

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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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

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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.

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

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2886	SR29-1	Pilot and Apprentice Age Limitations and Pilot Registration	1/11/05	LLR: Commissioners of Pilotage
2887	SR29-1	Residential Builders Commission	1/11/05	LLR: Residential Builders Commission
2753	SR29-2	LIFE Scholarship Program	1/15/05	Commission on Higher Education
2889	SR29-2	Barrier Free Design, Building Codes Council	1/17/05	LLR: Building Codes Council
2890	SR29-2	Chapter Revisions	1/17/05	LLR: Manufactured Housing Board
2873	SR29-2	Air Pollution	1/30/05	Department of Health and Envir Control
2800		Environmental Protection Fees	2/27/05	Department of Health and Envir Control
2905		Credit for Reinsurance	3/14/05	Department of Insurance
2900		Student Attendance	3/26/05	Board of Education
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2899		Certification Program for Public Librarians	4/10/05	State Library
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2928		Spec Project Stds of Tidelands and Coastal Waters -Docks	5/11/05	Department of Health and Envir Control
2929		State of Policy; Spec Proj Stds of Tidelnds Coastl Wtrs - Marinas	5/11/05	Department of Health and Envir Control
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2944		Infectious Waste Management	5/20/05	Department of Health and Envir Control
2938		Pest Control Regulations	5/26/05	Clemson University, State Crop Pest Comm
2957		Motorist Insurance Identification Database	6/02/05	Department of Motor Vehicles
2946		South Carolina HOPE Scholarship	6/02/05	Commission on Higher Education
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2 EXECUTIVE ORDERS

Executive Order No. 2005-03

WHEREAS, by Executive Order 2005-01, a state of emergency for Aiken County, South Carolina, was declared because of hazardous chemicals released as a result of a train collision occurring in the vicinity of the Town of Graniteville; and

WHEREAS, the hazardous conditions which began on January 6, 2005, no longer present a danger to the citizens of Aiken County.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I declare that a state of emergency no longer exists and hereby declare that Executive Order 2005-01 is cancelled, rescinded, and from this date declared null and void.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 24th DAY OF
JANUARY 2005.**

MARK SANFORD
Governor

Executive Order No. 2005-04

WHEREAS, Charles Ray Sharpe resigned as Commissioner of Agriculture for the State of South Carolina by letter dated January 17, 2005; and

WHEREAS, the Governor is authorized to appoint a successor to the office of Commissioner of Agriculture as a result of Commissioner Sharpe's resignation from office pursuant to Section 46-3-40 of the South Carolina Code of Laws; and

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

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Hugh Weathers as Commissioner of Agriculture for the unexpired term.

This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 24th DAY OF JANUARY 2005.**

MARK SANFORD
Governor

Executive Order No. 2005-05

WHEREAS, on January 12, 2005, I received a Decision of the State Election Commission, in its capacity as the State Board of Canvassers, upholding the Order of the Jasper County Board of Canvassers (Jasper County Election Commission) to set aside the November 2, 2004, election for Jasper County School Board District 6 due to voting irregularities; and

WHEREAS, the Jasper County Election and Registration Commission ("Commission") has requested that a new election be held on April 5, 2005; and

WHEREAS, the Commission has stated that, in requesting this date, it has complied with the notice provisions in the South Carolina Code of Laws and the pre-clearance requirements of Section 5 of the Voting Rights Act of 1965; and

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

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby (a) order that a new election be held for the Jasper County School Board District 6 on April 5, 2005, subject to pre-clearance approval by the United States Department of Justice, or at the earliest possible date and time after April 5, 2005, as is permitted by the United States Department of Justice; and (b) designate the Jasper County Election and Registration Commission to perform the necessary official duties pertaining to the election to declare the result.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 7th DAY OF FEBRUARY, 2005.

MARK SANFORD
Governor

Executive Order No. 2005-06

WHEREAS, Section 1-3-240(B) of the South Carolina Code of Laws states: "[a]ny person appointed to a state office by a Governor, either with or without the advice and consent of the Senate, other than those officers enumerated in subsection (C), may be removed from office by the Governor at his discretion by an Executive Order removing the officer"; and

WHEREAS, membership on the South Carolina Commission for the Blind is a state office appointed by the Governor that is not listed among the exempt state offices enumerated in Section 1-3-240(C) of the South Carolina Code of Laws; and

4 EXECUTIVE ORDERS

WHEREAS, William Parnell Diggs of Horry County, South Carolina, was previously appointed to the Commission on May 19, 2002.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina, I hereby remove William Parnell Diggs from the South Carolina Commission for the Blind and declare the seat previously held by William Parnell Diggs to be vacant.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 31st DAY OF JANUARY 2005.**

**MARK SANFORD
Governor**

BOARD OF EDUCATION

Notice of Public Hearing

The public comment period on the proposed amendments to State Board of Education R 43-259, Graduation Requirements, published in the *State Register*, Volume 28, Issue No. 11 (November 26, 2004) has been extended to March 4, 2005. 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 March 8, 2005 at 10:00 A.M., at the Rutledge Building, State Department of Education, Columbia, South Carolina.

Interested persons are also provided an opportunity to submit comments on the proposed regulation by writing to Lucinda Saylor, Deputy Superintendent, Division of Curriculum and Assessment, 1429 Senate Street, Rutledge Building, Room 805, Columbia, South Carolina 29201 or e-mail lsaylor@sde.state.sc.us. Comments must be received no later than 5:00 P.M. on February 3, 2005. 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.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**ERRATA**

Regulation 61-9 was revised pursuant to Document 2783 published in the State Register June 27, 2003. The Department is correcting R.61-9.122.64(a)(4)(ii) to change 60 days to 180 days. This change was approved by the Department's Board after public hearing and was reviewed and approved by the General Assembly; however, the change of 60 days to 180 days was inadvertently not included in the document that was published in the *State Register*. This section is corrected to read:

- (ii) Cessation of substantially all manufacturing operations, which are a basis for effluent limits or which contribute to a discharge, for a period of 180 days.

Two additional minor stylistic corrections are also made, as follows:

At R.61-9.125.3(e), correct the spelling of the word "discharged" to "discharge."

At R.61-9.129.103(c)(1)(i)(b), the outline for codification for this section subitem is corrected to read:

R.61-9.129.103(c)(1)(i)(B).

6 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF PUBLIC HEARING TO ADDRESS THE PROPOSED REVISION OF THE SOUTH CAROLINA STATE IMPLEMENTATION PLAN

Synopsis:

On October 27, 1998, the United States Environmental Protection Agency (EPA) published a final rule titled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" (63 FR 57355). This rule, commonly referred to as the NO_x SIP Call, required South Carolina and certain other states to reduce the summertime emissions of oxides of nitrogen (NO_x) which are one of the precursors of ozone pollution and to submit a revision to their State Implementation Plans (SIPs) that identified measures necessary to achieve these reductions.

EPA was subsequently challenged through the courts on the NO_x SIP Call rule and on March 3, 2000, the DC Circuit Court issued a decision that largely favored the EPA while ruling against them on several issues. One of the issues for which the Court ruled against the EPA involved the failure to provide adequate notice of the change in control level assumed for large stationary internal combustion (IC) engines. The stay was lifted for the issues for which the Court ruled in EPA's favor, and the Department promulgated regulations and submitted a SIP revision to comply with the requirements of the NO_x SIP Call on May 28, 2002. EPA published a final rule in the *Federal Register* approving this revision on June 28, 2002 (67 FR 43546). This action is referred to as the Phase I SIP and addresses only those requirements for which the stay was lifted.

The EPA published a final rule on April 21, 2004 (69 FR 21603), in response to the court decision. This rule, titled "Interstate Ozone Transport: Response to Court Decisions on the NO_x SIP Call, NO_x SIP Call Technical Amendments, and Section 126 Rules (69 FR 21604) is also referred to as Phase II and addresses the remaining requirements not included in Phase I of the NO_x SIP Call. One of the actions of this rule is to set the control levels for stationary internal combustion (IC) engines. Trans Continental Pipeline Station 140 (TransCo), located in Moore, South Carolina, is the only facility in the State that is affected by this final rule. TransCo, by means of permit number TV-2060-0179 issued by the Department, has already initiated improvements that will enable it to meet the requirements of the Phase II rule.

The Department is proposing to revise the SIP to incorporate the permit it issued to TransCo. This action will meet the State's obligations under the Phase II of the NO_x SIP Call rule.

Public Hearing:

Staff of the Department will conduct a public hearing to receive public comments on the proposed revision of the State Implementation Plan on March 28, 2005 at 10:00 a.m. in Room 3141 (Wallace Room) of the Sims Building, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. Interested members of the public are invited to attend and comment on the proposed revisions. Interested persons may also submit comments in writing to Nelson Roberts at the South Carolina Department of Health and Environmental Control, Regulations Development Section, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by 5:00 pm on March 28, 2005, the close of the comment period.

Copies of the proposed SIP revision will be available at the public hearing. Copies may also be obtained by contacting Nelson Roberts at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4122.

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 February 25, 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 Aiken County

Establish an outpatient narcotic treatment program (Methadone Treatment Center) to be located at 1740 Jefferson Davis Highway, Graniteville, South Carolina 29829.

Aiken Treatment Associates
Graniteville, South Carolina
Project Cost: \$202,000

Affecting Charleston County

Establishment of an Ambulatory Surgery Center (ASC) with three (3) licensed endoscopy rooms for gastrointestinal procedures, only.

Elms Endoscopy Center, LLC
North Charleston, South Carolina
Project Cost: \$1,271,482

Affecting Florence County

Licensure of 48 additional general acute care beds by conversion of 48 observation beds in space previously approved by CON SC-04-10 resulting in a total licensed bed capacity of 310 general acute care beds.

Carolinas Hospital System
Florence, South Carolina
Project cost: \$-0-

Affecting Horry County

Construction for the addition of sixty (60) nursing home beds that do not participate in the Medicaid (Title XIX) Program for a total of one hundred forty eight (148) nursing home beds.

NHC HealthCare/Garden City, LLC
Murrells Inlet, South Carolina
Project Cost: \$5,433,500

Affecting Lexington County

Transfer of the Computed Tomography (CT) scanner at Lexington Medical Center Irmo to Lexington Medical Center Chapin and the replacement of the CT at Lexington Medical Center Irmo with a new Philips Brilliance 16-slice CT scanner.

Lexington Medical Center Irmo
Columbia, South Carolina
Project Cost: \$1,152,478

8 NOTICES

Upfit of shelled space to the existing Outpatient Surgery Center of Lexington Medical Center Lexington for the addition of one (1) operating room (OR) for a total of four (4) operating rooms (ORs) and one (1) licensed endoscopy room.

The Outpatient Surgery Center of Lexington Medical Center Lexington
Lexington, South Carolina
Project cost: \$512,659

Construction for the addition of 32 psychiatric beds for a total of 71 psychiatric, 27 substance abuse, and 20 RTF beds.

Three Rivers Behavioral Health
West Columbia, South Carolina
Project Cost: \$2,386,800

Affecting York County

Construction of a 64 acute care bed hospital to include one diagnostic cardiac catheterization laboratory, one Magnetic Resonance Imaging (MRI) unit and one Computed Tomography (CT) Scanner to be located at the intersection of SC Highway 160 and Highway 21 Bypass.

Amisub of South Carolina, Inc. d/b/a Fort Mill Medical Center
Fort Mill, South Carolina
Project Cost: \$107,158,233

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 February 25, 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

Renovation to convert an existing procedure room to an operating room for a total of five (5) operating rooms (ORs).

Roper West Ashley Surgery Center
Charleston, South Carolina
Project Cost: \$148,164

Affecting Greenville County

Construction for the establishment of a 30-bed inpatient hospice facility.

Hospice Home of Greenville
Greenville, South Carolina
Project Cost: \$7,956,643

Affecting Horry County

Construction for the addition of sixty (60) nursing home beds that do not participate in the Medicaid (Title XIX) Program for a total of one hundred forty eight (148) nursing home beds.

NHC HealthCare /Garden City, LLC
Murrells Inlet, South Carolina
Project Cost: \$5,433,500

Affecting Horry County

Conversion of an equipment room to an operating room (OR) for a total of three (3) operating rooms (ORs).

Carolina Regional Surgery Center d/b/a

Grande Dunes Surgery Center

Myrtle Beach, South Carolina

Project Cost: \$651,253

Affecting Kershaw County

Construction to replace the existing single-slice Computed Tomography (CT) scanner with a multi-slice CT scanner.

Kershaw County Medical Center

Camden, South Carolina

Project Cost: \$2,545,004

Affecting Lexington County

Transfer of the Computed Tomography (CT) scanner at Lexington Medical Center Irmo to Lexington Medical Center Chapin and the replacement of the CT at Lexington Medical Center Irmo with a new Philips Brilliance 16-slice CT scanner.

Lexington Medical Center Irmo

Columbia, South Carolina

Project Cost: 1,152,478

Upfit of shelled space to the existing Outpatient Surgery Center of Lexington Medical Center Lexington for the addition of one (1) operating room (OR) for a total of four (4) operating rooms (ORs) and one (1) licensed endoscopy room.

The Outpatient Surgery Center of Lexington Medical Center Lexington

Lexington, South Carolina

Project Cost: \$512,659

Construction of Ambulatory Surgery Center with two (2) operating rooms (ORs).

Moore Orthopaedic Clinic Outpatient Surgery Center, LLC

West Columbia, South Carolina

Project Cost: \$6,338,106

Construction for the addition of 32 psychiatric beds for a total of 71 psychiatric, 27 substance abuse, and 20 RTF beds.

Three Rivers Behavioral Health

West Columbia, South Carolina

Project Cost: \$2,386,800

Affecting Richland County

Construction of a new 84 acute care bed hospital by transferring 84 acute care beds from Palmetto Health Baptist resulting in a total licensed capacity of 279 acute care beds and 104 psychiatric beds at Palmetto Health Baptist (downtown campus) and 84 acute care beds at Palmetto Health Baptist Parkridge.

Palmetto Health Baptist Parkridge

Columbia, South Carolina

Project Cost: \$140,393,928

10 NOTICES

Affecting York County

Construction of a 64 acute care bed hospital to include one diagnostic cardiac catheterization laboratory, one Magnetic Resonance Imaging (MRI) unit and one Computed Tomography (CT) scanner to be located at the intersection of SC Highway 160 and Highway 21 Bypass.

Amisub of South Carolina, Inc. d/b/a Fort Mill Medical Center

Fort Mill, South Carolina

Project Cost: \$107,158,233

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. 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 individuals listed below, please submit your comments in writing, no later than March 28, 2005 to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Underground Storage Tank Program
Attn: Barbara Boyd
2600 Bull Street
Columbia, SC 29201

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

Class I

Class II

The RETEC Group, Inc. Progress Environmental, Inc.
KEMRON Environmental Services, Inc.

DEPARTMENT OF LABOR, LICENSING AND REGULATION

BOARD OF MEDICAL EXAMINERS

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 practicing under the South Carolina Medical Practice Act and persons practicing respiratory care under the exemption provided in Section 40-47-530(A)(3) of the South Carolina Respiratory Care Practice Act. 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.) and Respiratory Care Practice Act (40-47-500, et seq.).

Guidelines for Exemption for the Provision of Artificial Pressure Adjuncts to the Respiratory System

Section 40-47-530(A)(3) of the 1976 Code, as amended, states “As it relates to respiratory care, individuals exempt pursuant to this section must present proof of formal training for these functions which includes an evaluation of competence through a mechanism that is determined by the board and the committee to be both valid and reliable. The clinical assessment of artificial pressure adjuncts to the respiratory system may not be performed by any other person without proof of formal training and exemption by the board.”

Regulation 81-203(3) of the Rules and Regulations of the Board states “Registered Polysomnographic Technologists (RPSGT’s) practicing in an accredited sleep medicine facility are exempt from this regulation so long as they practice under physician direction and do not hold themselves out as respiratory care practitioners or practice respiratory care.”

A task force was organized by the Respiratory Care Committee to develop a policy that will provide a mechanism for non-RCPs who are employed in sleep facilities to apply for exemption from the Respiratory Care Practice Act as it relates to the application of positive pressure adjuncts (CPAP/BiPAP) to the airway during sleep data acquisition and/or titration. The task force was asked to give special emphasis on the following topics:

A) Definition of Polysomnographic Trainee, Polysomnographic Technician, and Polysomnographic Technologist.

B) Educational requirements for Polysomnographic Trainee, Polysomnographic Technician, and Polysomnographic Technologist.

C) Definition of “direct supervision” for non-RCPs conducting the application of positive pressure adjuncts (CPAP/Bi-level) during sleep data acquisition and/or titration.

D) Deadline for completion of the educational and credentialing requirements for non-RPSGT’s.

E) Definition and responsibilities of Medical Directors.

F) Definition of the term “accredited”.

G) Disposition of other sleep related credentials (REEGT) as it relates to the exemption policy.

H) Disposition of unlicensed health care individuals as it relates to the exemption policy.

National documents were available to assist in developing these guidelines. Those documents include the joint committee position of the American Academy of Sleep Medicine (AASM), Association of Polysomnographic Technologists (APT), Board of Registered Polysomnographic Technologists (BRPT), and the American Society of Electroneurodiagnostic Technologists (ASET) that addresses the minimum skills, education, and competencies of Polysomnographic Technologists and the job descriptions for the three levels of Polysomnographic Technologists. Additionally, a position paper of the APT on “Exemption from existing Respiratory Care Practice Acts” was utilized.

Based upon the recommendations of the task force and the recommendation of the Respiratory Care Committee, the Board adopts the following guidelines regarding exemption for the provision of non-invasive ventilation by non-RCP’s employed in sleep facilities.

A. Definitions.

“Accredited” means accreditation by the JCAHO (Joint Commission for Accreditation of Healthcare Organizations), ASDA (American Sleep Disorders Association), AASM (American Academy of Sleep Medicine), designation as an Independent Diagnostic Testing Facility (IDTF) as assigned by the Centers for Medicare &

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Medicaid Services (CMS), HCFA (Health Care Facilities Accreditation of the American Osteopathic Association) or other accreditation agencies or successor organizations as recognized by the Committee and Board.

“Direct supervision,” means a licensed RCP or RPSGT physically on-site during the application of PAP during sleep data acquisition and/or titration.

“Medical director” means a physician licensed to practice medicine in South Carolina who has special interest and knowledge in the diagnosis, treatment, and assessment of sleep disorders.

“Polysomnographic Trainee” means an individual who has (1) a high school diploma or GED, (2) six months of direct patient care experience or one year of post-secondary education or current enrollment in an accredited educational program leading to an associate degree “or certificate” with an emphasis in polysomnography, and (3) current certification in cardiopulmonary resuscitation (CPR).

“Polysomnographic Technician” means an individual who has (1) successfully completed a polysomnography program associated with a state licensed and/or nationally accredited educational facility or a minimum of six months of experience as a Polysomnographic Trainee with documented proficiency in all required competencies, and (2) current certification in cardiopulmonary resuscitation (CPR).

“Polysomnographic Technologist” means an individual who has (1) successfully completed an accredited educational program leading to an associate degree with an emphasis in polysomnography or successful completion of a polysomnography program associated with a state licensed and/or nationally accredited educational facility or equivalent experience and documented proficiency at all competencies required of a Polysomnographic Technician, and (2) certification by the BRPT as a Registered Polysomnographic Technologist (RPSGT).

B. Deadline for the completion of the educational and credentialing requirements for non-RPSGT.

Polysomnographic Technicians who do not hold a RPSGT credential may apply for an exemption if they enroll in and complete a PAP titration course accredited by the Accreditation Council for Continuing Medical Education (ACCME), the American Academy of Sleep Medicine (AASM), American Osteopathic Association (AOA) or other nationally or state recognized accrediting bodies. Individuals who do not successfully complete a PAP titration course within the thirty-six (36) month time frame will forfeit their exemption and may no longer do PAP titration.

C. Responsibilities of Medical Directors for sleep facilities.

The medical director is responsible for establishing and maintaining “proof of formal training for these functions which include an evaluation of competence through a mechanism that is determined by the Board to be both valid and reliable.”

The medical director is also responsible for assuring that an annual competency mechanism is established, defined and completed for each exempted individual practicing in the facility.

D. Non-accredited sleep facilities.

Non-accredited sleep facilities must utilize a licensed RCP to conduct the application of positive pressure adjuncts (CPAP/Bi-level) during sleep data acquisition and/or titration.

E. Other sleep related credentials (REEGT).

REEGT’s performing PAP titration who do not hold a RPSGT credential must successfully complete a PAP titration course within thirty-six (36) months from applying for an exemption. REEGT’s who do not successfully complete a PAP titration course within the thirty-six (36) month time frame will forfeit their exemption and may no longer do PAP titration.

F. Unlicensed health care individuals

Unlicensed health care individuals (i.e.; CAN, MA, etc.) are not eligible to apply for or receive a PAP titration exemption since they do not meet the licensing or credentialing requirements as outlined in the SC Respiratory Care Practice Act and may not perform PAP titration under any circumstances.

G. Effective dates.

This policy shall be effective upon the date of publication in the *State Register*. Within ninety (90) days from the date of publication in the *State Register*, all individuals and sleep facilities seeking exemption shall provide written proof and documentation regarding compliance with these provisions.

The exemption outlined in this policy applies only to individuals employed in sleep facilities during the application of PAP during sleep data acquisition and/or titration. Non-RCP's may not apply positive pressure adjuncts (CPAP/Bi-level) in any other setting without specific individual exemption from the Committee and Board.

Although persons who conduct themselves in accordance with this policy should avoid disciplinary action by the Board of Medical Examiners, such persons may still face civil liability under some circumstances and should, therefore, consult private counsel where doubt exists as to what actions are appropriate.

After review and discussion of this revised draft policy, the Committee recommends approval of this draft policy.

DEPARTMENT OF REVENUE**NOTICE TO SMALL BUSINESSES**

In 2004 the General Assembly enacted the "South Carolina Small Business Regulatory Flexibility Act of 2004." The legislation outlines the importance of small businesses and the need for state agencies to develop regulations that meet the goals of the Act - which is essentially to avoid placing unnecessary burdens on small employers and to consider small businesses when promulgating regulations.

Under this Act, the Department must review its present regulations within 5 years of the effective date of the Act (effective date - May 18, 2004) to determine whether to continue a regulation without change or to amend or rescind a regulation to minimize the economic impact on small businesses.

In recent years, the Department has, through the regulation approval process established in Chapter 23 of Title 1, reorganized almost all its regulations by subject matter. In addition, each regulation now has several "subsections" numbered in a manner to allow future issues concerning the subject matter to be added on and still be in the same place in the regulation code as other similar issues.

For example, all issues concerning the sales and use tax and agriculture can be found in one regulation under SC Regulation 117-301. This regulation has several "subsections" numbered 117-301.1, 117-301.2, and so on. This change reduced the number of sales and use tax regulations from 225 to 37. Other taxes have been reorganized in a similar manner.

The Department also publishes information about its proposals to add, amend or rescind regulations on its website at www.sctax.org. (Once at the website, click on "Code-Regulations and AG Opinion" and then "South Carolina DOR Proposed Regulations.")

The Department hopes the reorganization of its regulations, and the information on its website concerning regulation proposals, will greatly assist taxpayers in finding the information they need.

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The Department would like to complete its initial review of its regulations, as required by the South Carolina Small Business Regulatory Flexibility Act, by October of 2006. This is because under Code Section 1-23-120(I), which is not a part of the South Carolina Small Business Regulatory Flexibility Act, the Department is required to review its regulations every 5 years to determine if they should be retained, amended or repealed. This was done in 2001 and must be done again in 2006. As such, the Department would like to issue the two regulation review reports at the same time or maybe combine them into one report.

The Department has recently requested assistance in this “small business” review of Department of Revenue regulations from several business organizations that represent small businesses.

In addition, the Department would like to hear directly from the small business community. Any small business that is interested in providing comments concerning a Department of Revenue regulation and its affect on a small business may call John McCormack at (803) 898-5138, or send written comments to:

SC Department of Revenue
John McCormack – Policy Section
P.O. Box 125
Columbia, South Carolina 29214

Written comments may also be sent via e-mail to mccormj@sctax.org. Please note “Small Business Regulatory Review” in the subject line.

Please submit any comments or suggestions by **September 1, 2005**.

Small businesses interested in reviewing the regulations of the Department of Revenue may find these regulations at <http://www.scstatehouse.net/coderegs/117.htm>. Please note that the Department is already considering amending several of these regulations for other reasons. Proposals to amend such regulations are presently being reviewed by the General Assembly and may be found at <http://www.sctax.org/Tax+Policy/Policy/Proposed+Regulation+Calendar.htm>.

Thank you for your cooperation in this matter.

STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60 (2004), 59-18-110 (2004), 59-29-10, *et seq.* (2004), 59-29-200 (2004), 59-33-30 (2004) 59-53-1810 (2004) 20 U.S.C. Section 1232(g) and 20 U.S.C. § 6301 *et seq.* (2002)

Notice of Drafting:

The State Department of Education will consider amendments to Regulation 43-234, Defined Program, Grades 9–12.

Interested persons may submit comments to Ms. Lucinda Saylor, Deputy Superintendent, Division of Curriculum Services and Assessment, State Department of Education, 1429 Senate Street, Rutledge Building, Room 805, Columbia, South Carolina 29201 or by e-mail to csaylor@sde.state.sc.us. To be considered, comments must be received no later than 5:00 p.m. on March 28, 2005, the close of the drafting comment period.

Synopsis:

The State Board of Education is considering promulgating amendments to R 43-234, Defined Program, Grades 9–12. Amendments include, but may not be limited to, dual credit guidelines and computer literacy requirements.

Legislative review of this regulation is required.

DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-71-530; 1-23-110 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-46, Medicare Supplement Insurance. Interested persons should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director/Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-46, Medicare Supplement Insurance, in order to comply with the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA). This will ensure that South Carolina can maintain certification of its regulatory programs. Furthermore, adoption of these proposed changes will bring the State's Medigap regulatory program into compliance with federal standards.

The proposed regulation is exempt from legislative review as it is being promulgated to comply with federal law.

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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.

Notice of Drafting:

The South Carolina Department of Insurance proposes to create Regulation 69-57.1. Interested persons should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director/Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105.

Synopsis:

The South Carolina Department of Insurance proposes to create Regulation 69-57.1 in order 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.

The proposed regulation will require legislative review.

DEPARTMENT OF LABOR, LICENSING, AND REGULATION OCCUPATIONAL HEALTH AND SAFETY REVIEW BOARD CHAPTER 127

Statutory Authority: 1976 Code Section 41-15-610(a)

Notice of Drafting:

The Department of Labor, Licensing, and Regulation, South Carolina Occupational Health and Safety Review Board proposes to amend Regulation 127-1.5. Interested persons may submit comments to Joan Wilkie, Administrative Law Clerk, South Carolina Department of Labor, Licensing, and Regulation, South Carolina Occupational Health and Safety Review Board, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The South Carolina Occupational Health and Safety Review Board proposes to amend current regulation 127-1.5. to comply with the Supreme Court of South Carolina's Order, effective March 1, 2005. The proposed change includes provision for attorneys appearing *pro hac vice*.

Document No. 2971
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. § 59-5-60(1) (2004), § 59-18-310 (2004), § 59-18-320 (2004), § 59-18-330 (2004), § 59-18-340 (2004), § 59-20-60(7)(c) (2004), §59-30-10 (2004), and 20 U.S.C. § 6301 *et seq.* (2002)

Preamble:

The State Board of Education proposes amending Regulation 43-262 (Supp. 2003), Assessment Program. The proposed amendment is based on recommendations from the Offices of Exceptional Children and Assessment of the Department of Education in response to concerns from school and district administrators and parents regarding High School Assessment Program (HSAP) retesting for students with disabilities. The amendment updates the regulation to provide guidance to districts and schools.

Section-by-Section Discussion

Section II F(2) Addresses South Carolina High School Exit Examination

To remove text in F(2) that restricts involvement of the IEP team in scheduling HSAP retest opportunities.

Add text to allow Individualized Education Program (IEP) teams to annually determine further participation in the HSAP for any student with a disability who meets all the following conditions.

- a. The student failed to pass any part of HSAP during the initial administration, and
- b. the student has not earned any Carnegie units in the core curriculum, and
- c. the student is not enrolled in a course in the core curriculum required for high school graduation.

F(2) does not change the requirement for all students to take either the HSAP or HSAP-Alt during the second spring after initial enrollment in ninth grade.

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 amended regulation at a public hearing to be conducted by the State Board of Education on April 12, 2005, at 10:00 A.M., in the Basement Conference Room of the Rutledge Building, State Department of Education, 1429 Senate Street, Columbia, South Carolina. Persons desiring to make oral comments at the hearing may be asked to limit their statements to five minutes or less. If possible, persons are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Theresa Siskind at the South Carolina Department of Education, Office of Assessment, Room 607, Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201 on e-mail tsiskind@sde.state.sc.us. Comments must be received no later than 5:00 P.M. on March 28, 2005.

Preliminary Fiscal Impact Statement: There will be no fiscal impact.

Statement of Need and Reasonableness:

This amendment is needed to more appropriately address the needs of students with an IEP in regard to repeated retesting with the HSAP. The requirement for the automatic retesting of these students without the guidance of

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the IEP committee has been viewed by students, parents, and teachers as inappropriate and possibly detrimental to the student and the student's educational program.

DESCRIPTION OF REGULATION: R 43-262, Assessment Program

Purpose: The proposed amendment to R 43-262 is intended to strike the requirement for students with disabilities who are served with an Individualized Education Program (IEP) to retake the exit examination a specific number of times if all of the following conditions are met: a) the student has not passed any parts of the HSAP after initial participation, b) the student has not earned any Carnegie units in the core curriculum, and c) the student is not enrolled in any core curriculum courses required for high school graduation. The regulation as amended requires the IEP team to determine annually the student's participation in re-taking HSAP until such time as the student is enrolled in at least one course in the core curriculum required for high school graduation.

Legal Authority: S.C. Code Ann. § 59-5-60(1) (2004), § 59-18-310 (2004), § 59-18-320 (2004), § 59-18-330 (2004), § 59-18-340 (2004), § 59-20-60(7)(c) (2004), § 59-30-10 (2004), and 20 U.S.C. § 6301 *et seq.* (2002)

Plans for Implementation: The proposed amendments will be posted on the State Department of Education's Web site for review and comments. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*. The proposed amendments will be implemented by providing school district personnel with copies of the regulation.

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

The examination of the need and reasonableness of the proposed amendment involved extensive discussions between the staff of the Offices of Exceptional Children and Assessment of the State Department of Education and school district educators. The level of importance of this proposed change requires that the proposed amendment be considered in the most expedient manner

DETERMINATION OF COSTS AND BENEFITS: There will be no increase in cost as a result of this amendment.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of its costs and benefits estimate.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation does not have any 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 effects on the environment and public health if this regulation is not implemented.

Statement of Rationale:

A copy of the Statement of Rationale is available in the Office of Assessment, 1429 Senate Street, Rutledge Building, Room 607, Columbia, South Carolina 29201.

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. 2973
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF NURSING
CHAPTER 91

Statutory Authority: 1976 Code Sections 40-1-70

Preamble:

The Board of Nursing is proposing to repeal Regulations 91-1 through 91-18, and 91-20 through 91-22 as duplicative of statutory provisions included in the Nurse Practice Act (Act 225 of 2004) and, therefore, no longer necessary as regulations. Regulation 91-19 remains the same.

Section by Section Discussion:

Regulation 91-1 through Regulation 91-18. Repeal; included in 2004 Act 225

Regulation 91-19 Procedure for Disciplinary Hearings. Remains the same

Regulation 91-20 through Regulation 91-22. Repeal; included in 2004 Act 225.

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 a.m. on April 12, 2005. Written comments may be directed to Martha S. Bursinger, Administrator, Board of Nursing, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., March 28, 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 Nursing has determined that certain regulations need to be repealed in conformance with the Nurse Practice Act.

DESCRIPTION OF REGULATION:

Purpose: To repeal the unnecessary regulations in conformance with the Nurse Practice Act.

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

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 repealed in conformance with the Nurse Practice Act.

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 these regulations.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no detrimental effect on the environment.

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 the regulations are not implemented in this State.

Statement of Rationale:

Regulations 91-1 through 91-18, and 91-20 through 91-22 need to be repealed as duplicative of statutory provisions included in the Nurse Practice Act (Act 225 of 2004) and, therefore, no longer necessary as regulations. Regulation 91-19 remains the same.

Text:

Regulations 91-1 through 91-18 to be repealed

Regulation 91-19 remains the same

Regulations 91-20 through 91-22 to be repealed

Document No. 2969

DEPARTMENT OF NATURAL RESOURCES CHAPTER 123

Statutory Authority: 1976 Code Sections 50-3-100, 50-11-10 and 50-11-2200.

Preamble:

The South Carolina Department of Natural Resources is proposing to amend the existing regulations which sets seasons, bag limits and methods of hunting and taking of wildlife. The following is a summary of the proposed additions:

10.16 adds only those portions of Carr and Little Carr Creeks that are completely within the boundary of Samworth WMA to Category II waterfowl areas and designates the days open to hunting.

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 1000 Assembly Street on April 15, 2005, at 10:00 am in room 335, third floor, Rembert C. Dennis Building. Written comments may be directed to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Fiscal Impact Statement:

This amendment of Regulation 123-40 will result in improved public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Statement of Rational:

Rationale for the formulation of these regulations is based on over 60 years of experience by SCDNR in establishing public hunting areas. New areas are evaluated on location, size, current wildlife presence, access and recreation use potential. Contractual agreements with the landowners provides guidelines for the use and management of the property. Wildlife Management Area agreements are on file with the Wildlife Management Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined based on staff analysis pursuant to S.C. Code Sections 1-23-115(C) (1) through (3) and (9) through (11).

1. DESCRIPTION OF THE REGULATION:

Purpose: These regulations amend Chapter 123-40 in order to set seasons, bag limits and methods of hunting and taking of wildlife on additional Wildlife Management Areas.

Legal Authority: Under Sections 50-11-2200 and 50-11-2210 of the S.C. Code of Laws, the Department of Natural Resources has jurisdiction over all Wildlife Management Areas to establish open and closed seasons, bag limits, and methods of taking wildlife; special use restrictions related to hunting and methods for taking wildlife on Department-owned Wildlife Management Areas.

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

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

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs.

3. DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state or to the sporting community. There are no significant new costs imposed by the addition of new WMAs since the funding of leasing WMAs is provided through the existing WMA permit program. Clarification of existing regulations under appropriate authority will improve enforcement ability and therefore reduce staff time in handling prosecution of offenses. This amendment of Regulation 123-40 will result in improved public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

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9. UNCERTAINTIES OF ESTIMATES:

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

10. EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on public health. Environmental impacts will be positive since the proposed regulation will result in additional opportunity for outdoor recreation for South Carolina's sportsmen therefore and increased awareness and commitment for natural resources.

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

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

Summary of Preliminary Assessment Report:

The proposed regulation does not require an assessment report.

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. 2970
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-210, 50-3-100, 50-11-10, 50-11-65, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-430, 50-11-500, 50-11-520, 50-11-530, 50-11-854 and 50-11-2200.

Preamble:

The South Carolina Department of Natural Resources is proposing to amend the existing regulations which sets seasons, bag limits and methods of hunting and taking of wildlife. The following is a section by section summary of the proposed changes and additions:

- (A) Game Zone 1 – eliminates special permit requirement for archery hunters on Keowee WMA.
- (B) Game Zone 2 - eliminates special permit requirement for archery hunters on Fants Grove and Keowee WMAs.
- (F) Samworth WMA – establishes archery deer hunts and hog hunts.
- (G) Francis Marion National Forest – requires hunters to check deer taken during either-sex deer hunts with dogs by one hour after legal sunset and clarifies when hogs may be taken.
- (L) Santee Delta WMA – establishes archery deer hunts and hog hunts.
- (N) Bear Island WMA – establishes hog hunts with dogs.
- (R) Santee Coastal Reserve WMA – establishes a new 4-day archery and muzzleloader deer hunt and adds two weeks quail hunting.
- (U) Manchester State Forest WMA – eliminates overlap between quail and rabbit seasons on the Bland Tract quail area.

(VV) Bonneau Ferry WMA – clarifies youth restrictions and establishes quail and raccoon/ opossum seasons.
 3.3 adds new WMAs, Edisto and Bonneau Ferry to buckshot restriction.
 10.16 opens Hickory Top Greentree Reservoir waterfowl area.
 10.17 clarifies permit requirement on new waterfowl area.
 123-51 establishes a youth turkey season on Santee Coastal Reserve.

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 1000 Assembly Street on April 15, 2005, at 10:00 am in room 335, third floor, Rembert C. Dennis Building. Written comments may be directed to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Fiscal Impact Statement:

This amendment of Regulations 123-40 and 123-51 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Statement of Rational:

Rationale for the formulation of these regulations is based on over 60 years of experience by SCDNR in establishing public hunting areas. New areas are evaluated on location, size, current wildlife presence, access and recreation use potential. Contractual agreements with the landowners provides guidelines for the use and management of the property. Wildlife Management Area agreements are on file with the Wildlife Management Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined based on staff analysis pursuant to S.C. Code Sections 1-23-115(C) (1) through (3) and (9) through (11).

1. DESCRIPTION OF THE REGULATION:

Purpose: These regulations amend Chapter 123-40 and 123-51 in order to set seasons, bag limits and methods of hunting and taking of wildlife on existing and additional Wildlife Management Areas.

Legal Authority: Under Sections 50-11-2200 and 50-11-2210 of the S.C. Code of Laws, the Department of Natural Resources has jurisdiction over all Wildlife Management Areas to establish open and closed seasons, bag limits, and methods of taking wildlife; special use restrictions related to hunting and methods for taking wildlife on Department-owned Wildlife Management Areas.

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

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

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to

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establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs.

3. DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state or to the sporting community. There are no significant new costs imposed by the addition of new WMAs since the funding of leasing WMAs is provided through the existing WMA permit program. Clarification of existing regulations under appropriate authority will improve enforcement ability and therefore reduce staff time in handling prosecution of offenses. This amendment of Regulations 123-40 and 123-51 will result in increased public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

9. UNCERTAINTIES OF ESTIMATES:

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

10. EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on public health. Environmental impacts will be positive since the proposed regulation will result in additional opportunity for outdoor recreation for South Carolina's sportsmen therefore and increased awareness and commitment for natural resources.

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

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

Summary of Preliminary Assessment Report:

The proposed regulation does not require an assessment report.

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. 2972
DEPARTMENT OF PUBLIC SAFETY
 Chapter 38

Statutory Authority: 1976 Code Sections, Section 23-6-20 and 23-6-30

Preamble:

The Department proposes to amend regulations 38-390 et seq., relating to the transportation of unmanufactured forest products. The proposed amendments will revise the existing regulations to incorporate additional federal safety regulations. The language of existing regulations will also be revised and new language will be added. A Notice of Drafting for the Proposed Regulations was published in the State Register on November 29, 2004. A discussion of the proposed regulations and statement of need and reasonableness is contained herein.

Section by Section Discussion

38-382. All parts of this section have been upgraded to reflect changes in current federal motor carrier regulations dated December 2004.

38-390.3 (B)& (C) have been revised to reflect new wording

38-390.5 The definition of gross vehicle weight rating has been revised. Additional a definition of highway and a definition of previous employer have been added.

38-390.31 relating to copies of records and documents has been added.

38-391.13 relating to responsibility of drivers has been added.

38-391.15 relating to disqualification of drivers has been updated.

38-391.21 relating to application for employment has been added.

38-391.23 relating to investigations and inquiries has been added.

38-391.25 relating to annual inquiry and review of driving record has been added.

38-391.27 relating to record of violations has been added.

38-391.31 relating to road test has been added.

38-391.33 relating to equivalent of road test has been added.

38-391.53 relating to driver investigation history file.

38-392. There were no changes to this section.

38-393.5 Definitions were added for the following terms: "aggregate working limit", "Anchor point", "antilock brakes", "article of cargo", "blocking", "bracing", "dunnage", "frame vehicle", "hazard warning system", "longwood", "low chassis vehicle", "pulpwood trailer", "rail vehicle", "shortwood", "tiedown", "tractor-pole trailer" and "working load limit".

38-393.13 relating to retro-reflective sheeting and reflex reflectors, requirements for semi-trailers and trailers-matter of incorporated by reference have been updated to reflect additional references to include requirements for all trailers (semi or full).

38-393.52 relating to brake performance has been updated.

38-393.86 relating to rear impact guards and rear end protection has been updated to reflect new requirements for rear impact guards.

38-393.100, 39-393.102, 38-393.104, 38-393.106, relating to cargo securement and requirements has been updated with new requirements for cargo securement.

38-393.108 is a new regulation dealing with cargo securement and specific requirements for logs, lumber, and equipment for determining the working load limit of a tiedown.

38-393.110 is a new regulation dealing with cargo securement and specific requirements for logs, lumber, and equipment for how to determine the minimum number of tiedowns.

38-393.112 is a new regulation dealing with cargo securement and specific requirements for logs, lumber, and equipment for determining the specifications of tiedowns.

38-393.114 is a new regulation dealing with cargo securement and specific requirements for logs, lumber, and equipment for determining the requirements for front end structures that are used as part of a cargo securement.

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38-393.116 is a new regulation dealing with cargo securement and specific requirements for logs, lumber, and equipment for determining the requirements for rules for securing logs.

38-393.118 is a new regulation dealing with cargo securement and specific requirements for logs, lumber, and equipment for determining the rules for securing dressed lumber or similar building products.

38-393.128 is a new regulation dealing with cargo securement and specific requirements for logs, lumber, and equipment for determining the requirements for securing automobiles, light trucks and vans.

38-396.11 is a new section that relates to drivers vehicle inspection.

38-396.13 is a new section that relates to driver inspection.

Appendix A-Out of Service Criteria- This provisions of this section relating to brake adjustment limit long stroke has been revised and the provisions of this section relating to the codes for anchor point defects has been revised and provisions have been added relating to specific requirements for commodity type.

Preliminary Fiscal Impact

The Department anticipates no fiscal impact as a result of these regulations.

Notice of Public Hearing

The South Carolina Department of Public Safety will conduct a public hearing for the purpose of receiving oral comments, data, views or arguments on March 29, 2005 if requested in accordance with the provisions of Section 1-23-110 by twenty-five persons, by a governmental sub-division or agency, or by an association having not less than twenty-five members. Requests for a hearing must be in writing and received by the Department of Public Safety by 5:00 p.m. on March 28, 2005. The public hearing will be held at the Administrative Law Judge Court, 1205 Pendleton Street, Brown Building, Second Floor, Columbia, South Carolina 29201. Written comments will be accepted until 5:00 p.m., March 28, 2005. Please submit comments and hearing requests to Ms. Rachel Erwin, South Carolina Department of Public Safety, P.O. Box 1993, Blythewood, South Carolina 29016.

Statement of Need and Reasonableness

The statement of need and reasonableness of the regulation was determined based on staff analysis pursuant to S. C. Code Ann. Section 1-23-115 (C) (1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION:

Purpose: To enhance Highway Safety.

Authority: Section 23-6-20 and 23-6-30 allows the Department of Public Safety to promulgate regulations on this matter.

Plan for Implementing: The proposed amended regulation will be administered in the same manner as the existing regulations.

Statement of Rationale

No reports or studies were relied upon in the drafting of this regulation. These regulations were based upon federal regulations and were drafted with input from industry members.

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. 2873
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
 Chapter 61
 Statutory Authority: S.C. Code Sections 48-1-10 *et seq.*

R.61-62.1, *Definitions and General Requirements*

Synopsis:

The United States Environmental Protection Agency (EPA) promulgated a final rule referred to as the Consolidated Emissions Reporting Rule (CERR) in the *Federal Register* on June 10, 2002 [67 FR 39602]. Pursuant to its authority under section 110 of Title I of the Clean Air Act (CAA), EPA has long required State Implementation Plans (SIPs) to provide for the submission by states to EPA of emission inventories containing information regarding the emissions of criteria pollutants and their precursors.

The purpose of the CERR is to simplify emissions reporting, establish new reporting requirements for PM_{2.5} (fine particulate matter) and NH₃ (ammonia), and establish new requirements for the statewide reporting of area source and mobile source emissions.

R.61-62.1, *Definitions And General Requirements*, currently requires all facilities that are required to obtain a Title V permit from the Department to submit an emissions inventory every two years. The Department is revising these requirements in an effort to streamline the emissions inventory reporting process and to be consistent with the CERR. Accordingly, approximately 50 of the 354 current Title V sources (referred to as Type A sources) will be required to increase their emissions inventory reporting to an annual basis. However, the vast majority of new and existing Title V sources will realize a decrease in their reporting burden. The CERR requires approximately 80 of the 354 current Title V sources with fewer emissions (referred to as Type B sources) to report their emissions inventory every three years. This will reduce the reporting burden for these sources from every other year to every third year. For the remaining Title V sources, except those that emit significant hazardous air pollutants (HAPs), there will be an even greater decrease in the reporting burden. If these sources have submitted an initial inventory, no further reporting will be required. Those sources that emit significant HAPs will also realize a decrease in their reporting burden. Instead of submitting inventories every other year, they will be required to submit a summary of their HAP emissions every three years.

The Department has amended R.61-62.1, *Definitions and General Requirements*, to make the necessary revisions to be consistent with the new Federal emissions reporting requirements and to revise existing State specific requirements to streamline the reporting process.

Discussion of Revisions:

SECTION CITATION:	EXPLANATION OF CHANGE
Section III	The entire section has been revised to incorporate the requirements of the CERR and to streamline the existing regulation.

Instructions: Replace R.61-62.1 with this amendment.

Text of amendment:

R.61-62.1, Section III has been amended in its entirety to read:

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

REGULATION NUMBER 62.1

DEFINITIONS AND GENERAL REQUIREMENTS

SECTION III - EMISSIONS INVENTORY

A. General

Emissions inventory is a study or compilation of pollutant emissions. The purposes of emissions inventories are to locate air pollution sources, to define the type and size of sources, to define the type and amount of emissions from each source, to determine pollutant frequency and duration, to determine the relative contributions to air pollution from classes of sources and of individual sources, to provide a basis for air permit fees, and to determine the adequacy of regulations and standards.

B. Applicability

The provisions of this Section shall apply to all stationary sources:

1. that are required to obtain a Title V permit as issued by the Department; or,
2. that are located in a non-attainment area and required to have an air quality permit; or,
3. that are major sources of hazardous air pollutants (HAP) as defined by Section 112(b) of the Clean Air Act Amendments of 1990 (42 U.S.C. 7412(b)(1)):
 - a. whose potential emissions of a single HAP is equal to or greater than 10 tpy (tons per year); or,
 - b. whose potential emissions of a combination of HAPs is equal to or greater than 25 tpy.

C. Emissions Inventory Reporting Requirements

1. Reporting frequencies for Type A, Type B, and Non-Attainment Area (NAA) Sources

a. Type A Sources - Title V sources with actual annual emissions greater than or equal to any of the emission thresholds listed for Type A Sources in Table 1 of this Section. Beginning with the effective date of this regulation, these sources will submit an emissions inventory with the exception of toxic air pollutants (TAP), as defined in S.C. Regulation 61-62.5 Standard 8, *Toxic Air Pollutants*, and HAP data by March 31 of every year for the previous calendar year. Beginning in 2006, these sources will submit TAP and HAP data with their annual emissions inventory every third year for the previous calendar year (the three year cycle for HAP and TAP emissions inventories is a March 31, 2006 submittal for 2005 data, a March 31, 2009 submittal for 2008 data, a March 31, 2012 submittal for 2011 data, etc.).

b. Type B Sources - Title V sources with actual annual emissions during any year of the three year cycle greater than or equal to any of the emission thresholds listed for Type B Sources in Table 1 of this Section. Beginning in 2006, these sources will submit emissions inventories every 3 years for the previous calendar year (The three year cycle for emissions inventories is a March 31, 2006 submittal for 2005 data, a March 31, 2009 submittal for 2008 data, a March 31, 2012 submittal for 2011 data, etc.).

c. NAA Sources - Sources located in a non-attainment area with actual annual emissions during any year of the three year cycle greater than or equal to any of the emission thresholds listed for NAA Sources in Table 1 of this Section. Beginning in 2006, these sources that are not also Type A Sources will submit emissions inventories every 3 years for the previous calendar year (The three year cycle for emissions inventories is a March 31, 2006 submittal for 2005 data, a March 31, 2009 submittal for 2008 data, a March 31, 2012 submittal for 2011 data, etc.).

Table 1 - Minimum Point Source Reporting Thresholds by Pollutant (tpy ¹)			
Pollutant	Annual cycle	Three-year cycle	
	Type A Sources ²	Type B Sources ²	NAA ³ Sources
SO _x	≥2500	≥100	≥100
VOC	≥250	≥100	≥100 (moderate O ₃ NAA)
			≥50 (serious O ₃ NAA)
			≥25 (severe O ₃ NAA)
			≥10 (extreme O ₃ NAA)
NO _x	≥2500	≥100	≥100 (all O ₃ NAA)
CO	≥2500	≥1000	≥100 (all O ₃ NAA)
			≥100 (all CO NAA)
Pb		≥5	≥5
PM ₁₀	≥250	≥100	≥100 (moderate PM ₁₀ NAA)
			≥70 (serious PM ₁₀ NAA)
PM _{2.5}	≥250	≥100	≥100
NH ₃	≥250	≥100	≥100

¹ tpy = tons per year of actual emissions.
² Type A Sources are a subset of the Type B Sources and are the larger emitting sources by pollutant.
³ NAA = Non-Attainment Area. Special point source reporting thresholds apply for certain pollutants by type of non-attainment area. The pollutants by non-attainment area are:
 Ozone: VOC, NO_x, CO;
 Carbon Monoxide: CO;
 Particulate matter less than 10 microns: PM₁₀.

Table 1 is incorporated into this Section as originally published in the Federal Register (67 FR 39602).

2. Reporting frequencies for all affected sources that do not meet the reporting thresholds listed in Table 1 of this Section.

a. Title V sources that do not meet any of the reporting thresholds for Type B Sources listed in Table 1 of this Section - Beginning with the effective date of this regulation, these sources will review their emissions inventories annually as described in paragraph C(3)(d) of this Section.

b. Sources that hold an air quality permit from the Department and are located in a non-attainment area that do not meet any of the applicable reporting thresholds for NAA Sources listed in Table 1 of this Section - Beginning with the effective date of this regulation, these sources will review their emissions inventories annually as described in paragraph C(3)(d) of this Section.

c. Major HAP Sources - Beginning in 2006, those Major HAP Sources, as defined by Section 112(b) of the Clean Air Act Amendments of 1990 (42 U.S.C. 7412(b)(1)), who are not already submitting emissions inventories as Type A, Type B or NAA Sources will submit HAP emissions summaries every 3 years for the previous calendar year (The three year cycle for HAP emissions summaries is a 2006 submittal for 2005 data, a 2009

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submittal for 2008 data, a 2012 submittal for 2011 data, etc.). HAP emissions summaries shall be submitted to the Department by March 31 following the year of emissions and are not considered emissions inventories. Information required in a HAP emission summary will include, but is not limited to the following:

- i. A summary sheet showing the source wide emissions of each HAP emitted in excess of 200 lbs/yr;
- ii. Calculations for each HAP emitted in excess of 200 lbs/yr source wide.

3. Other Requirements

a. Unless otherwise indicated, all emissions inventories shall be submitted to the Department by March 31 following the year of inventory. All applicable information will be recorded on the current form for reporting emissions data as provided by the Department. Emission estimates will be made for all regulated air pollutants including but not limited to HAPs and TAPs as discussed in the instructions to the current form for reporting emissions data except as provided in paragraph C(1)(a) of this Section.

b. All newly permitted and constructed Title V sources and/or NAA Sources will complete and submit to the Department an initial emissions inventory following the first full calendar year of operation. These sources shall then submit future emissions inventories on the schedule as described in paragraphs C(1) and C(2) of this Section.

c. Any existing sources that are newly identified as Title V sources and/or NAA Sources will complete and submit to the Department an emissions inventory for the previous calendar year within 90 days of learning of applicability. These sources shall then submit future emissions inventories on the schedule as described in paragraphs C(1) and C(2) of this Section.

d. Except Type A Sources, the emissions inventory for all Title V sources and all sources located in a non-attainment area that are required to have an air quality permit shall be reviewed by the source annually to ensure that source reporting thresholds found in Table 1 of this Section have not been exceeded. A source shall complete and submit to the Department an emissions inventory for the previous calendar year, if as a result of this review it determines that,

i. it has changed from a Type B or NAA Source to a Type A Source, or

ii. its past emissions were less than Type B or NAA Source reporting thresholds and has increased to Type A, Type B, or NAA Source reporting thresholds. These sources shall then submit future emissions inventories on the schedule as described in paragraphs C(1) and C(2) of this Section.

e. Submittal of emissions inventories outside of the schedules in this Section will be accepted and reviewed only if a modification has occurred that required issuance of an air quality permit since the last emissions inventory submittal by the source. This modification must alter the quantity or character of the sources emissions. These sources may submit a new emissions inventory following the first full calendar year of operation after the modification. These sources shall then submit future emissions inventories on the schedule described in paragraphs C(1) and C(2) of this Section.

f. Information required in an emissions inventory submittal to the Department will include, but is not limited to, the following:

- i. Information on fuel burning equipment;
- ii. Types and quantities of fuel used;
- iii. Fuel analysis;
- iv. Exhaust parameters;
- v. Control equipment information;
- vi. Raw process materials and quantities used;
- vii. Design, normal, and actual process rates;

- viii. Hours of operation;
- ix. Significant emission generating points or processes as discussed on the current form for reporting emissions data as provided by the Department;
- x. Any desired information listed in 40 CFR 51, Subpart A (June 10, 2002) that is requested by the Department.

g. A source may submit a written request to the Department for approval of an alternate method for estimating emissions outside of those methods prescribed by the Department. Such requests will be reviewed by the Department's emissions inventory staff on a case-by-case basis to determine if the alternate method better characterizes actual emissions for the reporting period than the Department's prescribed methods.

h. Emission estimates from insignificant activities listed on a source's permit shall be required only in the initial emissions inventory submitted by the source. If emissions from these insignificant activities have not been included in a past emissions inventory submitted to the Department, the source shall include these emissions in their next required emissions inventory submittal.

i. The requirements of this Section notwithstanding, an emissions inventory may be required from any source at any time. Copies of all records and reports relating to emissions inventories as required in this Section shall be retained by the owner/operator at the source for a minimum of five years.

Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

Purpose: This amendment will amend R.61-62.1, *Definitions and General Requirements*, to make the necessary revisions to be consistent with the new Federal emissions reporting requirements. In addition, the Department is proposing to revise existing State specific requirements to streamline the reporting process.

Legal Authority: The legal authority for R.61-62 is Sections 48-1-10 et seq., S.C. Code of Laws.

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

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

The United States Environmental Protection Agency (EPA) promulgated a final rule referred to as the Consolidated Emissions Reporting Rule (CERR) in the *Federal Register* on June 10, 2002 [67 FR 39602]. Pursuant to its authority under section 110 of Title I of the Clean Air Act (CAA), EPA has long required State Implementation Plans (SIPs) to provide for the submission by states to EPA of emission inventories containing information regarding the emissions of criteria pollutants and their precursors.

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The purpose of the CERR is to simplify emissions reporting, establish new reporting requirements for PM_{2.5} (fine particulate matter) and NH₃ (ammonia), and establish new requirements for the statewide reporting of area source and mobile source emissions.

R.61-62.1, *Definitions And General Requirements*, currently requires all facilities that are required to obtain a Title V permit from the Department to submit an emissions inventory every two years. The Department is revising these requirements in an effort to streamline the emissions inventory reporting process and to be consistent with the CERR. Accordingly, approximately 50 of the 354 current Title V sources (referred to as Type A sources) will be required to change their emissions inventory reporting to an annual basis. However, the vast majority of new and existing Title V sources will realize a decrease in their reporting burden. The CERR requires approximately 80 of the 354 current Title V sources with fewer emissions (referred to as Type B sources) to report their emissions inventory every three years. This will reduce the reporting burden for these sources from every other year to every third year. For the remaining Title V sources, except those that emit significant hazardous air pollutants (HAPs), there will be an even greater decrease in the reporting burden. If these sources have submitted an initial inventory, no further reporting will be required. Those sources that emit significant HAPs will also realize a decrease in their reporting burden. Instead of submitting inventories every other year, they will be required to submit a summary of their HAP emissions every three years.

The Department believes that this approach is necessary and reasonable because staff currently spends a great deal of time processing emissions inventories from smaller sources that have fewer pollutants. This streamlined approach will allow staff to focus their efforts on the larger facilities which emit the greatest amount of criteria pollutants and their precursors.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions resulting from this revision. The revision will allow the Department to streamline the emissions reporting process by focusing its efforts on large facilities that have the greatest impact on the inventory. This will result in a more efficient use of staff time and will allow staff more time to work on other emissions inventories like mobile sources. In addition, most of the regulated community will realize a decrease in their reporting burden.

Currently, the Department collects emissions inventories every other year from about 354 sources. The CERR will require sources with the greatest emissions to change the frequency of their reporting from every other year to annually. However, the majority of sources will realize a decrease in their reporting burden. The EPA has provided the estimated costs and benefits in the *Federal Register* notices that are cited in this regulation.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions. Refer to the above paragraph for cost estimates for the regulated community.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

By implementing this rule, the Department will be able to more efficiently and effectively track emissions of criteria air pollutants and their precursors from large facilities in South Carolina and, thereby, more effectively protect public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: none.

Statement of Rationale:

This revision will streamline the emissions reporting process by enabling Department staff to make better use of their time. No new scientific studies or information precipitated the development of the revision. The bulk of this revision is being made to comply with the Federal mandate. This revision will change the reporting requirements for all facilities that are required to obtain a Title V permit issued by the Department. The Title V sources with the greatest emissions will realize a change in their reporting burden from every other year to reporting on an annual basis. Also, they will be required to report additional pollutants. However, the majority of Title V sources will realize a decrease in their reporting burden. Some will only be required to report their emissions inventories every three years and still others will only be required to report an initial emissions inventory.

Document No. 2753
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

Synopsis:

The Commission on Higher Education proposes to add in its entirety R.62-900.1-70 for the Legislative Incentives for Future Excellence (LIFE) Scholarship Program. The LIFE Scholarship Program was established under Act 418 in 1998 and amended by the S.C. Education Lottery Act during the 2002 legislative session to authorize funding for scholarships up to the cost-of-tuition, not to exceed four thousand seven hundred dollars, plus a three hundred dollar book allowance (maximum \$5,000 including cost-of-tuition plus book allowance) for students attending a four-year public institution. Eligible students attending a four-year independent institution may receive funding to cover the cost-of-attendance up to a maximum of the average annual cost-of-tuition at the state's four-year public institutions, not to exceed four thousand seven hundred dollars, plus a three hundred dollar book allowance (maximum \$5,000 including cost-of-tuition plus book allowance). Two-year public or technical colleges may award up to the cost-of-tuition plus a three hundred dollar book allowance. The two-year independent institution may award the maximum cost-of-tuition at the two-year USC regional institutions plus a three hundred dollar book allowance. The Commission on Higher Education shall develop the LIFE Scholarship Program in order to increase access to higher education, improve the employability of South Carolina students so as to attract business to the State, provide incentives for students to be better prepared for college, and to encourage students to graduate from college on time. The law authorizes the Commission on Higher Education to promulgate regulation to administer and set forth the terms of the LIFE Scholarship Program.

Instructions: Add new 62-900.1 through 62-900.70, Legislative Incentives for Future Excellence (LIFE) Scholarship Program, to Chapter 62 regulations.

Text:

Table of Contents:

62-900.1	Purpose of the LIFE Scholarship Program
62-900.5	Program Definitions
62-900.10	Student Eligibility
62-900.15	Continued Eligibility
62-900.20	Terms of Eligibility
62-900.25	Regaining or Earning Eligibility
62-900.30	Transfer Students
62-900.35	Students with Disabilities

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- 62-900.40 Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, and National and International Student Exchange Programs
- 62-900.45 Refunds and Repayments
- 62-900.50 Appeals Procedures
- 62-900.55 Institutional Policies and Procedures for Awarding
- 62-900.60 Institutional Disbursements
- 62-900.65 Program Administration and Audits
- 62-900.70 Suspension and Termination of Institutional Participation

62-900.1 Purpose of the LIFE Scholarship Program

Act 418, Legislative Incentives for Future Excellence (LIFE) Scholarship Program, was approved by the General Assembly during the 1998 legislative session and signed into law on June 19, 1998. The Act authorizes the Commission on Higher Education to promulgate regulation for administration of the LIFE Scholarship program. The General Assembly established the LIFE Scholarship program in order to increase the access to higher education, improve the employability of South Carolina's students so as to attract business to the State, provide incentives for students to be better prepared for college, and to encourage students to graduate from college on time.

62-900.5 Program Definitions

A. "Academic year" is defined as the twelve-month period during which a full-time student is expected to earn thirty credit hours. The period of time used to measure the academic year will consist of a fall, spring and summer term (or its equivalent).

B. An "approved five-year baccalaureate degree program" shall mean a five-year baccalaureate program approved by the Commission on Higher Education to receive the LIFE Scholarship for ten terms.

C. "Associate degree program" is defined as a two-year technical or occupational program, or a two-year program that is acceptable for full credit towards a baccalaureate degree as defined by the U.S. Department of Education for participation in Federally funded financial aid programs.

D. "Baccalaureate degree program" is defined as an undergraduate program of study leading to a bachelor's degree as defined by the U.S. Department of Education for participation in Federally funded financial aid programs.

E. "Book allowance" shall mean funds that may be applied to the student's account for expenses towards the cost-of-attendance including the cost of textbooks.

F. "Cost-of-attendance" as established by Title IV Regulations may include tuition, fees, living expenses, and other expenses such as costs related to disability or dependent care.

G. "Cost-of-tuition" shall mean the amount charged for registering for credit hours of instruction and mandatory fees assessed to all students. Other fees, charges, or cost of textbooks cannot be included.

H. "Degree-seeking student" is defined as any full-time student enrolled in an eligible institution which leads to the first one-year certificate, first two-year program or associate's degree, or first baccalaureate or program of study that is structured so as not to require a baccalaureate degree for acceptance into the program and leads to a graduate degree. Upon completion of the first one-year certificate, first two-year program or associate's degree, or first baccalaureate or program of study that is structured so as not to require a baccalaureate degree for acceptance

into the program and leads to a graduate degree. The student cannot use scholarship funds to pursue a program in the same or preceding level.

I. “Eligible institution” shall be defined as a public or independent institution.

J. “Eligible program of study” is defined as a program of study leading to: 1) at least a one-year educational program that leads to a first certificate or other recognized educational credential (e.g., diploma); 2) the first associate’s degree; 3) at least a two-year program that is acceptable for full credit towards a baccalaureate degree; 4) first baccalaureate degree; or 5) program of study that is structured so as not to require a baccalaureate degree for acceptance into the program and leads to a graduate degree.

K. “Full-time student” shall mean a student who has matriculated into an eligible program of study and who enrolls full-time, usually fifteen credit hours for fall and spring terms or twelve credit hours for fall, eight credit hours for winter, and twelve credit hours for spring trimester terms. The student must earn an average of thirty credit hours per academic year to receive a LIFE Scholarship. In order for the student to be eligible for scholarship disbursement, the student must be enrolled full-time as stipulated by Title IV Regulations, except that credit hours may not include remedial coursework.

L. “General Educational Development (GED) diploma” is defined as a GED that was completed in South Carolina or outside of the state while the student was a dependent of a legal resident of South Carolina who had custody or paid child support and college expenses of the dependent GED student. A student who earns a GED cannot receive a LIFE Scholarship during his/her initial year (or equivalent) of college enrollment.

M. “High school” is defined as a high school located in South Carolina, an approved home-school program as defined in the State Statute, Sections 59-65-40, 45, and 47, or a preparatory high school located outside of the state while the student is a dependent of a legal resident of South Carolina who has custody or pays child support and college expenses of the dependent high school student. A "preparatory high school" (out-of-state) is defined as a school recognized by the state in which the school is located to offer curricula through the twelfth grade and prepares students for college entrance.

N. "Independent institutions" are those institutions eligible to participate in the South Carolina Tuition Grants Program as defined in Chapter 113 of Title 59 of the 1976 Code, which stipulates that an “independent institution of higher learning means any independent eleemosynary junior or senior college chartered before 1962 whose major campus and headquarters are located within South Carolina; or an independent bachelor’s level institution which has attained 501(c)(3) tax status and is accredited by the Southern Association of Colleges and Secondary Schools or the New England Association of Colleges and Schools.” Institutions whose sole purpose is religious or theological training, or the granting of professional degrees do not meet the definition of ‘independent institution’ for purposes of this chapter.

O. “Initial college enrollment” shall mean the first time the student matriculates into a post-secondary educational institution after high school graduation or completion of an approved home school program.

P. An “offense” shall mean a violation of any law or rule in any State or Federal criminal justice system.

Q. A “one-year educational program” is defined as an undergraduate program of study leading to other recognized credentials (e.g., certificates or diplomas), as defined by the U.S. Department of Education for participation in federally funded financial aid programs and which prepares students for gainful employment in recognized occupations.

R. “Program of study that is structured so as not to require a baccalaureate degree for acceptance into the program and leads to a graduate degree”, which will be the student’s first academic degree awarded. Students are eligible to receive the scholarship for a maximum of eight terms (or its equivalent) as long as all other eligibility

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requirements are met. Students who have been awarded a baccalaureate or graduate degree are not eligible for scholarship funding.

S. "Public institutions" are institutions of higher learning as defined in Chapter 103 of Title 59 of the 1976 Code, which stipulates "public higher education shall mean any state-supported post-secondary educational institution and shall include technical and comprehensive educational institutions."

T. "Remedial coursework" shall mean sub-collegiate level preparatory courses in English, mathematics, and reading.

U. "South Carolina resident" shall be defined as an individual who satisfies the requirements of residency in accordance with the State of South Carolina State Statute for Tuition and Fees, Section 59-112-10 and all related guidelines and regulations promulgated by the Commission on Higher Education as established by the institutional residency officer each academic year.

V. "Transfer student" shall be defined as a student who has changed enrollment from one institution to an eligible institution.

62-900.10 Student Eligibility

A. To be eligible for a LIFE Scholarship, students must:

1. Be a U.S. citizen or a permanent resident that meets the definition of an eligible non-citizen under State Residency Statute;

2. Be a South Carolina resident for in-state purposes at the time of enrollment at the institution, as set forth by Section 59-112-10 and graduated from a high school according to State Statute, Section 59-149-50A;

3. First-time entering freshman at four-year eligible institutions must meet two of the following three criteria:

a. Earn a 3.0 cumulative grade point average (GPA) on a 4.0 scale. Grade point averages must be reported to two decimal places (minimum) and may not be rounded. For example, a student who earns a 2.99 GPA is not eligible. A student who earns a 3.00 GPA or above is eligible. Until 2004, students may qualify for the LIFE Scholarship using the Uniform Grading Scale (UGS) or the grade point calculation policy approved by the school district. Institutions shall use the final GPA as reported by the high school. If a weighted GPA is provided, the institution shall use the high school's weighted GPA based upon the approved policies of the school district in determining whether the student meets the "B" average. The high school must specify which grading scale was used. If more than one grade point average is reported on the final official transcript, the institution may use the grading scale that would be to the student's advantage. Only one system can be used to determine GPA and class rank for each student. For example, a high school cannot report the UGS grade point ratio (GPR) and then report the rank using the school district's approved policy for ranking. Beginning with students graduating in 2004, scholarship eligibility will be based upon the UGS only. No other grading policy will be allowed to qualify for a State scholarship.

b. Score at least an 1100 on the Scholastic Assessment Test (SAT) or an equivalent ACT score of 24. Test scores will be accepted through the June national test administration of the SAT and ACT during the year of high school graduation. It is permissible to select an SAT verbal score and math score from different test administrations.

c. Rank in the top thirty percent of the graduating class. Ranking percentages must be reported to two decimal places (minimum) and may not be rounded. For example, a student who has a class rank of 13 of 43 ($13/43 \times 100 = 30.23\%$) will not rank in the top thirty percent of the class since 30.23% is not within thirty percent. Until 2004, the institution shall use the class rank based on the approved policies of the high school or

the UGS in determining whether the student ranks within the top thirty percent of their graduating class. If more than one rank is reported by the high school on the final official transcript, the institution must use the same system used to determine GPA eligibility. Only one system can be used to determine GPA and class rank for each student. Beginning with students graduating in 2004, the rank must be based upon the UGS only. To determine the top thirty percent for approved home schools and high schools who have three or less students in the graduating class, the student who is ranked number one in the class would be considered in the top thirty percent for LIFE Scholarship eligibility.

4. For first-time entering freshmen at eligible two-year or technical institutions, students must earn a 3.0 cumulative grade point average (GPA) on a 4.0 scale. Grade point averages must be reported to two decimal places (minimum) and may not be rounded. For example, a student who earns a 2.99 GPA is not eligible. A student who earns a 3.00 GPA or above is eligible. Until 2004, students may qualify for the LIFE Scholarship using the Uniform Grading Scale (UGS) or the grade point calculation policy approved by the school district. Institutions shall use the final GPA as reported by the high school. If a weighted GPA is provided, the institution shall use the high school's weighted GPA based upon the approved policies of the school district in determining whether the student meets the "B" average. The high school must specify which grading scale was used. If more than one grade point average is reported on the final official transcript, the institution may use the grading scale that would be to the student's advantage. Only one system can be used to determine GPA and class rank for each student. For example, a high school cannot report the UGS grade point ratio (GPR) and then report the rank using the school district's approved policy for ranking. Beginning with students graduating in 2004, scholarship eligibility will be based upon the UGS only. No other grading policy will be allowed to qualify for a State scholarship.

5. Be admitted, enrolled full-time, and classified as a degree-seeking student in an eligible institution in South Carolina;

6. Certify that he/she has not been adjudicated delinquent, convicted, or pled guilty or nolo contendere to any felonies, alcohol or other drug related offenses under the laws of this or any other state or under the laws of the United States by submitting a signed affidavit each academic year to the institution testifying to the fact, except that a high school or college student who has been adjudicated delinquent, convicted, or pled guilty or nolo contendere of an alcohol or other drug related misdemeanor offense is only ineligible for the next academic year of eligibility after the date of the adjudication, conviction or plea; and

7. Certify that he/she has not defaulted and does not owe a refund or repayment on any Federal or State financial aid. If a student has an Institutional Student Information Record (ISIR) or its equivalent on file, the ISIR information will be used to verify default status or refund/repayment owed on any Federal or State financial aid. Students who have not completed a Free Application for Federal Student Aid (FAFSA) form must have an affidavit on file to verify that he/she is not in default and does not owe a refund or repayment on any Federal or State financial aid including, a State Grant, Federal Pell Grant, Supplemental Educational Opportunity Grant, Perkins Loan and Federal Stafford Loan.

B. Any credit hours attempted or earned before high school graduation, hours exempted by examination, or Advanced Placement (AP) credit hours do not count against the terms of eligibility as provided in State Statute, Section 59-149-60. The credit hours earned before high school graduation can be used toward the credit hour requirement. Credit hours earned through the College Level Examination Program (CLEP) or AP and accepted by the institution can be used toward the credit hour requirement.

C. First-time entering freshman will not be penalized for any credit hours earned during the summer session immediately prior to the student's initial college enrollment. The credit hours earned will not count against the terms of eligibility, but may be used toward the credit hour requirement.

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D. Students who complete their high school graduation requirements prior to the official graduation date reported on the final high school transcript may be eligible to receive the LIFE Scholarship dependent on the approval of the Commission on Higher Education (CHE). The institutional representative must complete and submit an Early Graduation Application Form and all appropriate documentation as deemed necessary by CHE for each student. The student must also request and submit a letter from the high school principal verifying that he/she has met all graduation requirements.

E. Early graduates who enroll mid-year (spring term) and are classified as degree-seeking will officially begin their initial college enrollment. In order to receive the LIFE Scholarship the next academic year, the student must earn a minimum of fifteen credit hours and a 3.0 cumulative grade point average on a 4.0 scale consistent with the policies and procedures of the institution for graduation purposes at the end of the academic year. The student will be eligible to receive the maximum number of terms of eligibility based on initial college enrollment.

F. LIFE Scholarship funds may not be applied to the costs of continuing education or remedial courses as stated in State Statute Section 59-149-110B. Twelve hours of the course-load must be non-remedial or noncontinuing education courses in order to receive LIFE Scholarship funds. Remedial and continuing education courses will not be included in the cumulative grade point average or credit hour calculations.

G. First-time entering freshmen attending eligible two-year or technical colleges who enroll in remedial courses during the first term(s) will not be eligible for scholarship funds during this term(s) unless the student is enrolled in at least twelve hours of non-remedial courses. Credit hours earned during the term(s) of remedial enrollment will not be used to determine remaining scholarship eligibility at the completion of remediation unless the student has completed at least twelve hours of non-remedial course work each term of enrollment. The student will be eligible for the scholarship for the term following completion of remediation if the student was eligible to receive the LIFE Scholarship upon high school graduation.

H. The terms of eligibility to receive the LIFE Scholarship shall not include the period of time the student is enrolled in remedial courses, as in Section G above. Students who were eligible for the LIFE Scholarship based on high school record but required more than one academic year of remedial course work will not be eligible for the LIFE Scholarship the term after completion of remediation. To gain eligibility, these students must meet the conditions set forth in Section I below.

I. Students who do not meet the scholarship eligibility requirements upon high school graduation and enroll in remedial courses during the first year must meet the scholarship requirements for eligibility (earn a minimum 3.0 cumulative grade point average on a 4.0 scale and earn an average of thirty credit hours for the academic year) at the end of the first year of enrollment in non-remedial courses to be eligible to receive the scholarship for the second year.

J. Students who are eligible for or are recipients of a LIFE Scholarship cannot receive a Palmetto Fellows Scholarship, SC HOPE Scholarship or Lottery Tuition Assistance.

K. Students who have already been awarded their first baccalaureate degree, graduate degree or program of study that is structured so as not to require a baccalaureate degree for acceptance into the program and leads to a graduate degree are not eligible to receive the LIFE Scholarship.

L. All documents required for determining LIFE Scholarship eligibility must be submitted to the institution by their established deadline(s).

62-900.15 Continued Eligibility

A. In order to renew eligibility for the LIFE Scholarship Program, the student must:

1. Meet all eligibility requirements as stated in the "Student Eligibility" Section;

2. Earn and maintain at least a cumulative 3.0 grade point average on a 4.0 scale by the end of the academic year consistent with the policies and procedures of the institution for graduation purposes; and
3. Earn an average of thirty credit hours (or its equivalent) by the end of each academic year consistent with the policies and procedures of the institution for graduation purposes.

B. Students who meet the continued eligibility requirements by the end of the spring term and who enroll in a summer session(s) will not be eligible to receive the LIFE scholarship if their cumulative grade point average falls below a 3.0 at the end of the summer session.

62-900.20 Terms of Eligibility

A. Students may receive a LIFE Scholarship for a maximum of two terms for a one-year certificate or diploma program, four terms for an associate’s degree program or a two-year program that is acceptable for full credit towards a baccalaureate degree, eight terms (or its equivalent) towards the first baccalaureate or program of study that is structured so as not to require a baccalaureate degree for acceptance into the program and leads to a graduate degree program or ten terms towards an approved five-year baccalaureate degree program.

B. The maximum number of terms of eligibility is based on the student’s initial college enrollment with the exception of credit hours earned during the summer session immediately prior to the student’s initial college enrollment and remedial coursework taken during the first academic year.

C. If a student pursues the following program, the terms of eligibility and credit hours are required for renewal:

<u>Degree/Program:</u>	Terms of Eligibility	*Total Minimum Credit Hours for Renewal
One-year Certificate/ Diploma Program	2	30
Two-year Program	4	30/60
Associate’s Degree Program	4	30/60
Baccalaureate Degree Program	8	30/60/90
Approved Five-year Baccalaureate Degree Program	10	120
<u>Baccalaureate Degree Program:</u>		
Freshman	8	30
Sophomore	6	60
Junior	4	90
Senior	2	N/A
<u>Approved Five-year Baccalaureate Degree Program:</u>		
Freshman	8	30
Sophomore	6	60
Junior	4	90
Senior	2	120
Fifth year	10	N/A

*(State Statute 59-149-110B) Any credit hours attempted or earned before high school graduation, hours exempted by examination, or advanced placement credit hours do not count against the terms of eligibility as provided in State Statute Section 59-149-60. The credit hours earned before high school graduation can be used toward the credit hour requirement. Credit hours earned through the College Level Examination Program (CLEP) and accepted by the institution can be used toward the credit hour requirement.

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D. For the purpose of the scholarship program:

- (1) The institution where the student is transferring to will determine the classification of the entering student.
- (2) Students will be classified according to the minimum credit hours and 3.0 GPA on the above chart based on initial college enrollment.
- (3) Students who received scholarship funds and complete a one-year certificate or diploma program will have two terms remaining to pursue a two-year program.
- (4) Students who receive scholarship funds and complete a one-year certificate or diploma program and enter a four-year college in a baccalaureate program will have six terms of eligibility remaining if they meet the eligibility requirements. In an approved five-year baccalaureate degree program, a student will have eight terms of eligibility remaining if they meet the eligibility requirements.
- (5) Students who receive scholarship funds for a two-year program or associate's degree program and enter a four-year institution in a baccalaureate program will have four terms of eligibility remaining if they meet the eligibility requirements. In an approved five-year baccalaureate degree program, students will have six terms of eligibility remaining if they meet eligibility requirements.

62-900.25 Regaining or Earning Eligibility

A. Students who were not initially eligible or failed to meet the continued eligibility requirements may earn or regain eligibility, if they:

1. Meet all eligibility requirements as stated in the "Student Eligibility" Section;
2. Earn and maintain at least a cumulative 3.0 grade point average on a 4.0 scale consistent with the policies and procedures of the institution for graduation purposes;
3. Earn an average of thirty credit hours by the end of the academic year consistent with the policies and procedures of the institution for graduation purposes:
 - (a) earn a minimum of 30 (or the equivalent) credit hours if a rising sophomore; or
 - (b) earn a minimum of 60 (or the equivalent) credit hours if a rising junior; or
 - (c) earn a minimum of 90 (or the equivalent) credit hours if a rising senior; or
 - (d) earn a minimum of 120 (or its equivalent) credit hours if entering the fifth year of an approved five-year baccalaureate degree program.

B. A student who has earned a GED diploma may be eligible to earn the LIFE Scholarship at the end of the first academic year based on the student's initial college enrollment. The student must earn a minimum of thirty credit hours (or equivalent) and a cumulative 3.0 grade point average on a 4.0 scale consistent with the policies and procedures of the institution for graduation purposes at the end of the first academic year and must meet all other eligibility requirements as stated in A above.

C. Students who enrolled mid-year (spring term) may be eligible to receive the LIFE Scholarship the next academic year, if the student earned a minimum of fifteen credit hours and a 3.0 cumulative grade point average on a 4.0 scale consistent with the policies and procedures of the institution for graduation purposes at the end of the academic year. The student will be eligible to receive the maximum number of terms of eligibility based on initial college enrollment.

62-900.30 Transfer Students

A. Transfer students must comply with all student and continued eligibility requirements as defined in the "Student Eligibility, Continued Eligibility, or Regaining or Earning Eligibility" Sections, including the cumulative 3.0 grade point average requirement on a 4.0 scale.

B. Students transferring from one institution to an eligible institution who may be eligible to receive a LIFE Scholarship must submit an official transcript(s) from the transferring institution(s), which provides evidence of current credit hours earned and cumulative grade point average. For students transferring from an institution out-of-state, you must meet the eligibility requirements as stated in the “Student Eligibility” and “Regaining or Earning Eligibility” Sections.

C. Students who transfer mid-year from one institution to an eligible institution may be eligible to receive the LIFE Scholarship. The student must submit an official document from the transferring institution to verify that he/she met the eligibility requirements at the beginning of the academic year prior to transfer. The scholarship amount for the spring term must comply with the award amount specified in the “Institutional Disbursements” Section.

D. For determining initial eligibility for the first time at an institution, transfer students must have:

1. earned a cumulative 3.0 grade point average on a 4.0 scale at all transferring institutions. For future eligibility in subsequent years, the student must earn a cumulative 3.0 grade point average on a 4.0 scale consistent with the policies and procedures of the institution for graduation purposes; and

2. earned a minimum of thirty credit hours or an annual equivalent for a student who begins mid-year at an eligible institution and all prior institutions for the previous academic year to be eligible for the scholarship as a continuing student and/or consistent with the policies and procedures of the institution for graduation purposes; or

3. earned a minimum of sixty credit hours or an annual equivalent at the eligible institution and all prior institutions to be eligible for the scholarship as a continuing student and/or consistent with the policies and procedures of the institution for graduation purposes; or

4. earned a minimum of ninety credit hours or an annual equivalent at the eligible institution and all prior institutions to be eligible for the scholarship as a continuing student and/or consistent with the policies and procedures of the institution for graduation purposes.

E. For determining remaining terms of eligibility, the institution where the student is transferring will determine the classification of the entering transferring student and use this classification to determine the remaining terms of eligibility in compliance with the “Terms of Eligibility” Section.

62-900.35 Students with Disabilities

A. Students who qualify under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 must meet all eligibility requirements as defined in “Student Eligibility, Continued Eligibility, Regaining or Earning Eligibility, or Transfer Students” Sections except for the full-time enrollment requirement, if approved by the Disability Services Provider. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

B. The institutional Disability Services Provider must provide written documentation to the Office of Financial Aid each academic year verifying that the student is approved to be enrolled in less than full-time status or earn less than the required annual credit hours. The institution is responsible for retaining appropriate documentation according to the “Program Administration and Audits” Section.

C. For renewal, students who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 must meet all requirements as stated in the “Continued Eligibility” Section, except that if a student does not meet the annual credit hour requirement, the student must have been approved by the Disability Services Provider in the prior academic year to be enrolled in less than “full-time” status or less than the required thirty credit hours. Students must complete the required number of hours approved by the institutional Disability Services Provider each academic year for scholarship renewal and earn a minimum 3.0 cumulative grade point average on a 4.0 scale by

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the end of the academic year. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

D. Students who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 may receive the maximum number of terms of eligibility as stated in the "Terms of Eligibility" Section.

E. In order to be eligible for the LIFE Scholarship, students who no longer qualify under ADA and Section 504 of the Rehabilitation Act of 1973 must comply with all requirements set forth under "Student Eligibility, Continued Eligibility, Regaining or Earning Eligibility, or Transfer Students" Sections.

62-900.40 Enrollment in Internships, Cooperative Work Programs, Travel Study Programs and National and International Student Exchange Programs

A. Students enrolled in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit are eligible to receive LIFE Scholarship funds during the period in which the student is enrolled in such programs. Students will be required to meet the continued eligibility requirements.

B. Eligible students may use the appropriated portion of the LIFE Scholarship funds for internships, cooperative work programs, travel study programs or National or International Student Exchange Programs that that are approved by the home institution and that the home institution accepts as full-time transfer credit. LIFE Scholarship funds must be paid directly to the student's account at the home institution and cannot exceed the cost-of-attendance at the home institution or the cost-of-attendance at the host institution, whichever is less. The Commission on Higher Education will not transfer scholarship funds directly to the institution where the student will participate in internships, cooperative work programs, travel study programs or National or International Student Exchange Programs. The institution is responsible for scholarship funds according to the "Policies and Procedures for Awarding" Section.

C. Students who enroll in one term at the home institution during the academic year and also enroll in an internship, cooperative work program, travel study program or National or International Student Exchange Program that are approved by the home institution and that do not award full-time transfer credit during the same academic year, must complete fifteen credit hours and earn a 3.0 cumulative grade point average on a 4.0 scale consistent with the policies and procedures of the institution for graduation purposes at the end of the academic year to be eligible for scholarship renewal for the next academic year. Students who did not use the entire eligibility for LIFE Scholarship funds during this period shall be allowed to receive LIFE Scholarship funds during the succeeding summer or at the end of the maximum terms of eligibility based on the initial college enrollment date (provided the student meets continued eligibility requirements).

D. For students enrolled in an internship, cooperative work program, travel study program or National or International Student Exchange Program during the entire academic year that is approved by the home institution but does not award full-time transfer credit for the entire academic year, scholarship renewal for the next academic year will be based on the prior year's eligibility. Students did not use the entire eligibility for LIFE Scholarship funds during this period shall be allowed to receive LIFE Scholarship funds during the succeeding summer or at the end of the maximum terms of eligibility based on the initial college enrollment date (provided the student meets continued eligibility requirements).

E. Students enrolled in an internship, a cooperative work program, a travel study program or National or International Student Exchange Program during the academic year that is approved by the home institution and did not use the entire eligibility for LIFE Scholarship funds during this period shall be allowed to receive LIFE Scholarship funds during the succeeding summer or at the end of the maximum terms of eligibility based on the initial college enrollment date (provided the student meets continued eligibility requirements). In order to receive LIFE Scholarship funds for summer school, students must enroll in twelve credit hours during the summer. In order to maintain eligibility for the next academic year for students who only attend summer school at the home

institution, the student must earn twelve credit hours during the academic year. For students who enroll in summer school and one other term of the academic year at the home institution, the student must earn a total of twenty-seven credit hours (or its equivalent) for the academic year. The student must meet all eligibility requirements as specified in the "Continued Eligibility" Section, except for the completion of the thirty credit hour requirement for the academic year.

F. The home institution will be responsible for securing official certification of the student's cumulative grade point average, credit hours earned, and satisfactory academic progress for the purposes of determining eligibility for scholarship renewal for the next academic year.

62-900.45 Refunds and Repayments

A. In the event a student who has been awarded a LIFE Scholarship withdraws, is suspended from the institution, or drops below full-time enrollment status during any term of the academic year, institutions must reimburse the LIFE Scholarship Program for the amount of the LIFE Scholarship for the term in question pursuant to the refund policies of the institution. Collection is the responsibility of the institution.

B. In the event a student withdraws or drops below full-time status after the institution's refund period and therefore must pay tuition and fees for full-time enrollment, the scholarship may be retained pursuant to the refund policies of the institution.

62-900.50 Appeals Procedures

A. The Commission on Higher Education shall define the appeals procedures.

B. Students who did not meet the continued eligibility requirements for the scholarship at the end of the academic year due to an extenuating circumstance may request an appeal with the Commission on Higher Education.

C. The Commission on Higher Education will allow a student to submit only one appeal each academic year based on an extenuating circumstance.

D. A completed appeal's application must be filed with the Commission on Higher Education by the established deadline of the academic year the scholarship is requested. The student must provide a completed application for appeal, a letter requesting an appeal describing the extenuating circumstance, official transcripts from all prior institutions, and any other supporting documentation to substantiate the basis for the appeal.

E. The LIFE Scholarship shall be suspended during the appeal period, but will be awarded retroactively if the appeal is granted.

F. The Appeals Committee's decision is final.

62-900.55 Institutional Policies and Procedures for Awarding

A. LIFE Scholarship awards are to be used only for payment toward the cost-of-attendance as established by Title IV Regulations. Eligible four-year public institutions shall identify award amounts up to the cost-of-tuition for thirty credit hours, not to exceed four thousand seven hundred dollars, plus a three hundred dollar book allowance (maximum \$5,000 including cost-of-tuition plus book allowance) per academic year. Eligible four-year independent institutions shall identify award amounts that cover the cost-of-attendance up to a maximum of the average annual cost-of-tuition at the state's four-year public institutions, not to exceed four thousand seven hundred dollars, plus a three hundred dollar book allowance (maximum \$5,000 including book allowance) per academic year. Eligible two-year public or technical institutions shall identify award amounts, which cannot

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exceed the cost-of-tuition for thirty credit hours plus a three hundred dollar book allowance per academic year. For students enrolled at eligible two-year independent institutions, the award amount shall not exceed the maximum cost-of-tuition at the two-year USC regional institutions plus a three hundred dollar book allowance. The LIFE Scholarship in combination with all other gift aid, including Federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV regulations for any academic year.

B. Students who have already been awarded a first baccalaureate degree, graduate degree or a program of study that is structured so as not to require a baccalaureate degree for acceptance into the program and leads to a graduate degree are not eligible to receive the LIFE Scholarship.

C. Eligible institutions shall provide an award notification to eligible students that will include the book allowance and also contain the terms and conditions of the scholarship. Institutions will notify students of all adjustments in scholarship funds that may result from an over-award, change in eligibility, change in the student's residency or financial status or other matters.

D. The institution must retain annual paper or electronic documentation for each award to include at a minimum:

1. Award notification
2. Institutional disbursement to student
3. Student's residency status
4. Refund and repayment (if appropriate)
5. Enrollment and curriculum requirements
6. Cumulative 3.0 grade point average and required number of earned credit hours
7. Affidavit documenting that the student has never been convicted of any felonies, any alcohol or other drug-related misdemeanor offenses
8. Institutional Student Information Record (ISIR) or affidavit documenting that the student is not in default or does not owe a refund or repayment on any State or Federal financial aid
9. High school transcript(s) verifying graduation or home-school completion date or GED Diploma, grade point averages and class rank (first-time entering freshmen)
10. SAT or ACT scores (first-time entering freshmen)
11. Verification of student's disability (if appropriate)

E. It is the institution's responsibility to ensure that only eligible students receive a scholarship award.

F. Any student who has attempted to obtain or has obtained a LIFE Scholarship award through means of willfully false statement or failure to reveal any material fact, condition, or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of the LIFE Scholarship.

62-900.60 Institutional Disbursements

A. Eligible four-year public institutions shall award amounts, which cannot exceed the cost-of-tuition for thirty credit hours a year, not to exceed four thousand seven hundred dollars, plus a three hundred dollar book allowance per academic year. Eligible four-year independent institutions shall award amounts that cover the cost-of-attendance up to a maximum of the average annual cost-of-tuition at the state's four-year public institutions, not to exceed four thousand seven hundred dollars, plus a three hundred dollar book allowance per academic year. Eligible two-year public or technical institutions shall award amounts, which cannot exceed the cost-of-tuition for thirty credit hours plus a three hundred dollar book allowance per academic year. For students enrolled at eligible two-year independent institutions, the award amount shall not exceed the maximum cost-of-tuition at the two-year USC regional institutions plus a three hundred dollar book allowance per academic year. Half shall be disbursed during the fall term and half during the spring term (or its equivalent), assuming continued eligibility. Scholarships cannot be disbursed during the summer or any interim sessions with the exception to disbursements that meet the requisites under the "Enrollment in Internships, Cooperative Work Programs, Travel Study Programs and National and International Student Exchange Programs" Section. The LIFE Scholarship in

combination with all other gift aid, including Federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV regulations for any academic year.

B. The LIFE Scholarship may not be applied to a second baccalaureate degree or a program of study that is structured so as not to require a baccalaureate degree for acceptance into the program and leads to a graduate degree program as defined in the "Program Definitions" Section. In the event of early graduation, the scholarship award is discontinued.

C. After the last day to register for each term of the academic year, the institution will verify enrollment of each recipient as a South Carolina resident who is a full-time degree-seeking student. According to the Scholarship and Grant Programs Policies and Procedures Manual, a listing of all eligible recipients by social security numbers with award amounts for the term must be sent to the Commission on Higher Education with the institution's request for funds. A year-end reconciliation report will be submitted to the Commission on Higher Education prior to June 30th. The reconciliation report shall include any additional requests for funds and/or return of unused funds.

D. The Commission will disburse awards to the eligible institutions to be placed in each eligible student's account.

62-900.65 Program Administration and Audits

A. The South Carolina Commission on Higher Education shall be responsible for the oversight of functions (e.g., guidelines, policies, rules, regulation) relative to this program with participating institutions. The Commission on Higher Education shall be responsible for the allocation of funds, promulgation of guidelines and regulation governing the LIFE Scholarship Program, any audits or other oversight as may be deemed necessary to monitor the expenditures of scholarship funds.

B. According to the Audit Policies and Procedures for Scholarship and Grant Programs Manual, all eligible institutions that participate in the program must abide by program policies, rules or regulation. Institutions also agree to maintain and provide all pertinent information, records, reports or any information as may be required or requested by the Commission on Higher Education or the General Assembly to ensure proper administration of the program.

C. The Chief Executive Officer at each participating institution shall identify to the Commission on Higher Education a LIFE Scholarship institutional representative who is responsible for the operation of the program on the campus and will serve as the contact person. The institutional representative will act as the student's fiscal agent to receive and deliver funds for use under the program.

62-900.70 Suspension or Termination of Institutional Participation

A. The Commission may review institutional administrative practices to determine institutional compliance with pertinent statutes, guidelines, rules or regulations. If such a review determines that an institution has failed to comply with program statutes, guidelines, rules or regulations, the Commission may suspend, terminate, or place certain conditions upon the institution's continued participation in the program and require reimbursement to the LIFE Scholarship program for any funds lost or improperly awarded.

B. Upon receipt of evidence that an institution has failed to comply, the Commission on Higher Education shall notify the institution in writing of the nature of such allegations and conduct an audit.

C. If an audit indicates that a violation or violations may have occurred or are occurring at any eligible public or independent institution, the Commission on Higher Education shall secure immediate reimbursement from the

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institution in the event that any funds were expended out of compliance with the provisions of the Act, any relevant statutes, guidelines, rules, and regulations.

Fiscal Impact:

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

Statement of Rationale:

The LIFE Scholarship Program was initially established in 1998 under Act 418 as Code Section 59-149-10. During the 2002 legislative session, Section 59-149-10 was amended by the South Carolina Education Lottery Act to provide updated procedures to administer the program beginning academic year 2002-03.

Resubmitted March 4, 2004

Document No. 2889
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 9
Statutory Authority: 1976 Code Section 6-9-63(E)

Synopsis:

The South Carolina Building Codes Council is amending current Regulations 8-210 through 8-275 to conform to the statutory amendments to acts governing the Board for Barrier Free Design and the Building Codes Council. The Building Codes Council was given additional duties through several recent statutory amendments. In addition, the Board for Barrier Free Design had been phased out and its duties and responsibilities turned over to a standing committee of the Building Codes Council. The proposed regulatory amendments conform to those statutory amendments as well as provide general updated language.

Instructions:

8-210.1 through 8-275 Replace in its entirety as indicated below

Statement of Rationale:

There was no scientific or technical basis relied upon in the development of these regulations.

Text:

8-210.1. Purpose.

These regulations are intended to establish procedures for the operation of the South Carolina Building Codes Council and the application and administration of its authority under the Building Codes Act, the Modular Act and the Accessibility Act. It is further intended that these regulations establish a formal standard policy and specific criteria on which the Council will base its approval or disapproval of proposed modifications to building codes. It is also intended that these regulations establish a formal standard policy and specific criteria on which the Council will base its approval or disapproval of proposed modifications to or variations from the required state energy standards.

8-215. Definitions.

As used in these Regulations:

- (1) "Accessibility Act" means the Construction of Public Buildings for Access by Persons With Disabilities Act, Chapter 5 of Title 10 of the Code of Laws of South Carolina, 1976, as amended.
- (2) "Accessibility Committee" means the standing committee for the Council, as created by Chapter 5 of Title 10 of the Code of Laws of South Carolina, 1976, as amended.
- (3) "Agency" means any division, department or section of state or federal government.
- (4) "Building Codes" means the nationally recognized codes and standards referenced in Chapter 9 of Title 6 of the Code of Laws of South Carolina, 1976, as amended.
- (5) "Building Codes Act" means the Building Codes Act, Chapter 9 of Title 6 of the Code of Laws of South Carolina, 1976, as amended.
- (6) "Building Code Cycle" means the time period between the dates that codified editions of the building codes are adopted by the Council.
- (7) "Building Official" means the officer or other designated authority, or duly authorized representative, charged with the administration and enforcement of building codes and standards.
- (8) "Climatological" means the susceptibility of specific unusual reoccurring weather or atmospheric conditions for a local jurisdiction, including hurricanes, tornadoes, damaging wind, lightning, or floods due to rainfall.
- (9) "Council" means the South Carolina Building Codes Council as established by Chapter 9 of Title 6 of the Code of Laws of South Carolina, 1976, as amended.
- (10) "Department" means the Department of Labor, Licensing and Regulation for the State of South Carolina.
- (11) "Energy Standards" means the Building Energy Efficiency Standard Act, Chapter 10 of Title 6 of the Code of Laws of South Carolina, 1976, as amended.
- (12) "Flood(ing)" means temporary inundation of normally dry land areas from the overflow of inland or tidal waters or from the unusual and rapid accumulation of runoff or surface waters by excessive rainfall, snow melt, wind storms or any combination of such conditions.
- (13) "Geographical" means the geographic or topographic characteristics of a specific area or region.
- (14) "Geological" means the structure of a specific area or region of the earth's surface.
- (15) "Implementation Date" means the date, as established by Council, that one or more adopted building codes must be placed into effect for administration and enforcement by local jurisdictions.
- (16) "Local Enforcement Agency" means an agency of a local jurisdiction with authority to make inspections of buildings and to enforce the laws and regulations enacted by the State, which establish standards and requirements applicable to the construction, alteration, repair and occupancy of buildings.
- (17) "Local Jurisdiction" means any county, city, town, village or other political subdivision of the State of South Carolina.
- (18) "Modification(s)" means the changing of any word, number, date, section or reference in either the text or appendix (if adopted) of any building code, regardless of whether the effect is more or less restrictive.
- (19) "Modular Act" means the Modular Buildings Construction Act, Chapter 43 of Title 23 of the Code of Laws of South Carolina, 1976, as amended.
- (20) "Physical" means the natural stable and unstable characteristics and conditions of the land area within a local jurisdiction, including topography, geography, geology, water table and seismic activity.
- (21) "Professional Association" means an entity with membership consisting of individuals directly involved in the use, application or enforcement of building codes, or entities that manufacture, test or provide technical representation for materials, components or methods used in the construction industry.
- (22) "Study Committee" means the standing committee for the Council as created by Chapter 9 of Title 6 of the Code of Laws of South Carolina, 1976, as amended.
- (23) "Variation(s)" means the changing of the Energy Standards or any building code in either the text or appendix (if adopted), the nature of which, would accept an alternate building material or alternate method of compliance.

8-220. Powers Duties, and Responsibilities of Council.

- (A) The Council shall clarify the various aspects and provision of the Building Codes Act, the Modular Act, the Accessibility Act and their corresponding regulations, as may be necessary to carry out their intended purposes.
- (B) The Council shall review requests by local jurisdictions and professional associations, for modifications to the adopted building codes, as authorized by the Building Codes Act.

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(C) The Council shall review requests by local enforcement agencies, for variations from the Energy Standards.

(D) The Council shall permanently maintain an Accessibility Committee to provide research and to advise Council on any and all statutory, regulatory, construction or building code issues relating to access and use of buildings and structures by disabled persons, as provided by the Accessibility Act.

(E) The Council shall produce records of all its transactions and minutes of all its meetings, hearings and proceedings.

8-225. Duties and Responsibilities of Department.

(A) The Department shall provide the personnel to serve as staff for the Council. Such staff shall have the duty and responsibility to:

(1) Maintain an accurate and complete record of all meetings, hearings, proceedings, correspondence and technical work performed by and for Council;

(2) Make all records and documents of Council available for public inspection any time during normal working hours;

(3) Prepare and provide all information, documents and exhibits necessary for the Council agendas and meetings; and,

(4) Perform such other related tasks as may, from time to time, arise.

(B) The Department shall interpret the Building Codes Act, the Modular Act, the Accessibility Act, and their respective regulations, as may be necessary to carry out their intended purposes.

(C) The Department shall provide legal counsel for the Council.

(D) The Department shall enforce the provisions of the Building Codes Act.

8-230. Council Officers.

(A) The Council shall elect from its appointed members, a chairman and a vice-chairman.

(B) Election of officers shall occur during the first meeting of each calendar year. Elected officers shall assume office upon adjournment of the meeting at which the election occurs.

(C) The duties of each officer shall be as follows:

(1) Chairman - Preside over all meetings of the Council, call special meetings as the need may arise, authenticate by signature all licenses, resolutions, documents and other instruments of Council and perform such other duties as may fall within the jurisdiction of the office.

(2) Vice-chairman - Function as chairman in the absence of the chairman and perform such other duties as may fall within the jurisdiction of the office.

(D) Officers shall serve for a period of one year or until their successors are elected.

(E) Vacancies occurring in an officer's position shall be filled in the following manner.

(1) If, during the course of any unexpired term, the office of chairman is vacated, the vice-chairman shall, immediately and without any further action of Council, be named chairman and continue in that capacity until the next regular election.

(2) If, during the course of an unexpired term, the office of vice-chairman is vacated, the Council shall fill the vacancy by election during its next official meeting. The elected member shall assume office immediately and continue in that capacity until the next regular election.

8-235. Council Meetings.

(A) The Council must meet at least one time per year or at the call of the chairman. In addition, the Council must meet not less than one time per building code cycle for the purpose of reviewing modifications requested for the adopted building codes.

(B) All agenda items and supporting documentation shall be submitted to the Council staff not later than 14 calendar days prior to the meeting date. The agenda and meeting notice shall be delivered to each Council member not later than seven calendar days prior to the meeting date. The meeting notice shall contain the date, time and place the meeting will be held.

(C) All meetings shall be open to the public. Notices designating the date, time and place of the meeting shall be posted at the offices of the Council, not later than 24 hours before the meeting starting time.

(D) Minutes of every meeting of Council shall be produced and distributed to each Council member. The minutes shall reflect the names of all persons in attendance, each item and action taken and all motions, seconds and votes

made during the course of the meeting. All minutes shall be approved by motion, second and vote at a meeting of Council before they will be considered official. Only official minutes shall be made available to the general public. A copy of all official minutes of Council meetings shall be maintained in the offices of the Council and made available for public inspection during all normal working hours.

8-236. Building Codes Adopted.

(A) All building codes used within the state shall be adopted by the Council and enforced by local jurisdictions. The adoption process must follow the procedure established in the Building Codes Act.

(B) Administration and enforcement of the latest adopted edition of any building code must occur in all local jurisdictions on the implementation date established by the Council. All new construction, additions, renovations, repair or work of any kind, to any system, in a building or structure, for which a completed building permit application has been approved prior to the implementation date, will be allowed to be completed and must be inspected under the building codes in effect at the time the original building permit was issued.

(C) Local jurisdictions are prohibited from writing or publishing any other building codes in part or in whole.

(D) The appendices included with all building codes are not intended to be enforced unless specifically referenced in the texts of the codes or specifically included by name and letter designation at the time of adoption by Council.

(E) The provisions of the administration chapters for all building codes that concern the qualification, removal, dismissal, duties, responsibilities of, and the administrative procedures for all building officials, deputy building officials, chief inspectors, other inspectors, and assistants are not adopted by the Council. Council may adopt general provisions of the administration chapters, as necessary, to provide uniform application of the building codes throughout the state. Any general administrative provisions adopted by Council must apply to all local jurisdictions. In the absence of Council adoption, local jurisdictions may adopt any or all sections of the administration chapters for all building codes, or may establish administrative procedures for the operation of the local enforcement agency by ordinance. In either instance, however, general administrative provisions adopted by Council, if any, must apply.

8-240. Building Codes Modification Procedure.

(A) Modifications to building codes may be submitted to the Council by local jurisdictions or professional associations. Council may grant modifications on a local or statewide basis as provided below.

(B) Local modifications.

(1) The Council shall review and may grant local modifications to any of the building codes by the request of a local jurisdiction, for application strictly within that jurisdiction, when it determines that the changes are required to meet local needs due to physical or climatological conditions. For the purpose of this section, the words "Physical" and "Climatological" shall have only the meanings as defined in these regulations.

(2) A request for a local building code modification must be previously approved by the governing body of the local jurisdiction making the request before it may be considered by the Council.

(3) Modifications granted to a local jurisdiction shall apply only to site constructed buildings and structures. Buildings and structures approved and constructed in compliance with the Modular Act shall not be affected by local building codes modifications. All properly labeled modular buildings shall be accepted by the local enforcement agency as being in full compliance with all of its adopted building codes.

(4) Proposed local modifications of building codes shall not take effect in any local jurisdiction until after they have first been reviewed and approved by the Council.

(5) Requests for local modifications may be considered by Council or may be referred by Council to the Study Committee for review and recommendation before action by the Council.

(C) Statewide modifications.

(1) The Council shall review and may grant statewide modifications to any of the building codes by the request of a local jurisdiction or a professional association, when it determines that the section in question is either unusually restrictive or impractical.

(2) For the purposes of these regulations, a moratorium on enforcement of any section of any building code ordered by the Council, shall be considered a statewide modification.

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(3) Requests for statewide modifications proposed by a local jurisdiction or professional association, must be referred to the Study Committee for review and recommendation before action by the Council.

(4) All statewide modifications made to any of the building codes for the building code cycle, must be approved by Council prior to the established implementation date. All such modifications shall be mandatory for all jurisdictions in the state and shall be in effect for as long as the specific edition of the code is in effect.

(D) Requests for local and statewide modifications will be considered when submitted:

(1) By an official representative of the local jurisdiction proposing the modification; or,

(2) By an official representative of the professional association proposing the modification.

(E) A request for a local or statewide modification must include:

(1) A cover letter from the local jurisdiction or professional association stating that the individual is authorized to present the proposed amendment; and,

(2) Verification that the proposed amendment has the support of at least a majority of the members of the board or council governing the local jurisdiction or professional association proposing the modification; and,

(3) A completed Code Modification Form (provided by the Council); and,

(4) Sufficient test information, studies, data or other documentation that would be necessary to fully explain and justify the proposed amendment; and,

(5) A list of the persons with their titles and affiliations, known at the time of submittal, who will provide testimony in favor of the amendment.

(F) A request for a local modification must include, in addition to subsection (E), (1) through (5), the physical or climatological basis for the request and the reason that the suggested change would correct the condition.

(G) Each request for amendment must be submitted separately.

(H) A local jurisdiction or professional association shall not propose a modification which will amend, suspend, eliminate or supersede an existing statute, policy, rule or regulation of any state or federal agency.

8-245. Qualifications for Local Modifications to Building Codes.

(A) A local jurisdiction may qualify for a local modification to any of the building codes, by establishing that the basis for the requested modification is either physical or climatological in nature.

(B) To qualify by physical basis, a jurisdiction must demonstrate that it possesses unique physical qualities, such as unusual characteristics or composition of soils, unusual geological conditions (including earthquakes), unusual geographical conditions, unusually varying or extreme ranges in the topography of the land or any other natural condition.

(C) To qualify by climatological basis, a jurisdiction must demonstrate that it experiences weather conditions which are unusual to, confined to, occurring on a regular or seasonal cycle or determined through research or past experiences to have a high probability of reoccurrence within its area. Climatological conditions may include the known occurrence of hurricanes, tornadoes, damaging wind, snow, flooding caused by rainfall, lightning or any other form of natural climate related phenomenon.

8-246 Study Committee.

(A) The Study Committee is to perform a technical analysis of proposed statewide modifications to the building codes and report its findings and recommendation to the Council.

(B) The Committee will consist of five core members and five alternates, appointed by the Council for a period of three years. Appointments of the core members and alternates must occur during the first Council meeting of the year coinciding with a new building code cycle. Core members and alternates must be active within the specific segment of the industry that they are representing on the Study Committee for the length of their tenure. The core membership of the Study Committee must consist of:

(1) A registered code enforcement officer;

(2) A state licensed home builder;

(3) A state licensed general contractor;

(4) A state licensed architect, and,

(5) A state licensed structural engineer.

An alternate acts in the place and on behalf of, the core member in the instance of an absence or recusal.

(C) In addition to the core members, other persons who will be known as "specialty members" may be selected to serve from time to time, on an as needed basis. Specialty members will be selected to represent a segment of the

construction industry that may be affected by a specific building code modification or to provide specialized knowledge to the Study Committee within his or her area of expertise. Specialty members will have full rights to participate and vote on any issue within their areas of expertise. Specialty members will be selected by the Council chair, vice chair and staff from a pool of volunteers and may consist of representatives of any segment of the construction industry, including specialized code enforcement officers and fire officials.

(D) The core members shall elect a chair and vice chair as the first order of business at the first Study Committee meeting of each new building code cycle. The Study Committee chair and vice chair shall serve for the length of the building code cycle. The chair shall preside over all Study Committee meetings and be available at public meetings of the Council, to clarify or augment the Study Committees recommendations. In the absence or recusal of the chair, the vice chair shall assume all duties of and act on behalf of the chair. If for any reason the chair leaves the Study Committee before expiration of his or her term, the vice chair shall serve as the chair for the duration of the original appointment. The Study Committee shall then elect a new vice chair.

(E) If a core member leaves the Study Committee before expiration of his or her term, the alternate member shall serve for the duration of the original appointment. The Council shall then appoint a new alternate member from the appropriate segment of the construction industry.

(F) At no time may a specific segment of the construction industry be represented on the Study Committee by more than one core or specialty member.

8-247 Public Notice.

A notice of intention to review proposed building code modifications must be published in the State Register as a Notice of General Interest, on web sites published by the Department of Labor, Licensing and Regulation, and must be provided to each local building department with instructions for its prominent display. The notice must include:

- (1) The address to which interested persons may submit written comments; and,
- (2) A period of not less than one hundred eighty days during which comments may be received.

8-248 Study Committee Meetings.

(A) The Study Committee must hold at least one public meeting per building code cycle. All Study Committee meetings shall be at the call of the chairman of the Council and must be open to the public. All deliberations and actions taken by the Study Committee must be done in public session. For the purpose of conducting meetings and rendering recommendations, three core members or their alternates will constitute a quorum.

(B) The date, time and place for all Study Committee meetings must be made public in the same manner as required for the Council meetings. Notice of Study Committee meetings must be published a minimum of ten working days prior to the meeting date.

(C) Proposed amendments with all supporting documentation must be submitted to the Council's staff a minimum of ten working days prior to the meeting date. A meeting agenda must be published a minimum of five working days prior to the meeting date, after which time additions shall not be made to the agenda.

(D) The Study Committee must review all proposed modifications and the pertinent supporting documentation and testimony as necessary to reach a decision. If the Study Committee cannot reach a decision based on the documentation and testimony provided, the proposed modification may be carried over to a future meeting until a decision is reached.

(E) A report of the Study Committee, including a list of pros and cons for the proposed amendments, must be submitted in writing to the Council with a recommendation for:

- (1) Approval; or,
- (2) Disapproval; or,
- (3) Approval as revised.

(F) In the event that the Study Committee is unable to reach a decision on a recommendation, the matter will be presented to the Council.

8-250. Energy Standards Variation Procedure.

(A) The Council shall review and grant variations to the Energy Standards, when it determines that conditions requiring special or different building standards exist within any local jurisdiction.

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(B) Requests for variations to the Energy Standards may only be considered when submitted to Council by the local enforcement agency proposing the changes and, if approved, are valid only within the requesting jurisdiction.

(C) All requests for variations must be accompanied by sufficient test information, studies, data or other documentation to fully explain and justify the issues to be considered. The submittal should include a list of the persons wishing to testify and their titles and affiliations. Each variation shall be submitted separately. Information submitted shall be legible and contain the following:

- (1) Name, address, phone number and title of the person making the request;
- (2) Name of jurisdiction for which the variation is being submitted;
- (3) The full wording and nature for the proposed variation;
- (4) The basis or reason for the request.

(D) Variations granted to any local jurisdiction shall apply only to site constructed buildings. Structures approved and constructed in compliance with the Modular Act shall not be affected by any variation to the Energy Standards that may be granted to a local jurisdiction. All properly labeled modular buildings shall be accepted by the local enforcement agency as being in full compliance with the Energy Standards.

8-255. Energy Standards Appeal Procedure.

(A) The Council shall review and decide appeals to the requirements of the energy standards when certain occupancy or construction conditions are proven to exist in areas of the state where local appeals boards have not been appointed.

(B) Appeals may be brought before Council by any person, persons or parties who may be affected by any provision of or decision made pursuant to the administration or enforcement of the Energy Standards.

(C) All appeals must fully explain and justify the issues to be considered. The submittal should include a list of the persons wishing to testify. Each appeal shall be submitted separately. Information submitted shall be legible and must contain the following:

- (1) Name, address and phone number of the person making the request;
- (2) Name of jurisdiction in which the structure involved is located;
- (3) The nature of the appeal;
- (4) The basis or reason for the appeal.

(D) Any decision of Council may be appealed by an aggrieved party to the Administrative Law Judge Division in accordance with the South Carolina Administrative Procedures Act. An appeal shall not act as a stay or supersedeas of the Council's decision.

8-260. Administration of Modular Act.

The Council shall implement the provisions of the Modular Act and its accompanying regulations.

8-261. Administration of Accessibility Act.

The Council shall implement and administer the provisions of the Accessibility Act and its accompanying regulations. Subsequent amendments to the regulations may be promulgated by the Council upon recommendation of the Accessibility Committee.

8-270. Injunctive Relief.

(A) In the event of a proposed or actual violation of the prescribed building codes or these regulations, injunctive relief shall be as provided by the Building Codes Act.

(B) In the event of a proposed or actual violation of the Modular Act or its regulations, injunctive relief shall be provided by the Modular Act.

(C) Private suits for damages resulting from violations of the Modular Act or its regulations, shall be as provided by the Modular Act.

(D) In the event of a proposed or actual violation of the Energy Standards, injunctive relief shall be as provided by the Energy Standards.

(E) In the event of a proposed or actual violation of the Accessibility Act or its regulations, injunctive relief shall be as provided by the Accessibility Act.

8-275. Penalties.

(A) Any person violating the codes listed in the Building Codes Act or the regulations adopted pursuant to the provisions of the Building Codes Act, shall be subject to the penalties provided therein.

(B) Any person violating any of the provisions of the Modular Act or its regulations, shall be subject to the penalties provided therein.

(C) Any person violating any of the provisions of the Energy Standards, shall be subject to the penalties provided therein.

(D) Any person violating any of the provisions of the Accessibility Act or its regulations, shall be subject to the penalties provided in the Accessibility Act.

Fiscal Impact Statement:

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

Document No. 2890
DEPARTMENT OF LABOR, LICENSING AND REGULATION
MANUFACTURED HOUSING BOARD
 CHAPTER 19 (NEW 79)
 Statutory Authority: 1976 Code Section 40-29-10

Synopsis:

The South Carolina Manufactured Housing Board is repealing Regulations 19-425.1 through 19.425.44 and promulgating new regulations to be recodified as Chapter 79, Regulations 79-1 through 79-44. The amendments are to conform to the 2001 Act 61 Manufactured Housing Practice Act update.

Instructions:

Repeal regulations 19-425.1 through 19-425.44. Add the following new Chapter 79, Department of Labor, Licensing and Regulation, Manufactured Housing Board. Move APPENDIX B Figures B-1, B-2, B-3(a), B-3(b), B-4, B-5, B-6, B-7, B-8, B-9 B-10, B-11, B-12, B-13, B-14, B-15 B-16, B-17 B-18, B-19, B-20 to new Chapter 79.

Statement of Rationale:

There was no scientific or technical basis relied upon in the development of these regulations.

Text:

79-1. Definitions.

(A) "Act" means the "Uniform Standards Code for Manufactured Housing Act."

(B) "Anchoring Equipment (Ties)" means straps, cables, turnbuckles, chains, or other devices of any kind including tensioning devices, which are used to secure a manufactured home to the ground or foundation.

(C) "Anchoring System" means a method of construction which when properly designed and installed will resist overturning and lateral movement of the manufactured home.

(D) "Approved" means acceptable to the authority having jurisdiction.

(E) "Authority Having Jurisdiction" means the organization, office, or individual responsible for "Approving" equipment, an installation, or a procedure.

(F) "Board" means the South Carolina Manufactured Housing Board.

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(G) "Diagonal Tie" means a tie intended to primarily resist horizontal or shear forces and which may secondarily resist vertical, uplift, and overturning forces.

(H) "Department" means the Department of Labor, Licensing and Regulation and the staff responsible for providing administrative support to the Manufactured Housing Board.

(I) "Dwelling Unit" means one or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating, and sanitation.

(J) "Frame, Main" means that part of the structural system which is normally used to transmit accumulative design loads to the support system.

(K) "Foundation, Manufactured Home" means a site-built or site-assembled system of stabilizing devices which is:

(1) Capable of transferring design dead loads and live loads required by Federal Regulations and other design loads unique to local home sites due to wind, seismic, and water conditions, that are imposed by or upon the structure into the underlying soil bedrock without failure;

(2) In frost susceptible areas, placed at an adequate depth, or otherwise adequately protected, to prevent frost damage; and

(3) Constructed of materials acceptable to the authority having jurisdiction (See Appendix B for examples).

(L) "Gas Supply Connector, Manufactured Home" means a listed connector designed for connecting the manufactured home to the gas supply source.

(M) "Ground Anchor" means a device at the manufactured home stand designed to transfer manufactured home anchoring loads to the ground.

(N) "Habitable Room" means a room or enclosed floor space arranged for living, eating, food preparation, or sleeping purposes not including bathrooms, toilet compartments, laundries, pantries, foyers, hallways, and other accessory spaces.

(O) "Hurricane-Resistive Manufactured Home" means a manufactured home which meets the wind design load requirements for Zone II in Subpart D, Section 3280-305(c)(2) of the Federal Standard or the applicable hurricane-resistive design requirements of the Standard for Manufactured Homes, NFPA 501B/ANSI A22 5.1 edition in effect at the time of manufacture.

(P) "Inspector" means a person employed by the Department as being qualified to adequately inspect the construction, electrical installations and mechanical installations of manufactured homes, as well as the installation, tie-downs, blocking and sewer connections of new manufactured homes.

(Q) "Install/Installed" means the installation operations performed at the occupancy site which render a manufactured home fit for habitation. Such operations include, but are not limited to, positioning, blocking, leveling, supporting, tying down, connecting utility systems, and assembling multiple or expandable units.

(R) "Labeled" means equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization acceptable to the "Authority having jurisdiction" and concerned with product evaluation, that maintains periodic inspection of production of labeled equipment or materials, and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

(S) "Listed" means equipment or materials included in a list published by an organization acceptable to the "Authority having jurisdiction" and concerned with product evaluation, that maintains periodic inspection of production of labeled equipment or materials, and whose listing states either that the equipment or materials meets appropriate standards or has been tested and found suitable for use in a specified manner.

(T) "Manufactured Home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and all systems, appliances, accessories, and furnishings sold with the home, including, among other things, the plumbing, heating, air conditioning and electrical systems.

(U) "Modify" means to alter, change, adjust or convert in compliance with the Standards for Manufactured Homes published by the US Department of Housing and Urban Development.

(V) "Permit" means a certificate issued by the Board allowing a retail dealer to temporarily conduct business away from the normal place of business.

(W) "Pier" means that portion of the support system between the footing and the manufactured home, exclusive of caps and shims.

- (X) "Red Tag" means a printed notification issued by the Department that a manufactured home may not be offered for sale because of violations of the Act or these Regulations.
- (Y) "Repair" means the renewal, replacement or reconstruction of any structural, mechanical, or electrical component of an existing manufactured home for the purpose of its maintenance.
- (Z) "Site, Manufactured Home" means a designated parcel of land designed for the accommodation of one manufactured home, its accessory buildings or structures, and accessory equipment for exclusive use of the occupants.
- (AA) "Stabilizing Devices" means all components of the anchoring and support systems such as piers, footings, ties, anchoring equipment, ground anchors, or any other materials and methods of construction which supports and secures the manufactured home to the ground.
- (BB) "Stand, Manufactured Home" means that area of a manufactured home site which has been reserved for the placement of a manufactured home.
- (CC) "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
- (DD) "Support System" means a combination of footings, piers, caps, and shims that will, when properly installed, support the manufactured home.
- (EE) "Vertical Tie" means a tie intended to resist the uplifting and overturning forces.

79-2. License Classifications.

Any person, prior to engaging in any business regulated by the Act, shall obtain a license in accordance with the Act and these Regulations. The South Carolina Manufactured Housing Board shall issue licenses in the following classifications:

- (1) Manufactured Home Manufacturer, hereinafter referred to as Manufacturer;
- (2) Manufactured Home Retail Dealer, hereinafter referred to as Retail Dealer;
- (3) Manufactured Home Retail Salesperson, hereinafter referred to as Salesperson;
- (4) Manufactured Home Retail Multi-Lot Salesperson, hereinafter referred to as Multi-lot Salesperson;
- (5) Manufactured Home Show Permit/Temporary
- (6) Manufactured Home Installer, hereinafter referred to as Installer;
- (7) Manufactured Home Repairer, hereinafter referred to as Repairer; and,
- (8) Manufactured Home Contractor, hereinafter referred to as Contractor.

79-3. License Application Requirements.

- (A) Applications for manufactured housing license shall contain but not be limited to the following:
 - (1) Each applicant for license shall have attained the age of 18.
 - (2) The name of the person or business applicant;
 - (3) The address of applicant (residence);
 - (4) The mailing address and physical location of the business;
 - (5) Date of birth of applicant;
 - (6) The name of the state under whose laws the firm or corporation is organized or incorporated;
 - (7) The name and address of previous employers for the past seven years;
 - (8) A statement of the previous history of each owner, partners, or officers of a corporation to establish knowledge of reputation for the past seven years;
 - (9) Appropriate fees; and
 - (10) Appropriate surety bond or other approved security, provided for the length of the license.
 - (11) Criminal Background Check for every state of residence for the past seven years.
- (B) A person previously licensed as a sales person or multi-lot sales person who applies for a new sales or multi-lot sales license must provide the name of every dealership for which previously employed and the reasons for leaving employment.
- (C) The application shall contain such other information as may be required by the Board.

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79-4. Financial Responsibility.

Applicants applying for license in the following classifications will be required to demonstrate financial responsibility in the following manner:

(1) Salespersons and Multi-Lot Salespersons:

(a) A credit report may be made on each new applicant, or on each applicant whose license has been previously suspended or revoked; and

(b) The Board reserves the right to cause a credit report to be made on an applicant for the purpose of investigating a complaint or verifying the information contained on the application for license.

(2) Manufacturers:

(a) Applicants for manufacturer's license are required to report the net worth of the company/corporation/partnership;

(b) Applicants are required to furnish a copy of articles of incorporation if company is a corporation or partnership agreement if a partnership;

(c) Applicants are required to furnish three references from banks or two bank references and one reference from a business doing business with the applicant.

(3) Retail Dealers:

(a) A credit report must be provided by the applicant to the Department for the owner, authorized official or entity of the retail dealer upon initial application for a license, or if the license has been previously suspended or revoked, or if the license lapses for six months. The Board also may require a credit report to be provided for the purpose of investigating a complaint or verifying the information contained on an application for a license;

(b) Applicants are required to furnish a copy of articles of incorporation if company is a corporation or partnership agreement if a partnership;

(c) Applicants are required to report the net worth of the retail dealer and the principal;

(d) Reviewed Financial Reports are required for Corporations and LLC's. Compiled Financial Reports are required for Sole Proprietorship and Partnerships.

(e) Applicants are required to furnish either a bank reference or business references from two companies doing business with the retail dealer.

(4) Installers, Repairers and Contractors:

(a) A credit report may be required on each new applicant, or on each applicant whose license has been previously suspended or revoked, or if a license lapses over six months; and,

(b) The Board may require a credit report to be provided for the purpose of investigating a complaint or verifying the information contained on the application for license.

79-5. Bad Checks.

Checks issued to the Manufactured Housing Board or by order of the Board by any retail dealer, manufacturer, salesperson, multi-lot salesperson, installer, repairer or contractor which are dishonored by the financial institution for any reason, and which are not made good within ten (10) days after notice of non-payment, are considered prima facie evidence of untrustworthiness or incompetency in such a manner as to endanger the interest of the public.

(1) If in payment of a license renewal, and a license is issued on the basis of such payment, that license will be immediately canceled.

(2) Where a check or checks are incorrectly returned by a bank or other depository because of the bank or depository's error, a statement to such effect from the institution will be required before a license will be reinstated.

79-6. License Renewal.

(A) Penalty for failure on the part of the applicant to file a renewal application shall be as follows:

(1) A late fee will be assessed for applications received after the end of the renewal period.

- (2) If a licensee fails to renew within six months the applicant/authorized official is required to qualify as a new applicant.
- (B) Continuation in business without proper license will be deemed a violation of the Act.
- (C) All license renewals must be accompanied by a current criminal background check, with the exception of manufacturers.

79-7. Change of Business Name/Address.

Any licensed entity changing business name, address or any other information as presented on the original application must notify the Department within twenty (20) days by completing an updated application. The licensee shall not do business under a proposed name or at any new location prior to issuance of a new license. A fee will be charged for each updated license issued by the Department. If the change includes a major change in the structure of the business, a new application for license will be required along with the appropriate license fee.

- (1) A licensee shall not conduct the business of selling manufactured homes under any other name or at any other location than the one for which licensed unless the license classification is that of multi-lot salesperson.
- (2) A license will not be issued to a dealer or manufacturer using a business name that is identical or similar to an existing licensee, unless the dealer or manufacturer is owned by, or in conjunction with the existing licensee, and is part of a single business entity, or in conjunction with a franchise arrangement approved by the Board.

79-8. Release of Surety Bond or Other Approved Security.

If a licensee does not conduct business within a thirty (30) day period after issuance of a license by the Board, the purchaser or indemnifier of the licensee's surety bond or other approved security may petition the Board in writing for the return of the surety bond or other approved security. The petition must include satisfactory evidence that the licensee did not conduct any business and the original license issued to the licensee must be returned with the petition. If the original license is not available, the purchaser or indemnifier may provide evidence of purchase or indemnity of the surety bond or other approved security along with an affidavit attesting to the fact that no business was conducted.

79-9. Board Authorized to Make Investigations and Deny, Suspend or Revoke Licenses.

- A. The Board may, if it deems necessary, cause an investigation to be made to ascertain if all the criteria set forth in an application for license are true and shall not issue a license to the applicant until it is satisfied as to the accuracy of the application. The Board may deny or refuse to license any applicant based on misrepresentation of facts presented on the application for license, and/or for any of the reasons set forth in the Act, and if the application requirements are not met.
- B. The Board shall investigate on its own initiative or upon receipt of inquiries or complaints any allegation of a wrongful act or acts involving licensees, and shall have the authority to take appropriate action as provided in the Act.
- C. If a licensee has been licensed in another state and that license has been suspended or revoked and/or if there is an outstanding penalty, the Board at its discretion based on information received with regard to any such suspension, revocation, or penalty may deny, suspend or revoke that licensee's ability to do business within the State of South Carolina.

79-10. Issuance of License after Denial or Revocation.

A person or an entity for which a license was denied or revoked may not reapply for a license within twelve (12) months after the date of the action. Before the license may be issued, a new application and a written petition must be submitted by the applicant and approved by a majority of the members of the Board.

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79-11. Manufacturer.

- A. A manufacturer's license entitles its holder to sell or offer for sale manufactured homes in the State of South Carolina.
- B. For licensing purposes each plant or location of a manufacturer, firm or corporation shall be treated as a separate entity and adhere to all licensing requirements.

79-12 Retail Dealer.

(A) A retail dealer's license entitles its holder to engage in the business of selling, exchanging, buying for resale, offering or attempting to negotiate sales or exchanges of new and/or pre-owned manufactured homes. A person or entity that performs any of the transactions stated in this section for three (3) or more manufactured homes in any consecutive twelve (12) month period is required to be licensed as a retail dealer. The term retail dealer does not include:

- (1) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court;
- (2) Public officials while performing their official duties;
- (3) Persons disposing of manufactured homes acquired for personal use, provided that said home is not used for the purpose of avoiding the provisions of this Act or Regulations;
- (4) Licensed real estate salespersons or brokers who negotiate or sell a manufactured home for any individual who is the owner of not more than two manufactured homes;

(B) For licensing purposes each retail dealer location with an office shall be considered a separate entity and adhere to all licensing requirements.

(C) Each retail dealer location shall have one (1) authorized official representing the dealer. If the authorized official changes, the Board must be notified in writing within twenty (20) days.

(D) A retail dealer shall at all times display its license conspicuously at the place of business.

(E) A retail dealer shall maintain a physical location from which business can be conducted and where accounts and records shall be available for inspection during normal business hours by a representative of the Department. A post office box, secretarial service, telephone answering service, or similar entity does not constitute a physical location.

(F) A retail dealer's business sign of sufficient size to identify it shall be displayed outside the retail dealer's office.

(G) Each retail dealer shall display, in a conspicuous place in the office, notification of and the procedures for filing a complaint with the Board. The Board upon issuance of the retail dealer license shall provide a certificate of notification.

(H) As provided for in §40-29-80(B)(C), prohibited activity includes installing and repairing a manufactured home and working as a employee of a licensee whether or not the employment is in a position that requires a license from the Manufactured Housing Board.

79-13. Records to be kept by Retail Dealer.

Each retail dealer shall keep records in such form as shall be prescribed by the Board. Such records shall include, but not be limited to:

- (1) A record of the purchase, sale or exchange, or receipt for the purpose of sale, of any manufactured home;
- (2) The description of each such manufactured home, including the serial number and such other numbers or identification marks as may be thereon, and a statement that a number has been obliterated, defaced, or changed, if such fact is apparent.

79-14. Responsibility of Retail Dealer for Test Inspections and Other Items.

A. The retail dealer shall inspect every new manufactured home upon delivery from a manufacturer to determine if the home fails to conform to the Standards or contains an imminent safety hazard. Whenever a retail dealer finds a noncompliance or an imminent safety hazard in a manufactured home, the retail dealer shall contact the

manufacturer, provide full information concerning the problem, and request appropriate action by the manufacturer. The retail dealer shall also notify the Department in writing that a manufactured home has been delivered by the manufacturer with a nonconformance or an imminent safety hazard. No retail dealer may sell a new manufactured home if it contains a failure to conform or an imminent safety hazard.

B. The retail dealer shall inspect every new manufactured home prior to selling to determine that all items of furniture, appliances, fixtures and devices are not damaged and are in place.

C. The retail dealer is responsible for making sure the installation and anchoring of all manufactured homes it sells meets the manufacturer's installation requirements and/or the minimum installation requirements as prescribed in these Regulations except as described in paragraph (D) below. If a retail dealer contracts or subcontracts the installation to a licensed installer, the installer or contractor will be responsible for all work it performs. Transportation of the manufactured home from the retail dealer's lot to the stand may be performed by a mover, employed or contracted by the retail dealer, or by an installer. When a mover employed or contracted by the retail dealer transports a manufactured home, the retail dealer will be responsible for any and all damage incurred to the home during the move. When an installer or contractor transports a manufactured home, the installer or contractor will be responsible for any and all damage incurred to the home during the move.

D. If the consumer elects not to contract with a retail dealer for the installation and anchoring services, upon signing of a waiver by the consumer, the retail dealer shall be released from this responsibility.

79-15. Retail Dealer Sales Transactions.

A. Each retail dealer shall furnish each Consumer purchasing a manufactured home a copy of any and all documents pertaining to the sale of the manufactured home, which include, but are not limited to, the following:

- (1) A Copy of Purchase Agreement;
- (2) Contract of Sale;
- (3) Closing statement, including the purchase price, all funds paid and to be paid by the Consumer, receipt and disposition of all other funds relevant to the sales transaction, except those funds related to sales commissions and profit by the dealer;
- (4) Homeowner's Manual and Installation Manual; and
- (5) Warranties and Manuals for Appliances, Roof and Siding, if applicable.

B. A contract for sale for a manufactured home between a retail dealer and a consumer must contain an itemized list of all options and on site work to be included as part of the sales agreement. All costs totaling the sale price must be accounted for. In addition, the following certifications must be obtained before the completion of the sales transaction when the manufactured home is to be placed on property in South Carolina or to be installed by the retail dealer:

(1) Meets applicable zoning requirements as submitted by consumer to the retail dealer for certification to contract, the consumer must certify in writing to the retail dealer that the manufactured home meets the applicable zoning requirements for the property on which the home is to be installed;

(2) Meets or can be made to meet regulations of the South Carolina Department of Health and Environmental Control (SCDHEC) governing wells and septic tanks, if the property is served or is to be served by a well or septic tank, or both. The consumer must provide a form from the Department of Health and Environmental Control certifying to the retail dealer that the property on which the manufactured home is to be located meets or can be made to meet regulations of the Department of Health and Environment Control criteria governing wells or septic tanks or both, if the manufactured home is to be served by a well or septic tank or both. The certification form must be kept as a part of the permanent record of the sale of the home and maintained by the retail dealer;

(3) Further, the contract must have attached a certification submitted by the retail dealer, that if the manufactured home per the contract is to be installed in South Carolina that the installation will meet installation requirements of the Board;

(4) Failure by a retail dealer and/or salesperson or multi-lot salesperson to have these certifications attached to the contract shall be cause for the Board to suspend or revoke a retail dealer license or take other corrective action as provided in the Act or these Regulations.

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C. Each retail dealer is required at the time of sale of a manufactured home to make a full disclosure to the buyer, concerning the disposition of the wheels, axles and hitch(es), and such disclosure must be signed and approved by the purchaser.

D. Each retail dealer is required at the time of sale of a manufactured home to present conspicuous notice to the consumer that if the new manufactured home is moved from the initial installation site during the term of the warranty period, the new home warranty does not apply to a defect or damage caused by the move.

E. The following provisions shall govern all transactions in which a retail dealer is involved in a transfer of a pre-owned manufactured home between a consumer and a seller, other than the retail dealer:

- (1) The retail dealer's role is that of a fiduciary to his principal;
- (2) In all such transactions which require a transfer of title, the retail dealer must:
 - (a) Determine the status of title, including all recorded liens and security interests, of the manufactured home according to the title records of the Department of Public Safety; and
 - (b) Disclose in writing to all parties in the transaction the status of the home as shown by such records.

79-16. Handling of Funds.

A. All monies received by a salesperson or multi-lot salesperson in connection with the sale of a manufactured home shall be immediately delivered to the retail dealer.

B. A salesperson or multi-lot salesperson shall not commingle monies or any other valuables belonging to others which have come into the salesperson's or multi-lot salesperson's possession as a result of the sale of a manufactured home.

C. A retail dealer shall maintain in the retail dealer office a complete record of all monies received as a result of the sale or offer of sale of a manufactured home including:

- (1) the amount of deposit/down payment;
- (2) from whom the money was received;
- (3) date or dates of receipt;
- (4) date of deposit;
- (5) make and serial number of manufactured home involved in the transaction; and
- (6) when a transaction has been completed, whether or not a manufactured home was sold, the final disposition of the monies, except those monies related to sales commissions and profit by the dealer.

79-17. Contracts; Deposits and Down Payments; Rescission.

(A) For the purposes of this Regulation, an agreement to purchase a manufactured home will be deemed valid prior to closing, if the agreement is in writing, is signed and dated by the buyer and seller on the same date, and meets all other requirements of the Board's statutes and regulations. Further, the seller's failure to provide the buyer, as required by the Board's regulations, with an identical copy of any purported agreement that the seller wishes to enforce shall render the agreement invalid for purposes of this Regulation.

(B) The failure to accurately describe the exact nature of the deposit or down payment with respect to a manufactured home purchase agreement, including cash, real estate, titles, or objects exchanged, will render the agreement invalid for purposes of this Regulation.

(C) Where any manufactured home purchase agreement also obligates the buyer to the purchase or lease of land, the requirements of this Regulation will be deemed applicable to the entire deposit or down payment without regard to any purported allocation of the deposit or down payment between the manufactured home and the land.

(D) In the absence of a valid agreement in accordance with this Regulation, or in the absence of a provision in such an agreement that addresses the conditions under which the seller is entitled to retain a deposit or down payment, the seller must immediately return all cash and other items used as a deposit or down payment if the buyer rescinds the transaction at any time prior to completion of closing; provided, however, that the seller may retain the lesser of the actual financing application fee or fifty dollars where the buyer is rejected for financing.

(E) Where a valid agreement exists, in accordance with this Regulation, notwithstanding any contrary provisions of the agreement, the buyer may rescind the transaction at any time prior to closing, provided, however, that the seller may in such case retain reasonable costs actually incurred because of the buyer's rescission. Reasonable

costs may include, but shall not necessarily be limited to, transportation, installation, decoration, and interest for modified floor plans.

79-18. Retail Dealer Supervision of Employees.

A. A retail dealer shall adequately supervise and control employees. The failure of a retail dealer to undertake appropriate corrective action within a reasonable period of time after that retail dealer has actual knowledge of a violation of the Act or Regulations by an employee shall be prima facie proof of inadequate supervision and control.

B. A licensee's obligation to comply with the Act and Regulations shall not be altered by any contract or agreement between the licensee and his employees, agents or subcontractors.

C. Failure to comply with the provisions of this regulation may, after opportunity for hearing, result in a license denial, revocation or suspension.

79-19. Salesperson.

(A) A salesperson's license entitles its holder to be employed for remuneration or consideration by a retail dealer to engage in the sale of new and/or pre-owned manufactured homes through that retail dealer.

(B) Each salesperson must be licensed individually.

(C) No salesperson shall offer for sale or sell manufactured homes in the State until receipt of a license from the Department.

(D) When doing business in this state, each salesperson shall be able to present a license on request.

(E) Change of Employment

(1) When a licensed salesperson is discharged or changes place of employment, the retail dealer shall notify the Department within ten (10) days, by letter reporting such termination and the reason for termination and furnish a forwarding address if known, for the salesperson.

(a) The notice must specify the reason for the change in status, e.g., discharge.

(b) The communication by the retail dealer to the Department is privileged and subject to the provisions of S.C. Code Ann. Sec. 40-1-190 (Supp. 1996).

(2) The salesperson must notify the Department within twenty (20) days when no longer employed with the retail dealer identified on the license record and must complete an application, state the reason for termination and provide proof of surety bond or other approved security coverage at new location if the salesperson is to be employed with another licensed retail dealer.

(F) A salesperson shall not be employed by or conduct transactions for more than one retail dealer at the same time, except if the salesperson is licensed as a multi-lot salesperson as described in 79-20.

(G) All transactions handled by or involving a salesperson must be reviewed and supervised by the licensed employing retail dealer. That retail dealer must review all documents prepared by the salesperson in a transaction.

79-20. Multi-Lot Salesperson.

(A) A multi-lot salesperson's license entitles its holder to be employed by a retail dealership with multiple lot locations having the same ownership for remuneration or consideration, to engage in the sale of new and/or pre-owned manufactured homes on any of the retail dealer lot locations.

(B) Surety bond or other approved security shall be marked for the locations at which the multi-lot salesperson will be working.

(C) No multi-lot salesperson shall offer for sale or sell manufactured homes in the State until receipt of license from the Department.

(D) When doing business in this state, each multi-lot salesperson must present license on request.

(E) Change of Employment.

(1) When a multi-lot salesperson is discharged or changes place of employment the retail dealer shall notify the Department within ten (10) days, by letter, reporting such termination and the reason for termination and furnish a forwarding address if known, for the multi-lot salesperson.

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(a) The notice must specify the reason for the change in status, e.g., discharge.

(b) The communication by the retail dealer to the Department is privileged and subject to the provisions of S.C. Code Ann. Sec. 40-1-190 (Supp. 1996).

(2) The multi-lot salesperson must notify the Department within twenty (20) days if no longer employed by the retail dealer identified in the license record and must complete an update application, state the reason for termination and provide proof of surety bond or other approved security coverage at new location if the multi-lot salesperson is to be employed by another licensed retail dealer.

79-21. Installers.

(A) An installer's license entitles its holder to install manufactured homes on a contract or subcontract basis for manufacturers, dealers or home purchasers. All work must be in compliance with all applicable federal, state statutes, regulations and standards. Work authorized by an installer's license is limited to:

(1) transportation of the manufactured home from dealership to stand;

(2) stand preparation;

(3) physical placement of the manufactured home on the stand;

(4) physical connection of sections and structural, nonstructural and mechanical components of the manufactured home;

(5) installation of foundation system, piers, block work, ground anchors and tiedown straps, leveling, vapor barrier, prefabricated steps; and,

(6) physical connection and testing of electrical, plumbing, gas and mechanical components and services, unless otherwise authorized by law.

(B) All work undertaken by an installer must be accomplished in good and workmanlike manner. Upon completion the installer must prepare three copies of a "Certificate of Completion." One copy of the form must be mailed or delivered to the retail dealer within three calendar days after installation is complete, one copy must be given to the home owner on the day of installation and one copy must be retained by the installer. A copy of the certificate of completion must be provided to the local building authority upon request.

(C) Electric, water, sewer and gas utilities must not be connected until the manufactured home is properly blocked and leveled.

(D) An installer's license does not permit an individual to perform modifications or repairs to any manufactured home.

79-22. Repairers.

(A) A repairer's license entitles its holder to modify or repair manufactured homes on a contract or subcontract basis for manufacturers, dealers or home purchasers. All work must be in compliance with all applicable federal, state statutes, regulations and standards. Work authorized by a repairer's license is limited to repair of components, systems, appliances, fixtures or devices on or in a manufactured home;

(B) All work undertaken by a repairer must be accomplished in a good and workmanlike manner. Upon completion the repairer must prepare three copies of a "Certificate of Completion". One copy must be mailed or delivered to the entity that requested the repairs within three calendar days after all repair work is complete, one copy must be given to the home owner on the day the repair work is complete and one copy must be retained by the repairer.

(C) A repairer's license does not permit an individual to install a manufactured home.

79-23. Contractors.

(A) A contractor's license entitles its holder to install, modify or repair manufactured homes on a contract or subcontract basis for manufacturers, dealers or home purchasers. All work must be in compliance with all applicable federal, state statutes, regulations and standards. Work authorized by a contractor's license is limited to:

(1) all work authorized for installers and repairers;

(2) construction of porches, decks, ramps, handrails and guardrails; and,

(3) installation of awnings and other add-on components produced specifically for use on or in manufactured homes.

(B) All work undertaken by a contractor must be accomplished in a good and workmanlike manner. Upon completion the contractor must prepare three (3) copies of a "Certificate of Completion." One copy must be mailed or delivered to the entity that requested the work within three (3) calendar days after installation is complete, one copy must be given to the home owner on the day the work is complete and one copy must be retained by the contractor. A copy of the certificate of completion must be provided to the local building authority upon request.

79-24. Installers, Repairers and Contractors

(A) To qualify for licensure as a manufactured housing installer, repairer or contractor, the applicant must:

(1) show proof of a minimum of two (2) years experience in the actual practice of the discipline for which the license is applied;

(2) show proof of attendance at a Board approved training program: and,

(3) have attained a minimum grade of seventy-five (75) on the Board approved examination.

(B) Licenses must be issued only to individual persons as follows.

(1) For a proprietorship, the proprietor must be the licensee.

(2) For a partnership, at least one partner must be a licensee.

(3) For a corporation, at least one of the corporate officers must be a licensee.

(C) Licensed installers, repairers and contractors are considered independent contractors and are held fully responsible and liable for the work they and their employees perform.

(D) A license is not required for persons holding a current license issued by other Boards or commissions of the state. All work performed on manufactured homes by such licensees is restricted to the specific discipline and conditions of the license held. Action for complaints lodged against such licensees must be investigated and taken by the Board or commission that issued the license.

(E) A license is not required for individuals working as direct employees of a licensed manufacturer or dealer, providing the individuals are covered by the employer's bond and install, modify, alter or repair manufactured homes exclusively for the employer.

(F) Manufacturers and dealers are responsible and liable for any and all work performed by the installers, repairers or contractors they employ.

(G) Licenses are not transferable. If a licensee dies, no longer qualifies for or otherwise loses the license, it will be rendered null and void and must be returned to the Department. The employing entity must notify the Department in writing within ten (10) days of any incident for which a license would be rendered null and void. The business will then have an additional fifteen (15) days to have an individual qualify or the business must relinquish its right to practice.

(H) All licenses remain the property of the Board and, upon written notification by the Board, must be surrendered.

79-25. Standard of Conduct.

A. No licensee shall aid or abet an unlicensed person to evade the provisions of the Act or Regulations; knowingly combine or conspire with, or act as an agent, partner, or associate for an unlicensed person.

B. No licensee shall use dual sets of contracts, written or otherwise, which would falsify the transaction by stating a sales price higher than the actual sales price in an effort to obtain a larger loan from any lender or lending institution or in any way providing intentional misinformation to any governmental agency.

79-26. Fees.

(A) All fees are payable in advance and must be accompanied by an application.

(B) Fees shall not be refunded.

(C) When applicable, the examination fee is fifty (\$50.00) dollars.

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(D) Licensing fees:

Licensing fee for a two (2) year license:

- (1) Manufacturer: Three hundred (\$300.00) dollars;
- (2) Retail Dealer: One hundred (\$100.00) dollars;
- (3) Salesperson: Fifty (\$50.00) dollars;
- (4) Multi-Lot Salesperson: One hundred (\$100.00) dollars;
- (5) Installers: One hundred (\$100.00) dollars;
- (6) Repairers: One hundred (\$100.00) dollars;
- (7) Contractors: One hundred (\$100.00) dollars;

(E) Fees for applications received with one (1) year or less remaining in the current licensing cycle will be based on one half of the two year licensing fee.

(F) Permits for Manufactured Home Shows: One hundred dollars per location;

(G) License Application Update/Duplicate: Ten dollars;

(H) Credit Report: Ten dollars per report;

(I) Late Fees: Twenty-five dollars per month;

(J) Removal of red tag(s): Fifty dollars per tag;

(K) The Department will charge a fee of fifty dollars each time a reinspection is performed on a manufactured home that is involved in a complaint. The fee will be charged to the dealer, manufacturer, installer, repairer or contractor as appropriate. If more than one entity is responsible for the reinspection, the fee will be prorated. If a reinspection reveals that all complaint items have been satisfied, no fee will be charged to any licensee. If it is determined by the Board that a reinspection requested by a consumer is frivolous or without basis, the fee will be charged to the consumer.

79-27. Manufactured Home Show Permits.

(A) Permits for display or offering homes for sale at locations other than the normal business location must be obtained from the Department. Written notice of display, show, date/time, location, names and addresses of retail dealers, number of homes and names of any licensees who may be showing or offering homes for sale, must be received by the Department thirty (30) days in advance of the date of the show.

(B) Permits for display or special showings of manufactured homes at locations other than the normal business location for educational, charitable or information purposes must also be obtained from the Department; however, no fee will be charged.

(C) Applications for both permits may be obtained from the Department upon request.

79-28. Training.

(A) Prior to issuance of an installers, repairers, contractors, retail dealers or salespersons license, the applicant must submit proof of training as approved by the Board.

(B) All training providers, course curriculums, examinations and any other criteria necessary to satisfy the requirements of these regulations must be approved by the Board. Fees and fee increases charged by training providers, for courses and examinations required by these regulations, must be approved, not less than sixty (60) days in advance by the Board.

(C) The training provider must furnish the Department, in writing, notice of any change in course curriculum, not less than sixty (60) days prior to the effective date of the change. Changes in course curriculum cannot occur until approved by the Board.

(D) The training provider must furnish the Department with a schedule of classes or sessions, stating their dates, time and location. The Department reserves the right to audit any class or session at any time, with or without notice and without fee for entry.

(E) Examinations administered by training providers or examination services, are and remain, the sole property of the Board. Use of the examinations by any entity or for any purpose not approved by the Board is a misdemeanor.

(F) Approval as a training provider may be suspended or revoked by the Board for misuse of examinations or failure to comply with these regulations.

(G) Proof of training must include curriculum and written examination in the following areas.

- (1) Installers:
 - (a) federal and South Carolina statutes and regulations governing manufactured housing;
 - (b) manufacturer's installation manuals and requirements;
 - (c) preparation of manufactured housing stands;
 - (d) installation of foundation systems;
 - (e) blocking, perimeter support and leveling of manufactured homes;
 - (f) structural connections of sections and major components;
 - (g) installation of anchoring systems and components;
 - (h) installation of vapor barriers, curtain walls, access and ventilation for crawl space areas;
 - (i) electrical connections;
 - (j) plumbing connections;
 - (k) mechanical equipment connections;
 - (l) gas equipment connections; and,
 - (m) connections of vents, ducts, carpet and other nonstructural components.
- (2) Repairers:
 - (a) federal and South Carolina statutes and regulations governing manufactured housing;
 - (b) manufacturer's installation manuals and requirements;
 - (c) reblocking and releveling of manufactured homes;
 - (d) repair and replacement of vapor barriers, curtain walls, access and ventilation for crawl space areas;
 - (e) repair and replace electrical devices and fixtures;
 - (f) repair and replace plumbing devices and fixtures;
 - (g) repair and replace mechanical equipment;
 - (h) repair and replace gas equipment; and,
 - (i) repair and replace nonstructural components.
- (3) Contractors:
 - (a) all areas required for installers and repairers;
 - (b) light frame carpentry; and,
 - (c) installation of light frame metal.
- (4) Retail Dealers:
 - (a) rules, regulations and standards governing the Manufactured Housing Board;
 - (b) South Carolina Laws and Regulations effecting Manufactured Housing Industry;
 - (c) business and law;
 - (d) retail dealer/sales ethics;
 - (e) general installation knowledge;
 - (f) different types of transactions, land home packages, conventional;
 - (g) types of license required and what work may be performed with each license;
 - (h) zoning (different counties have different zone requirements); and
 - (i) title and deeding information, Manufacturer Certificates of Origin.
- (5) Retail Salespersons
 - (a) Rules, regulations and standards governing the Manufactured Housing Board;
 - (b) South Carolina Laws and Regulations effecting Manufactured Housing Industry;
 - (c) retail dealer/sales ethics; and
 - (d) general installation knowledge.
- (6) Multi-lot Salespersons
 - (a) Rules, regulations and standards governing the Manufactured Housing Board;
 - (b) South Carolina Laws and Regulations effecting Manufactured Housing Industry;
 - (c) retail dealer/sales ethics; and
 - (d) general installation knowledge.

79-29. Examinations.

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(A) License applications and licensing requirements are available from the Department. The applicant shall contact and arrange with a Service Provider approved by the Department for taking the examination. The approved Service Provider shall provide the applicant with the results on the day of examination. The applicant shall provide the department with the passing score report at the time of application.

(B) Passing examination results for any person who takes the examination will remain in effect for a six-month period; a person who has not applied for license during that period will be required to be reexamined before a license application will be accepted.

79-30. Failure of Examination.

Any person who fails to achieve a passing score on the examination shall be eligible for further examination for a one year period upon payment of necessary examination fee. If the applicant has not passed the exam within one year, the applicant must retake the mandatory training class as required by the Board.

79-31. Complaints and Hearings.

(A) Any person claiming to be injured by an alleged violation of the Act or these Regulations may file a written complaint with the Department which shall contain the name and address of the licensee(s) against whom the complaint is made, a concise statement of the alleged violation, and any other pertinent information that the Board may determine necessary to adequately evaluate the complaint.

(B) Upon receipt of a written complaint, the Department shall investigate by telephone or personal contact the alleged violation to determine whether cause exists to investigate further. If such cause exists and involves matters pertaining to the warranty or nonconformance of a manufactured home, the Department shall contact by mail the licensee(s), forwarding a copy of the written complaint, and request correction of the alleged violation(s) within ten (10) days upon receipt. If the violation(s) is not corrected, the Department may perform an on-site inspection of the home.

(1) The Department shall notify the licensee(s) and consumer by mail of the date and time of the inspection. The licensee(s) must be present for the inspection, but may be relieved under special circumstances or upon reasonable request in writing prior to inspection date.

(2) The consumer shall make himself available during reasonable business hours to be present for the inspection.

(3) From the date of the inspection the licensee(s) shall be given thirty (30) days in which to correct any violation(s) noted during the on-site inspection.

(4) If the violation(s) has not been satisfactorily corrected within the thirty (30) days and the licensee(s) has not provided a satisfactory explanation, the licensee(s) shall be directed, after proper notification, to appear before the Hearing Examiner for the Manufactured Housing Board for an administrative hearing.

(C) If the complaint involves nonstructural matters, the licensee will be forwarded a copy of the written complaint and advised that corrections must be made within fifteen (15) days as to the action that the licensee has taken or intends to take in order to resolve the complaint. If the complaint is not resolved within the fifteen (15) days, the licensee shall be directed, after proper notification, to appear before the Hearing Examiner for the Board for an administrative hearing.

79-32. Complaints from Other than Consumers.

A. All complaints against licensees shall be in writing.

B. The Board will not enter into disputes between licensees or between licensees and business associates over payment of salaries, wages, debts or commissions; however, the Board may take these matters into consideration for the purpose of determining whether a violation of the Act or these Regulations has occurred.

79-33. Hearing Examiner.

The Board shall designate one or more individuals who will act as a Hearing Examiner and who will not be a member of the Board. The Hearing Examiner shall hold hearings in accordance with the Act and Regulations and

shall have power to administer oaths and to issue subpoenas for the attendance of witnesses and the production of books, records, accounts and papers pursuant to the Administrative Procedures Act.

79-34. State Administrative Agency (SAA) Handling of Consumer Complaints.

The handling of consumer complaints under the State Administrative Agency Program (SAA) is separate and distinct from the handling of complaints under the State Licensing Program. All complaints concerning units constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (Act) shall be handled in compliance with Subpart I of the regulations established pursuant to that Act.

(1) Upon receipt of a consumer complaint or other information indicating the possible existence of a noncompliance, defect, serious defect, or imminent safety hazard, the Department will review the complaint or information and forward the complaint or other information to the manufacturer of the manufactured home in question. When it appears from the complaint or other information that more than one manufactured home may be involved, the complaint will simultaneously be forwarded to the United States Department of Housing and Urban Development (HUD) and to the SAA of the state where the manufactured home was manufactured.

(2) When the complaint is forwarded to the manufacturer, the manufacturer will be requested, in writing, to investigate the complaint within twenty (20) days after receipt of the information and carry out any necessary investigations and inspections to determine whether the manufacturer is responsible.

(3) When the manufacturer is physically located within this state the following additional procedures apply:

(a) Where the manufacturer has determined and reports that no imminent safety hazard, serious defect, defect or noncompliance exists and the Board is able to concur from all available information, the Board will consider the complaint closed for SAA purposes and so inform the manufacturer and complainants; however if the Board is unable to concur with the manufacturer's report, an SAA investigation will be made and a copy of the investigation will be sent to the manufacturer and complainants. If it is found that the manufacturer's report was correct, the Board will consider the matter closed.

(b) Where, upon investigation, the Board determines that an imminent safety hazard, serious defect, defect or noncompliance may exist, it will notify the manufacturer and request the manufacturer to take necessary action. Where the manufacturer does not take action after notification by the Board and it appears that an imminent safety hazard or serious defect may exist, the Board will inform the manufacturer of its opinion and simultaneously forward to HUD documentation of the factual basis upon which an opinion was made, for administrative determination by HUD, pursuant to 24 C.F.R., Section 3282.407 (a). Where the manufacturer does not take action after notification by the Board and it appears that a defect or noncompliance may exist, the Board will so notify the manufacturer. The notice shall be sent to the manufacturer by certified mail and will include:

- (1) The preliminary determination by the Board;
- (2) The factorial basis for the determination;
- (3) The identifying criteria of the manufactured homes to be affected;
- (4) Notice to the manufacturer that a hearing or presentation of views may be requested pursuant to 24 C.F.R. Part 3282, Subpart D, to establish that there is no such defect or noncompliance;
- (5) Notice to the manufacturer that the preliminary determination shall become final unless the manufacturer responds within fifteen (15) days after receipt of such notice and requests a hearing or presentation of views; and
- (6) Notice to the manufacturer that any information upon which the determination has been based, such as test results, records of inspection, etc., shall be available for inspection by the manufacturer.

(c) Where the manufacturer requests a hearing or presentation of views, one shall be held pursuant to 24 C.F.R. Section 3282.152.

(d) Where the manufacturer fails to respond to the notice of preliminary determination or if the Board decides that the views and evidence presented by the manufacturer or others are insufficient to rebut the preliminary determination, the Board may make a final determination that a defect or noncompliance exists and will notify the manufacturer to make a notification and submit a plan in accordance with 24 C.F.R. Section 3282.409. Within ten (10) days after receipt of the notice of final determination, the manufacturer may appeal to the Secretary of the United States Department of Housing and Urban Development.

(e) The manufacturer's plan for notification and correction, including contents of notice, time for implementation and completion of actions and reports, shall be made in accordance with the provisions of 24

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C.F.R. Section 3282.409 through 3282.413. When the manufactured home is in the hands of a distributor or retail dealer, it shall be handled in accordance with 24 C.F.R. Section 3282.414.

79-35. Increase of Surety Bond or Other Approved Security Requirements.

(A) The Board may upon finding a licensee in violation of the provisions of the Act or Regulations increase the surety bonding or other approved security amount requirement not to exceed the maximum amount allowable under the Act.

(B) The Board may upon finding that an applicant for license has violation(s) which occurred during the past ten (10) years increase the surety bonding or other approved security amount requirement as a prerequisite for the issuance of license.

79-36. Reduction of Surety Bond or Other Approved Security Requirements.

A licensee may, after twelve (12) months of increased surety bonding or other approved security requirements, petition the Board in writing for the surety bonding or other approved security requirement to be reduced. The written request must also include any corrective action which has been taken by the licensee to rectify the violation(s) which occurred. The Board, after reviewing the record of the licensee during the year of increased surety bonding or other approved security to determine if the violation(s) has been cured by corrective action and there have not been further violation(s), may reduce the surety bonding or other approved security requirement to a lesser amount or to the minimum as provided in the Act.

79-37. Claims against Surety Bond or Other Approved Security.

A. In the event the responsible licensee(s) is unavailable or otherwise fails to resolve a complaint registered by a consumer, a claim may be filed against the surety bond or other approved security of the appropriate licensee(s) for the resolution of the complaint. Proceeds from the surety bond or other approved security may be disbursed only to the consumer who has followed the complaint process as provided by the Board or to a licensed retail dealer or manufacturer of a consumer's home who has performed service on the consumer's home on behalf of an out of business licensee.

(1) When it has been determined by investigation and/or inspection that the claim is valid, the consumer will be notified that a claim may be filed;

(2) If the complaint involves money, title or contractual dispute, the consumer will be requested to present receipts, canceled checks, contracts and other documentation to substantiate the claim.

(3) If the complaint involves repairs the consumer will be requested to provide estimates, which will be reviewed by the Department and an estimate will be chosen, if reasonable.

(4) In circumstances where the consumer has attempted but has been unsuccessful in obtaining estimates, the consumer may petition the Department for waiver of the requirement.. The petition shall be a statement by the consumer of all efforts made in attempting to obtain estimates and the results of those efforts.

(5) If the complaint involves reimbursement for repairs the consumer will be requested to present the bill(s) received for repairs. The Department will review the cost(s) and a determination will be made as to whether the cost(s) is fair and reasonable.

(6) If repairs are necessary to maintain the safety, health and well-being of the consumer, or if a delay in repairs may cause further damage to the consumer's property, and a licensed retail dealer or manufacturer of the consumer's home is out of business, service may be provided to that consumer's home by the other currently licensed party on behalf of the out of business licensee. That licensee may petition the Board for reasonable reimbursement under the surety bond or other approved security of the licensee which is out of business.

B. All claims, upon determination by the Department to be reasonable will be presented to the Board Chairman for authorization to pay the claim.

79-38. Inspections.

A. An inspector may enter, at any reasonable time, any licensee's premises where manufactured homes are manufactured, sold, or offered for sale, and inspect any documents and records required to be maintained under the Act and Regulations. The Department may determine the times for periodic monitoring of retail dealer locations to ascertain compliance with the Act.

B. An inspector may enter any licensee's location during normal working hours to inspect new manufactured homes for compliance with the Act and Regulations.

C. A manufactured home found by an inspector to contain a violation(s) shall be conspicuously tagged with a "Red Tag", which specifies that the sale of the home is prohibited. Upon notification from the licensee that the violation(s) in the manufactured home has been corrected and upon inspection or verification of appropriate corrections, the Department shall authorize the removal of the "Red Tag".

79-39. Injunction.

The Department may enforce the provisions of the Uniform Standards Code for Manufactured Housing Act by injunction or mandamus or any proper legal proceeding in the circuit court of the county in which the offense was committed.

79-40. National Manufactured Housing Construction and Safety Standards.

The South Carolina Manufactured Housing Board hereby adopts the standards contained in the National Manufactured Housing Construction and Safety Act of 1974, 42 U.S.C. 5401 et. seq., as amended.

79-41. National Manufactured Housing Construction and Safety Regulations.

The South Carolina Manufactured Housing Board hereby adopts the manufactured home procedural and enforcement regulations 24 C.F.R. 3282, as amended, promulgated by the Department of Housing and Urban Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 72 U.S.C. 5401 et. seq., as amended.

79-42. Manufactured Home Installation Requirements.

(A) Scope and Applicability. New manufactured homes in the State of South Carolina must be installed per the Manufacturers Installation Instructions. Used homes, without manufacturers installation instructions, are to be installed per Manufactured Housing Board Installation Regulations. The Manufacturers Installation Instructions and the Manufactured Housing Board Installation Regulations shall preempt any existing local standard. (See paragraph G).

(B) Manufactured Home Installation. The Federal Manufactured Home Construction and Safety Standards Program (24CFR 3280, 3282 and 3283) requires that all manufactured homes be provided with installation instructions covering foundation, anchoring, utility connections, and other items. Where such installation instructions are provided, they shall be followed and supplemented by this regulation.

(1) Foundation Systems for Manufactured Homes. A Manufactured Home Foundation System is one constructed in accordance with the foundation system included in the manufacturer's installation instructions, supplemented by the requirements of these regulations. The manufacturer or homeowner shall be permitted to design for unusual installation not provided for in the manufacturer's standard installation instructions, provided a licensed professional engineer or architect approves the design in writing. When the manufacturer's instructions are not available Table 1 in Appendix A indexes information for the design of manufactured home foundation systems which meet the minimum criteria established in this regulation.

(2) Manufactured Homes with Manufacturer's Instructions. The manufacturer's instructions include a typical foundation system designed by a registered professional engineer or architect to support the anticipated loads specified in the manufacturer's installation instructions for the design zone (including climate) of installation, and shall meet the requirements of these regulations. These instructions shall be provided with the home following installation as required by 24 C.F.R., Parts 3280, 3282, and 3283 (42 U.S.C. 5401 et seq.).

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(3) Manufactured Home Stabilizing Devices and Design. Each manufactured home, upon being installed on a manufactured home stand, shall have stabilizing devices, or shall be installed on a foundation constructed in accordance with the Standard Building Code. Stabilizing devices not provided with the manufactured home shall be listed or labeled to meet or exceed the design and capacity requirements of the manufactured home manufacturer's installation instructions and these regulations.

(a) Anchoring.

(1) Each manufactured ground anchor shall be listed and installed in accordance with the terms of its listing and the anchor manufacturer's instructions and shall include means of attachment of ties meeting the requirements of paragraph (B) (3) (b) (v). Ground anchor manufacturer's installation instructions shall include tensioning adjustments which may be needed to prevent damage to the manufactured home, particularly damage that can be caused by frost heave.

(2) Each ground anchor shall have the manufacturer's identification and listed model identification number marked thereon so that the number is visible after installation. Instructions shall accompany each listed ground anchor specifying the types of soil for which the anchor is suitable under the requirements of paragraph (B) (3) (b) (4) (a).

(3) Ground anchors, including means for attaching ties, shall be located to effectively match the anchoring system instructions provided by the manufactured home manufacturer, or, if there are no instructions, in accordance with the requirements of this section.

(4) If concrete slabs or continuous footings are used to transfer the anchoring loads to the ground, the following shall be required:

(a) Steel rods cast in concrete shall be capable of resisting loads as specified in paragraph (B) (3) (b) (4)(a).

(b) Deadman concrete anchors may be used in place of listed anchors if they meet the requirements of paragraph (B) (3) (b) (4) (a).

(c) Concrete slabs may be used in place of ground anchors, provided the slab is constructed so that it provides holding strength equal to the requirements of paragraph (B) (3) (b) (4)(a).

(b) Foundation Standards.

(1) Support System Spacing. Unless a professional engineer or architect designs the entire support system, the support system shall be designed in accordance with this standard.

(2) Footings. Footings shall be sized to support the loads shown in the manufacturer's instructions and as specified below. Where no manufacturer's instructions are available, the footings shall be adequate in size to withstand the uniform live and dead loads of the manufactured home and any concentrated loads.

(a) The supports shall begin not more than two feet from the exterior of each end wall. Supports shall be installed directly under the main frame (chassis) of the manufactured home. The South Carolina Manufactured Housing Board may approve methods other than those specified herein.

(b) Table 2 in Appendix A shall be applicable unless the entire support system is designed and calculated by a registered professional engineer or architect.

(c) Footings shall be at least 144 square inches of solid concrete, block, or other materials approved for the intended use by the South Carolina Manufactured Housing Board. (Check Appendix B for minimum thickness.)

(d) Footings or pier foundations (unless approved by a registered professional engineer), when required, shall be placed level on firm undisturbed soil or on controlled fill which is free of grass and organic materials to minimum load-bearing capacity of 1000 pounds per square foot. Where unusual conditions exist, the spacing of piers and the load-bearing capacity of the soil shall be determined specifically for such conditions (see paragraph (B) (6) (b)).

(3) Piers. Piers or load-bearing supports or devices shall be designed and constructed to evenly distribute the loads. Load-bearing supports or devices shall be listed and labeled, shall be designed by a registered professional engineer or architect, shall be approved for the use intended, or piers shall be constructed as follows:

(a) Piers less than 36 inches in height shall be constructed of open or closed cell, eight inches by 16 inches, concrete blocks (with open cells vertically placed upon the footing). Single-stacked block piers shall be installed with the 16 inches perpendicular to the main (I-beam) frame. The piers shall be covered with a two inches by eight inches by 16 inches wood or concrete cap (See Figure B-10, Appendix B).

(b) Subject to the limitations of paragraph (B) (4) (b), piers between 36 inches and 80 inches in height and all corner piers over three blocks high shall be double blocked with blocks interlocked and capped with a four inches by 16 inches by 16 inches solid concrete block, or equivalent (See Figure B-11, Appendix B).

(c) Subject to the limitations of paragraph (B) (4) (b), piers over 80 inches in height shall be constructed as per paragraph (B) (3) (b) (3) and they shall be laid in concrete mortar and steel reinforcing bars inserted in block cells with the block cells filled with concrete (See Figures B-12 (a) and B-12 (b) in Appendix B).

(d) Steel Piers. Steel piers, when used, shall be in compliance with paragraph (B) (3) (b) (5)(l), after fabrication to provide corrosion protection (See B-8 in Appendix B).

(e) Walls. Load bearing and nonload-bearing walls constructed on site shall be constructed of concrete, masonry, or any other material or system that is recognized by the authority having jurisdiction. Minimum thickness shall be that required to resist lateral pressure from adjacent earth and support design loads as determined by acceptable engineering practice.

(4) Anchors.

(a) Capacity of Anchors. Each approved ground anchor, when installed, shall be capable of resisting an allowable working load at least equal to 3,150 pounds in the direction of the tie plus a 50 percent overload (4,725 pounds) without failure.

(b) Anchoring Equipment. Anchoring equipment, shall be capable of resisting an allowable working load equal to or exceeding 3,150 pounds and shall be capable of withstanding a 50 percent overload (4,725 pounds) without failure of either the anchoring equipment or the attachment point on the manufactured home. When the stabilizing system is designed by a qualified registered professional engineer or architect, alternative working loads may be used provided the anchoring equipment is capable of withstanding a 50 percent overload. All anchoring equipment shall be listed or labeled as being capable of meeting all the requirements of this section.

(c) Anchor Installation Specifications. Each type anchor suitable for this purpose shall have specification data showing the soil classification(s) for which it qualifies.

(d) Anchors designed for connection of multiple ties shall be capable of resisting the combined working load and overload consistent with the intent expressed herein, and shall be installed to resist resultant forces.

(e) Selection of Anchors. Anchor selection shall be based on a determination of the soil class at the depth the anchor helical plate will be installed.

(f) Other Anchoring Devices. Other anchoring devices meeting the requirements of this section shall be permitted if acceptable to the authority having jurisdiction.

(g) Depth of Anchors. All anchors shall be installed to the full depth shown in the anchor manufacturer's installation instructions. The load-carrying portion of the ground anchors shall extend below the frost line.

(5) Ties. Strappings or other approved methods or material shall be used for ties. All ties shall be fastened to ground anchors and drawn tight with turnbuckles or other adjustable tensioning devices or devices supplied with the ground anchor.

(a) Tie materials shall be capable of resisting an allowable working load of 3,150 pounds with no more than two percent elongation and shall withstand a 50 percent overload (4,725 pounds total). Ties shall comply with the weathering requirements of paragraph (B) (3) (b) (v) 1).

(b) Ties shall connect the ground anchor and the main structural steel frame (I-beam or other shape) which runs lengthwise under the manufactured home. Ties shall not connect to steel outrigger beams which fasten to and intersect the main structural frame unless specifically stated in the manufacturer's installation instructions.

(c) Connection of the cable frame tie to the manufactured home I-beam or equivalent main structural frame member shall be by a five-eighths inch drop-forged closed-eye bolt through a hole drilled in the center of the I-beam web or other approved methods. The web shall be reinforced if necessary to maintain the designed I-beam strength.

(d) Cable ends shall be secured with at least three U bolt-type cable clamps with the U portion of the clamp installed on the short (dead) end of the cable to assure strength equal to that required by paragraph (B) (3) (b) (v) a).

(e) Number of Ties. The minimum number of ties per side for various lengths of manufactured homes in hurricane zone shall be in accordance with Table 3 in Appendix A.

(f) Location of Ties. When continuous straps are provided as vertical ties, such ties shall be positioned at rafters and studs. Where a vertical tie and diagonal tie are located at the same place, both ties shall be permitted to be connected to a single ground anchor, provided that either the anchor used is capable of carrying both loadings, or that the load capacity of the total number of anchors used is equal to 3150 pounds. Working load plus 50 percent overload (4725 pounds.) times the number of ties specified in Table 3 in Appendix A.

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(g) Spacing of Vertical Ties. Vertical ties shall be as evenly spaced as practicable over rafters or over studs along the length of the manufactured home with not more than eight feet open-end spacing on each end.

(h) Special Ties. Clerestory roofs and add-on sections of expandable manufactured homes shall have provisions for vertical ties at the exposed ends.

(i) Alternate Method Using Strapping. If the alternate method incorporating straps specified in Table 3 in Appendix A is used, the baling straps shall be wrapped completely around the manufactured home passing under the main steel frame, with both ends of each strap fastened together under tension. The straps shall be in accordance with paragraph (B) (3) (b) (v). The method used to connect the ends of the strap shall not reduce the allowable working load and overload. S traps shall be installed in accordance with the requirements for ties in paragraph (B) (3) (b) (v) a) through l).

(j) Tensioning Device Design. Tensioning devices such as turnbuckles or yoke-type fasteners shall be ended with a clevis or forged or welded eyes.

(k) Permanency of Connections. Anchoring equipment shall be designed to prevent self-disconnection when ties are slack. Open hook ends shall not be used in any part of the anchoring system.

(l) Resistance to Weather Deterioration. All anchoring equipment exposed to weathering shall have a resistance to weather deterioration at least equivalent to that provided by a coating of zinc on steel of not less than 0.30 ounces per square foot on each side of the surface coated, as determined by ASTM Standard Methods of Test for Weight of Coating on Zinc-Coated (Galvanized) Iron or Steel Articles (ASTM A90-B1).

(4) Placement of Manufactured Homes.

(a) Clearance Under Homes. A minimum clearance of 12 inches shall be maintained beneath the lowest member of the main frame (I-beam or channel beam) in the area of utility connections. No more than 25 percent of the underside of the main frame of the home shall be less than 12 inches above grade.

(b) Plates and Shims. A wood plate not exceeding two inches in thickness and shims that transfer loads uniformly not exceeding one inch in thickness shall be permitted to be used to fill any gap between the top of the pier and the main frame. Two, two inches or four inches solid concrete blocks shall be permitted to be used to fill the remainder of any gap. Shims shall be at least nominal four inches wide and six inches long and shall be fitted and driven tight between the wood plate or pier and main frame.

(c) Elevated Manufactured Homes. When the manufactured home is installed on a basement or split entry type foundation over a habitable lower-level area, or when more than one-fourth of the area of a manufactured home is installed so that the bottom of the main frame members are more than three feet above ground level, the foundation system shall be designed by a registered professional engineer or architect and the installation shall be approved by the local authority having jurisdiction.

(d) Removal of Manufactured Home Transportation Components at Time of Installation. No portion of a manufactured home shall be removed when located on its home site unless it is designated to be removable and removed in accordance with the manufacturer's instructions.

(5) Ventilation of Manufactured Homes.

(a) Access to and Ventilation of Underfloor Areas.

(1) Provisions shall be made to minimize condensation in underfloor areas through ventilation openings or other suitable means.

(2) If combustion air for heat-producing appliance(s) is taken from within the underfloor areas, ventilation shall be adequate to assure proper operation of the appliance(s). This requirement shall take precedence over the provisions of paragraph (B) (5) (a) (i).

(3) Ventilation openings shall be provided for low profiled manufactured homes that are installed by depressing the supporting foundation in accordance with paragraph (B) (5) (a) (iv).

(4) A minimum of four ventilation openings shall be provided from the underfloor space to the exterior. One shall be placed at or near each corner as high as practicable. Their total net area shall be calculated by: $a = A/150$ where:

A = the area of the crawl space, square feet

a = the total net free vent area.

(a) Openings shall provide cross ventilation on at least two opposite sides. The openings shall be covered with corrosion resistant wire mesh not less than one-eighth inch and not more than one-half inch in any dimension or with screened louvered openings to retard entry of dry vegetation, waste materials, or rodents.

(b) Intake air for ventilation purposes shall not be drawn from underfloor spaces of the home.

(c) Moisture producing devices, such as dryers, shall be vented to the atmosphere in such a manner to insure that moisture laden air is carried beyond the perimeter of the home.

(d) Curtain Walls. Curtain walls, if used, although not necessary for stabilizing the home, shall be installed in accordance with the manufacturer's installation instructions. It shall be secured, as necessary, to assure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heave. Access opening(s) not less than 18 inches in any dimension and not less than three square feet in area shall be provided and shall be located so that any water supply and sewer drain connections located under the manufactured home are accessible for inspection. Such access panel(s) or door(s) shall not be fastened in a manner requiring the use of a special tool to remove or open same. On-site fabrication of curtain wall shall meet the objectives cited herein. Materials designed for curtain walls may be used, including, but not limited to vinyl, treated wood, corrosion resistant metal or masonry products. Curtain walls constructed or installed in accordance with this provision satisfy the requirements of the Act.

(6) Maintenance.

(a) Protection of Ties and Manufactured Home Roofing and Siding. Protection shall be provided at sharp corners where the anchoring system requires the use of external cables or straps. Protection shall also be provided to minimize damage to roofing or siding by the cable or strap.

(b) Maintenance of Anchoring Systems. The homeowner shall be advised that tie tension should be checked and adjusted when necessary to prevent damage to the manufactured home from settling or other unforeseen movements (such as frost heave).

(C) Plumbing. Each manufactured home stand shall be provided with a water supply and sewer located and arranged to permit attachment to the manufactured home in a workmanlike manner.

(D) Mechanical Equipment (Heating and Cooling)

(1) Exterior Mechanical Equipment.

(a) Mechanical equipment installed outside of and not attached to a manufactured home shall be mounted on a level concrete slab not less than three and one-half inches thick, a precast reinforced concrete slab, treated wood of equivalent strength, or be mounted in accordance with the equipment manufacturer's installation instructions.

(b) Mechanical equipment installed outside shall be listed and labeled for outside installation and installed in accordance with the manufacturer's installation instructions.

(c) Mechanical equipment shall not be installed in a manner that would obstruct any means of required egress. Mechanical equipment shall not be installed in window openings which are part of an existing system and shall not obstruct sidewalks or other means of egress from the manufactured home.

(E) Manufactured Home Electrical Connections.

(1) When a manufactured home consists of two or more sections, all utility connections from one section to another shall be installed in accordance with the manufacturer's installation requirements. In the absence of manufacturer's instructions utility connections shall be made in accordance with the National Electrical Code.

(2) No rigid utility connections shall be made unless the home is installed on a foundation constructed in accordance with the Standard Building Code.

(3) All manufactured home utility services shall be connected to the supply sources only with approved materials.

(4) When a manufactured home is equipped with a meter base from the manufacturer, a municipality or county cannot require that the home be hooked up in any other fashion.

(F) Dealer Lot Installation.

(1) All manufactured homes stored on dealership lots shall be installed to such a degree as to not allow damage to occur while the home is on display.

(a) Piers. Pier requirements for dealer lot installations shall equal one-third the required piers for field installation in accordance with the manufacturer's installation instructions. In areas where special pier installations are required, the dealer shall incorporate these piers in the lot installation.

(b) Used Manufactured Homes. Used manufactured homes offered for sale on dealership lots shall be installed to assure that load-bearing supports maintain the integrity of the home. Dealer lot owners will have the discretion as to what extent installation is necessary. However, in no situation shall any unit be installed on a dealer lot without pier support.

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(G) National Flood Insurance Program. In areas where a community meets the eligibility requirements for the National Flood Insurance Program, the local jurisdiction having authority shall have the authority to change, delete or modify these regulations in order to comply with the National Flood Insurance Program created by the National Flood Insurance Act of 1968, as amended. A copy of any different standard adopted under this paragraph shall be filed with the South Carolina Manufactured Housing Board.

79-43. Used Manufactured Home Minimum Habitability Requirements.

(A) Scope and Applicability. No person or retail dealer shall sell to a consumer for occupancy any used manufactured home to be used for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements. Any home meeting the standards for habitability of this Section may be placed for occupancy throughout the State. No additional regulation or standard may be enforced with regard to the condition or repair of the home.

(B) Facilities Required.

(1) Sanitary facilities. Every Manufactured home shall contain not less than a kitchen sink, lavatory, tub or shower, and a water closet all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition free from defects, leaks, and obstructions.

(2) Hot and cold water supply. Every manufactured home shall have connected to the kitchen sink, lavatory, and tub or shower an adequate supply of both cold water and hot water. All water shall be supplied through an approved distribution system connected to a portable water supply.

(3) Water heating facilities. Every manufactured home shall have water heating facilities which are properly installed and maintained in a safe and good working condition and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120 degrees Fahrenheit.

(4) Heating facilities. Every manufactured home shall have heating facilities which are properly installed and maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, and bathrooms. Where a central heating system is not provided, each manufactured home shall be provided with facilities whereby heating appliances may be connected. Unvented fuel burning heaters shall be prohibited except for gas heaters listed for unvented use and the total input rating of the unvented heaters is less than 30 BTU per hour per cubic foot of room content. Unvented fuel burning heaters shall be prohibited in bedrooms.

(5) Cooking and heating equipment. All cooking and heating equipment and facilities shall be installed in accordance with Federal Manufactured Home Construction and Safety Standards and shall be maintained in a safe and good working condition. Portable cooking equipment employing flame is prohibited.

(6) Smoke detector. Every manufactured home shall be provided with an approved listed smoke detector, installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm.

(7) Windows. Every habitable room excluding bathrooms, kitchens and hallways, shall have at least one window or skylight facing directly to the outdoors.

(8) Ventilation. Every habitable room shall have at least one window or skylight which can be easily opened, or such other device as will adequately ventilate the room.

(9) Electric service. Where there is electric service available to the manufactured home, every habitable room or space shall contain at least two separate and remote convenience outlets and bedrooms shall have, in addition, at least one wall switch controlled ceiling or wall type light fixture. In kitchens, three separate and remote convenience outlets shall be provided, and a wall or ceiling type light fixture controlled by a wall switch shall be required. Every hall, water closet compartment, bathroom, laundry room or furnace room shall contain at least one electric fixture. In bathrooms a wall switch shall control the electric light fixture. In addition to the electric light fixture in every bathroom and laundry room there shall be provided at least one convenience outlet. Any new bathroom outlet shall have ground-fault circuit interrupter protection. Every such outlet shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.

(10) Exterior Walls. Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain, or dampness to the interior portions of the walls or to the occupied spaces of the manufactured home.

(11) Roofs. Roofs shall be structurally sound and maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the home.

(12) Window sash. Window sash shall be properly fitted and weather tight within the window frame.

(13) Interior floors, walls and ceiling. Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every toilet, bathroom and kitchen floor surface shall be maintained so as to be substantially impervious to water.

(14) Structural supports. Every structural element of the dwelling shall be maintained structurally sound and show no evidence of deterioration which would render it incapable of carrying normal loads.

(15) Dangerous structures. Any manufactured home which shall be found to have any of the following defects shall be red tagged and deemed unfit for human habitation, and shall be so designated by the placement of a red tag on the home by the State Inspector. Placement of the red tag means that the manufactured home cannot be sold unless and until repairs are completed and the home is brought back into compliance with this section of the regulations.

(a) One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates hazard to the health or safety of the occupants or the public.

(b) One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or the public.

(16) Removal of red tag. An employee of the South Carolina Manufactured Housing Board can only remove the red tag, after inspection and verification that repairs have been completed. Removal of red tag by any licensee prior to this verification could result in license revocation or suspension by the South Carolina Manufactured Housing Board.

(C) Exception for Homes Purchased for Repair.

(1) If a home is to be sold for purposes of repair prior to occupancy, the provisions of this Section will not apply if the purchaser shall have executed a document indicating the home is purchased for purposes of repair and not for habitation until the standards established hereby are met.

(2) No home may be placed for occupancy until standards herein are met.

79-44. Retail Managers; Finance Managers.

A. Persons designated as retail managers must be licensed as retail salespersons. A retail manager is any person who has the authority to act on behalf of a retail dealer in the management of a retail center or to supervise any function that requires a retail salesperson license.

B. Activities which indicate a person is a manager include, but are not limited to, the general supervision of a retail center, the authority to approve purchase agreements or other contracts, the practice of receiving funds on behalf of the retail dealer, the approval of advertising, and the hiring, firing, supervision or compensation of salespersons.

C. The retail manager is responsible under Section 40-29-150, concurrently with the retail dealer and salespersons, for any activities (1) carried out by the retail manager related to the operation of the retail center or (2) carried out by anyone acting in an area supervised by the retail manager.

D. Any person who holds himself out to a consumer as the retail dealer's representative for the purpose of obtaining financing falls under the definition of retail salesperson and must be so licensed.

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APPENDIX A

Tables

Table 1

Alternate Manufactured Home Foundation Systems
(Single or Multi-Section Homes)

Alternate Systems

Main Components

Concrete or Concrete Block Load
Bearing Perimeter Foundation

1. Exterior load bearing perimeter foundation on concrete footing.
 2. Wooden structure of home is securely fastened to the load bearing perimeter foundation.
 3. For multi-sectional homes, interior piers, or wall.
-

Pile/Post Foundation

1. Wooden, concrete, or steel interior piles or posts with timber or concrete caps.

2. Perimeter enclosure material of block, brick, permanent wood, or material similar to exterior siding of the home.
-

Concrete Slab or Continuous Footing Foundations

1. Concrete slab or continuous interior pier footings.
 2. Perimeter concrete footings.
 3. Frame ties attached to perimeter footings.
 4. Perimeter enclosure material of block, brick, permanent wood, material similar to exterior siding of the home.
-

Piers-Ground Anchors Foundation

1. Piers composed of formed-in-place concrete, concrete block or steel pedestals on concrete footers or crushed stone.
 2. Steel ground anchors in soil or embedded in concrete deadmen in soil.
 3. Frame ties with or without over-the-top ties.
 4. Enclosure material (skirting) to match exterior siding of the home.
-

Permanent Wood Foundation

1. Permanent wood blocks or steel interior piers on concrete footers.
 2. Steel ground anchors embedded in soil or embedded in concrete in the soil.
 3. Frame ties with or without over-the-top ties.
 4. Permanent wood perimeter enclosure.
-

Table 2
Nondesignated Footing Areas for Allowable
Soil Bearing Capacity

Roof Live Load (psf) South Zone 75 (psf)				
	Single Section		Multi- Section [FN***]	
Width of Units up to and including (ft.) [FN**]	12	14	12	14
Tributary Pier Spacing (ft.) [FN**]	6	8	8	8
Pier Load (lb.) [FN**]	2700	3150	3600	4200
Allowable Soil Bearing Capacity	Minimum Required Footing Area (sq. in.)			
1000 psf	389	454	518	605
1500 psf	259	302	346	403
2000 psf	194	227	259	302
3000 psf	[FN*]	151	173	202
4000 psf	[FN*]	[FN*]	[FN*]	151
6000 psf	[FN*]	[FN*]	[FN*]	[FN*]
8000 psf	[FN*]	[FN*]	[FN*]	[FN*]

Notes:

- (a) Rear cantilever or floor beyond the frame is assumed to be less than 2 feet.
 - (b) For units wider than the dimensions shown in the above table, an engineering analysis will be needed to determine pier spacing.
 - (c) Individual supports shall not bear a design load greater than 8,000 lb, 14,000 lb, ultimate.
- [FN*] Minimum required footings shall be not less than 144 sq. in. (1 sq. ft.).
All values above 144.0 shown.
- [FN**] If unit(s) is supplied with overhanging eaves, see manufacturer's installation instructions.
- [FN***] See appropriate column for individual section width selected. Multiple section homes may have concentrated roof support which will require special consideration.

Table 3 A
Number of Ties Required Per Side, for Single Section Manufactured Homes.

Zone I Length of Home	Vertical Ties	Diagonal Ties
Up to 40'	2	3
40' to 46'	2	4
46' to 49'	2	5
49' to 58'	3	5
58' to 84'	3	6

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Table 3 B

Number of Ties Required Per Side, for Single Section Manufactured Homes.

Zone II

Length of Home	Vertical Ties	Diagonal Ties
Up to 46'	2	4
46' to 49'	2	5
49' to 58'	3	5
58' to 70'	3	6
70' to 73'	3	7
73' to 84'	4	7

1. Multi section homes only require diagonal ties. Vertical ties not required.
2. Length of home, as used in tables 3 A and 3 B, excludes draw bar.
3. An alternate method of tie down may be accepted when designed by a registered architect or engineer based on the criteria set forth in the Federal Manufactured Home Construction and Safety Standards.
4. If vertical tie brackets are not installed by the manufacturer, add number of required vertical ties to diagonal requirements.

APPENDIX B

Figures B-1, B-2, B-3(a), B-3(b), B-4, B-5, B-6, B-7, B-8, B-9 B-10, B-11, B-12, B-13, B-14, B-15 B-16, B-17 B-18, B-19, B-20 remains the same. Move to Chapter 79.

Fiscal Impact Statement:

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