deletion of former item 1202.T. “Halon” deleted and new verbiage “clean agent type” added to allow for newer fire suppression chemicals used onboard helicopters.
1202.AA	Item number changed to 1202.Y to reflect deletion of former item 1202.T. Verbiage added to allow this item to be an optional piece of equipment.
New 1202.AA	Item number changed to 1202.Z to reflect deletion of former item 1202.T.
New 1202.BB	Item was added to be consistent with item number 701.CC.4.
New 1202.CC	Item as added to be consistent with item number 701.CC.5.
Subsection 1203	Items added to ensure safety for helicopter crew members.
Subsection 1204	Former subsection 1103 was renumbered to 1203 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute. References were changed to reflect new numbering system.
1204.A	Former subsection 1104 was renumbered to 1204 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute. Reference changed to reflect new numbering system.
1204.R	Verbiage changed to be consistent with item number 702.R.
New 1204.S	Verbiage changed to be consistent with item number 702.O.
	Item added to be consistent with items added in subsection 1202.

New 1204.T	Item added to be consistent with items added in subsection 1202.
New 1204.U	Item added for consistency with best practices in needle safety.
Subsection 1205	Former subsection 1105 renumbered to 1205 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.
Subsection 1206	Former subsection 1106 renumbered to 1206 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.
New Section 1300	This entire section titled "Patient Care Reports" was added to address the handling, storage and confidentiality of patient care reports. All subsections are pursuant to statute and consistent with other DHEC regulations.
New Subsection 1301	This new subsection details the responsibilities of the forms control officer.
New Subsection 1302	This new subsection addresses the content of patient care reports and is consistent with other DHEC regulations.
New Subsection 1303	This new subsection addresses report maintenance pursuant to statute and is consistent with other DHEC regulations.
Section 1400	This entire section was moved from former Section XII and renumbered to accommodate new numbering system and the insertion of new Sections 300 and 1300.
Subsection 1401	Former subsection 1200 was renumbered to 1401 to reflect new section number and for consistency.
1401.A	Grammatical change for consistency.
Subsection 1402	Former subsection 1201 was renumbered to 1402 to reflect new section number.
Subsection 1403	Former subsection 1202 was renumbered to 1403 to reflect new section number.
1403.B	Capitalization of "Department" for consistency.
1403.D	Capitalization of "Department" for consistency.
Subsection 1404	Former subsection 1203 was renumbered to 1404 to reflect new section number.
Subsection 1405	Former subsection 1204 was renumbered to 1405 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.
Subsection 1406	Former subsection 1205 was renumbered to 1406 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.
Subsection 1407	Former subsection 1206 was renumbered to 1407 to reflect new section number. Notation was added to heading to delineate monetary penalty classification pursuant to statute.
Subsection 1408	

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Former subsection 1207 was renumbered to 1408 to reflect new section number. Heading was changed to correct typographical error. Notation was made to heading to delineate monetary penalty classification pursuant to statute.

1408.A

Verbiage added for readability.

New Section 1500

This entire section was added to address severability. Section title added for consistency with other DHEC regulations.

Subsection 1501

Verbiage added to specifically address the severability clause required to be consistent with other DHEC regulations.

New Section 1600

This entire section was added to address conditions not specifically outlined in these regulations.

Subsection 1601

Verbiage added for consistency with other DHEC regulations.

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 November 28, 2005, at 10:00 a.m. in the Peeples Auditorium, South Carolina Department of Health and Environmental Control 2600 Bull Street, Columbia, SC. Persons attending this forum must use the main entrance on Bull Street and sign in at the front desk. The purpose of the forum is to answer questions, clarify issues and receive formal comments from interested persons on the proposed amendment. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for the Board public hearing scheduled pursuant to S.C. Code Section 1-23-110 and –111 as noticed below.

Interested persons are also provided an opportunity to submit written comments to the staff forum or during the public comment period by writing to Alonzo W. Smith, Director, Division of Emergency Medical Services, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201, Fax (803) 545-4989. Written comments must be received no later than 5:00 p.m. on November 28, 2005, the close of the public comment period. Comments received for the forum and comment period 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 noticed below.

Copies of the Notice of Proposed Regulation and the text of the proposed regulation for public notice and comment may be obtained on the Division of Emergency Medical Services website at www.scdhec.gov/hr/ems or by contacting Jennifer Paddock at telephone number (803)-545-4569, Fax number (803) 545-4989.

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 January 12, 2006. 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 Board's agenda will be 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 comments of their presentations for the record.

Copies of the final proposed regulation for public hearing before the Department's Board on January 12, 2006, may be obtained on the Division of Emergency Medical Services website at www.scdhec.gov/hr/ems/ or by contacting Jennifer Paddock at telephone number (803) 545-4569, Fax number (803) 545-4989.

Preliminary Fiscal Impact Statement:

The Department estimates no additional cost will be incurred to the state or its political subdivisions by the implementation of this amendment; therefore, no additional state funding is being requested. Existing staff and resources will be utilized to enforce the amendment to the regulations.

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.61-7, *Emergency Medical Services*.

Purpose of Regulation: The Department has conducted its five-year review of its regulations pursuant to S.C. Code, Section 1-23-120. R.61-7 has not been amended since 1997 and thus, the Department proposes to amend this regulation to: bring it up to date with current statutes and practices; update and expand definitions; add enforcement action procedures to include classification of violations and guidelines for monetary penalties; update licensing procedures and requirements; update the standards for ambulance permits; update equipment lists for both ground and air ambulances; update sections related to training and certification of EMTs; add a section which provides for patient records; add a severability clause; and revise style, language and grammar for clarity, readability and consistency. See Discussion below and Statement of Need and Reasonableness herein.

Legal Authority for R.61-7 are Sections 44-61-30 (Supp.2004) and 44-78-65 (2002) of the S.C. Code.

Plan for Implementation: The proposed amendment 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 and investigations by the Department.

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

R.61-7 was last amended in 1997. Section 1-23-120 of the Administrative Procedures Act requires state agencies to perform a review of their regulations every five years and update them if necessary.

The proposed amendment is needed and reasonable in order to bring it up to date with current statutes. Several changes to statute occurred in 2004 with the successful amendment of the Emergency Medical Services Act of South Carolina including provisions to protect the public from: individuals under indictment for or convicted of certain felonies; services not maintaining proper equipment or personnel; and unauthorized disclosure of confidential health information. Proposed amendments to this regulation shall detail the procedures necessary for services and emergency medical personnel to comply with statute.

The proposed amendment is needed and reasonable in order to update and improve the overall quality of the regulation.

The proposed amendment is needed and reasonable because it will clarify/add to the current regulation in a manner that will improve methods to improve quality care/treatment/services to patients.

The proposed amendment is needed and reasonable because it will update the current regulation by incorporating certain exceptions/guidances that the Department has implemented since the last revision. For example, the state has adopted the National Registry as the certification standard for initial certification of all levels of emergency medical technicians. National Registry Standards, which adhere to the National Standard

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Training Curricula, are more stringent and reliable than the outdated state standards. Certification and training requirements pursuant the National Registry Standards shall be outlined in the proposed amendment.

The proposed amendment is needed and reasonable because it provides for the changes to Section 44-61-70 (Supp. 2004) of the S.C. Code that mandates a schedule of fines be included in R.61-7.

The proposed amendment is needed and reasonable because it provides for enforcement actions and violation classifications that were not addressed in the previous edition of the regulation.

DETERMINATION OF COSTS AND BENEFITS: There will be no cost to the state and its political subdivisions. There will be an additional cost to the regulated community in that there will be monetary penalties incurred for violation of regulation. Those in the community who are compliant with regulation shall incur no cost.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect on the environment. Public health will benefit in that emergency medical personnel and licensed services shall be held accountable to a higher standard.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION AMENDMENT IS NOT IMPLEMENTED: There will be no adverse effect on the public health if the revision of the regulation is not implemented; however, the public will not receive the benefit of improved/updated standards and there shall be an inconsistency with the law.

Statement of Rationale Pursuant to S.C. Code Section 1-23-110(A)(3)(h)

Department staff, the EMS Advisory Council, and EMS Medical Control Committee determined during its review of R.61-7 that it was appropriate to revise the regulation. R.61-7 was last amended in 1997. Since that time, several changes to law, best practices, and standards have occurred. See the Statement of Need and Reasonableness above for more information regarding the factors influencing the 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. 3001
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Section 48-2-10 *et seq.*

Preamble:

The Department is proposing to amend R.61-30, Environmental Protection Fees, to revise the recreational waters fees to match the current budget proviso. The amount of fees proposed in this regulation change are already being charged to the recreational waters industry and is important to keep a viable program in place. See Statement of Need and Reasonableness and Rationale herein and the Discussion below.

A Notice of Drafting for the proposed revisions of R.61-30 was published in the State Register June 24, 2005.

Section-by-Section Discussion

- R.61-30.G(9)(a)(i): Construction permits for Type A, B, C, D, and F pools are increased from \$200 to \$400 plus an increase from \$0.20 to \$0.50 per square foot of surface area.
- R.61-30.G(9)(a)(ii): Construction permits for Type E pools are increased from \$500 to \$1000 per flume.
- R.61-30.G(9)(a)(iii): The fee is increased from \$100 to \$250 for repeat final inspections after construction is completed.
- R.61-30.G(9)(b)(i): Annual operating permits for Type A, B, C, D, and F pools are increased from \$100 to \$125 for the first pool on each property.
- R.61-30.G(9)(b)(ii): Annual operating permits for Type E pools are increased from \$70 to \$100 per flume or water course.

Notice of Board 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 January 12, 2006. 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 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 by writing to Jeff deBessonnet, S.C. DHEC, 2600 Bull St., Columbia, S.C. 29201. Written comments must be received no later than 4:00 p.m. November 28, 2005. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on January 12, 2006, 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 public notice and comment may be obtained by contacting Mr. deBessonnet at the above address.

Preliminary Fiscal Impact Statement:

These fees are intended to provide a stable level of funding for the programs as described herein, imposing no additional impact on state funds for the Department.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: R.61-30, *Environmental Protection Fees*

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Purpose: The Department is proposing to amend R.61-30 to revise the recreational waters fees to match the current budget proviso (which is the amount the Department is already charging).

Legal Authority: S.C. Code Sections 44-55-2350 and 48-2-10 *et seq.*

Plan for Implementation: Upon approval by the Board of Health and Environmental Control, the General Assembly and publication in the State Register, the Department will implement the regulation changes as with other regulations.

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

The amount of fees proposed in this regulation change are already being charged to the recreational waters “industry” and is important to keep a viable program in place.

DETERMINATION OF COSTS AND BENEFITS:

Processing applications for permits to construct or modify recreational waters facilities (e.g., public swimming pools) and performing inspections in South Carolina requires considerable commitment of the Department’s fiscal resources. The size and scope of applications which can take considerable staff time to review, a lack of state appropriations compounded by budget cuts necessitate the implementation of this fee amendment. There are numerous affected entities in South Carolina. An efficient and timely turnaround on these projects can foster a positive economic impact.

UNCERTAINTIES OF ESTIMATES:

The Department can be reasonably accurate on the costs associated with time and effort to review environmental permits. Unknowns, such as withdrawal/resubmittal scenarios, have an impact on individual activities.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Substantive review of projects which could have a negative impact on the environment or public health is necessary to protect both the natural resources of South Carolina and the health of its citizens. Experience has shown that proper funding of permitting programs, coupled with an organizational philosophy to streamline the process, works best to both protect the environment and provide an economic boost to applicants by assuring them a timely response from the state for applicable time frames.

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

Without this change, the needed fees to sustain a viable program, will not be insured. Consequences may include a backlog of permit applications to build new facilities and limited Department inspections to insure public health and safety, if the current budget proviso is not renewed year-by-year.

STATEMENT OF RATIONALE (in accordance with S.C. Code Section 1-23-110(A)(3)(h):

The Department has administrative need to collect fees to administer this program. This need is based on an assessment of the Department's financial resources and expenses to administer this program.

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. 3003
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
 CHAPTER 61
 Statutory Authority: 1976 Code Ann. Section 44-56-30

R.61-79. Hazardous Waste Management Regulations

Preamble:

The Department proposes to amend Regulation 61-79 to adopt federal amendments through October 25, 2004. Adoption of federal amendments will ensure federal compliance.

The United States Environmental Protection Agency (USEPA) promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year. Recent federal amendments affect an exclusion at 261 Appendix IX of six wastewater treatment plant sludges at six automobile assembly plants in Michigan, national emission standards for air pollutants for certain vehicle surface coating operations, and other NESHAP-related amendments. The Department will adopt the National Environmental Performance Track Rule with an addition to 262.34 "Accumulation Time" and new language at (j) and (k) and (l) to provide for flexibility regarding storage time in certain cases. Amendments to the Performance Track Rule will require participation in the South Carolina Environmental Excellence Program. The South Carolina Environmental Excellence Program is defined by Act 318 of 2002, which added S.C. Code Ann. Section 48-56-20(11). Clarification will be made at 261.5(j) to reflect federal clarifying amendments addressing recycled used oil. These rules have been published in the *Federal Register* between July 1, 2003, and October 25, 2004.

The Department intends to remove the text in 266 Subpart E, replace the text with only a reference to R.61-107.279, and replace all cross references to 266 Subpart E with references to R.61-107.279, to reflect federal language in 40 CFR 266.

In addition, the State is removing used oil standards which were retained by the State when the EPA adopted the federal Boiler and Industrial Facility regulations.

The Department intends to amend R.61-79 to maintain conformity with federal requirements, ensure compliance with federal standards, and incorporate the South Carolina Environmental Excellence Program. A fiscal impact statement and legislative review of this amendment will be required in order to incorporate the South Carolina Environmental Excellence Program in R.61-79. Certain industries in the State will be able to store wastes for longer periods of time. Because this amendment requires membership in the South Carolina Environmental Excellence Program to enable longer storage times, it is broader in scope than the federal regulation and thus requires legislative review.

The federal amendments appeared at: 68 FR 44659, 69 FR 21737, 69 FR 22601, and 69 FR 62217.

A Notice of Drafting for the proposed amendments was published in the *State Register* first on December 24, 2004 and again on June 24, 2005; no comments were received. See Discussion and Table of Proposed Revisions below and Statement of Need and Reasonableness and Rationale herein.

Discussion of Proposed Revisions:

SECTION	CHANGE
261.1(d)	Remove reference to 266 and reserve
261.5(j)	Amend reference to 266 and adopt federal clarification
261.6(a)(2)(iii)	Remove reference to 266 and reserve
261.6(a)(3)(iv)(A)(B)&(C)	Remove references to 266 and replace with 279
261.6(a)(3)(v)	Remove irrelevant exclusion and reserve
261.6(a)(4)	Remove reference to 266 and replace with 279
261.21(a)(3)&(4)	Correct two cross references to reflect amendments in other programs
261 Appendix IX	Exclude six wastewater treatment plant sludges at six automobile assembly plants in Michigan
262.34(j)(k)&(l)	Add new provision for Performance Track Rule and South Carolina Environmental Excellence Program
264.1(g)(2)	Remove reference to 266 and replace with 279
264.1050(h)	Add new provision for surface coating operations and note

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265.340(a)	Remove out-of-date incinerator provisions
265.340(b)	Add language omitted in previous EPA instructions
265.370	Amend to clarify incinerator regulations
265.1050(g)	Add new provision for surface coatings
266 Subpart E	Remove out-of-date requirements for boilers and industrial furnaces and add reference to R.61-79.107.279 to 266 Subpart E heading
266.100(a)	Amend (a) and remove (1) through (4) regarding used oil burning
266.100(c)	Remove reference to 266 and replace with 279

Notice of Staff Informational Forum:

A Staff informational forum will be conducted on Wednesday November 30, 2005, at 10:00 in room 1322 at the Stern Building at 8911 Farrow Road, Suite 106, Columbia SC; a public hearing before the DHEC Board will be scheduled for January 12, 2006, during the Board's regularly scheduled meeting as noticed below. The purpose of the forum is to receive comments from interested persons on the proposed amendment of R.61-79.

Interested persons may also submit comments on the proposed regulation during the public comment period by writing to John Litton, Director of the Division of Waste Management, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by 5:00 p.m. Wednesday November 30, 2005. Written Comments received at the forum and by close of public comment period shall be considered by staff in formulating the final proposed regulations for submission to the Board of Health and Environmental Control for the public hearing scheduled for January 12, 2006. Relevant technical comments will be summarized by staff for the Board's consideration at the public hearing noticed below.

Information or copies of the proposed text for public notice and comment may be obtained at <http://www.scdhec.gov/lwm/html/public.html> at the bottom of the page or by calling Carolyn McLaughlin at (803) 896-4254.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendments at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on January 12, 2006. The Hearing will be held in the Board Room of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control (DHEC) at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m., at which time the Board will consider items in the order presented on its agenda. 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 comments of their presentations for the record.

Copies of the final proposed regulations for public hearing before the Department Board may be obtained at <http://www.scdhec.gov/lwm/html/public.html> at the bottom of the page or by calling Carolyn McLaughlin at (803) 896-4254.

Preliminary Fiscal Impact Statement: Each of the federal amendments is less stringent than existing provisions, and therefore less costly to the State and its political subdivisions. The inclusion of the DHEC Environmental Excellence Program with the federal Performance Track program will require some additional consideration by the Department, but should assist the Department in focusing its limited resources more efficiently.

Statement of Need and Reasonableness

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

DESCRIPTION OF REGULATION: Proposed amendment of R.61-79 Hazardous Waste Management Regulations:

Purpose: The purpose of this amendment is to meet compliance requirements of the United States Environmental Protection Agency (EPA), which promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year by publication in the *Federal Register*.

Recent federal amendments affect an exclusion at 261 Appendix IX of six wastewater treatment plant sludges at six automobile assembly plants in Michigan, national emission standards for air pollutants for certain vehicle surface coating operations, and other NESHAP-related amendments. The Department will adopt the National Environmental Performance Track Rule with an addition to 262.34 "Accumulation Time" and new language at (j) and (k) and (l) to provide for flexibility regarding storage time in certain cases. Amendments to the Performance Track Rule will require participation in the South Carolina Environmental Excellence Program. The South Carolina Environmental Excellence Program is defined by Act 318 of 2002, which added S.C. Code Ann. Section 48-56-20(11). Clarification will be made at 261.5(j) to reflect federal clarifying amendments addressing recycled used oil. These rules have been published in the *Federal Register* between July 1, 2003, and October 25, 2004. Finally, the Department intends to remove the text in 266 Subpart E, replace the text with only a reference to R.61-107.279, and replace all cross references to 266 Subpart E with references to R.61-107.279, to reflect federal language in 40 CFR 266. In addition, the State is removing used oil standards which were retained when the EPA adopted the federal Boiler and Incineration Facility (BIF) regulations.

The Department intends to amend R.61-79 to maintain conformity with federal requirements, ensure compliance with federal standards, and incorporate the South Carolina Environmental Excellence Program. A fiscal impact statement and legislative review of this amendment will be required in order to incorporate the South Carolina Environmental Excellence Program in R.61-79 and provide for longer storage times.

The federal amendments appeared at: 68 FR 44659, 69 FR 21737, 69 FR 22601, and 69 FR 62217.

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

Plan for Implementation: Upon final approval by both the Board of Health and Environmental Control and the General Assembly and publication in the *State Register* as a final regulation, amended regulations will be provided to the regulated community at cost through the Department's Freedom of Information Office and at the Bureau web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: Adoption of the proposed amendments and corrections to R.61-79 will enable compliance with recent federal amendments and incorporate the South Carolina Environmental Excellence Program. Certain industries in the State will be able to store wastes for longer periods of time. Because this amendment requires membership in the South Carolina Environmental Excellence Program to enable longer storage periods, it is broader in scope than the federal regulation and thus requires legislative review.

DETERMINATION OF COSTS AND BENEFITS: This regulatory amendment requires a Preliminary Fiscal Impact Statement because the incorporation of the South Carolina Environmental Excellence Program as part of R.61-79 is not necessary to maintain compliance with federal regulations. For the federal proposed revisions, EPA estimated costs and benefits of the various amendments are summarized below. The summaries are taken from the cited *Federal Register* notices. A significant regulatory action is defined as one that (5/26/98 in 63 FR 28630) "is likely to result in a rule that may: (1) have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements...; or (4) raise novel legal or policy issues arising out of legal mandates..."

All three of the proposed new rules provide flexibility for the regulated community. The surface coating rule, according to the *Federal Register*, estimates that the direct cost "is approximately \$154 million in 1999 dollars..little impact on domestic productivity..and international competitiveness." This rule also supports air quality amendments. Therefore, the proposed rules have little if any negative economic impact on the Department or the regulated community. The Performance Track amendments are federal amendments which are described at 69 FR 21749 and "will reduce costs for the facilities eligible to take advantage of the rule. Most of these cost reductions result from reduced reporting hours burden for facilities, or reduced waste management costs." Certain industries in the State will be able to store wastes for longer periods of time. Because this amendment requires membership in the South Carolina Environmental Excellence Program to enable longer storage times it is broader in scope than the federal regulation and thus requires legislative review. The inclusion of the DHEC Environmental Excellence Program with the federal Performance Track program will require some initial commitment by industries selecting to participate in the programs and some additional consideration by the Department, but should overall reduce storage and transportation costs for industry and assist the Department in focusing its limited resources more efficiently.

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UNCERTAINTIES OF ESTIMATES: No known uncertainties.

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

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: The State's ability to implement federal requirements will not be affected whether or not these amendments are adopted, as they are each less stringent than current regulation.

Statement of Rationale

The State regulations for hazardous waste are amended to conform with federal regulation as directed by South Carolina Code 44-56-30, Hazardous Waste Management Act.

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. 3005
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Ann. Section 49-5-10 *et seq.*, as amended

- (1) Proposed Repeal of Regulation 121-1, *Capacity Use Declaration, Waccamaw Area*
and Regulation 121-2, *Capacity Use Declaration, Low Country Area*
- (2) Proposed New Regulation 61-__ *Groundwater Use and Reporting*

Preamble:

The Department is proposing to simultaneously repeal of Regulations 121-1, *Capacity Use Declaration, Waccamaw Area* and 121-2, *Capacity Use Declaration, Low Country Area*, and replace them with one new Chapter 61 regulation that addresses these regulations and other groundwater withdrawals in all designated capacity use areas.

The proposed new regulation will standardize and provide procedures necessary for obtaining a permit to withdraw, obtain, or utilize groundwater and to construct, maintain, and operate groundwater withdrawal wells within designated capacity use areas including, but not limited to: submission of information concerning the amount of groundwater withdrawal, its intended use, aquifer or aquifers utilized, well construction information, conservation and management programs, and other information necessary to aid in evaluating the effect of existing or proposed groundwater withdrawal or use on the water resource of the area or areas. The regulation will also provide measures to abate and/or control saltwater encroachment, and measures to prevent or mitigate unreasonable adverse effects on water users or water uses within designated capacity use areas. Text of Regulations 121-1 and 121-2 that will be moved into the new regulation will incorporate editorial changes and corrections for readability, grammar, punctuation, typography, references, and language style.

The proposed regulation will allow future designated capacity use areas to conform to existing areas without need for promulgating area specific regulations or amending existing regulations for each new capacity use area designation. The proposed regulation will be submitted to the General Assembly for review. See Discussion below and Statement of Need and Reasonableness and Rationale herein for additional information.

The Notice of Drafting for this proposed regulation was published in the *State Register* on July 22, 2005. Legislative review of this proposed promulgation will be required.

Section-by-Section Discussion of Proposed New Regulation:

R.61-__, Groundwater Use and Reporting

Section A. Purpose and Scope. This section addresses the purpose and scope and identifies the enabling statute for this regulation. The standards developed in this regulation are necessary to maintain, conserve, and protect the groundwater resources of South Carolina. The text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1/(121-2)*, *Capacity Use Area descriptions*, and *121-1.1/(121-2.1)*, *Purpose*, was deleted and replaced by this section.

Section B. Definitions. This section adds 23 new definitions as follows: “Aquifer Storage and Recovery”, “Available precipitation”, “Bedrock”, “Best Management Plan”, “Board”, “Capacity Use Area”, “Certified well driller”, “Coastal Plain”, “Department”, “Drawdown”, “Effluent”, “Emergency well”, “Evapotranspiration”, “Flowing well”, “Groundwater Withdrawal Permit”, “Groundwater withdrawer”, “Irrigation requirement”, “Limestone”, “Marl”, “Permit to Construct”, “Permitee”, “Public water system”, and “Surface water”.

This section deletes definitions from the existing *Regulations 121-1/(121-2)*, *Section 121-1.2/(121-2.2)*, *Definitions*, as follows: “Contractor”, “Existing water user”, “Freshwater”, “Interceptor well”, “Relief well”, “Saltwater-freshwater interface”, “Well field”, and “Zone of influence”.

This section transfers and revises definitions from the existing *Regulations 121-1/121-2*, *Section 121.2/(121-2.2)*, *Definitions*, as follows: “Abandoned well”, “Annular space”, “Aquifer”, “Artificial filter”, “Artificial filter well”, “Cone of depression”, “Confining bed”, “Consumptive use”, “Dewatering operation”, “Domestic well”, “Geophysical log”, “Groundwater”, “Industrial well”, “Irrigation well”, “Non-consumptive use”, “Person”, “Pumping water level”, “Rated capacity”, “Saltwater”, “Saltwater intrusion”, “Static water level”, “Well”, “Well interference”. Existing text from *Regulation 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

Section C. Applicability of Regulations. This section is added to address the applicability of the regulation. The standards contained herein apply to all persons who withdraw or are capable of withdrawing groundwater in excess of three million gallons in any given month from a well or multiple wells under common ownership within a one-mile radius from any one existing or proposed well in South Carolina. These regulations do not change or modify previous Capacity Use Area designations.

Section D. Permits and Registrations Required. This section identifies the requirement to obtain construction permit(s) and a Groundwater Withdrawal Permit to withdraw groundwater in a designated capacity use area. This section adds text to identify the requirement to apply for a construction permit for new well construction or increasing the rated capacity of an existing well. This section adds text to identify the requirement to apply for and obtain a Groundwater Withdrawal Permit before becoming a groundwater withdrawer. This section adds text to identify the requirement to provide notice to the Department for well construction for groundwater withdrawal in the coastal plain, but outside of a designated capacity use area, and the requirement for groundwater withdrawers outside of the coastal plain to register their wells with the Department. The text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1.3/(121.2.3)*, *Permits Required*, was deleted and replaced by this section as the permitting threshold limit is now three million gallons per month (the existing regulation provides for one hundred thousand gallons per day) and deletes the requirements for groundwater withdrawers less than the one hundred thousand gallon per day threshold.

Section E. Permit Application. This section identifies the requirements and information necessary to complete an application for and be considered for a construction permit and a Groundwater Withdrawal Permit in a designated capacity use area. This section transfers and revises the text from the existing *Regulations 121-1/(121-2)* as follows: *Sections 121-1.4.A/(121-2.4.A)*, identifying the requirements and information necessary to complete an application for and be considered for a construction permit and a Groundwater Withdrawal Permit; *Sections 121-1.4.D/(121-2.4.D)*, identifying information considered necessary for applications including detailed contact information concerning the owner/operator and location information for the facility, wells to be considered (i.e. locations, as-built and/or proposed construction details), surveyed elevations, location for abandoned or unused wells owned by the applicant and a statement of beneficial use of the withdrawn groundwater; and *Sections 121-1.4.F/(121-2.4.F)*, identifying the additional requirements and information necessary to complete an application for and be considered for a well construction permit, including name of driller, date of proposed drilling, size and depth of hole, grouting requirements, and abandonment procedures. Existing text from *Regulation 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

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This section deletes the text from the existing *Regulations 121-1/(121-2)* as follows: *Sections 121-1.4.B/(121-2.4.B)*, the Department no longer requires a pre-construction conference for proposed groundwater withdrawal, as applications will be reviewed in accordance to the requirements in Section F of the proposed regulation; *Sections 121-1.4.C/(121-2.4.C)*, the notice that the permit application may be denied is reflected in review criteria presented in Section F of the proposed regulation; *Sections 121-1.4.D.(5)/(121-2.4.D.(5))*, the requirement for previous amounts of groundwater withdrawal is reflected in the added text for water management plans; *Sections 121-1.4.D.(7)/(121-2.4.D.(7))*, identification of the aquifer or aquifers from which groundwater is withdrawn will be determined by the Department based on the best available geologic or hydrogeologic information at the time of the application and is also reflected in review criteria presented in Section F of the proposed regulation; *Sections 121-1.4.D.(10)/(121-2.4.D.(10))*, the information for non-consumptive use is no longer required by the Department; and *Sections 121-1.4.E/(121-2.4.E)*, the requirements identified in this section for existing users are redundant, reflected in Section E and Section G of the proposed regulation.

This section adds text to clarify submission requirements, provide additional scientific data and information to the Department, and strengthen the regulation for groundwater protection including: as-built construction details for all wells included in the permit application, completed water well record forms and driller logs, geophysical and mechanical well logs, the requested groundwater withdrawal amount, a water management plan for water use and water conservation to protect water quality and reduce consumption, historical water use information (for new applicants in existing designated areas and applicants in newly designated areas), available alternate water sources (i.e. surface water, purchased supply, effluent), permitted effluent discharges, if any, minimum grouting requirements, eliminating cross connection of aquifers or zones of groundwater with documented water quality differences, and requirement to comply with S.C. R.61-44, South Carolina Individual Residential Well & Irrigation Permitting and S.C. R.61-71, South Carolina Well Standards.

Section F. Department Actions on Permit Applications, Modification, Revocation, and Denials. This section identifies the procedures the Department will follow in reviewing construction and groundwater withdrawal permit applications, denying or revoking groundwater withdrawal permits, determining groundwater withdrawal limits, and public noticing applications. This section transfers and revises the text from the existing *Regulations 121-1/(121-2)* as follows: *Sections 121-1.5.A/(121-2.5.A)*, identifying considerations the Department will employ in review of groundwater withdrawal applications; *Sections 121-1.5.B/(121-2.5.B)*, identifying the conditions to be included in approved groundwater withdrawal permits; *Sections 121-1.6.C/(121-2.6.C)*, identifying the Department's authority to issue temporary groundwater withdrawal permits; *Sections 121-1.6.E/(121-2.6.E)*, identifying the use of groundwater only as identified in the permit; *Sections 121-1.6.G/(121-2.6.G)*, identifying the Department's authority to revoke a construction or groundwater withdrawal permit or deny a permit application; and *Sections 121-1.6.H/(121-2.6.H)*, identifying requirements necessary to transfer a groundwater withdrawal permit. Existing text from *Regulation 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

This section deletes the text from the existing *Regulations 121-1/(121-2)* as follows: *Sections 121-1.5.C/(121-2.5.C)*, the consideration of prior investments is no longer a review criteria; *Sections 121-1.5.D/(121-2.5.D)*, the identified review period is no longer applicable; *Sections 121-1.6.A/(121-2.6.A)*, permits for non-consumptive use are no longer issued; *Sections 121-1.6.B/(121-2.6.B)*, the wording for issuing a groundwater withdrawal permit is reflected in Section F.2. of the proposed regulation; *Sections 121-1.6.D.(7) and (8)/(121-2.6.D.(7) and (8))*, permit requirements for timing of groundwater withdrawals and installation of monitoring wells are reflected in Section L of the proposed regulation; and *Sections 121-1.6.F/(121-2.6.F)*, identifying requests for permit modification are reflected in Section G of the proposed regulation.

This section adds text to clarify review requirements and strengthen the regulation for groundwater protection as follows: identification of local or regional Groundwater Management Strategies; determination of reasonableness of need and use of groundwater; establishes time limits for temporary permits; establishes basis for revocation of temporary permits and contested case hearing requirements; and requirements for public notices.

Section G. Permit Modifications. This section is added to clarify the requirements for modifying existing groundwater withdrawal permits. The section identifies when a modification is required including: increased groundwater withdrawal, increasing the capacity of the well or wells, constructing a new well or wells, and for a transfer of ownership of the facility. The section also provides that an application to modify a groundwater withdrawal permit must comply with Section E of the proposed regulation.

Section H. Duration of Permits and Renewal. This section identifies the permit length and establishes a time frame for permit renewal. This section transfers and revises the text from the existing *Regulations 121-1/(121-2)* as follows: *Sections 121-1.7.A/(121-2.7.A)*, establishes the permit length as 5 years, the length necessary to preserve and protect the groundwater resource, or the temporary period established in Section F of the proposed regulation; and *Sections 121-1.7.B/(121-2.7.B)*, identifies the requirement for renewing groundwater withdrawal permits at least ninety days prior to their expiration. Existing text from *Regulation 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

This section deletes the text from the existing *Regulations 121-1/(121-2)* as follows: *Sections 121-1.7.H/(121-2.7.H)*, permit limits are now established in all capacity use areas.

Section I. Groundwater Use Reports. This section identifies the requirement for submission of groundwater withdrawal reports, information required to be submitted, and the acceptable methods for measuring groundwater withdrawals. This section transfers and revises the text from the existing *Regulations 121-1/(121-2)* as follows: *Sections 121-1.8.A/(121-2.8.A)*, identifies when groundwater withdrawal reports are due and cause for permit revocation; and *Sections 121-1.8.D/(121-2.8.D)*, identifies the information required to be submitted in the groundwater withdrawal report. Existing text from *Regulations 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

This section deletes the text from the existing *Regulations 121-1/(121-2)* as follows: *Sections 121-1.8.B and C/(121-2.8.B and C)*, all groundwater withdrawal reports are due on January 30th, irrespective of the date of the declaration of a capacity use area or effective permit date; *Sections 121-1.8.D.(6)/(121-2.8.D.(6))*, required measurements of water level are no longer required for water use reporting; *Sections 121-1.8.D.(7) /(121-2.8.D.(7))*, permits for non-consumptive use are no longer issued.

This section adds text to clarify review requirements and strengthen the regulation for groundwater protection including: accuracy of flow meters, conjunctive use of hour meters, electric meter, or written log, or any other method approved by the Department to measure groundwater withdrawals.

The text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1.9/(121-2.9)*, *Dewatering Operations*, was deleted as the requirements for dewatering operations are reflected in Section J of the proposed regulation.

Section J. Exemptions. This section is added to identify the activities that are exempt from the proposed regulation including: emergency withdrawals of groundwater, non-consumptive uses, wildlife habitat management, and domestic uses. The section also identifies activities that are exempt from permitting requirements including: dewatering operations, Type I well construction, and Aquifer Storage and Recovery wells (ASR), provided these wells obtain a valid Underground Injection Control Permit and the amount of water withdrawn does not exceed the amount of water injected.

Section K. Saltwater Intrusion. This section identifies the control measures the Department may implement or have implemented by groundwater withdrawers, considering the best available geologic and hydrogeologic information, to protect against or abate saltwater intrusion into freshwater aquifers within a designated capacity use area. This section transfers and revises the text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1.10/(121-2.10)*, *Saltwater Encroachment*, as the identified requirements are reasonable and appropriate to protect against or abate saltwater intrusion into freshwater aquifers within a designated capacity use area and clarify and strengthen the proposed regulation for groundwater protection. Existing text from *Regulations 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

Section L. Unreasonable Adverse Effects on Other Water Users. This section identifies the control measures the Department may implement or have implemented by groundwater withdrawers, considering the best available geologic and hydrogeologic information, to protect against or abate unreasonable or potential adverse effects on other water users within a designated capacity use area. The section transfers and revises the text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1.11/(121-2.11)*, *Unreasonable Adverse Effects on Other Water Users*, as the identified requirements are reasonable and appropriate to protect against or abate unreasonable or potential unreasonable adverse effects on other water users within a designated capacity use area and clarify and strengthen the proposed regulation for groundwater protection. Existing text from *Regulations 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

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This section deletes text from the previous regulations as follows: *Sections 121-1.11.B.(4)/(121-2.B.(4))*, requirements for well construction identified in the proposed regulation are as stringent as named in this section; and *Sections 121-1.11.B.(5) and (6)/(121-2.11.B.(5) and (6))*, information on nearby wells should be more readily available to the Department than to the applicant or permit holder.

Section M. Geologic and Hydrologic Information. This section identifies the geologic and hydrogeologic data and other information the Department may be required to obtain or have obtained to effectively evaluate, manage, and permit groundwater withdrawals in designated capacity use areas. This information, when required, is in addition to the information required by other sections of the proposed regulation. The section transfers and revises the text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1.12 (121-2.12)*, *Geologic and Hydrogeologic Information*, as the identified requirements are reasonable and appropriate to provide additional scientific information of the aquifer or aquifers of a designated capacity use area and clarify and strengthen the proposed regulation for groundwater protection. This section also incorporates the text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1.13/(121-2.13)*, *Test, Exploration, and Observation Wells*, as the identified requirements are reasonable and appropriate to provide additional scientific information of the aquifer or aquifers of a designated capacity use area and clarify and strengthen the proposed regulation for groundwater protection. Existing text from *Regulations 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

This section deletes text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1.13.C.(1,2, and 4)/121-2.13.C.(1,2, and 4)*, *Test, Exploration, and Observation Wells*, as the identified requirements for well locations, location of the property on which the wells are to be drilled, and construction materials for the well are reflected in requirements in Section E of the proposed regulation.

The section adds text to clarify review requirements and strengthen the regulation for groundwater protection including: submission of water well record forms, as-built construction details, surveyed elevation data, aquifer pump test or pumping test data, and proposed abandonment procedures.

Section N. Abandoned Wells. This section identifies the requirements for abandoning wells which are no longer utilized, having or potentially having unreasonable impacts on groundwater users or aquifers, or causing or potentially causing saltwater or other contamination on groundwater resources of a designated capacity use area. The section transfers and revises the text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1.14/(121-2.14)*, *Abandoned Wells*, as the identified requirements are reasonable and appropriate to provide effective abandonment of wells to protect the groundwater resources within a designated capacity use area and clarify and strengthen the proposed regulation for groundwater protection. Existing text from *Regulations 121-1/(121-2)* that was transferred was revised stylistically for readability, clarity, grammar, punctuation, codification, typography, references, and style.

Section O. Wells Not Requiring Pumps. This section is added to prohibit wells that flow freely, without the use of a pump, at the ground surface at a rate greater than five thousand gallons per day. This flow, except where utilized for a specific and necessary use, constitutes a waste and is required to be controlled by mechanically restricting the flow.

Section P. Severability. This section is added to provide a severability clause to the proposed regulation.

The text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1.15/(121-2.15)*, *Enforcement*, has been deleted as enforcement is identified in the Groundwater Use and Reporting Act, S.C. Code Ann. Section 49-5-120 (1976 Code of Laws, as amended).

The text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1.16/(121-2.16)*, *Coordination*, has been deleted as the Department will coordinate the provisions of the proposed new regulation with other provisions of State law.

The text from the existing *Regulations 121-1/(121-2)*, *Sections 121-1.17/(121-2.17)*, *Hearings, Appeals Procedures*, has been deleted as the requirement to file a contested case hearing is identified in the Groundwater Use and Reporting Act, S.C. Code Ann. Section 49-5-100 (1976 Code of Laws, as amended).

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invites members of the public and regulated community to attend a staff-conducted informational forum to be held on November 30, 2005 at 10:00 a.m. in Peoples Auditorium, 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 parties on the proposed regulation. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street Entrance and register at the front desk. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for the Board public hearing scheduled for January 12, 2006 as noticed below.

Interested parties are also provided an opportunity to submit written comments to the staff forum and during the public comment period by writing to Paul L. Bristol at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina, 29201, Fax number (803) 898-2893. To be considered, written comments submitted must be received no later than 4:00 p.m. on November 30, 2005. Comments received at the informational forum and during the write-in public comment period shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for the Board public hearing scheduled for January 12, 2006, as noticed below.

Comments received 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 new regulation for public notice and comment may be obtained by contacting Paul L. Bristol at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina, 29201, telephone number (803) 898-3559, Fax number (803) 898-2893, or from the Department's website in its Regulation Development Update.

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 and written comments on the proposed new regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on January 12, 2006. 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, South Carolina. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in order presented. The order of presentation for public hearings will be noticed in the Board's agenda to be 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 comments of their presentation for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street Entrance and register at the front desk.

Copies of the final proposed regulation for public hearing scheduled before the Board on January 12, 2006 may be obtained by contacting Paul L. Bristol at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina, 29201, telephone number (803) 898-3559, Fax number (803) 898-2893, or from the Department's website in its Regulation Development Update.

Preliminary Fiscal Impact Statement:

No costs to the State or significant cost to its political subdivisions as a whole should be incurred by these amendments. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: (1) Repeal of Regulations 121-1, *Capacity Use Declaration, Waccamaw Area* and 121-2, *Capacity Use Declaration, Low Country Area*. (2) Addition of Proposed New Chapter 61 Regulation 61-___, *Groundwater Use and Reporting*.

Purpose: The Department is proposing to simultaneously repeal Regulations 121-1 and 121-2 and replace them with a proposed new groundwater use and reporting regulation that addresses these regulations and other groundwater withdrawals in all designated capacity use areas.

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Legal Authority: S.C. Code Section 49-5-10 *et seq.*

Plan for implementing: The proposed regulation will take effect upon approval by the Board of Health and Environmental Control, the General Assembly and publication in the State Register. Existing staff will incorporate the new regulations in the review process for all permit applications received after the effective date of the regulations.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT: The need for this regulation is stated in Chapter 5, the Groundwater Use and Reporting Act, where the General Assembly declares that the general welfare and public interest require that the groundwater resources of the State be put to beneficial use to the fullest extent to which they are capable, subject to reasonable regulation, in order to conserve and protect these resources, prevent waste, and to provide and maintain conditions which are conducive to the development and use of water resources.

Existing Regulations 121-1 and 121-2 were developed as specific regulations in their respective areas and are not applicable to other designated Capacity Use Areas.

Two additional areas received Capacity Use designation, Trident in 2002 (three counties) and Pee Dee in 2004 (six counties). Currently these designated areas do not fall under the existing regulations.

Proposed new Regulation 61-__, *Groundwater Use and Reporting* will standardize procedures, enabling the safe and sustainable development of groundwater resources, provide measures to abate or control saltwater intrusion, and for measures to prevent or mitigate unreasonable adverse effects on water users or water uses in all designated Capacity Use Areas.

DETERMINATION OF COSTS AND BENEFITS: No additional cost will be incurred by the State or its political subdivisions by implementation of the proposed regulation; therefore no additional state funding is being requested. Existing staff and resources will be utilized to implement the proposed regulation. It is anticipated that the proposed regulation will create minimal, if any, additional cost to the regulated community based on the fact that the requirements are consistent with Chapter 5 and with the existing review procedures utilized by the Department.

UNCERTAINTIES OF ESTIMATES: Minimal

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: Implementation of the proposed regulation will promote protection of the environment and public health by ensuring that safe, sustainable quantities of groundwater are available to current and future groundwater users. Implementation of the proposed regulation will emphasize reasonable use of the resource and develop conservation practices to provide and maintain conditions that are conducive to the long-term development and use of groundwater resources.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: Failure to implement the proposed regulation may allow large volume groundwater users to withdraw excessive quantities of water, without regard to reasonableness of need or use, effectively reducing an aquifer's capability to provide water for all competing needs. Reduction of available groundwater capacity may make it cost prohibitive for smaller quantity withdrawers, including private citizens, to develop groundwater sources to meet their needs by necessitating costlier development of deeper groundwater sources or development of groundwater sources of lesser quality. This effect would be inconsistent with the stated desires of the Legislature.

Statement of Rationale:

The statement of rationale was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-110(A)(3)(h).

Existing Regulations 121-1 and 121-2 provide procedures for obtaining a groundwater withdrawal permit only in the Waccamaw and Low Country Capacity Use Areas, respectfully. Recently designated Trident and Pee Dee Capacity Use Areas are not covered by the existing regulations. The proposed new regulation will standardize and establish procedures for obtaining a permit to withdraw, obtain, or utilize groundwater and construct, maintain, and operate groundwater withdrawal wells within all designated Capacity Use Areas, as they are declared. No new scientific studies or information precipitated the development of the proposed new regulation. The experience and professional judgment of the Department's staff were 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. 3002

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

Statutory Authority: S.C. Code Section 44-1-140 (1976 Code of Laws, as amended).

R.61-47. Shellfish

Preamble:

The Department is proposing to amend the Shellfish Regulation to bring it up to date with current National Shellfish Sanitation Program guidance and practices; include a section on severability; update and expand definitions; update certification and permitting procedures; update growing area survey and classification standard references; update requirements for the harvesting, handling and transportation of shellfish; update compliance and inspection procedures; update certified shipper facility and aquaculture requirements; and revise style, language, and grammar for clarity, readability and consistency.

Section-by-Section Discussion:

**SECTION
CITATION**

CHANGE

A.1.

Subsection amended to correctly reference national shellfish guidance organization and model code. National Shellfish Sanitation Program reference reflects the correct title of the national shellfish guidance organization. Model Ordinance reflects the appropriate document title.

A.2.(a)(2)

Item amended for clarity. This amendment allows deletion of item A.2.(a)(7).

A.2.(a)(4)

Item amended for grammar.

A.2.(a)(5)

Item amended for grammar.

A.2.(a)(6)

Amended for grammar and to refer to "authorized" in lieu of "approved".

A.2.(a)(7)

Item deleted. Included in A.2.(a)(2).

A.2.(c)

New item added. New definition inserted for "Approved".

A.2.(d)

Item renumbered and "Approved Area" amended for clarity and readability.

A.2.(e)

Item renumbered and "Aquaculture" amended for clarity and readability.

A.2.(f)

Item renumbered and "Bulk Shipment" amended to remove references to "individual or separate containers".

A.2.(g)

Item renumbered.

A.2.(h)

Item renumbered and "Certification Number" amended for stylistic consistency.

A.2.(i)

New item added. New definition inserted for "Classification or Classify".

A.2.(j)

New item added. New definition inserted for "Classified Growing Area".

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- A.2.(k) Item renumbered and "Closed Area" amended for clarity and readability.
- A.2.(l) Item renumbered and "Coliform Group" amended for stylistic consistency.
- A.2.(m) Item renumbered.
- A.2.(n) New item added. New definition inserted for "Conditionally Approved".
- A.2.(o) Item renumbered and "Conditionally Approved Area" amended to accurately reflect classification of growing areas as opposed to water, and the determination of the appropriate specific environmental conditions or time periods. Also amended for clarity and readability.
- A.2.(p) New item added. New definition inserted for "Conditionally Restricted".
- A.2.(q) Item renumbered and "Conditionally Approved Area" amended to accurately reflect classification of growing areas as opposed to water, and the determination of the appropriate specific environmental conditions. Also amended for clarity and readability.
- A.2.(r) Item renumbered.
- A.2.(s) Item renumbered and "Critical Control Point (CCP)" amended for punctuation and clarity.
- A.2.(t) Item renumbered and amended for stylistic consistency.
- A.2.(u) Item renumbered.
- A.2.(v) Item renumbered.
- A.2.(w) Item renumbered.
- A.2.(x) Item renumbered.
- A.2.(y) Item renumbered.
- A.2.(z) Item renumbered.
- A.2.(aa) Item renumbered.
- A.2.(bb) Item renumbered.
- A.2.(cc) Item renumbered and "Fecal coliform" amended for stylistic consistency.
- A.2.(dd) Item renumbered and "Growing Area" amended as estuaries or coastal rivers delineated by the Department. Growing area and growing waters become synonymous.
- A.2.(ee) Item renumbered.
- A.2.(ff) Item renumbered.
- A.2.(gg) Item renumbered.
- A.2.(hh) Item renumbered.
- A.2.(ii) New item added. New definition inserted for "Lot".
- A.2.(jj) Item renumbered and "Marina" amended for consistency with other State regulations.

A.2.(kk)	Item renumbered
A.2.(ll)	Item renumbered
A.2.(mm)	New item added. New definition inserted for "Post Harvest Processing".
A.2.(nn)	Item renumbered
A.2.(oo)	New item added. New definition inserted for "Processor".
A.2.(pp)	New item added. New definition inserted for "Prohibited"
A.2.(qq)	Item renumbered and "Prohibited Area" amended to refer to growing areas closed by the Department in lieu of waters classified by the Department as prohibited.
A.2.(rr)	New item added. New definition inserted for "Raw".
A.2.(ss)	Item renumbered and "Relaying" amended for stylistic consistency.
A.2.(tt)	Item renumbered and "Repacker" amended for stylistic consistency.
A.2.(uu)	Item renumbered.
A.2.(vv)	Item renumbered and "Reshipper" amended for stylistic consistency.
A.2.(ww)	New item added. New definition inserted for "Restricted".
A.2.(xx)	Item renumbered and "Restricted Area" amended to refer to growing areas in lieu of waters. Also amended for clarity and readability.
A.2.(yy)	Item renumbered and Sanitary Survey Report amended for stylistic consistency.
A.2.(zz)	Item renumbered.
A.2.(aaa)	Item renumbered and "Scheduled Depuration Process" amended for stylistic consistency. Also amended to substitute "has been demonstrated to" in lieu of "is approved by", delete "as adequate", and insert "fecal coliform" and delete "viruses".
A.2.(bbb)	Item renumbered.
A.2.(ccc)	Item renumbered.
A.2.(ddd)	Item renumbered and "Shellstock" amended for consistency with National Shellfish Sanitation Program Model Ordinance definition.
A.2.(eee)	Item renumbered and "Shellstock Shipper" amended for stylistic consistency.
A.2.(fff)	Item renumbered. Also amended for stylistic consistency.
A.2.(ggg)	Item renumbered and "Shucker-Packer (SP)" amended for stylistic consistency.
A.2.(hhh)	New item added. New definition inserted for "State Shellfish Control Authority".
A.2.(iii)	Item renumbered.
A.2.(jjj)	Item renumbered.

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A.2.(kkk)

Item renumbered.

A.3.

New subsection added. Subsection "Severability" added for consistency.

B.1.

Amended to properly reference NSSP Model Ordinance. "Will" amended to "shall" for consistency.

B.2.

Amended to reference newly defined "growing area" and stylistic consistency.

B.3.

Amended to accurately reflect NSSP statistical water quality requirements for the approved classification. In determining water quality compliance, neither the geometric mean nor the estimated 90th percentile value may exceed approved criteria. References the location of the methodology to be used in determining the estimated 90th percentile. Also amended for stylistic consistency, grammar, and readability.

B.4.(a)

Amended to remove references to "malfunction of wastewater treatment facilities" and "potential discharges from dock or harbor facilities that may affect water quality" which are typically unpredictable. Also amended for punctuation.

B.4.(b)

Amended to emphasize that approved criteria must be met for a period of time in order to likely assure shellfish are safe for consumption.

B.4.(c)

Amended for stylistic consistency.

B.5.(a)

Amended to replace "limited" with "moderate" and for stylistic consistency.

B.5.(b)

Amended for stylistic consistency.

B.5.(c)

Amended to accurately reflect NSSP statistical water quality requirements for the restricted classification. In determining water quality compliance, neither the geometric mean nor the estimated 90th percentile value may exceed restricted criteria. References the methodology to be used in determining the estimated 90th percentile. Also amended for stylistic consistency and readability.

B.6.(a)

Amended for stylistic consistency and to delete the last sentence; "Memorandums of agreement shall be part of these management plans where appropriate."

B.6.(b)

Amended for stylistic consistency.

B.6.(c)

Amended to accurately reflect NSSP statistical water quality requirements for the conditionally restricted classification. In determining water quality compliance, neither the geometric mean nor the estimated 90th percentile value may exceed referenced criteria. References the methodology to be used in determining the estimated 90th percentile. Also amended for stylistic consistency and readability.

B.7.(a)

Amended for stylistic consistency and to insert "report" for consistency with definitions, and to insert "otherwise" prior to "indicate".

B.7.(b)

Amended for stylistic consistency.

B.7.(c)

Amended for stylistic consistency.

B.7.(d)

Amended for stylistic consistency and clarity, and to address growing "areas" in lieu of growing "waters", and to replace "adjacent to" with "receiving".

B.7.(e)

Amended for stylistic consistency, readability and clarity, and to include verbiage "and adjacent to".

- B.7.(e)(2) Amended for stylistic consistency.
- B.7.(f) New item added. This item addresses existing, historical marina closures of one-thousand feet and prescribes that, in the event that a permit or certificate is issued that results in an increase of the marina's potential boat occupancy rate, a dilution analysis be conducted to re-determine the prohibited closure area.
- C.1.(a) Amended to include newly defined "growing area(s)" terminology. Allows harvesting as "authorized" by the Department.
- C.1.(b) Amended for stylistic consistency and improved readability and to delete verbiage "Vehicles used for harvesting and storing shellstock" and replace with "Shellstock harvesting vehicles".
- C.1.(c) Amended to specify ambient temperature range, accurately convert temperatures from Fahrenheit to Centigrade, and to correct capitalization. Deletes reference to "handling".
- C.1.(d) Amended to ban untreated human fecal waste discharge into any growing area.
- C.2.(a) New item inserted. This item makes it unlawful to place adulterated shellfish in interstate commerce or offer adulterated shellfish for sale within the State except in conjunction with a special project permitted in accordance with R.61-47. Following items renumbered as appropriate.
- C.2.(b) Item renumbered.
- C.2.(b)(1) Amended to require a tag be fastened to the outside of every container of shellstock, require that bulk shipments shall have one tag with all required information attached, include a statement concerning the conditions that shall represent a bulk shipment, and improve readability.
- C.2.(b)(1)(a) New item added. Item prescribes a shellfish "lot" requirement for bulk shipments.
- C.2.(b)(1)(b) New item added. Item prescribes a "large volume single container" or "single container of shrink-wrapped multiple packages" requirement for bulk shipments.
- C.2.(b)(1)(c) New item added. Item prescribes "when tagged with a sale tag, are consigned to a single entity" requirement for bulk shipments.
- C.2.(b)(2) Item amended to include "as applicable".
- C.2.(b)(2)(a) Amended to include requirement that tags be "indelible".
- C.2.(b)(2)(a)(i) Amended to replace "Agency" with "Authority" and for stylistic consistency.
- C.2.(b)(2)(a)(ii) Amended for stylistic consistency.
- C.2.(b)(2)(a)(vi) Amended for stylistic consistency and to include "OR IS RETAGGED" in the required statement.
- C.2.(b)(2)(a)(ix) New item added. Item requires "KEEP REFRIGERATED" or an equivalent statement be included on tags.
- C.2.(b)(2)(a)(x) New item added. Item requires that tags on shrink-wrapped bulk shipments indicate the number of individual packages contained in the shipment.
- C.2.(b)(2)(b) Amended to require that harvest tags be "accurate, legible, indelible, complete" as well as for stylistic consistency.

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- C.2.(b)(4) Amended to refer to defined "growing area(s)" in lieu of waters.
- C.2.(b)(5) Amended to refer to defined "growing area(s)" in lieu of waters and for stylistic consistency.
- C.2.(b)(6) New item added. Item creates requirements that shellstock tagged "For Shucking Only", "Not For Raw Consumption", or similar language not be offered for sale for raw consumption and that the language be displayed on subsequent sale tags.
- C.2.(b)(7) New item added. Item allows possession of untagged shellfish in excess of the recreational limit provided shellstock has been legally obtained from a Department-permitted Retail Food Establishment.
- C.2.(c) Item renumbered.
- C.2.(c)(4)(a) Item renumbered.
- C.2.(c)(4)(b) Item renumbered.
- C.2.(c)(4)(c) Item renumbered.
- C.2.(d) New item added. Creates requirement for post harvest processed shellfish to be tagged or labeled in accordance with current procedures established by the National Shellfish Sanitation Program. Following items renumbered as necessary.
- C.2.(e) Amended to refer to "authorized" in lieu of "approved".
- C.2.(f) Amended to specify ambient air temperature ranges for shellfish maintenance within twenty hours "of" harvest and to allow exclusion to the ambient air temperature range requirement during intermediate processing and handling operations provided internal shellfish temperatures do not exceed referenced temperatures.
- C.3. Item amended to allow the use of resilient, water resistant packaging or containers in lieu of tarpaulins or similar covers.
- C.3.(a) Item amended to specify ambient air temperature range during transportation, allow exclusion to the requirement during transportation provided ice is used to sufficiently maintain internal shellfish temperatures within the stated range, and to improve readability and stylistic consistency.
- C.3.(b) Item amended to specify ambient air temperatures and stylistic consistency.
- C.3.(d) Amended to refer to "authorized" in lieu of "approved".
- C.3.(e) Amended for stylistic consistency.
- C.3.(f) New item added. Establishes requirement for determining acceptability or rejectability of shellfish shipments received in interstate commerce based upon National Shellfish Sanitation Program Model Ordinance guidance.
- D.1.(a) Amended for stylistic consistency.
- D.1.(b) Amended for stylistic consistency.
- D.1.(d) Amended for stylistic consistency.
- D.1.(f) Amended for stylistic consistency. Replaced "approval is granted" with "authorized" for readability.

- D.2. Amended for stylistic consistency.
- D.3.(a) Amended for stylistic consistency.
- D.3.(b) Amended for stylistic consistency.
- D.3.(b)(4) Amended for stylistic consistency.
- D.3.(b)(4)(a) Item renumbered for stylistic consistency.
- D.3.(b)(4)(b) Item renumbered for stylistic consistency.
- D.3.(b)(4)(c) Item renumbered and amended for stylistic consistency.
- D.3.(b)(4)(iv) Item deleted. Duplicative requirement.
- D.3.(c) Amended to substitute "shall" in lieu of "will" and to replace ""successful" with "satisfactory".
- D.3.(d)(1)(b) Amended to delete extra hyphen.
- D.3.(d)(3)(d) Amended for stylistic consistency.
- D.3.(d)(3)(h) Amended add hyphen for stylistic consistency.
- D.3.(d)(3)(e) Amended for punctuation and readability. Insert "21" in CFR reference and "Title" in official Code of Federal Register reference.
- D.3.(d)(3)(j)(i) Amended to specify that a water disinfection system shall be required for all recirculating wet storage systems..
- D.3.(k) Amended for stylistic consistency and to refer to "authorized" in lieu of "approved".
- D.3.(l) Amended to substitute "shall" in lieu of "will" and to substitute "satisfactory" in lieu of "successful".
- D.5 New item added. Allows the Department, in limited instances and upon request from a State agency having shellfish regulatory authority, to authorize the translocation of shellfish beds within prohibited growing areas for purposes of marine habitat preservation.
- E.1. Amended to allow samples to be taken for scientific examination for public health purposes. The type of test "shall" be included on the receipt. New language improves readability.
- E.2. Amended for stylistic consistency and to state that the Department "shall" use the referenced organisms and concentrations in determining bacteriological adulteration of shellfish.
- F.1. Amended to reference a laboratory "authorized" by the Department, in lieu of "approved" by the Department, and to require that laboratories conform to requirements of the National Shellfish Sanitation Program, Chapter III. Laboratory.
- G.1.(a) Amended for stylistic consistency.
- G.1.(b) Amended for stylistic consistency.
- G.1.(f) Amended to specify that shellfish must be obtained from and processed by a certified shipper in accordance of the provision of the regulation or substantially equivalent regulation.
- G.1.(g)

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Amended to delete language stating that "these persons may not distribute or sell shellfish products to Certified Shippers and to include colon for proper punctuation so that the following five new items may be inserted.

G.1.(g)(1)

New item added to specify shellfish must be obtained from a certified shipper.

G.1.(g)(2)

New item added to specify shellfish must be sold in their original packaging with original tags or labels.

G.1.(g)(3)

New item added for shellfish temperature requirement and regulation reference.

G.1.(g)(4)

New item added to specify shellfish that shellfish shall not be allowed to become adulterated.

G.1.(g)(5)

New item added to specify shellfish shall not be distributed to certified shippers.

G.1.(h)

New item added to allow the Department to grant written authorization for scientific shellfish collection purposes from closed growing areas, and to provide that authorization be granted only upon proof of possession of a valid scientific collection permit issued by the South Carolina Department of Natural Resources.

H.1.(c)

Amended for clarity and readability.

H.1.(d)

Amended for readability and to include official Department verbiage regarding contested case hearings.

H.3.

New item. "Embargo" authorizes the Department to prohibit or restrict shellfish shipments entering or exiting the State in the event that a condition exists that could result in a public health emergency. Embargo authority is a requirement of the National Shellfish Sanitation Program.

I.1.(a)

Amended to delete "all applicable sections of" from the requirement for compliance with Sections 110 and 123 of 21CFR.

I.1.(c)

Amended for clarity.

I.1.(c)(1)

Amended to specify ambient air temperature and stylistic consistency.

I.1.(c)(3)

Amended to specify ambient air temperature, stylistic consistency, and include new language introducing the following two new items.

I.1.(c)(3(a)

New item added requiring certified shippers to maintain shellfish at prescribed ambient temperatures within twenty hours of shellfish harvest.

I.1.(c)(3(b)

New item added requiring certified shippers to maintain shellfish at prescribed ambient temperatures within two hours of receiving shellfish.

I.1.(c)(5)

Amended for stylistic consistency.

I.1.(c)(10)

Amended for stylistic consistency.

I.1.(d)

Amended to refer to "authorized" in lieu of "approved".

I.1.(f)

Amended for stylistic consistency.

I.1.(g)

Amended for stylistic consistency and to refer to "authorized" in lieu of "approved".

I.1.(h)

Amended to refer to "authorized" in lieu of "approved".

I.1.(i)(1)

Amended for stylistic consistency.

- I.1.(j) Amended for stylistic consistency.
- I.1.(k) Amended for stylistic consistency, clarity, and to refer to “authorized” in lieu of “approved”.
- I.1.(l) Amended for stylistic consistency.
- I.1.(m) New item added to require that post harvest processing be conducted only by certified shippers and to require that processing comply with applicable portions of the regulation. Also requires that shellfish meet applicable criteria or standards established by the National Shellfish Sanitation Program.
- I.3.(a) Amended for clarity and readability.
- I.3.(d) Amended to delete verbiage “room and all other areas in the” and “when necessary” for clarity and readability.
- I.3.e. Amended to delete “orderly” from the storage requirement.
- J.1.(a)(1) Amended to replace “meat” with “shellfish” and “will” with “shall”.
- J.1.(e)(2) Amended for stylistic consistency.
- J.1.(e)(3) Amended to refer to “authorized” in lieu of “approved”.
- J.2.(a) Amended to replace “received from an approved source” with “harvested from approved or conditionally approved growing areas in the open status and obtained from certified shippers or SCDNR-licensed harvesters”. Also amended to update a reference due to renumbering.
- J.2.(e)(1) Amended for stylistic consistency.
- J.2.(e)(2) Amended for stylistic consistency.
- J.2.(f) Amended for stylistic consistency and to refer to “authorized” in lieu of “approved”.
- J.3.(a) Amended for stylistic consistency and to substitute “must be authorized” in lieu of “shall be approved”.
- J.3.(d) Amended to reflect a wider range of NSSP allowable heat shock water temperatures, and to prescribe NSSP cleaning frequencies for heat shock water based on temperature maintenance.
- J.3.(e) Amended for stylistic consistency.
- J.3.(g) Amended for stylistic consistency.
- J.3.(h) Amended to prescribe heat shock tank cleaning "in accordance with the drain and flush intervals in Section J.3(d)", and to refer to “authorized” in lieu of “approved”.
- J.3.(i) Amended for stylistic consistency and to refer to “authorized” in lieu of “approved”.
- K.1. Amended to delete language "except those relating specifically to shucking" and substitute "non-shucking" for readability and clarity. Also amended to add "of this regulation" to the section reference.
- K.2. Amended for stylistic consistency and to update reference due to renumbering.
- K.3.

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Amended to delete language that requires shellfish to be received "in approved shipping containers" and include new, more specific language; "Shellfish shall be received, packaged, and labeled in compliance with this regulation." Also amended for stylistic consistency and readability.

- K.5. Amended for stylistic consistency.
- K.6. Amended to refer to "authorized" in lieu of "approved".
- K.8. Amended for stylistic consistency.
- K.9. Amended for stylistic consistency.
- K.10. Amended for stylistic consistency.
- K.11. Amended for stylistic consistency.
- K.12. Amended for stylistic consistency and to update reference due to renumbering.
- L.1. Amended to specify "shellfish" source and language deleted to improve readability. Deleted requirement for shellfish identification is included in new item L.4.
- L.1.(b) Amended for stylistic consistency.
- L.1.(c) Amended for stylistic consistency.
- L.2. Amended for grammatical correction.
- L.3. Amended to refer to "authorized" in lieu of "approved".
- L.4. New item "Shellfish Identification and Labeling" consists of existing requirement with updated regulation reference.
- M.1. Amended for stylistic consistency, to update references due to renumbering, and to improve readability.
- M.2. Amended to remove incorrect reference.
- M.3.(a) Amended to refer to "authorized" in lieu of "approved".
- N.1.(a) Amended for stylistic consistency.
- N.1.(b) Amended for stylistic consistency and to remove "approved" and substitute verbiage stating that applicable portions of section N.2. "shall require approval" by the Department.
- N.1.(c) Amended to replace "diverted into the marketplace" with "sold or distributed" and to replace "approved" with "authorized".
- N.1.(f) Amended to delete existing language and substitute a new verbiage requiring that process verification shall be conducted in accordance with protocol established by, and outlined in, the National Shellfish Sanitation Program Model Ordinance.
- N.2.(a) Amended to remove "and shall be approved by the Department". Requirement is redundant; N.1. requires compliance with N.2. and Department approval prior to construction.
- N.2.(b)(1) Amended for grammatical correction
- N.3.(a)(2)

- Amended to delete “as necessary” verbiage from requirement to protect shellfish from contamination and undue stress.
- N.3.(a)(3)
- New item added. Depuration harvest permits shall only be issued in association with a valid depuration processor certificate. .
- N.3.(b)
- Amended for stylistic consistency.
- N.3.(i)(2)(a)
- Item renumbered for stylistic consistency.
- N.3.(i)(2)(b)
- Item renumbered for stylistic consistency.
- N.3.(i)(2)(c)
- Item renumbered for stylistic consistency.
- N.3.(i)(2)(d)
- Item renumbered for stylistic consistency.
- N.3.(i)(2)(e)
- Item renumbered for stylistic consistency.
- N.3.(i)(2)(f)
- Item renumbered for stylistic consistency.
- N.3.(i)(2)(g)
- Item renumbered for stylistic consistency.
- O.1.(b)
- Amended for stylistic consistency.
- O.1.(b)(1)
- Amended to delete “approved” verbiage.
- O.1.(c)
- Amended for stylistic consistency.
- O.1.(h)
- Amended for stylistic consistency.
- O.1.(i)
- Amended to replace "approved" with "authorized" and replace "USFDA" with "United States Food and Drug Administration"
- O.1.(j)(3)
- Amended to correct typographical error “inland” with “in land”.
- O.1.(l)
- New item added to require suspension of operations and implementation of a Department authorized water and tissue-monitoring program in the event that an aquaculture facility is a likely source of illness due to raw shellfish consumption. Also requires that, following implementation of the required monitoring program, shellfish exceeding acceptable National Shellfish Sanitation Program criteria or standards shall be tagged or labeled "Not For Raw Consumption-For Cooking Only".
- O.3.
- Amended to delete specific section references and to specify that open water "aquaculture operations" comply with all applicable requirements of the regulation. Also amended for stylistic consistency.
- O.4.(a)
- Amended for stylistic consistency.
- O.4.(a)(9)
- Amended for stylistic consistency.
- O.4.(b)(1)
- Amended for stylistic consistency and to replace “approved” with “open” for clarity.
- O.4.(b)(2)(a)
- Amended to remove "Generally Recognized as Safe" for improved readability. Deleted text previously defined in regulations as "GRAS". Semicolon and "and" added to include following item requirement.
- O.4.(b)(2)(b)
- Amended for stylistic consistency and to add "and" to include the following item as a requirement.

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O.4.(b)(2)(c)

Amended to correct punctuation.

O.4.(c)(3)

Amended for stylistic consistency.

O.7

Amended for stylistic consistency.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invites members of the public and regulated community to attend a staff-conducted informational forum to be held on November 30, 2005 at 11:00 a.m. in Peeples Auditorium, 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 parties on the proposed regulation. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street Entrance and register at the front desk. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for the Board public hearing scheduled for January 12, 2006 as noticed below.

Interested parties are also provided an opportunity to submit written comments to the staff forum and during the public comment period by writing to Mr. David Baize at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina, 29201, Fax number (803) 898-2893. To be considered, written comments submitted must be received no later than 5:00 p.m. on November 30, 2005. Comments received at the informational forum and during the write-in public comment period shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for the Board public hearing scheduled for January 12, 2006, as noticed below.

Comments received at the forum and during the write-in public comment period shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing as noticed below.

A copy of the proposed amendment for *public notice and comment* may be obtained by contacting Mr. David Baize at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina, 29201, telephone number (803) 898-3559, Fax number (803) 898-2893, or from the Department's website at www.scdhec.gov/administration/regs.

Notice of Board 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 January 12, 2006. 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 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.

A copy of the final proposed regulation for submission to the Board *for public hearing* may be obtained by contacting Mr. David Baize at the address above.

Preliminary Fiscal Impact Statement:

The proposed amendments will more clearly define requirements for harvesters, processors, and transporters of shellfish thereby limiting economic impact. No fees are associated with these proposed amendments.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: R.61-47, Shellfish

Purpose: The Department is proposing to amend R.61-47 to ensure consistency with other Department regulations, revise the Regulation to bring it up to date with current National Shellfish Sanitation Program guidance and practices; include a section on severability; update and expand definitions; update certification and permitting procedures; update growing area survey and classification standard references; update requirements for the harvesting, handling and transportation of shellfish; update compliance and inspection procedures; update certified shipper facility and aquaculture requirements; and revise style, language, and grammar for clarity, readability and consistency. (See Section-by-Section Discussion above).

Legal Authority: S.C. Code Section 44-1-140 (1976 Code of Laws, as amended).

Implementation: The proposed regulation amendment will take effect upon approval by the Board of Health and Environmental Control, the General Assembly and publication in the State Register. Existing staff will incorporate the regulation amendment following the effective date.

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

The proposed amendment is needed and reasonable because it will incorporate National Shellfish Sanitation Program minimum guidance criteria that have been implemented since the last revision. Regulatory adoption of National Shellfish Sanitation Program minimum guidance criteria and standards is necessary to ensure a high degree of public health protection for consumers of molluscan shellfish. State and industry compliance with these minimum criteria and standards ensures that South Carolina molluscan shellfish products processed and transported in accordance with the proposed amendment are acceptable for interstate commerce.

The proposed amendment is needed and reasonable because it will ensure consistency with other Department regulations. For example the State has recently amended a definition within another regulation that has resulted in a direct conflict with R.61.47, Shellfish. The proposed regulation will correct this inconsistency.

The proposed amendment is needed and reasonable in order to correct minor regulatory inconsistencies and provide stylistic consistency, better readability and interpretation.

DETERMINATION OF COSTS AND BENEFITS:

This amendment will affect consumers, harvesters, processors and transporters of shellfish. The proposed amendment protects the shellfish industry through the implementation of established national standards and guidance criteria. Compliance with these established standards limits financial demands on the shellfish industry and allows the interstate sale of South Carolina shellfish products. The proposed amendments will more clearly define requirements for harvesters, processors, and transporters of shellfish thereby limiting economic impact. No fees are associated with these proposed amendments.

UNCERTAINTIES OF ESTIMATES:

Because this is an amendment of an existing regulation, the Department can be reasonably certain on the (lack of) associated costs.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendment protects the health of consumers of shellfish as well as the health of shellfish resources. Additionally, the regulation functions in concert with other Department environmental and health programs and ensures consistency with Department regulations.

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

Without this amendment, a conflict between two Department regulations will exist. Additionally, Shellfish Sanitation Program compliance with National Shellfish Sanitation Program public health guidance criteria cannot be assured.

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STATEMENT OF RATIONALE (in accordance with S.C. Code Section 1-23-110(A)(3)(h):

Department staff determined during its review of R.61-47 that it was appropriate to revise the regulation. R.61-47 was last amended in 2000. Since that time, several changes to law, best practices, and standards have occurred. See the Statement of Need and Reasonableness above for more information regarding the factors influencing the 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. 3004
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Sections 44-53-1450; 1-23-10; -110

Repeal of R.61-85. Prevention and Control of Lead Poisoning in Children.

Preamble:

R. 61-85 was promulgated and implemented in 1981. The regulation reflects protocols and procedures that have significantly changed since its inception, and is now inconsistent with protocols and procedures prescribed by the Centers for Disease Control and Prevention regarding childhood lead poisoning. Furthermore, the 2005 revision of the South Carolina Lead Poisoning Prevention and Control Act, South Carolina Code of Laws, Sections 44-53-1310 to -1480, has rendered R.61-85 obsolete; the public health concerns that R.61-85 was intended to address are now addressed through the revised statute. Since this regulation is no longer needed, and in the interest of good government and efficiency, the Department proposes repeal of R.61-85.

Staff initiated the statutory process for the repeal of R.61-85 by publication of a Notice of Drafting in the *State Register* on July 22, 2005. The most recent drafting comment period ended on August 30, 2005. No comments were received during the comment period.

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 November 29, 2005, at 9:00 a.m. at Room 1635 of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street Entrance and register at the front desk. 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.61-85 for submission to the Board of Health and Environmental Control for the Board public hearing scheduled for January 12, 2006, pursuant to S.C. Code Section 1-23-110 and -111 as noticed below.

Interested persons are also provided an opportunity to submit written comments on the proposed repeal to the forum or during a public comment period by writing to Mr. H. Michael Longshore at the above address. Written comments must be received no later than 5:00 p.m. on November 30, 2005. Comments received by the deadline date shall be considered by staff in formulating the final proposed repeal for public hearing on January 12, 2006, as noticed below. 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 R.61-85 for repeal 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. Copies may also be accessed via the Department's Regulation Development update at <http://www.scdhec.gov/administration/regs/>. Click on the the Environmental Health link.

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 January 12, 2006. 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. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street Entrance and register at the front desk. 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.

Copies of the final proposed regulation repeal 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 new 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 regulation reflects protocols and procedures that have significantly changed since its inception, and is now inconsistent with protocols and procedures prescribed by the Centers for Disease Control and Prevention regarding childhood lead poisoning. Furthermore, the 2005 revision of the South Carolina Lead Poisoning Prevention and Control Act, South Carolina Code of Laws, Sections 44-53-1310 to -1480, has rendered R.61-85 obsolete; the public health concerns that R.61-85 was intended to address are now addressed through the revised statute. Since this regulation is no longer needed, and in the interest of good government and efficiency, the Department proposes repeal of R.61-85.

Legal Authority: The legal authority for R.61-85 is S.C. Code of Laws Section 44-53-1450.

Plan for Implementation: None.

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

The 2005 revision of the South Carolina Lead Poisoning Prevention and Control Act, South Carolina Code of Laws, Sections 44-53-1310 to -1480, has rendered R.61-85 obsolete; the public health concerns that R.61-85 was intended to address are now addressed through the revised statute. Since this regulation is no longer needed, and in the interest of good government and efficiency, the Department proposes repeal of R.61-85.

DETERMINATION OF COSTS AND BENEFITS: There are no anticipated costs or benefits associated with the repeal of this regulation.

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.61-85.

STATEMENT OF RATIONALE:

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This regulation is no longer needed, and in the interest of good government and efficiency, the Department proposes repeal of R.61-85.

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. 3006
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 replace the existing regulation R.30-12.N, Access to Small Islands, which was declared invalid due to vagueness in the February 22, 2005, decision of the SC Supreme Court. These proposed changes would add definitions and detailed project standards to be utilized in the evaluation of permits for access to islands. The changes are proposed to address the gap in the critical area regulations created by the Supreme Court decision and ensure consistent and effective Department review of applications for access to islands. Generally, the language proposed provides more specific, protective and enforceable standards for the management of coastal islands, which are important and distinct features of the South Carolina coast.

A Notice of Drafting for this proposed regulation was published in the State Register on August 26, 2005.

Discussion of Proposed Revisions:

The Department proposes to 1) add definitions for coastal island and bridge, 2) delete the existing regulations for access to small islands, 3) provide criteria for determining the eligibility of an island for a bridge permit, 4) establish minimum development standards for the evaluation of bridge permits to and the associated development of coastal islands, 5) provide for regulation of existing causeways and bridges, and 6) address permitting of non-vehicular bridges for use by the general public.

<u>SECTION</u>	<u>CHANGE</u>
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30-1.D	Add definitions, in proper alphanumeric order, for coastal island and bridge, and renumber all following definitions.
30-12.N	Delete this existing section and replace with a new section to be titled Access to Coastal Islands.
30-12.N.1	Add language describing the purpose of this section, the value of coastal islands and the impacts associated with accessing them.
30-12.N.1.a	Add a new subsection describing coastal islands in South Carolina, their risk for development, and a recent study the by SC Department of Natural Resources of some of these islands and their ecological value.

- 30-12.N.1.b Add a new subsection explaining that access to coastal islands involves placement of structures in areas protected by statute and the public trust doctrine.
- 30-12.N.1.c Add a new subsection describing the impact of structures for accessing islands on protected resources in the critical area.
- 30-12.N.2 Add a new section specifying eligibility criteria for applying for a bridge permit.
- 30-12.N.2.a Add a new subsection describing why some islands are too small and too far from upland to be eligible for bridges.
- 30-12.N.2.b Add a new subsection limiting bridges to non-vehicular ones, unless they qualify for a special exception, in areas of special resource value, which are specifically the ACE Basin, North Inlet and the Cape Romain National Wildlife Refuge.
- 30-12.N.2.c Add a new subsection prohibiting bridges to islands less than one acre in size.
- 30-12.N.2.d Add a new subsection prohibiting bridges to islands between one and two acres unless they qualify for a special exception.
- 30-12.N.2.e Add a new subsection describing the circumstances in which the Department may consider an application for a bridge permit.
- 30-12.N.2.e(i) Add a subpart describing the circumstances in which the Department may consider applications for bridges not exceeding 15 feet in width, including subsections (a) through (c) relating to the size of islands and their distance from upland.
- 30-12.N.2.e(ii) Add a subpart describing the circumstances in which the Department may consider applications for bridges which may exceed 15 feet in width, including subsections (a) and (b) relating to the size of islands and their distance from upland.
- 30-12.N.2.f Add a new subsection describing how the distance of islands from the upland will be measured
- 30-12.N.2.f(i) Add a subpart defining the areas that are upland to include (a) mainland, and (b) the large developed islands excluded from the definition of coastal islands.
- 30-12.N.2.f(ii) Add a subpart requiring that the measurement be taken from an approved critical area line.
- 30-12.N.2.g Add a new subsection requiring a registered surveyor to submit a survey showing that the length of any proposed bridge does not exceed the lengths allowed in this regulation.
- 30-12.N.3 Add a new section of Minimum Development Standards for Bridge Applications that describes the minimum requirements if the eligibility criteria of R.30-12.N.3.e are met.
- 30-12.N.3.a Add a new subsection describing limitations on docks.

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- 30-12.N.3.a(i) Add a subpart clarifying that these requirements are associated with islands accessed by bridges permits, and are in addition to the other Department standards relating to docks.
- 30-12.N.3.a(ii) Add a subpart requiring that the applicant eliminate 75 percent of docks which would normally be allowed and that the reduction be made binding via a conservation easement.
- 30-12.N.3.a(iii) Add a subpart limiting docks to 500 feet in length.
- 30-12.N.3.a(iv) Add a subpart prohibiting boat lifts and similar structures.
- 30-12.N.3.a(v) Add a subpart prohibiting roofs except on community docks.
- 30-12.N.3.a(vi) Add a subpart requiring the submittal of a dock master plan with the bridge application.
- 30-12.N.3.b Add a new subsection providing density limits for islands less than 10 acres in size.
- 30-12.N.3.b(i) Add a subpart with three sections (a) through (c) limiting the number of residential units allowed on islands between two and 10 acres in size.
- 30-12.N.3.b(ii) Add a subpart requiring compliance with applicable local ordinances that are more restrictive.
- 30-12.N.3.c Add a new subsection requiring an environmental assessment.
- 30-12.N.3.c(i) Add a subpart with four sections (a) through d) specifying that the assessment include the identification of any of listed threatened or endangered species, State species of concern, and all freshwater wetlands.
- 30-12.N.3.c(ii) Add a requirement that the site plan consider impacts to wildlife habitats.
- 30-12.N.3.d Add a new subsection limiting impacts to freshwater wetlands on islands.
- 30-12.N.3.d(i) Add a subpart prohibiting impacts to freshwater wetlands on islands 10 acres or less in size.
- 30-12.N.3.d(ii) Add a subpart prohibiting fill on islands greater than 10 acres in size unless there is no feasible alternative.
- 30-12.N.3.d(iii) Add a subpart with three sections requiring that (a) the wetlands be protected via a conservation easement, (b) have buffers averaging 35 feet in width with a minimum of 15 feet, (c) the buffers be protected via conservation easement, and (d) a copy of the easement be submitted to the Department prior to issuance of the bridge construction placard.
- 30-12.N.3.e Add a new subsection limiting impacts of bridges to navigable waters
- 30-12.N.3.e(i) Add a new subpart prohibiting bridges to islands 10 acres or less if they cross waters that are navigable at mean low water.
- 30-12.N.3.e(ii) Add a new subpart requiring that new bridges not impede navigation.

30-12.N.3.f	Add a new subsection requiring bridges to minimize their size so as to minimize environmental impacts and to be constructed of materials suitable for the marine environment.
30-12.N.3.g	Add a new subsection describing requirements for stormwater management and sediment reduction plans for bridges and for the development on accessed islands.
30-12.N.3.g(i)	Add a new subpart with three sections (a) through (c) detailing the requirements for treating stormwater from the bridge.
30-12.N.3.g(ii)	Add a new subpart requiring submission of the stormwater management and sediment reduction plan
30-12.N.3.g(iii)	Add a new subpart requiring stormwater plans meet the most stringent water quality standards.
30-12.N.3.g(iv)	Add a new subpart requiring on-site retention of the first one and one-half inch of stormwater runoff.
30-12.N.3.g(v)	Add a new subsection eligible storage management practices.
30-12.N.3.g(vi)	Add a new subsection prohibiting exclusive use of buffers to meet stormwater management requirements.
30-12.N.3.h	Add a new subsection requiring pervious paving of streets, etc., on islands of 10 acres or less.
30-12.N.3.i	Add a new subsection with subparts (i) and (ii) specifying limitations on the lighting on bridges and islands.
30-12.N.3.j	Add a new subsection requiring utilities to utilize the bridge corridor to access the island.
30-12.N.3.k	Add a new section with subparts (i) through (v) limiting impervious cover, requiring buffers and open space, and describing allowable pruning of vegetation in the buffer.
30-12.N.3.l	Add a new subsection with requirements for Onsite Disposal Systems that are construction on islands, and specify the standards for these systems in subparts (i) through (v).
30-12.N.3.m	Add a new subsection requiring compliance with applicable zoning.
30-12.N.3.n	Add a new subsection with subparts (i) through (iv) requiring tree surveys and other activities to preserve existing vegetation.
30-12.N.4	Add a new section with standards for demonstrating that bridge projects will not impose an adverse impact upon the environment.
30-12.N.4.a	Add a new subsection stating that compliance with 30-12.N.4 meets the requirements of this subsection if the island is between 2 and 10 acres.

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- 30-12.N.4.b Add a new subsection with subparts (i) through (iii) describing the risks associated with bridging to islands 10 acres or greater in size.
- 30-12.N.4.c Add a new subsection requiring additional feasible measures to minimize environmental impact for islands 10 acres or greater in size.
- 30-12.N.4.d Add a new subsection requiring that the Department make a specific finding that all criteria detailed in subparts (i) through (iv) of this subsection are met by the project.
- 30-12.N.4.e Add a new subsection with subparts (i) through (ix) describing the factors that are evidence of feasible measures to reduce adverse impact.
- 30-12.N.5 Add a new section with subsections (a) through (f) describing the standards for all conservation easements required by R.30-12.N.
- 30-12.N.6 Add a new section allowing maintenance and repair of existing bridges.
- 30-12.N.7 Add a new section allowing the replace of a destroyed bridge with one of like size.
- 30-12.N.8 Add a new section requiring the permits for expansions of existing bridges be processed as new bridge applications.
- 30-12.N.9 Add a new section with subsections (a) and (b) specifying that no new causeways will be permitted and that limited fill is allowed for existing useable causeways.
- 30-12.N.10 Add a new section with subsections (a) and (b) allowing for non-vehicular bridges on public lands such as parks.
- 30-12.N.11 Add a new section with subsections (a) through (d) allowing for special exceptions for islands over one acre in size and providing the additional requirements that must be met to qualify under this section.
- 30-12.N.12 Add a new section specifying that if any portion of these regulations is deemed invalid or unenforceable, the remaining portions of the regulations shall remain in effect.

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 November 28, 2005 at 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.

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; telephone number (843)744.5838; fax (843)744.5847. Written comments must be received no later than November 28, 2005. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on January 12, 2006, as noticed below. Comments received at the informational forum and during the public comment period 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 text of the proposed amendment for public notice and comment as published in the State Register on October 28, 2005, 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 and written comments on the proposed amendment to the regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on January 12, 2006. 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, South Carolina. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noticed in the Board's agenda and published by the Department at least 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 presentation for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street Entrance and register at the front desk.

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 minimal 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 replace the existing regulation R.30-12.N, Access to Small Islands, which was declared invalid due to vagueness in the February 22, 2005, decision of the SC Supreme Court. These proposed changes would add definitions and detailed project standards to be utilized in the evaluation of permits for access to islands. The changes are proposed to address the gap in the critical area regulations created by the Supreme Court decision and ensure consistent and effective Department review of applications for access to islands. Generally, the language proposed provides more specific, protective and enforceable standards for the management of coastal islands, which are important and distinct features of the South Carolina coast.

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

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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 (1) implement S.C. Code Section 48-39-130, which addresses the permitting of activities in the critical area; (2) protect important and valuable public trust resources; (3) add clarity to existing regulations; and (4) enable Department staff to administer more effectively the regulatory program of the Coastal Division.

DETERMINATION OF COSTS AND BENEFITS:

1) Promulgation and administration of this amendment is estimated to have minimal 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 is estimated to have no significant economic impacts to entities regulated or result in cost increases to the general public. Those regulated may incur some additional costs in the preparation of information required for consideration of an application to access a coastal island. Public benefits will 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: Minimal.

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 ensure protection of unique and important resources of the coastal environment and provide additional clarity and specificity to the existing regulations that address access to islands. The revisions are based on the consensus of a broad-based stakeholder committee. The development of the proposed revisions relied on new information collected by the Department on the number, sizes, and locations of islands in the critical area as well as an ecological evaluation of some of these islands by the SC Department of Natural Resources. The experience and professional judgment of the Department's staff were relied upon in developing the regulation, as well as the input and suggestions of affected stakeholders. The revisions are proposed to address the current lack of activity-specific regulations for accessing islands, which resulted from a legal decision that invalidated a portion of the Department's 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. 3019

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: H.3716, 2005-2006 Appropriations Act, Part IB, Section 13.27

114-530. Regulations for Penalties for Non-compliance in Regulated Child Care Settings

Preamble:

The Department of Social Services is authorized by the South Carolina General Assembly to impose monetary penalties against a person, facility, or other entity for violation of statutes or regulations pertaining to programs, other than foster home licensing, that the department regulates. Penalties collected must be remitted to the State Treasurer for deposit into the State General Fund. The Department shall promulgate regulations for each program in which penalties may be imposed. The regulations must include guidance on the decision to assess a penalty, the effect of failure to pay a penalty in a timely manner, and a schedule of penalty ranges that takes into account severity and frequency of violations. These regulations must provide for notice of the penalty and the right to a contested case hearing before a designee of or panel appointed by the director of the Department. Judicial review of the final agency decision concerning a penalty must be in accordance with statutes or regulations that apply to judicial review of final revocation and denial decisions in that particular program. The Department, in accordance with regulations promulgated pursuant to this provision, shall have discretion in determining the appropriateness of assessing a monetary penalty against a person or facility and the amount of the penalty. The authority to assess monetary penalties shall be in addition to other statutory provisions authorizing the Department to seek injunctive relief or to deny, revoke, suspend, or otherwise restrict or limit a license or other types of operating or practice registrations, approvals, or certificates.

A drafting notice was published in the *State Register* and on the website for the Department of Social Services on July 22, 2005. Comments from interested persons were considered in formulating the penalties for noncompliance with the regulations for Regulated Child Care Settings.

Section-by-Section Discussion

114-530 A. addresses the purpose of the regulation.

114-530 B. addresses the effective date of the regulation.

114-530 C. addresses the definitions.

114-530 C.(1)(d),(e), and (f) address the definitions for classifications of violations.

114-530 D. addresses the amounts of penalties.

114-530 E. addresses the failure to pay a penalty.

114-530 F. addresses procedures by which an on-site citation and a notice of noncompliance must be given.

114-530 G. addresses the right to a hearing.

114-530 H. addresses the classifications of violations.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comments to Rita Paul, Child Care Licensing and Regulatory Services, South Carolina Department of Social Services, P. O. Box 1520, Columbia, South Carolina, 29202-1520. To be

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considered, comments must be received no later than 5:00 p.m. on November 28, 2005, the close of the public comment period. A public hearing before the Administrative Law Judge Division will be held at 10:00 a.m. on Wednesday, November 30, 2005, in Courtroom #3 of the Greenville County Courthouse located at 305 East North Street, Greenville, South Carolina.

Preliminary Fiscal Impact Statement:

The Department cannot effectively determine the fiscal impact of the regulations on the State or its political subdivisions until the regulations are implemented and the process of levying fines is underway. Currently, the Department believes any fiscal impact to be minimal. If, after implementation of the regulations, it is determined that a significant impact does exist, the Department will make the General Assembly aware of the fiscal impact.

Statement of Need and Reasonableness:

These regulations will provide a mechanism by which the Department may levy a fine against a facility which the Department licenses or regulates if the facility does not comply with a regulation in R114-500. Currently, the only action the Department can take when a facility is in violation of one or more regulations is to issue a warning or to suspend, revoke or deny a license, registration or approval. The ability to levy a fine will act as a deterrent against frequent and consistent violations and will assist in bringing facilities that repeatedly violate regulations into compliance.

The proposed monetary penalties are reasonable and are not intended to raise revenue or complicate the daily business of facilities that have a proven history of regulatory compliance. The effective date of the regulations is one hundred eighty days after final publication in the *State Register*. Fines apply to all violations committed on or after the effective date. The proposed effective date allows ample time for the Department to prepare for implementation of the regulations by providing training and technical assistance to affected facilities.

Statement of Rationale:

The Department administers standards that protect the health, safety and well being of children in child care facilities through the formulation, application and enforcement of regulations. The purpose of these proposed regulations is to define the manner by which fines may be levied when there is a violation of statute or regulation by a facility that the Department regulates or licenses. The authority to levy fines is in addition to other statutory provisions authorizing the Department to seek injunctive relief or to deny, revoke, suspend or otherwise restrict or limit a license, registration or approval.

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. 3020

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: H.3716, 2005-2006 Appropriations Act, Part IB, Section 13.27

114-520. Regulations for Penalties for Non-compliance in Regulated Child Care Settings

Preamble:

The Department of Social Services is authorized by the South Carolina General Assembly to impose monetary penalties against a person, facility, or other entity for violation of statutes or regulations pertaining to programs, other than foster home licensing, that the department regulates. Penalties collected must be remitted to the State Treasurer for deposit into the State General Fund. The Department shall promulgate regulations for each

program in which penalties may be imposed. The regulations must include guidance on the decision to assess a penalty, the effect of failure to pay a penalty in a timely manner, and a schedule of penalty ranges that takes into account severity and frequency of violations. These regulations must provide for notice of the penalty and the right to a contested case hearing before a designee of or panel appointed by the director of the Department. Judicial review of the final agency decision concerning a penalty must be in accordance with statutes or regulations that apply to judicial review of final revocation and denial decisions in that particular program. The Department, in accordance with regulations promulgated pursuant to this provision, shall have discretion in determining the appropriateness of assessing a monetary penalty against a person or facility and the amount of the penalty. The authority to assess monetary penalties shall be in addition to other statutory provisions authorizing the Department to seek injunctive relief or to deny, revoke, suspend, or otherwise restrict or limit a license or other types of operating or practice registrations, approvals, or certificates.

A drafting notice was published in the *State Register* and on the website for the Department of Social Services on July 22, 2005. Comments from interested persons were considered in formulating the penalties for noncompliance with the regulations for Regulated Child Care Settings.

Section-by-Section Discussion

114-520 A. addresses the purpose of the regulation.

114-520 B. addresses the effective date of the regulation.

114-520 C. addresses the definitions.

114-520 C.(1)(d),(e), and (f) address the definitions for classifications of violations.

114-520 D. addresses the amounts of penalties.

114-520 E. addresses the failure to pay a penalty.

114-520 F. addresses procedures by which an on-site citation and a notice of noncompliance must be given.

114-520 G. addresses the right to a hearing.

114-520 H. addresses the classifications of violations.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comments to Rita Paul, Child Care Licensing and Regulatory Services, South Carolina Department of Social Services, P. O. Box 1520, Columbia, South Carolina, 29202-1520. To be considered, comments must be received no later than 5:00 p.m. on November 28, 2005, the close of the public comment period. A public hearing before the Administrative Law Judge Division will be held at 10:00 a.m. on Wednesday, November 30, 2005, in Courtroom #3 of the Greenville County Courthouse located at 305 East North Street, Greenville, South Carolina.

Preliminary Fiscal Impact Statement:

The Department cannot effectively determine the fiscal impact of the regulations on the State or its political subdivisions until the regulations are implemented and the process of levying fines is underway. Currently, the Department believes any fiscal impact to be minimal. If, after implementation of the regulations, it is determined that a significant impact does exist, the Department will make the General Assembly aware of the fiscal impact.

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Statement of Need and Reasonableness:

These regulations will provide a mechanism by which the Department may levy a fine against a facility which the Department licenses or regulates if the facility does not comply with a regulation in R114-500. Currently, the only action the Department can take when a facility is in violation of one or more regulations is to issue a warning or to suspend, revoke or deny a license, registration or approval. The ability to levy a fine will act as a deterrent against frequent and consistent violations and will assist in bringing facilities that repeatedly violate regulations into compliance.

The proposed monetary penalties are reasonable and are not intended to raise revenue or complicate the daily business of facilities that have a proven history of regulatory compliance. The effective date of the regulations is one hundred eighty days after final publication in the *State Register*. Fines apply to all violations committed on or after the effective date. The proposed effective date allows ample time for the Department to prepare for implementation of the regulations by providing training and technical assistance to affected facilities.

Statement of Rationale:

The Department administers standards that protect the health, safety and well being of children in child care facilities through the formulation, application and enforcement of regulations. The purpose of these proposed regulations is to define the manner by which fines may be levied when there is a violation of statute or regulation by a facility that the Department regulates or licenses. The authority to levy fines is in addition to other statutory provisions authorizing the Department to seek injunctive relief or to deny, revoke, suspend or otherwise restrict or limit a license, registration or approval.

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. 3021
DEPARTMENT OF SOCIAL SERVICES
CHAPTER 114

Statutory Authority: H.3716, 2005-2006 Appropriations Act, Part IB, Section 13.27

114-510. Regulations for Penalties for Non-compliance in Regulated Child Care Settings

Preamble:

The Department of Social Services is authorized by the South Carolina General Assembly to impose monetary penalties against a person, facility, or other entity for violation of statutes or regulations pertaining to programs, other than foster home licensing, that the department regulates. Penalties collected must be remitted to the State Treasurer for deposit into the State General Fund. The Department shall promulgate regulations for each program in which penalties may be imposed. The regulations must include guidance on the decision to assess a penalty, the effect of failure to pay a penalty in a timely manner, and a schedule of penalty ranges that takes into account severity and frequency of violations. These regulations must provide for notice of the penalty and the right to a contested case hearing before a designee of or panel appointed by the director of the Department. Judicial review of the final agency decision concerning a penalty must be in accordance with statutes or regulations that apply to judicial review of final revocation and denial decisions in that particular program. The Department, in accordance with regulations promulgated pursuant to this provision, shall have discretion in determining the appropriateness of assessing a monetary penalty against a person or facility and the amount of the penalty. The authority to assess monetary penalties shall be in addition to other statutory provisions authorizing the Department to seek injunctive relief or to deny, revoke, suspend, or otherwise restrict or limit a license or other types of operating or practice registrations, approvals, or certificates.

A drafting notice was published in the *State Register* and on the website for the Department of Social Services on July 22, 2005. Comments from interested persons were considered in formulating the penalties for noncompliance with the regulations for Regulated Child Care Settings.

Section-by-Section Discussion

114-510 A. addresses the purpose of the regulation.

114-510 B. addresses the effective date of the regulation.

114-510 C. addresses the definitions.

114-510 C.(1)(d),(e), and (f) address the definitions for classifications of violations.

114-510 D. addresses the amounts of penalties.

114-510 E. addresses the failure to pay a penalty.

114-510 F. addresses procedures by which an on-site citation and a notice of noncompliance must be given.

114-510 G. addresses the right to a hearing.

114-510 H. addresses the classifications of violations.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comments to Rita Paul, Child Care Licensing and Regulatory Services, South Carolina Department of Social Services, P. O. Box 1520, Columbia, South Carolina, 29202-1520. To be considered, comments must be received no later than 5:00 p.m. on November 28, 2005, the close of the public comment period. A public hearing before the Administrative Law Judge Division will be held at 10:00 a.m. on Wednesday, November 30, 2005, in Courtroom #3 of the Greenville County Courthouse located at 305 East North Street, Greenville, South Carolina.

Preliminary Fiscal Impact Statement:

The Department cannot effectively determine the fiscal impact of the regulations on the State or its political subdivisions until the regulations are implemented and the process of levying fines is underway. Currently, the Department believes any fiscal impact to be minimal. If, after implementation of the regulations, it is determined that a significant impact does exist, the Department will make the General Assembly aware of the fiscal impact.

Statement of Need and Reasonableness:

These regulations will provide a mechanism by which the Department may levy a fine against a facility which the Department licenses or regulates if the facility does not comply with a regulation in R114-500. Currently, the only action the Department can take when a facility is in violation of one or more regulations is to issue a warning or to suspend, revoke or deny a license, registration or approval. The ability to levy a fine will act as a deterrent against frequent and consistent violations and will assist in bringing facilities that repeatedly violate regulations into compliance.

The proposed monetary penalties are reasonable and are not intended to raise revenue or complicate the daily business of facilities that have a proven history of regulatory compliance. The effective date of the regulations is one hundred eighty days after final publication in the *State Register*. Fines apply to all violations committed on or

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after the effective date. The proposed effective date allows ample time for the Department to prepare for implementation of the regulations by providing training and technical assistance to affected facilities.

Statement of Rationale:

The Department administers standards that protect the health, safety and well being of children in child care facilities through the formulation, application and enforcement of regulations. The purpose of these proposed regulations is to define the manner by which fines may be levied when there is a violation of statute or regulation by a facility that the Department regulates or licenses. The authority to levy fines is in addition to other statutory provisions authorizing the Department to seek injunctive relief or to deny, revoke, suspend or otherwise restrict or limit a license, registration or approval.

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. 3022

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: H.3716, 2005-2006 Appropriations Act, Part IB, Section 13.27

114-590. Residential Group Care Facilities for Children.

Preamble:

The Department of Social Services is authorized by the South Carolina General Assembly to impose monetary penalties against a person, facility, or other entity for violation of statutes or regulations pertaining to programs, other than foster home licensing, that the department regulates. Penalties collected must be remitted to the State Treasurer for deposit into the State General Fund. The department shall promulgate regulations for each program in which penalties may be imposed. The regulations must include guidance on the decision to assess a penalty, the effect of failure to pay a penalty in a timely manner, and a schedule of penalty ranges that takes into account severity and frequency of violations. These regulations must provide for notice of the penalty and the right to a contested case hearing before a designee of or panel appointed by the director of the department.

Judicial review of the final agency decision concerning a penalty must be in accordance with statutes or regulations that apply to judicial review of final revocation and denial decisions in that particular program. The department, in accordance with regulations promulgated pursuant to this provision, shall have discretion in determining the appropriateness of assessing a monetary penalty against a person or facility and the amount of the penalty. The authority to assess monetary penalties shall be in addition to other statutory provisions authorizing the department to seek injunctive relief or to deny, revoke, suspend, or otherwise restrict or limit a license or other types of operating or practice registrations, approvals, or certificates.

A drafting notice was published in the State Register and on the website for the Department of Social Services on July 22, 2005. Comments from interested persons were considered in formulating the penalties for noncompliance with the regulations for Residential Group Care Facilities for Children.

Section-by-Section Discussion

114-590 G.(1) addresses the purpose and effective date.

114-590 G.(2) addresses the definitions.

114-590 G.(2)(d),(e), and (f) address the definitions for classifications of violations.

114-590 G.(3) addresses the penalty amounts.

114-590 G.(4) addresses failure to pay a penalty.

114-590 G.(5) addresses procedures by which an on-site citation and a notice of noncompliance must be given.

114-590 G.(6) addresses the right to a hearing.

114-590 G.(7) addresses the classifications of violations.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comments to Jackie Kasufkin, Office of Foster Care and Adoptions, Division of Human Services, South Carolina Department of Social Services, P. O. Box 1520, Columbia, South Carolina, 29202-1520. To be considered, comments must be received no later than 5:00 p.m. on November 27, 2005, the close of the public comment period. A public hearing before the Administrative Law Judge Division will be held at 10:00 a.m. on November 30, 2005 in courtroom number 3 of the Greenville County Courthouse located at East North Street, Greenville, South Carolina.

Preliminary Fiscal Impact Statement:

The Department cannot effectively determine the fiscal impact of the regulations on the State or its political subdivisions until the regulations are implemented and the process of levying fines is underway. Currently, the Department believes any fiscal impact to be minimal. If, after implementation of the regulations, it is determined that a significant impact does exist, the Department will make the General Assembly aware of the fiscal impact.

Statement of Need and Reasonableness:

These regulations will provide a mechanism by which the Department may levy a fine against a facility which the Department licenses or regulates if the facility does not comply with a regulation in R114-590. Currently, the only action the Department can take when a facility is in violation of one or more regulations is to issue a warning or to suspend, revoke or deny a license, registration or approval. The ability to levy a fine will act as a deterrent against frequent and consistent violations and will assist in bringing facilities that repeatedly violate regulations into compliance.

The proposed monetary penalties are reasonable and are not intended to raise revenue or complicate the daily business of facilities that have a proven history of regulatory compliance. The effective date of the regulations is one hundred eighty days after final publication in the *State Register*. Fines apply to all violations committed on or after the effective date. The proposed effective date allows ample time for the Department to prepare for implementation of the regulations by providing training and technical assistance to affected facilities.

Statement of Rationale:

The Department administers standards that protect the health, safety and well being of children in residential group care facilities through the formulation, application and enforcement of regulations. The purpose of these proposed regulations is to define the manner by which fines may be levied when there is a violation of statute or regulation by a facility that the Department regulates or licenses. The authority to levy fines is in addition to other statutory provisions authorizing the Department to seek injunctive relief or to deny, revoke, suspend or otherwise restrict or limit a license, registration or approval.

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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. 3018
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority 59-149-10
Statutory Authority 59-104-20
Statutory Authority 59-150-370

62-1000-1040. LIFE Scholarship, SC HOPE Scholarship and Palmetto Fellows Scholarship Appeals Regulations

Preamble:

The Commission on Higher Education proposes to amend and replace in its entirety R.62-1000-1040 of the Scholarship Appeals Regulation. Revisions to the existing regulation for the Scholarship Appeals are being considered to clarify the policies and procedures for administering the program. The regulations have not been amended since the General Assembly enacted the SC HOPE Scholarship on June 11, 2001. There are also additional clarifications being proposed such as adding definitions and minor grammatical changes to promote consistency among the State scholarship and grant programs. The Notice of Drafting for the proposed regulation for the Scholarship Appeals was published in the *State Register* on August 26, 2005. Comments from the notice were considered in formulating the proposed regulation.

Instructions: The following regulation will replace in its entirety R.62-1000 through 62-1040, Scholarship Appeals, to Chapter 62 regulation.

Preliminary Fiscal Impact Statement: The SC Commission on Higher Education estimates no increased costs to the State or its political subdivisions.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the SC Commission on Higher Education at its regularly scheduled meeting on December 1, 2005, to be held in the Large Conference Room of the Commission on Higher Education located at 1333 Main Street, Suite 200, Columbia, SC 29201. The Commission meeting commences at 10:30 am at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be available on the Commission's Web site at least one week in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to notify the South Carolina Commission on Higher Education no later than Monday, November 21, 2005. Persons are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for record purposes.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services at the SC Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201, by calling (803) 737-2244, or by e-mailing kwoodfaulk@che.sc.gov. Comments must be received by no later than 5:00 pm on November 21, 2005. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on December 1, 2005, as noticed above. Comments received by the deadline shall be submitted to the Commission for consideration at the public hearing.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to SC Codes Section 1-23-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATION: 62-1000 through 62-1040, Scholarship Appeals

Purpose of Regulation: Regulation 62-1000, Scholarship Appeals, is being amended and replaced in its entirety. The proposed regulation will clarify the policies and procedures for awarding the scholarships. Please see Preamble above for detailed discussion of proposed amendments.

Legal Authority: Section 59-149-130 of the SC Code of Laws

Plan of Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the State Register. The proposed regulation will be implemented by providing the regulated community with copies once the regulation has been approved.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation will provide clarification to the policies and procedures for the administration of the Scholarship Programs. Proposed amendments are consistent with legislation. There will be no increased costs to the State or its political subdivisions. In addition, there will be no added costs to the regulated community.

DETERMINATION OF COSTS AND BENEFITS: There are no costs associated with the implementation of the following proposed regulation. Students will benefit by expanding the eligibility criteria for the LIFE Scholarship to allow more opportunities for students to qualify.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There is no anticipated effect on the environment or public health of South Carolina by the implementation of the following proposed regulation

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: None

Statement of Rationale: Revisions to the Scholarship Appeals regulation were necessary to be consistent with legislation.

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 Number 3016

COMMISSION ON HIGHER EDUCATION

Chapter 62

Statutory Authority: 1976 Code Section 59-150-360

62-900.150 Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions

Preamble:

The Commission on Higher Education proposes to amend and replace in its entirety R.62-900 of the Lottery Tuition Assistance Program. Revisions to the existing regulation for the Lottery Tuition Assistance Program are being considered to clarify the policies and procedures for administering the program. One of the proposed

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amendments will allow for certain students who are not eligible for federal financial aid to be exempt from filing the Free Application for Federal Student Aid (FAFSA) as consistent with Act 48, approved during the 2005 legislative session. Another proposed amendment will allow for visually impaired, hearing impaired or multi-handicapped students who qualify for Lottery Tuition Assistance to receive State funds to attend a two-year out-of-state institution that specializes in educating students with their impairment as consistent with Act 95, approved during the 2005 legislative session. There are also additional clarifications being proposed such as adding definitions and minor grammatical changes to promote consistency among the State scholarship and grant programs. The Notice of Drafting for the proposed regulation for the Lottery Tuition Assistance Program was published in the *State Register* on August 26, 2005. Comments from the notice were considered in formulating the proposed regulation.

Instructions: The following regulation will replace in its entirety R.62-900.150 through 62-900.200, Lottery Tuition Assistance Program, to Chapter 62 regulation.

Preliminary Fiscal Impact Statement: The SC Commission on Higher Education estimates no increased costs to the State or its political subdivisions.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the SC Commission on Higher Education at its regularly scheduled meeting on December 1, 2005, to be held in the Large Conference Room of the Commission on Higher Education located at 1333 Main Street, Suite 200, Columbia, SC 29201. The Commission meeting commences at 10:30 am at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be available on the Commission's Web site at least one week in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to notify the SC Commission on Higher Education of their intent by no later than Monday, November 21, 2005. Persons are asked to limit their statements to five minutes or less and as a courtesy are asked to provide written copies of their presentation for record purposes.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services at the SC Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201, by calling (803) 737-2244, or by e-mailing kwoodfaulk@che.sc.gov. Comments must be received by no later than 5:00 pm on November 21, 2005. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on December 1, 2005, as noticed above. Comments received by the deadline shall be submitted to the Commission for consideration at the public hearing.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to SC Codes Section 1-23-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATION: R.62-900.150 through 62-900.200, Lottery Tuition Assistance Program

Purpose of Regulation: Regulation 62-900, Lottery Tuition Assistance Program, is being amended and replaced in its entirety. The proposed regulation will clarify the policies and procedures for awarding the grant. Please see Preamble above for detailed discussion of proposed amendments.

Legal Authority: Section 59-150-360 of the SC Code of Laws

Plan of Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the State Register. The proposed regulation will be implemented by providing the regulated community with copies once the regulation has been approved.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation will provide clarification to the policies and procedures for the administration of the Lottery Tuition Assistance Program. The proposed amendments are consistent with legislation contained within Act 48 and Act 95 of the 2005 legislative session. There will be no increased costs to the State or its political subdivisions. In addition, there will be no added costs to the regulated community.

DETERMINATION OF COSTS AND BENEFITS: There are no costs associated with the implementation of the following proposed regulation. Certain students will benefit by having a simplified process to apply for Lottery Tuition Assistance.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There is no anticipated effect on the environment or public health of South Carolina by the implementation of the following proposed regulation.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: None

Statement of Rationale: Revisions to the Lottery Tuition Assistance regulation were necessary to be consistent with legislation approved during the 2005 legislative session.

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. 3014
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-150-370

62-900.85–140 South Carolina HOPE Scholarship

Preamble:

The Commission on Higher Education proposes to amend and replace in its entirety R.62-900 of the SC HOPE Scholarship Program. Revisions to the existing regulation for the SC HOPE Scholarship Program are being considered to clarify the policies and procedures for administering the program. The proposed amendment will make the Scholarship regulation consistent with recently approved legislation, Act 95 approved during the 2005 legislative session: visually impaired, hearing impaired or multi-handicapped students who qualify for the SC HOPE Scholarship may receive State funds to attend a four-year out-of-state institution that specializes in educating students with the specific impairment, for the freshman year only. There are also additional clarifications being proposed such as adding definitions and minor grammatical changes to promote consistency among the State scholarship and grant programs. The Notice of Drafting for the proposed regulation for the SC HOPE Scholarship Program was published in the *State Register* on August 26, 2005. Comments from the notice were considered in formulating the proposed regulation.

Instructions: The following regulation will replace in its entirety R.62-900.85 through 62-900.140, SC HOPE Scholarship Program, to Chapter 62 regulation.

Preliminary Fiscal Impact Statement: The SC Commission on Higher Education estimates no increased costs to the State or its political subdivisions.

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Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the SC Commission on Higher Education at its regularly scheduled meeting on December 1, 2005, to be held in the Large Conference Room of the Commission on Higher Education located at 1333 Main Street, Suite 200, Columbia, SC 29201. The Commission meeting commences at 10:30 am at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be available on the Commission's Web site at least one week in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to notify the SC Commission on Higher Education of their intent by no later than Monday, November 21, 2005. Persons are asked to limit their statements to five minutes or less and as a courtesy are asked to provide written copies of their presentation for record purposes.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services at the SC Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201, by calling (803) 737-2244, or by e-mailing kwoodfaulk@che.sc.gov. Comments must be received by no later than 5:00 pm on November 21, 2005. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on December 1, 2005, as noticed above. Comments received by the deadline shall be submitted to the Commission for consideration at the public hearing.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to SC Codes Section 1-23-115(C) (1) through (3) and (9) through (11).

DESCRIPTION OF REGULATION: R.62-900.85 through 62-900.140, SC HOPE Scholarship Program

Purpose of Regulation: Regulation 62-900, SC HOPE Scholarship Program, is being amended and replaced in its entirety. The proposed regulation will clarify the policies and procedures for awarding the Scholarship. Please see Preamble above for detailed discussion of proposed amendment.

Legal Authority: Section 59-150-370 of the SC Code of Laws

Plan of Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the State Register. The proposed regulation will be implemented by providing the regulated community with copies once the regulation has been approved.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation will provide clarification to the policies and procedures for the administration of the SC HOPE Scholarship Program. The proposed amendment is consistent with legislation contained within Act 95 of the 2005 legislative session. There will be no increased costs to the State or its political subdivisions. In addition, there will be no added costs to the regulated community.

DETERMINATION OF COSTS AND BENEFITS: There are no costs associated with the implementation of the following proposed regulation.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There is no anticipated effect on the environment or public health of South Carolina by the implementation of the following proposed regulation.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: None

Statement of Rationale: Revisions to the SC HOPE Scholarship regulation were necessary to be consistent with legislation approved during the 2005 legislative session.

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. 3015
COMMISSION ON HIGHER EDUCATION
 CHAPTER 62
 Statutory Authority: 1976 Code Section 59-149-10

62-900.1-70 Legislative Incentives for Future Excellence (LIFE) Scholarship Program

Preamble:

The Commission on Higher Education proposes to amend and replace in its entirety R.62-900 of the LIFE Scholarship Program. Revisions to the existing regulation for the LIFE Scholarship Program are being considered to clarify the policies and procedures for administering the program. Three of the proposed amendments will make the scholarship regulation consistent with Act 162 which was approved during the 2005 legislative session: 1) students must use grades and credit hours from all eligible institutions attended towards LIFE Scholarship eligibility; 2) eligible students are able to receive scholarship funding at South University; and 3) military personnel and their dependents who have been honorably discharged from active duty may be eligible for the LIFE Scholarship if they establish and maintain residency and domicile in this State and if they paid income taxes in this State during the majority of their years of active military service and meet the academic criteria. There are also additional clarifications being proposed such as adding definitions and minor grammatical changes to promote consistency among the State scholarship and grant programs. The Notice of Drafting for the proposed regulation for the LIFE Scholarship Program was published in the *State Register* on August 26, 2005. Comments from the notice were considered in formulating the proposed regulation.

Instructions: The following regulation will replace in its entirety R.62-900.1 through 62-900.70, LIFE Scholarship Program, to Chapter 62 regulation.

Preliminary Fiscal Impact Statement: The SC Commission on Higher Education estimates no increased costs to the State or its political subdivisions.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the SC Commission on Higher Education at its regularly scheduled meeting on December 1, 2005, to be held in the Large Conference Room of the Commission on Higher Education located at 1333 Main Street, Suite 200, Columbia, SC 29201. The Commission meeting commences at 10:30 am at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be available on the Commission's Web site at least one week in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to notify the South Carolina Commission on Higher Education of their intent no later than Monday, November 21, 2005. Persons are to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for record purposes.

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Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services at the SC Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201, by calling (803) 737-2244, or by e-mailing kwoodfaulk@che.sc.gov. Comments must be received by no later than 5:00 pm on November 21, 2005. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on December 1, 2005, as noticed above. Comments received by the deadline shall be submitted to the Commission for consideration at the public hearing.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to SC Codes Section 1-23-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATION: 62-900.1 through 62-900.70, LIFE Scholarship Program

Purpose of Regulation: Regulation 62-900, LIFE Scholarship Program, is being amended and replaced in its entirety. The proposed regulation will clarify the policies and procedures for awarding the Scholarship. Please see Preamble above for detailed discussion of proposed amendments.

Legal Authority: Section 59-149-10 of the SC Code of Laws

Plan of Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the State Register. The proposed regulation will be implemented by providing the regulated community with copies once the regulation has been approved.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation will provide clarification to the policies and procedures for the administration of the LIFE Scholarship Program. Proposed amendments are consistent with legislation contained within Act 162 of the 2005 legislative session. There will be no increased costs to the State or its political subdivisions. In addition, there will be no added costs to the regulated community.

DETERMINATION OF COSTS AND BENEFITS: There are no costs associated with the implementation of the following proposed regulation. Students will benefit by expanding the eligibility criteria for the LIFE Scholarship to allow more opportunities for students to qualify.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There is no anticipated effect on the environment or public health of South Carolina by the implementation of the following proposed regulation

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: None

Statement of Rationale: Revisions to the LIFE Scholarship regulation were necessary to be consistent with legislation approved during the 2005 legislative session.

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 Number 3017
COMMISSION ON HIGHER EDUCATION
 Chapter 62
 Statutory Authority: 1976 Code Section 59-104-20

62-300 Palmetto Fellows Scholarship Program

Preamble:

The Commission on Higher Education proposes to amend and replace in its entirety R.62-300 of the Palmetto Fellows Scholarship Program. Revisions to the existing regulation for the Palmetto Fellows Scholarship Program are being considered to clarify the policies and procedures for administering the Program. Four of the proposed amendments will make the Scholarship regulation consistent with recently approved legislation, Act 162 approved during the 2005 legislative session: 1) students can meet alternative criteria to apply for the Palmetto Fellows Scholarship (scoring a minimum 1400 on the SAT (32 on the ACT) and earning a minimum 4.0 cumulative grade point average (GPA) on the Uniform Grading Scale (UGS), without regard to class rank); 2) the number of students included in the top six percent will be the next whole number if the top six percent is not a whole number, without regard to normal rounding rules; 3) eligible students may receive Scholarship funding at Bob Jones University; and 4) students who applied for and were awarded the Scholarship as a senior in high school but declined the award to attend a four-year out-of-state institution are eligible to reapply for their remaining terms of eligibility upon transferring back to an eligible four-year independent or public institution in South Carolina. Another proposed amendment will make the Scholarship regulation consistent with other recently approved legislation, Act 95 approved during the 2005 legislative session: visually impaired, hearing impaired or multi-handicapped students who qualify for the Scholarship may receive State funds to attend a four-year out-of-state institution that specializes in educating students with their impairment. There are also additional clarifications being proposed such as adding definitions and minor grammatical changes to promote consistency among the State scholarship and grant programs. The Notice of Drafting for the proposed regulation for the Palmetto Fellows Scholarship Program was published in the *State Register* on August 26, 2005. Comments from the notice were considered in formulating the proposed regulation.

Instructions: The following regulation will replace in its entirety R.62-300 through 62-370, Palmetto Fellows Scholarship Program, to Chapter 62 regulation.

Preliminary Fiscal Impact Statement: The SC Commission on Higher Education estimates no increased costs to the State or its political subdivisions.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the SC Commission on Higher Education at its regularly scheduled meeting on December 1, 2005, to be held in the Large Conference Room of the Commission on Higher Education located at 1333 Main Street, Suite 200, Columbia, SC 29201. The Commission meeting commences at 10:30 am at which time the Commission will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Commission's agenda to be available on the Commission's Web site at least one week in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to notify the Commission on Higher Education of their intent by no later than November 21, 2005. Persons are asked to limit their statements to five minutes or less and, as a courtesy, are asked to provide written copies of their presentation for record purposes.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Karen Woodfaulk, Director of Student Services at the SC Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201, by calling (803) 737-2244, or by e-mailing

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kwoodfaulk@che.sc.gov. Comments must be received by no later than 5:00 pm on November 21, 2005. Comments received shall be considered by the staff in formulating the final proposed regulation for the public hearing on December 1, 2005, as noticed above. Comments received by the deadline shall be submitted to the Commission for consideration at the public hearing.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to SC Codes Section 1-23-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATION: 62-300 through 62-375, Palmetto Fellows Scholarship Program

Purpose of Regulation: Regulation 62-300, Palmetto Fellows Scholarship Program, is being amended and replaced in its entirety. The proposed regulation will clarify the policies and procedures for awarding the Scholarship. Please see Preamble above for detailed discussion of proposed amendments.

Legal Authority: Section 59-104-20 of the SC Code of Laws

Plan of Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the State Register. The proposed regulation will be implemented by providing the regulated community with copies once the regulation has been approved.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation will provide clarification to the policies and procedures for the administration of the Palmetto Fellows Scholarship Program. Proposed amendments are consistent with legislation contained within Act 95 and Act 162 of the 2005 legislative session. There will be no increased costs to the State or its political subdivisions. In addition, there will be no added costs to the regulated community.

DETERMINATION OF COSTS AND BENEFITS: There are no costs associated with the implementation of the following proposed regulation. Students will benefit by expanding the initial eligibility criteria for the Palmetto Fellows Scholarship to allow more opportunities for students to qualify.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There is no anticipated effect on the environment or public health of South Carolina by the implementation of the following proposed regulation.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: None

Statement of Rationale: Revisions to the Palmetto Fellows Scholarship regulation were necessary to be consistent with legislation approved during the 2005 legislative session.

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. 3012

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS FOR LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE AND
FAMILY THERAPISTS, AND PSYCHO-EDUCATIONAL SPECIALISTS
CHAPTER 36**

Statutory Authority: 1976 Code Sections 40-1-40 and 40-75-60.

Preamble:

The Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-educational Specialists is proposing to amend Regulations 36-01, 36-04 through 36-09, 36-12 through 36-15; to add 36-07.1, 36-08.1, 36-10.1, 36-22, and 36-23; and to delete Appendix A, B, C and D.

Section by Section Discussion:

The following is a section by section discussion of the amendments proposed by the Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-educational Specialists:

Title of Board updated to reflect proper name.

36-01. Definitions.

- (1) Adds “during the supervisory process” and deletes “the clients’ case is discussed.”
- (2) Decreases group supervision supervisees from six to four.
- (4) Changes “internship” to “intern licensure”; adds “an authorization to engage” and deletes “curricular.”
- (11) Adds “approved by the Board.”

36-04. General Licensing Provisions for Professional Counselor Interns.

- (4) Adds “licensure as a licensed professional counselor intern” and deletes “passing score on required examination” to clarify necessity of licensure before submission of supervision plan.

36-04.1. Specific training required for interns to assess and treat serious problems as categorized in standard diagnostic nomenclature.

Adds reference to Regulation 36-04(2)(a-k); deletes (1) and (2) and rennumbers for clarity; in new (2) deletes “where” and adds “that included” for clarity.

36-05. General Licensing Provisions for Licensed Professional Counselors.

- (3) Changes minimum hours of clinical experience from 2000 to 1500; deletes credit of maximum 500 hours in the graduate degree program.

36-05.1. Specific training required for persons licensed as Professional Counselors to assess and treat serious problems as categorized in standard diagnostic nomenclature.

Deletes (A)(1) minimum of 12 graduate specialty hours in order to specify three hours in Psychopathology, three in Diagnostics; Rennumbers for clarity; decreases minimum post degree supervised clinical experience hours from 2000 to 1500; deletes credit of maximum 500 hours in the graduate degree program; deletes (B)(1-2) since information in (A)(1-3) and time limits are no longer valid.

36-06. General Licensing Provisions for Licensed Professional Counselor Supervisors.

Combines (3) and (4) with two of the five years of continuous clinical experience of supervising clinical casework of counselors; rennumbers for clarity; (4) adds “professional counselor” before supervisor; (5) adds three graduate hours of supervision required or training from an accredited body approved by the Board and deletes 30 continuing education hours.

36-07. General Licensing Provisions for Marriage and Family Therapy Interns.

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(4) Adds “licensure as a Licensed Marriage and Family Therapy Intern” and deletes “passing score on required examination” to clarify necessity of licensure before submission of supervision plan.

36-07.1. Specific training required for Licensed Marriage and Family Therapy Interns to assess and treat serious problems as categorized in standard diagnostic nomenclature.

New section adding specific training requirements for licensed marriage and family therapy interns.

36-08. General Licensing Provisions for Marriage and Family Therapists.

(3) Increases minimum hours of supervised clinical experience in practice of marriage and family therapy from 1200 to 1500; adds under supervision of “other qualified licensed mental health practitioner;” decreases immediate supervision hours from 200 to 150; deletes credit of maximum 500 hours in the graduate degree program. This amendment is for parity between licensees with shared scope of practice.

36-08.1. Specific training required for persons licensed as Marriage and Family Therapists to assess and treat serious problems as categorized in standard diagnostic nomenclature.

New section adding specific training requirements for licensed marriage and family therapists. This addition is for parity between licensees with shared scope of practice.

36-09. General Licensing Provisions for Licensed Marriage and Family Therapy Supervisors.

(3) deletes 180 hours clinical supervision under licensed marriage and family therapist and adds two years of the five years for required supervision; (4) adds “Board licensed marriage and family therapist supervisor”; (5) adds “training from an accredited body approved by the board.”

36-10.1. Specific training required for persons licensed as Psycho-educational Specialist to assess and treat serious problems as categorized in standard diagnostic nomenclature.

New section adding specific training requirements for licensed psycho-educational specialists. This addition is for parity between licensees with shared scope of practice.

36-12. Reactivation of Expired Licenses.

(1) adds professional counselor and marriage and family therapists supervisors to list of those reactivating licenses; decreases minimum expiration for renewal from one year to three months and the maximum from six years to two years; deletes supervised experience and additional training as a condition for reactivation of an expired license;

(2) adds professional counselor and marriage and family therapists supervisors to list of those reactivating licenses; using new two year maximum for expired license, requires that expired licensees must reapply and meet all requirements if license has been expired for more than two years;

(3) changes “current” to “active” status; adds professional counselor and marriage and family therapy supervising to activities applicant should not engage in prior to reactivation of a license.

36-13. Continuing education requirements for Professional Counselors and Marriage and Family Therapists.

(1) Deletes “as long as the activity is approved in advance by the Board” from last sentence.

(4) Deletes “may approve” and adds “accepts” to clarify Board acceptance of informal continuing education; (d) adds “on-line studies.”

36-14. Continuing education requirements for Psycho-Educational Specialists.

(1) Adds sentence regarding additional continuing education requirements for psycho-educational specialists with additional licensure as professional counselors and/or marriage and family therapists. These persons must complete 25 hours of formal continuing education during every two year licensure period in each license discipline.

(2) Adds “for psycho-educational specialists” for clarification.

36-15. Fees.

Deletes “not to exceed” and late renewal penalty of \$100.

36-22. Code of Ethics for All Supervisors
New section adding code of ethics for all supervisors.

36-23 Standards for Supervision.
New section adding standards for supervision.

Appendix A. Formal Continuing Education Log
Section deleted

Appendix B, C and D.
Sections deleted.

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 of Laws of South Carolina, as amended, such hearing will be conducted at the Administrative Law Court at 10:00 a.m. on Thursday, December 15, 2005. Written comments may be directed to Kate K. Cox, Administrator, Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-educational Specialists, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Thursday, December 1, 2005.

Preliminary Fiscal Impact Statement:

There will be no additional cost incurred by the State or any political subdivision.

Statement of Need and Reasonableness:

The Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-educational Specialists has determined that amendments, additions, and deletions need to be made to the code of regulations in order to clarify licensure requirements, to create parity for licenses with shared scope of practice, and to add a code of ethics and guidelines for supervision.

DESCRIPTION OF REGULATION:

Purpose: To amend regulations in conformance with the practice act.

Legal Authority: Statutory Authority: 1976 Code Sections 40-1-40 and 40-75-60

Plan for Implementation: Administratively, the Board will see that these provisions are implemented by informing the applicants through written and oral communications.

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

These regulations need to be amended in order to ensure effective instruction of supervisees and to protect clients through standards for supervision.

DETERMINATION OF COSTS AND BENEFITS:

There will be no additional cost incurred by the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

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These regulations will have no effect on the environment. The public health of this State will be enhanced by including the standards for supervision.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NO IMPLEMENTED:

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

Statement of Rationale:

The standards for supervision are included in order to ensure effective instruction of supervisees and to protect clients.

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. 3013
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF PHYSICAL THERAPY EXAMINERS
CHAPTER 101

Statutory Authority: 1976 Code Section 40-45-60(A) as amended

Preamble:

The Board of Physical Therapy Examiners proposes to adopt regulations interpreting the provision of Section 40-45-110(A)(1) of the 1976 Code of Laws of South Carolina, as amended, particularly the provision that the Board may discipline a licensee who participates in the dividing of fees received for professional services by means of wages or other valuable consideration provided by a person who referred a patient.

Section by Section Discussion

Regulation 101-12.5

To insure that referrals to physical therapists from physicians and dentists are based solely upon the patient's best interest rather than a desire by a professional to increase profits, the Physical Therapy Practice Act prohibits a physical therapist from working in a setting where the physical therapist is paid by a referring physician or dentist or by a professional corporation in which the referring physician or dentist has an ownership interest. New Regulation 101-12.5 will state the statutory prohibition using language which is clearer and more comprehensible to the physical therapist.

Since institution of legal action concerning enforcement of this provision, the Board of Examiners in Physical Therapy has become aware of a wide variety of collaborative practices created by physical therapists and referring physicians, in reliance upon the South Carolina Self-Referral Act, Section 44-113-10, et seq. Since the overall purpose of the Physical Therapy Practice Act is to promote the patient's best interest, it is necessary and appropriate to accommodate existing physician/therapist patient relationships to the extent necessary to prevent unnecessary interruption of treatment. Therefore, new Regulation 101-12.5 will allow individual physical therapists who were engaged in a non-conforming practice on May 23, 2005, and who register that non-conforming practice by May 23, 2006 to continue uninterrupted treatment of patients.

The May 23, 2005 date was chosen because it is the expiration date of the last injunction against enforcement of Section 40-45-110(A)(1). This date is more than one year from the date, April 8, 2004, that the Board gave notice to licensed physical therapists that it would, in reliance upon the opinion of the South Carolina Attorney General, begin enforcement of the statutory prohibition against physical therapists practicing in the employment of a medical doctor or dentist. Therefore, the number of affected physical therapists has been reduced by the substantial number of practitioners who reorganized their practices during that period. The Board anticipates that the non-conforming practices will continue to be reorganized. Since no new hires may be made in non-conforming practices, there remains an incentive to reorganize in a way that both complies with the law and prevents the disruption of treatment of individual patients.

The May 23, 2006, date is chosen to allow time for this regulation to complete the promulgation process under the Administrative Procedures Act. The May 23, 2008 date is chosen as providing reasonable time to allow reorganization of practices.

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 hearing will be conducted at the Administrative Law Judge Court at 10:00 a.m. on Wednesday, December 14, 2005 at the Greenville County Courthouse, Courtroom #3 located at 305 E. North Street, Greenville, S.C. Written comments may be directed to Veronica Reynolds, Board of Physical Therapy Examiners, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Wednesday, November 30, 2005.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The Board seeks to provide guidance to physical therapists concerning what types of practice arrangements are prohibited by Section 40-45-110(A)(1). The Board also seeks to avoid unnecessary disruption of patient services by allowing licensees currently practicing in non-conforming situations to continue the practice for a reasonable time and under reasonable conditions.

Legal Authority: 1976 Code, Chapter 45 of Title 40.

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

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

The statutory language has recently been the subject of law suits seeking declaratory judgment concerning certain possible applications. The proposed regulation will prevent the need for further legal actions by clarifying the application of the statute and will balance that clarification with the public interest in avoiding unnecessary disruption of patient services by allowing licensees currently practicing in non-conforming situations to continue the practice for a reasonable time and under reasonable conditions.

DETERMINATION OF COSTS AND BENEFITS:

There will be no additional cost incurred by the State or its political subdivisions.

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UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning this regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effects on the environment or public health from promulgation of this regulation.

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

There is a potential for disruption of patient services if the regulation is not implemented.

Statement of Rationale:

This regulation will ensure the public safety of physical therapy patients by clarifying the application of Section 40-45-110(A)(1) and will balance the impact of a recent court decision with the public interest in avoiding unnecessary disruption of patient services by allowing licensees currently practicing in non-conforming situations to continue the practice for a reasonable time and under reasonable conditions.

Text:

101-12.5 Relationship of Physical Therapist to a person who referred a patient.

A physical therapist may not accept wages, an unearned commission, discount or gratuity from a person who referred a patient or a relative or business associate of the referring person. Patients may be referred to a physical therapist from a licensed medical doctor or dentist. However, any individual physical therapist or physical therapist assistant who is actively employed by a licensed medical doctor or dentist or with a relative or business associate of a licensed medical doctor or dentist on May 23, 2005, and who registers that employment with the board by May 23, 2006, may continue to accept both referrals and wages from the employing physician or dentist, until May 23, 2008.

Filed: October 7, 2005, 8:30 am

Document No. 2994
DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
Statutory Authority: 1976 Code Section 37-7-101 et seq.
Particularly Sections 37-7-112 and 37-7-121

28-700. Fees and Charges of Consumer Credit Counseling Organization Licensees

Emergency Situation:

The General Assembly passed legislation in 2005 requiring the licensing of credit counseling organizations and credit counselors. These organizations and counselors provide credit counseling services to consumers, which include: distributing funds to creditors; offering to improve credit scores, histories, or ratings; and/ or negotiating with creditors to reduce a consumer's obligations. The statute, under S.C. Code Section 37-7-112, requires the Department to set the fees a credit counseling organization can charge a consumer.

The Department of Consumer Affairs has found that an emergency exists requiring promulgation of a regulation pursuant to S.C. Code Sections 37-7-112 and 37-7-121 to set fees credit counseling organizations may charge consumers. The regulation is needed to implement fees licensees may charge consumers during the interim period between the effective date of S.C. Code Section 37-7-101 et seq., December 2, 2005, and passage of the proposed regulation by the General Assembly.

Text:

A. Definitions.

1. Definitions shall be those contained in the Consumer Credit Counseling Act, S.C. Code Ann. Section 37-7-101 et. seq. and the following:

- a. "Fees and charges of licensees" means the amount of money the credit counseling organization licensee may charge to the consumer.

B. Fees and Charges of Licensees.

1. A licensee may not charge or receive from a consumer, directly or indirectly, a fee except the following:

- a. an initial consultation fee, not to exceed twenty dollars for each consumer;
- b. if the consumer enrolls in a DMP, a set-up fee, not to exceed thirty dollars;
- c. additional maintenance fees, not to exceed twenty-five dollars for each month;
- d. a reinstatement fee, not to exceed twenty-five dollars;
- e. a bankruptcy consultation fee, if applicable, not to exceed fifty dollars for each consumer.

2. The fees set out in (B)(1) above will be adjusted based on the Consumer Price Index as referenced in S.C. Code Section 37-7-109.

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C. Records and account systems maintained in whole or in part by electronic data processing may be used in lieu of the books, files and records required by S.C. Code Sections 37-7-111 and 37-7-114 if they contain equivalent information and such information is accessible to the Department.

Filed: October 10, 2005, 4:00 pm

Document No. 2997

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 30

Statutory Authority: S.C. Code Sections 1-23-130(A), 48-39-50(E)

Emergency Situation:

Statement of Situation Requiring Immediate Promulgation
of Regulatory Amendments Regarding Access to Coastal Islands
Pursuant to S.C. Code Section 1-23-130(A)

The South Carolina General Assembly has made the following legislative findings:

The coastal zone is rich in a variety of natural, commercial, recreational and industrial resources of immediate and potential value to the present and future well-being of the State. S.C. Code Section 48-39-20(A).

The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal and harvesting of fish, shellfish and other living marine resources have resulted in the decline or loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use and shoreline erosion. S.C. Code Section 48-39-20(B).

The coastal zone and the fish, shellfish, other living marine resources and wildlife therein, may be ecologically fragile and consequently extremely vulnerable to destruction by man's alterations. S.C. Code Section 48-39-20(D).

Important ecological, cultural, natural, geological and scenic characteristics, industrial, economic and historical values in the coastal zone are being irretrievably damaged or lost by ill-planned development that threatens to destroy these values. S.C. Code Section 48-39-20(E).

The South Carolina General Assembly has stated, "Critical areas shall be used to provide the combination of uses which will insure the maximum benefit to the people, but not necessarily a combination of uses which will generate measurable maximum dollar benefits. As such, the use of a critical area for one or a combination of like uses to the exclusion of some or all other uses shall be consistent with the purposes of this chapter." S.C. Code Section 48-39-30(D).

The Department of Health and Environmental Control (Department) is charged with protecting the quality of South Carolina's environment and managing the state's important coastal resources.

The State of South Carolina has recognized the cultural, ecological and historical value of marsh islands. Marsh islands perform important ecological services including provision of homes for endangered species, resting grounds for migratory birds, and important habitat for many other terrestrial and marine species.

The Department is authorized by statute to regulate any alteration of the critical area of the coastal zone, including access to marsh islands.

The Department has developed a regulatory program designed to accomplish its statutory mandate to protect the quality of the coastal environment. The Department's Regulation 30-12.N, Access to Small Islands, was a crucial component of the Department's regulatory program, but has been judicially declared invalid by the South Carolina Supreme Court because the test to determine whether an island is small has not been promulgated by regulation.

On April 14, 2005, the Board of Health and Environmental Control issued the following directive to the Department:

The Department of Health and Environmental Control is directed to draft a regulation for submittal to the General Assembly regarding access to marsh islands consistent with the intent of the federal and state Coastal Zone Management Acts, the state Pollution Control Act, the state Stormwater Management and Sediment Reduction Act and the federal Clean Water Act;

Such regulation shall include clearly defined terms and specific standards to be utilized in the evaluation of permit applications for bridges to islands, in light of the recent judicial decision regarding R. 30-12.N;

In drafting such regulation, the Department is directed to work with interested stakeholders to establish reasonable requirements....

The Department initiated the statutory process for amendment of R.30-1 and R.30-12 by publication of a Notice of Drafting in the *State Register* on April 29, 2005. The Department published a second Notice of Drafting on August 26, 2005, which clarified that all types of access to islands, not just bridging, would be addressed.

The Department created the Marsh Island Advisory Committee in order to receive input from interested stakeholders concerning reasonable criteria for access to marsh islands. The Marsh Island Advisory Committee is composed of six members representing a spectrum of diverse interests from the conservation and development communities.

The Marsh Island Advisory Committee met six times in Charleston on July 13, July 27, August 10, August 24, August 30 and September 13, 2005. The Marsh Island Advisory Committee's diligent efforts resulted in a proposed regulatory amendment to address access to marsh islands that is supported by all committee members.

Department staff presented proposed regulatory amendments to the Board of Health and Environmental Control at its meeting on October 6, 2005. The Marsh Island Advisory Committee endorsed and supported the regulatory amendments presented to the DHEC Board. The Board granted initial approval to publish a Notice of Proposed Regulation in the *State Register*, to provide for a public comment period, to conduct a staff informational forum, and to conduct a public hearing before the Board on January 12, 2006.

In the absence of legislative action on the regulatory amendments, the amendments are expected to become effective upon publication in the *State Register* on June 23, 2006.

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The Department has pending applications for access to marsh islands which will likely become ripe for decision prior to the effective date of the regulatory amendments, and additional applications may be filed. The Department is required by law to act upon an application for a permit for access to a marsh island within ninety days after the filing of a complete application. S.C. Code Section 48-39-150(C), Regulation 30-4.C.

The regulatory amendments are necessary to fill the gap in the critical area regulations created when the Department's Regulation 30-12.N, Access to Small Islands, was declared invalid. The amendments provide more specific, protective and enforceable standards than currently exist for the management of coastal islands, which are important features of the South Carolina coast. The amendments add definitions, procedures and detailed project standards to be utilized in the evaluation of permits for access to islands to ensure consistent and effective Department review of applications for access to islands. The amendments are necessary to protect important and unique features of the coastal landscape, add specificity and minimum development standards to the existing regulations, and enable Department staff to effectively administer the coastal regulatory program.

Delayed implementation of the amendments will cause irreparable harm to the State's coastal resources by allowing the development of projects for access to marsh islands which do not comply with the standards developed by the Marsh Island Advisory Committee, and endorsed by Department staff and the DHEC Board.

Delayed implementation of the amendments will impede the Department's ability to perform its statutory duties, including the duty to:

protect important ecological, cultural, natural, geological and scenic characteristics, industrial, economic and historical values in the coastal zone which are being irretrievably damaged or lost by ill-planned development that threatens to destroy these values. S.C. Code Section 48-39-20(E);

promote economic and social improvement of the citizens of this State and to encourage development of coastal resources in order to achieve such improvement with due consideration for the environment and within the framework of a coastal planning program that is designed to protect the sensitive and fragile areas from inappropriate development and provide adequate environmental safeguards with respect to the construction of facilities in the critical areas of the coastal zone. S.C. Code Section 48-39-30(B)(1);

protect and, where possible, to restore or enhance the resources of the State's coastal zone for this and succeeding generations. S.C. Code Section 48-39-30(B)(2);

formulate a comprehensive tidelands protection program. S.C. Code Section 48-39-30(B)(3).

S.C. Code Section 1-23-130(A) provides as follows:

...if a natural resources related agency finds that abnormal or unusual conditions, immediate need, or the state's best interest requires immediate promulgation of emergency regulations to protect or manage natural resources, the agency may file the regulation with the Legislative Council and a statement of the situation requiring immediate promulgation. The regulation becomes effective as of the time of filing.

At its meeting on October 6, 2005, the Board of Health and Environmental Control directed the Department to promulgate the proposed regulatory amendments as an emergency regulation pursuant to S.C. Code Section 1-23-130(A).

The Department is a natural resources related agency and finds that abnormal or unusual conditions, immediate need and the state's best interest require immediate promulgation of the attached emergency regulations to protect and manage natural resources.

Text of Emergency Regulation:

30-1. Statement of Policy.

D. Definitions:

(9) Bridge:

(a) Non-vehicular - bridges designed for use by pedestrians, golf carts or other maintenance vehicles, but not cars and trucks; are not docks; and can have a maximum clear width on the deck surface of six feet.

(b) Vehicular - bridges with a clear width on the deck surface of over six feet and designed to support traffic by cars and trucks.

(10) Coastal Island - an area of high ground above the critical area delineation that is separated from other high ground areas by coastal tidelands or waters. An island connected to the mainland or other island only by a causeway is also considered a coastal island. The purpose of this definition is to include all islands except those that are essentially mainland, i.e., those that already have publicly accessible bridges and/or causeways. The following islands shall not be deemed a coastal island subject to this section due to their large size and developed nature: Waites Island in Horry County; Pawleys Island in Georgetown County; Isle of Palms, Sullivans Island, Folly Island, Kiawah Island, Seabrook Island, Edisto Island, Daniel Island, Johns Island, James Island, Woodville Island, Slann Island and Wadmalaw Island in Charleston County; Edisto Beach in Colleton County; Harbor Island, Hunting Island, Fripp Island, Hilton Head Island, St. Helena Island, Port Royal Island, Ladies Island, Spring Island and Parris Island in Beaufort County.

30-12. Specific Project Standards for Tidelands and Coastal Waters.

N. Access to Coastal Islands. This section applies to applications for permits for bridges, docks, and other means of obtaining access to coastal islands.

(1) Purpose:

(a) South Carolina has several thousand coastal islands, including barrier islands, sea islands, back barrier islands and marsh hammocks. Almost all of these islands are surrounded by expanses of salt marsh, occasionally bordered by tidal creeks or rivers. Historically, few of these islands have been built upon or altered, and most have been protected by their remoteness and inaccessibility. In recent years, however, a trend toward greater potential for development of these islands has stimulated questions and concerns about the ecological significance of these islands. The South Carolina Department of Natural Resources conducted a field study of a number of non-barrier islands. Their report, *An Ecological Characterization of Coastal Hammock Islands*, December, 2004, has shown that these islands are unique ecosystems with diverse flora and fauna. That study recommends protection and buffering of important habitats and resources associated with these islands.

(b) Access to coastal islands by bridges or docks involves the placement of structures into critical area coastal tidelands and waters that are protected by the statute, the critical area regulations, and by the public trust doctrine.

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(c) Construction of bridges within critical area tidelands and waters involves impacts on critical area coastal tidelands and coastal waters, including temporary damages to salt marsh and shellfish beds, temporary increased turbidity, permanent displacement of marshes by installation of pilings, and permanent shading of marsh. Shading impacts can include lowered productivity and destruction of marsh grasses. Bridge construction can also have impacts on the aesthetics of an area that attracts tourism and development based on the attractiveness of scenic coastal vistas.

(2) Eligibility to apply for a bridge permit.

(a) The decision on whether to issue or deny a permit for a bridge to a coastal island must be made with due consideration of the impacts to the public trust lands, critical area, coastal tidelands and coastal waters, weighed against the reasonable expectations of the owner of the coastal island. Giving due consideration to these factors, the Department has determined that some islands are too small or too far from upland to warrant the impacts on public resources of bridges to these islands, and thus no permit for a bridge shall be issued.

(b) Bridge permits, other than non-vehicular bridges for access by the general public, will not be issued in areas of special resource value unless they qualify under the special exceptions in R.30-12.N(11). These are the ACE Basin Taskforce Boundary Area, the North Inlet National Estuarine Research Reserve, and the Cape Romain National Wildlife Refuge.

(c) The Department will not consider applications for bridge access to islands less than one acre in size.

(d) The Department will only consider applications for bridges where the size of the island is one acre or greater, but less than two acres if the requirements of R.30-12.N(11) are met.

(e) The Department will, however, consider applications for bridge access in the following instances:

(i) Bridges not exceeding 15 feet in total width

(a) where the size of the island is two acres or greater, but less than or equal to three acres, and the distance from the upland and the length of the bridge does not exceed 200 feet;

(b) where the size of the island is greater than three acres but less than or equal to five acres and the distance from the upland and the length of the bridge does not exceed 300 feet;

(c) where the size of the island is greater than five acres, but less than or equal to ten acres and the distance from the upland and the length of the bridge does not exceed 500 feet.

(ii) Bridges may be constructed exceeding 15 feet in total width

(a) where the size of the island is greater than 10 acres, but less than or equal to 30 acres, and the distance from the upland and the length of the bridge does not exceed 500 feet;

(b) where the size of the island is greater than 30 acres and the distance from the upland and the length of the bridge does not exceed 1,500 feet.

(f) All measurements to coastal islands for the purpose of establishing whether an island may qualify for a bridge permit are taken from upland as defined in this section.

(i) Upland is:

(a) the naturally occurring mainland, and

(b) Waites Island in Horry County; Pawleys Island in Georgetown County; Isle of Palms, Sullivans Island, Folly Island, Kiawah Island, Seabrook Island, Edisto Island, Daniel Island, Johns Island, James Island, Woodville Island, Slann Island and Wadmalaw Island in Charleston County; Edisto Beach in Colleton County; Harbor Island, Hunting Island, Fripp Island, Hilton Head Island, St. Helena Island, Port Royal Island, Ladies Island, Spring Island and Parris Island in Beaufort County.

(ii) The length measurements for all proposed bridges will be taken from a current Department approved critical area line.

(g) In order to apply for a bridge permit, the applicant must submit a survey, produced and stamped by a registered surveyor licensed to practice in South Carolina, showing that the length of the proposed bridge will not exceed the lengths allowed in these regulations.

(3) Minimum Development Standards for Bridge Applications. Where the conditions set forth in R.30-12.N(2)(e) exist, the permit shall be issued or denied based on whether the owner of the island can demonstrate compliance with all applicable Department statutes and regulations, including the minimum development standards in the following sections.

(a) Docks.

(i) The following standards apply to docks in projects associated with applications for bridge access to coastal islands. The project standards in this section are in addition to the other Department standards applicable to docks.

(ii) The application for the project shall reflect that the applicant has eliminated 75 percent of the number of private residential docks allowed by the Department's critical area permitting regulations as they existed on September 1, 2005. The dock reduction shall be made binding on the land by a conservation easement meeting the requirements of R.30-12.N(5).

(iii) Docks longer than 500 feet over the critical area are prohibited. This is inclusive of pierheads, floats, ramps, mooring piles and other associated structures.

(iv) No boat lifts, davits or similar structures are allowed.

(v) Roofs are not allowed on private docks, but are allowed on community docks.

(vi) All docks proposed for an island must be shown on a dock master plan that is submitted with the bridge application.

(b) Density limits.

(i) The following density limits for residential units will apply:

(a) two units on islands greater than or equal to two acres, but less than three acres;

(b) three units on islands greater than or equal to three but less than six acres;

(c) one unit per two acres on islands greater than or equal to six acres but less than 10 acres.

(ii) If the applicable local ordinance is more restrictive, those more restrictive density limits will apply.

(c) Environmental Assessment.

(i) Applicants for permits must conduct an environmental assessment of the island. This assessment must list the presence of any of the following:

(a) federal threatened and endangered species,

(b) state threatened and endangered species,

(c) state species of concern, and

(d) all freshwater wetlands.

(ii) The applicant must submit a site plan that takes into consideration impact to wildlife habitats on the island.

(d) Freshwater wetlands.

(i) Direct impacts to freshwater wetlands on coastal islands 10 acres or less in size are prohibited.

(ii) For islands of more than 10 acres, no fill will be allowed in wetlands unless there is no feasible alternative.

(iii) For all freshwater wetlands on islands 10 acres or less and all protected wetlands on larger islands:

(a) the wetlands must be preserved and protected by a recorded conservation easement meeting the requirements of R.30-12.N(5);

(b) the wetlands must be buffered with an average 35 foot width undisturbed buffer, with a minimum allowable buffer width of 15 feet;

(c) buffers must also be protected by the same conservation easement as the wetland;

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(d) a copy of the conservation easement must be supplied to the Department prior to issuance of the bridge construction placard.

(e) Navigable waters.

(i) New bridges to islands 10 acres or less shall not be allowed to cross waters that are navigable at mean low water.

(ii) New bridges shall be designed and constructed so as not to impede navigation.

(f) All bridges shall be the minimum possible size and height to accommodate the intended use, aligned to minimize environmental damage, and constructed of materials approved for marine applications.

(g) Stormwater.

(i) A stormwater management and sediment control plan for the vehicular bridge shall be submitted with the bridge permit application.

(a) This plan may require the over-treatment of runoff from associated bridge roadways to compensate for the lack of direct treatment of runoff from the bridge surface itself.

(b) Where feasible, periodic vacuuming should be included.

(c) The use of scupper drains should be limited as much as feasible.

(ii) Stormwater management and sediment control plans for any development or construction on the island shall be submitted with the bridge permit application.

(iii) Stormwater plans must meet the most stringent water quality standards applicable to coastal waters in South Carolina at the time of the application.

(iv) For all projects on coastal islands, regardless of size, the first one and one-half inch of storm water runoff from the impervious portion of the property must be retained on site.

(v) Storage may be accomplished through retention, detention or infiltration systems that are open to the surface, as appropriate for the specific site.

(vi) The use of vegetated critical line buffers cannot be the sole method of stormwater treatment.

(h) All streets, roads, driveways and paths on islands of 10 acres or less must be pervious paving, if paved.

(i) Lighting.

(i) Lighting on bridges must be designed with the minimum illumination necessary to meet local, state, or federal requirements for safety and navigation.

(ii) Exterior lighting on the island must be designed and maintained to minimize impacts to wildlife, to avoid light pollution of the surrounding areas, and to protect the scenic integrity of the area.

(a) Any exterior lighting on the island must be shielded to shine downward to narrowly illuminate areas immediately adjacent to homes.

(b) Lights on docks will not be allowed, except where needed to protect public safety and in such cases the lights will be designed with the minimum illumination necessary to accomplish this goal and to avoid light pollution of the surrounding area.

(j) All utilities servicing the island must be located within the footprint of the bridge and attached to the bridge if feasible, but must not be placed overhead.

(k) In order to reduce the negative impacts of island development, the following coverage ratios, buffers and open space requirements must be met.

(i) With 10 percent or less impervious surface coverage and an engineer-designed stormwater management and sediment control plan, there is to be a 40-foot buffer along the critical line, and 25 percent of the island reserved as open space.

(ii) With between 10 percent and 20 percent impervious surface coverage and an engineer-designed stormwater management and sediment control plan, there is to be a 50-foot buffer along the critical line, and 35 percent of the island reserved as open space.

(iii) With 20 percent or more impervious surface coverage and an engineer-designed stormwater management and sediment control plan, there is to be a 75-foot buffer along the critical line and 45 percent of the island reserved as open space.

(iv) The following standards will be utilized in meeting these coverage ratios, buffers and open space requirements,

(a) Sixty percent of lawns must be counted as impervious surface coverage.

(b) Open space means parks and natural areas (including freshwater wetlands). Half of the open space requirement must be naturally vegetated.

(c) Buffer widths are average to allow the Department to consider any unusual geometry of the critical line. Minimum buffer width shall be 10 feet except for cases where the Department determines the minimum will create an unusual hardship.

(d) On any lot, a building envelope equal to the maximum impervious coverage area must be identified showing where the home site, lawn and any other impervious coverage will be located. Areas outside the envelope must remain undisturbed or be counted as impervious coverage.

(e) In order to accommodate for landowner view, one-third of the total buffer zone area, to be selected by the landowner, can be selectively pruned and landscaped with native plants, provided that no more than one contiguous area measuring a maximum of 75 feet in a horizontal distance parallel to the critical line occurs for each primary habitable structure.

(1) Selective pruning means the pruning shall not occur below four and one-half feet or above 25 feet.

(2) Selective pruning will be restricted to shrubs, vines and trees less than eight inches in diameter at breast height.

(3) Selective landscaping means that the understory and groundcover can be replaced only with native vegetation, including grass, which requires no chemical treatment for survival or maintenance.

(v) All buffers and other commitments under this section must be preserved and protected by a conservation easement meeting the requirements of R.30-12.N(5).

(l) Onsite Disposal Systems (OSDS).

(i) If the island is to be served by OSDS, all systems must include:

(a) two-compartment septic tanks,

(b) access manholes, and

(c) effluent filters.

(ii) In addition to the standards in R.61-56 and R.61-57, each site must meet a horizontal setback requirement of 150 feet from any part of the OSDS to the Department critical line, and a vertical offset from the trench bottom to seasonal high water table of 12 inches. Applicants cannot place fill in order to qualify for this requirement.

(iii) All applications for a permit shall include provisions for sustainable operation and maintenance throughout the expected period of occupancy of the site, including, but not limited to the methods for pumping of the tank(s) when solid levels exceed 35 percent of the volume, but not less than every five years.

(iv) The applicant must provide proof of a conservation easement binding all lots on the island to comply with the provisions of this section prior to issuance of the bridge construction placard.

(v) The Department will deny a permit under R.61-56 for an OSDS on a coastal island with bridge access pursuant R.30-12.N if the requirements of this subsection are not met.

(m) All applications for bridge permits must contain proof that the project, including any intended development, is in compliance with the applicable zoning regulations.

(n) Vegetation and Landscaping.

(i) Applicants shall submit a site plan prepared by a licensed landscape architect that includes a tree survey of all trees above eight inches in diameter at breast height.

(ii) The plan shall depict the existence and proposed effect the project will have upon natural areas, view corridors and areas where new planting will occur.

(iii) The plan shall preserve existing vegetation to the extent reasonably feasible.

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(iv) Unless significant existing vegetative buffers exist, the plan shall include new planting typically found on coastal islands, such as hard woods, palms and understory.

(4) Demonstration that project will not impose adverse impact upon the environment.

(a) With respect to an application for a bridge to an island that is of a size two acres or greater but less than 10 acres, the application's full compliance with the minimum development standards set forth in R.30-12.N(3) above will constitute a prima facie showing that all feasible measures and reasonable safeguards have been taken to comply with, and the meet the requirements of, South Carolina Code Section 48-39-150 and R.30-11.B.

(b) Providing bridge access to coastal islands that are 10 acres in size or greater causes substantial risk of:

- (i) interfering with and/or destroying significant natural habitat,
- (ii) interfering with the use of such islands by larger numbers of indigenous, threatened and/or endangered species, and
- (iii) significantly more use of, and adverse impact upon, tidelands, tidewaters, creeks and rivers.

(c) The provisions of R.30-12.N(3) are intended to describe the minimum development standards that an applicant must meet to obtain a permit for a bridge to a coastal island. Depending on the circumstances that exist with an application for a bridge to a coastal island of a size greater than 10 acres, there may be additional feasible measures or reasonable safeguards that the applicant can take to avoid adverse environmental impact. If so, the agency shall require the inclusion of these measures or safeguards as a condition for issuing the permit.

(d) The agency shall evaluate all impacts of the bridge and associated island development, including but not limited to, impacts on water quality, habitat, navigation, and viewsheds. Before a permit may be issued for a bridge to an island 10 acres in size or larger, the agency must make a specific finding that the project, considered as a whole, accomplishes each of the following:

(i) The access and associated development sought by applicant requires a bridge over the critical area or is economically enhanced by such bridge.

(ii) The applicant's completed project takes all reasonable measures to avoid:

- (a) interfering with the natural flow of navigable water;
- (b) adversely affecting the production of fish, shrimp, oysters, crabs, clams, any marine life, wildlife, or other natural resources in the area proximate to the island, including but not limited to water and oxygen supply;
- (c) erosion, shoaling of channels or creation of stagnant water;
- (d) interference with public access to tidal and submerged lands, navigable waters and beaches or other recreational coastal resources; and
- (e) adverse impact upon the habitats for rare and endangered species of wildlife or irreplaceable historic and archeological sites of South Carolina's coastal zone.

(iii) The applicant's completed project does not cause reduction in economic benefits to the area where the island is located, as compared with the benefits from preservation of an area in its unaltered state.

(iv) The applicant's completed project includes:

- (a) all reasonable safeguards to avoid adverse environmental impact;
- (b) all feasible measures to avoid adverse environmental impact; and
- (c) all reasonable measures to avoid adversely affecting the value and enjoyment of adjacent owners.

(e) In evaluating the impacts from a project, the following factors are evidence of feasible measures and reasonable safeguards to reduce adverse impact:

- (i) elimination of docks in particularly sensitive creeks and in important viewsheds;
- (ii) dock designs that reduce visual and other impacts;
- (iii) reduction of subdivision and development rights on the island accessed or other islands in the vicinity;
- (iv) vegetative buffers and building setbacks that exceed minimum standards;
- (v) protection of important habitat on the island;
- (vi) elimination of lighting;
- (vii) building height or design restrictions;

(viii) use of a golf cart bridge or a pedestrian bridge of greater than six feet in clear width and which is not designed to carry cars and trucks; and

(ix) removal of an existing causeway to restore natural flow.

(5) Conservation easements. Whenever this regulation specifies that a dock limitation, wetland or buffer preservation commitment, OSDS or other development limit or affirmative commitment must be accomplished by a conservation easement, the conservation easement must meet the requirements of this part.

(a) The conservation easements shall be prepared in accordance with the South Carolina Conservation Easements Act of 1991, S.C. Code Ann. §§ 27-8-10 through 27-8-120, and any amendments thereto (the "Act").

(b) The conservation easements must provide for permanent protection in perpetuity that will run with the title to the land.

(c) The conservation easement must incorporate by reference a recorded plat clearly delineating the buffers, wetlands and other protected areas, and these delineations must appear on all plats from which any portion of the property may be conveyed or financed. Once the conservation easement and associated plat are properly recorded in the chain of title, the failure to show the required delineations on a future plat shall not affect the validity of the conservation easement.

(d) The conservation easement must be held by the state or a land trust with a proven track record in the region and with the resources to enforce the terms of the easement. The conservation easement must provide for rights of enforcement by the Department and by any organization authorized to be a "holder" under the Act, provided that any legal action by a party other than the Department taken to enforce the terms of the conservation easement must include the Department as a party, and no such action may be settled without the written consent of the Department.

(e) Draft conservation easements must be submitted to the Department for review to determine compliance with the Act and the applicable limits and commitments related to the permit at issue, prior to issuance of the bridge permit.

(f) Prior to commencement of any work under a permit issued under this section, the recorded conservation easement must be filed with the Department, accompanied by an opinion of an attorney duly licensed to practice in South Carolina, certifying that the instrument has been duly executed by the fee simple owners of the property, that the individual signers of the instrument have full legal authority to execute the instrument, that the instrument has been properly recorded and indexed in the office of the county Register of Deeds, and that all holders of prior mortgages or other liens on the property have consented to the instrument and have subordinated their liens to the conservation easement.

(6) The owners of bridges are entitled to repair and maintain existing bridges as allowed under R.30-5.D and any applicable county or municipal regulations.

(7) If an existing bridge to a coastal island is destroyed or rendered unusable by natural causes or accidental destruction, the owner shall be entitled to a permit to replace the bridge with a like bridge that imposes no greater adverse impact on the critical area as the one destroyed.

(8) Permits for expansion of existing bridges will be processed as new bridges and must meet all applicable standards.

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(9) Causeways.

(a) Permanent filling of critical areas for access to coastal islands is prohibited, except for fill associated with existing useable causeways.

(b) Existing useable causeways are defined as those causeways that have a drivable lane above the critical area.

(i) Permits for fill associated with existing usable causeways shall be granted only for minor fills that are minimized by use of containment structures to limit to the maximum extent feasible the square footage of fill, and where the fill would cause less damage to the critical area than would be caused by construction of a new bridge or other access structure.

(ii) Mitigation for critical area fill at a ratio of 2:1 will be required for fill associated with existing usable causeways.

(10) Non-vehicular bridges to be utilized by the general public on publicly owned lands for purely recreational, educational, or other institutional purposes will be exempt from all other sections of R.30-12.N and will be allowed by the Department provided there is no significant harm to coastal resources and the following minimum standards are met.

(a) The applicant must demonstrate that the structure is necessary for the overall planned use of the site.

(b) The structure must be aligned to minimize environmental impacts.

(11) Special Exceptions.

(a) Islands one acre or larger that do not qualify for a bridge permit under these regulations may apply for a special exception. To receive a special exception, the applicant shall present clear and convincing evidence that granting the bridge permit will serve an overriding public interest.

(b) For an application to meet the overriding public interest test, it must demonstrate by clear and convincing evidence that it will create overriding public benefits resulting from mitigation and diminished impacts to public trust resources compared with development that would likely occur without the bridge.

(c) All public benefits considered under this exception must be secured by a permanent conservation easement meeting the requirements of R.30-12.N(5) on all affected property.

(d) Impact reductions beyond the minimum standards in R.30-12.N(3) can take the form of:

- (i) permanent protection of habitat,
- (ii) major reductions in building density,
- (iii) major reductions in subdivision rights,
- (iv) major reductions in docks,
- (v) major increases in riparian buffers,
- (vi) other architectural and site design improvements, and
- (vii) minimization of bridge impacts to environmental and visual resources.

(12) Severability Clause. In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

Filed: September 26, 2005, 8:30 am

Document No. 3023
DEPARTMENT OF INSURANCE
 CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110, 38-9-180, 38-63-510 et seq., 1-23-110 et seq.

69-57.1. Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits.

Emergency Situation:

The CSO Mortality Tables were last updated in South Carolina in 1980. Since that time, life expectancy has greatly increased, but the tables used by actuaries to generate reserve values and cash values do not reflect that fact. Consumers do not have the benefit of receiving potentially better rates on life insurance products. Forty-seven other states have adopted the new tables and two other states allow permissive use of the new tables. South Carolina is the only state that has not recognized the updated tables in some fashion. The insurance industry operates most efficiently for the consumer when there is uniformity of state regulation of insurance. Therefore, in an effort to allow the new tables to be used in South Carolina so as to provide the most current and best insurance products to consumers in South Carolina, the Department of Insurance is issuing this emergency regulation to allow regulated insurers to use the new CSO Mortality Tables. The 2001 CSO Tables are expected to be formally adopted upon approval of a Joint Resolution by the General Assembly in early 2006.

Text:

69-57.1. Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits.

- Section 1. Authority
- Section 2. Purpose
- Section 3. Definitions
- Section 4. 2001 CSO Mortality Table
- Section 5. Conditions
- Section 6. Applicability of the 2001 CSO Mortality Table to South Carolina Insurance Regulation 69-57
- Section 7. Gender-Blended Tables
- Section 8. Separability
- Section 9. Effective Date

Section 1. Authority

This regulation is promulgated by the Director of Insurance pursuant to South Carolina Code Sections 38-9-180 and 38-63-510 et seq. as well as Regulation 69-57, Valuation of Life Insurance Policies.

Section 2. Purpose

The purpose of this regulation is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with South Carolina Code Section 38-9-180 and Section 38-63-510 et seq. as well Regulation 69-57, Valuation of Life Insurance Policies.

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Section 3. Definitions

A. "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

B. "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

C. "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

D. "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

E. "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

Section 4. 2001 CSO Mortality Table

A. At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this regulation, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after January 1, 2005 and before the date specified in Subsection B to which South Carolina Code Sections 38-9-180 and 38-63-510 et seq. and South Carolina Insurance Regulation 69-57 are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.

B. Subject to the conditions stated in this regulation, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which South Carolina Code Sections 38-9-180 and 38-63-510 et seq. and Regulation 69-57 are applicable.

C. The new minimum basis for the computation of values related to extended term benefits shall be the 2001 CSO Mortality Table, subject to the transition dates for use of the 2001 CSO Mortality Tables set forth in this section.

Section 5. Conditions

A. For each plan of insurance with separate rates for smokers and nonsmokers an insurer may use:

- (1) Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;
- (2) Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by South Carolina Code Section 38-9-180 and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or
- (3) Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

B. For plans of insurance without separate rates for smokers and nonsmokers the composite mortality tables shall be used.

C. For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of Section 6 and South Carolina Insurance Regulation 69-57 relative to use of the select and ultimate form.

D. When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the Director shall be based on an asset adequacy analysis as

specified in South Carolina Insurance Regulation 69-52. A Director may exempt a company from this requirement if it only does business in this state and in no other state.

Section 6. Applicability of the 2001 CSO Mortality Table to South Carolina Insurance Regulation 69-57

A. The 2001 CSO Mortality Table may be used in applying South Carolina Insurance Regulation 69-57 in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table in Section 4 of this regulation unless otherwise noted, the references in this section are to the South Carolina Insurance Regulation 69-57:

- (1) Section 3A(2)(b): The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table.
- (2) Section 4B: All calculations are made using the 2001 CSO Mortality Rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in Section 6A(4) of this regulation. The value of " $qx+k+t-1$ " is the valuation mortality rate for deficiency reserves in policy year $k+t$, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.
- (3) Section 5A: The 2001 CSO Mortality Table is the minimum standard for basic reserves.
- (4) Section 5B: The 2001 CSO Mortality Table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in Sections 5B(3)(a) to (i). In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant Actuarial Standards of Practice.
- (5) Section 6C: The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table.
- (6) Section 6E(4): The calculations specified in Section 6E shall use the ultimate mortality rates in the 2001 CSO Mortality Table.
- (7) Section 6F(4): The calculations specified in Section 6F shall use the ultimate mortality rates in the 2001 CSO Mortality Table.
- (8) Section 6G(2): The calculations specified in Section 6G shall use the ultimate mortality rates in the 2001 CSO Mortality Table.
- (9) Section 7A(1)(b): The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

B. Nothing in this section shall be construed to expand the applicability of South Carolina Insurance Regulation 69-57 to include life insurance policies exempted under Section 3A of South Carolina Insurance Regulation 69-57.

Section 7. Gender-Blended Tables

A. For any ordinary life insurance policy delivered or issued for delivery in this state on and after January 1, 2005, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection of the regulation.

B. The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

C. It shall not, in and of itself, be a violation of South Carolina Code of Laws Chapter 57 of Title 38 for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

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Section 8. Separability

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of the provision to other persons or circumstances shall not be affected.

Section 9. Effective Date

This regulation shall be effective January 1, 2005.

Filed: October 11, 2005, 8:30 am

Document No. 3024

DEPARTMENT OF LABOR, LICENSING AND REGULATION

BOARD OF MEDICAL EXAMINERS

CHAPTER 81

Chapter Statutory Authority: 1976 Code Sections 40-1-70, 40-47-20 and 40-47-80.

Emergency Situation:

In recognition of the devastation and disruption of daily life suffered by the residents of the Gulf States and in response to the temporary displacement of practitioners as a result of Hurricane Katrina and subsequent natural disasters, the South Carolina Board of Medical Examiners has determined that emergency action is required to provide in Regulation 81-70 for the issuance of a limited license to authorize practice in this state, under certain conditions, by physicians in good standing from affected states. The emergency limited license is limited to one year and conditioned upon association with a duly licensed physician in this state or employment with a duly licensed healthcare facility in this state. The Board believes that this action is consistent with the Emergency Health Powers Act (Section 44-4-570) and federal and state emergency declarations and orders issued as a result of the natural disasters.

Regulation 81-70. Requirements for Limited License, amended to add "I".

Text:

I. An emergency limited license may be issued to a physician actively licensed in another state who is in good standing in accordance with 40-47-160(B) and whose place of established practice has been the subject of an emergency disaster declaration by an appropriate federal or state authority. An emergency limited license is valid for one year and may be renewed upon approval of the Board. This license must be limited to practice in this state while associated with a duly licensed physician in this state who holds an unrestricted, permanent license or while employed by a duly licensed healthcare facility in this state. The applicant must submit the following items:

1. a completed application and payment of applicable fees, and
2. such documentation as may be acceptable to the Board under the circumstances to demonstrate eligibility for the limited license, including documentation of an existing license in good standing authorizing professional practice in the state which is subject to the emergency disaster declaration.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: To authorize displaced licensed practitioners in good standing in states affected by recent natural disasters to practice in South Carolina for one year and upon certain conditions with limited licenses.

Legal Authority: Sections 40-1-70, 40-47-20 and 40-47-80.

Plan for Implementation: The emergency regulation will take effect upon filing with the Legislative Council. LLR will notify licensees of the emergency regulation and post the regulation on the agency's web site.

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

The proposed emergency regulation is necessary in order to authorize displaced licensed practitioners in good standing in states affected by recent natural disasters to practice in South Carolina for one year and upon certain conditions with limited licenses.

DETERMINATION OF COSTS AND BENEFITS:

There will be no additional costs incurred by the State or any political subdivision.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning this regulation.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment of this State. The public health of the State will be enhanced by expediting the licensure process, which is expected to result in increased access to medical care by the citizens of this State.

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

There will be no detrimental effects on the environment and public health if the emergency regulation is not implemented in this State.

Statement of Rationale:

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

Filed: October 11, 2005 1:30 pm

Document No. 2998

SOUTH CAROLINA LAW ENFORCEMENT DIVISION**CHAPTER 73**

Statutory Authority: 5-1-30 (A)(5) (Act No. 77 of 2005)

Emergency Situation:

South Carolina Code of Laws Section 5-1-30 (A)(5), as amended, became effective July 1, 2005. This section requires the South Carolina Law Enforcement Division to promulgate regulations requiring a minimum level of law enforcement services which an area seeking to incorporate as a municipality must furnish either directly or by contract in its application to the Joint Legislative Commission on Municipal Incorporation. It has come to

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SLED's attention that several areas across the state are in the process of preparing to incorporate, but cannot proceed without the required regulations for minimum law enforcement services.

Thereby a situation could exist somewhere in the State in unincorporated areas where, through no fault of the Sheriff, there is a lack of needed law enforcement personnel and equipment due to insufficient funding or other reasons. These areas would not be able to incorporate in an effort to provide such services thus imperiling the safety and welfare of citizens and their property. Therefore, an opinion was requested of South Carolina Attorney General Henry McMaster, for advice as to whether SLED should issue emergency regulations under Section 1-23-130(A), South Carolina Code of Laws as amended (See attachment). An opinion was issued by the Attorney General's Office stating its belief that the courts would uphold a decision by SLED to issue emergency regulations under the circumstances that now exist.

SLED, in an effort not to imperil citizens or impede the new process, proposes the following emergency regulations.

73-400. Minimum Level of Law Enforcement Services for Areas Proposing to Incorporate as a Municipality.

Any area wishing to apply to the Joint Legislative Commission on Municipal Incorporation must indicate that, either directly or by contract with another agency, the minimum criteria below will be met.

- A. There must be provided at least two certified full time law enforcement officers per 1000 population, but in any case no less than ten (10) officers. The South Carolina Police Officers Retirement System (PORS) must be utilized for sworn personnel.
- B. Twenty-four hour coverage, with more than one officer on duty at all times, must be provided by the police department or contracting agency.
- C. The officers must be equipped with appropriate uniforms; professionally accepted weaponry (including less lethal devices); body armor; emergency vehicles as described in Section 56-5-4700 of the South Carolina Code of Laws as amended which also include video/audio taping capability; and, two way radio equipment for each vehicle, including portable units for officers, all capable of interoperability with neighboring law enforcement agencies.
- D. Twenty-four hour dispatch capability, with 911 services, must be available.
- E. A twenty-four hour detention center which meets state requirements must be available and accessible.