

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.

2014 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	1/10	2/14	3/14	4/11	5/9	6/13	7/11	8/8	9/12	10/10	11/14	12/12
Publishing Date	1/24	2/28	3/28	4/25	5/23	6/27	7/25	8/22	9/26	10/24	11/28	12/26

REPRODUCING OFFICIAL DOCUMENTS

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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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4335		SR38-2	Administrative Citations and Penalties	2/03/14	Board of Cosmetology
4313		SR38-3	Child Support Guidelines	2/16/14	Department of Social Services
4342		SR38-3	Nurse Licensure Compact	3/04/14	Board of Nursing
4378		SR38-4	Office of State Fire Marshal	4/05/14	LLR-Office of State Fire Marshal
4347	R.144	SR38-3	Law Enforcement Officer and E-911 Officer Training & Certification	4/07/14	South Carolina Criminal Justice Academy
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4404		SR38-6	Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts	5/14/14	State Board of Education
4405		SR38-6	Operation and Funding of Teacher Training Courses in Mathematics, Science, Reading and Computer Education	5/14/14	State Board of Education
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4411		SR38-6	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	5/14/14	Department of Natural Resources
4425		SR38-6	Water Classifications and Standards	5/16/14	Department of Health and Envir Control
4434		SR38-6	Vaccination, Screening and Immunization Regarding Contagious Diseases	5/16/14	Department of Health and Envir Control
4432		SR38-6	Solid Waste Management: Yard Trash and Land-clearing Debris; and Compost	5/16/14	Department of Health and Envir Control
4431		SR38-6	Public Swimming Pools	5/16/14	Department of Health and Envir Control
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4430		SR38-6	Minimum Standards for Licensing Hospitals and Institutional General Infirmaries	5/17/14	Department of Health and Envir Control
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In order by General Assembly review expiration date
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4347	Law Enforcement Officer and E-911 Officer Training & Certification	Judiciary	Judiciary
4284	Limited Herbicide Applicators License	Agriculture and Natural Resources	Agriculture and Natural Resources
4316	Employer-Employee Relationship	Labor, Commerce and Industry	Labor, Commerce and Industry
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4437	Establish and Amend Schedules of Fees for Certain Professional and Occupational Licensing Boards and Commissions	Labor, Commerce and Industry	Labor, Commerce and Industry
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4420	Adult Education Program	Education and Public Works	Education
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4453	Annuity Mortality Tables For Use In Determining Reserve Liabilities For Annuities	Labor, Commerce and Industry	Banking and Insurance
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4337	Requirements of Licensure in the Field of Cosmetology (Sanitation and Salons)	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
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4392	Interscholastic Activities	Education and Public Works	Education
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4329	Cheese & Butter	Agriculture and Natural Resources	Agriculture and Natural Resources
4379	Requirements of Licensure in Real Estate Appraisal	Labor, Commerce and Industry	Labor, Commerce and Industry
4384	Requirements of Licensure for Professional Boxing, Wrestling, Kick Boxing, and Off the Street Boxing	Labor, Commerce and Industry	Labor, Commerce and Industry
4385	Requirements of Licensure in Mixed Martial Arts	Labor, Commerce and Industry	Labor, Commerce and Industry
4368	Authority of Director	Judiciary	Judiciary
4376	Assignment of Costs for Agency Level Contested Case Hearings	Judiciary	Judiciary
4436	Board of Registration for Foresters	Agriculture and Natural Resources	Fish, Game and Forestry
4386	Coastal Division Regulations	Agriculture and Natural Resources	Agriculture and Natural Resources

Executive Order No. 2014-27

WHEREAS, as a result of the winter storm, which occurred between February 11, 2014 and February 13, 2014, it is estimated that 1.5 million acres of forest and timber land across 24 counties have been significantly damaged, causing an immediate and direct loss of approximately \$360 million to the State's economy; and

WHEREAS, it is necessary to expedite the removal and delivery of the damaged timber to consuming manufacturers both inside and outside of the State of South Carolina in order to salvage, use, and market as much timber as possible as quickly as possible so as to minimize total waste and rottage of this valuable and perishable natural resource; and

WHEREAS, it is in the best interests of the public's health, safety, and welfare to reduce the risk of wildfire, disease, and insect infestation of residual standing timber; and

WHEREAS, pursuant to Section 56-5-70(A) of the South Carolina Code of Laws, the Governor may suspend requirements relating to length, width, weight, load, and time of service for commercial and utility vehicles during a state of emergency and for thirty days thereafter; and

WHEREAS, Executive Order 2014-24, lifting the aforementioned restrictions, expires on May 12, 2014, yet there exists a continuous emergency in the State of South Carolina in response to the damage caused by the winter storm warranting the extension of the waiver of these restrictions for debris removal operations and for the timber industry at large.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby suspend the requirements relating to length, width, weight, load, and time of service for commercial and utility vehicles carrying unmanufactured forest products, including but not limited to timber, timber byproducts, logs, woodchips, and vegetative debris, through and throughout South Carolina and direct the South Carolina Department of Transportation and the South Carolina Department of Public Safety, and the State Transport Police as needed, to comply with this order.

IT IS FURTHER ORDERED that:

(a) Weight, height, length, and width for any such vehicle on roadways maintained by the State of South Carolina shall not exceed for continuous travel on all highway routes, including interstates, maximum dimensions of 12' wide, 13'6" high, and a gross weight of 90,000 pounds.

(b) Posted bridges may not be crossed.

(c) All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall provide appropriate documentation indicating it is responding to this emergency.

(d) Any dimensions and/or weight of vehicles that exceed the above must obtain a permit with defined routes from the South Carolina Department of Transportation Oversized/Overweight Permit Office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. – 5:00 p.m., or (803) 206-9566 after regular business hours.

(e) Transporters are responsible for ensuring they have oversize signs, markings, flags and escorts as required in the South Carolina Code of Laws relating to oversize/overweight loads operating on South Carolina roadways.

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

This Order takes effect upon the expiration of Executive Order 2014-24, which is set to statutorily occur at 11:59 p.m. on May 12, 2014, and will remain in effect until 11:59 p.m. on June 10, 2014.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 12th DAY OF MAY, 2014.
NIKKI R. HALEY
Governor**

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

(Bureau of Land and Waste Management SWGP-001-General Permit for Class 1 Landfills)

Statutory Authority: S.C. Code Section 44-96-10 et seq.

The South Carolina Department of Health and Environmental Control (DHEC) proposes to revise and reissue the General Permit for Class 1 Landfills Operations as allowed in Regulation 61-107.19, Part III. Interested persons may review the revised General Permit and submit written comments by 5:00 p.m. on July 28, 2014, to Joan Litton at SCDHEC, 2600 Bull Street, Columbia, SC 29201 or by email littonjf@dhec.sc.gov. This public notice is being published in the *State Register* on June 27, 2014, and may also be viewed, along with the draft permit, through July 28, 2014, on DHEC's Public Notices webpage for Land and Waste at: <http://www.scdhec.gov/PublicNotices/>

Where there is significant amount of public interest, DHEC may hold a public hearing to receive additional comments. A public hearing request can be made in writing or email to Joan Litton at the address or email above. All comments received by July 28, 2014, will be considered when making a decision to approve, disapprove, or modify the General Permit.

For eligible landfills located in the eight coastal counties (Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry and Jasper), the Coastal Zone Consistency section will review SWGP-001 General Permit for Class 1 Landfills (Land Clearing Debris and Yard Trash) for consistency with enforceable policies contained within the Coastal Zone Management Program Document. Specifically, the Solid Waste Disposal and Stormwater Management Guidelines for Landfills will be referenced in the review.

Synopsis:

The Department is proposing to revise and reissue the SWGP-001 General Permit for Class 1 Landfills for consistency with R.61-107.19, Solid Waste Landfills and Structural Fill.

A Class 1 Landfill may elect to continue coverage or apply for coverage under the revised General Permit for Class 1 Landfills when operated in accordance with and meeting the following specified criteria:

1. The Class 1 Landfill is operated for the sole disposal of trees, stumps, and wood chips generated from land-clearing activities and yard trash generated from landscaping maintenance activities (hereinafter "land-clearing debris") that have not be contaminated by petroleum products or hazardous constituents;

2. Facilities that are a result of Agricultural and Silvicultural Operations, as well as the disposal of trees, stumps, wood chips, and yard trash which are generated and disposed of on the same site or on properties under the same ownership or control, are exempt from the requirements of this permit;

3. For Class 1 Landfills which are currently permitted, the following changes will be required for coverage under the revised general permit:

- a. A notation placed on the property deed denoting that a land-clearing debris landfill exists;
- b. Conditions in the revised General Permit will replace the existing facility operations plan;
- c. The cover requirement will be changed from monthly to quarterly; and,

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d. The waste disposal boundary shall be clearly marked by permanent markings at a maximum of every three-hundred (300) feet.

4. Proposed Class 1 Landfills or Class 1 Landfills expanding under the revised General Permit will be required to meet the following:

a. The permit will be issued only to the current landowner;

b. All construction drawings including drainage control for run-on/run-off must be stamped by a Professional Engineer Registered in the State of South Carolina;

c. Waste Disposal boundaries have to comply with the following buffers:
100 ft property buffer;

(1) 200 ft residence, school daycare, hospital, or publically owned park buffer;
200 ft from surface water buffer;

(2) 100 ft from drinking water well boundary;

(3) 50 ft from easements and wetlands boundary;

(4) Waste cannot impede the flow within a drainage feature; and,

(5) Waste cannot be placed over water lines, sewer lines, or storm drains.

d. No operation plan needs to be submitted as the revised General Permit will contain the requirements for an operations plan.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

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

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

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than July 28, 2014 to:

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

The following company has applied for certification as Underground Storage Tank Site Rehabilitation Contractor:

Class I

FPM-Remediations, Inc.
Attn: Gaby Atik, P.E.
584 Phoenix Drive
Rome, NY 13030

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DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 13-7-40 et seq.,
namely the Atomic Energy and Radiation Control Act

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-65, Particle Accelerators (Title C). Interested persons may submit comments in writing to Charles G. Ditmer, Division Director, Division of Electronic Products, Bureau of Radiological Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. Comments can also be emailed to ditmercg@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on July 28, 2014, the close of the drafting comment period.

Synopsis:

The Department proposes comprehensive amendment to R.61-65, Particle Accelerators. General areas of this revision include, but are not limited to, further clarifying and simplifying the regulations, adding new definitions as required and deleting regulations that are no longer applicable. Specific areas include, but are not limited to, the added requirement for ventilation systems for Particle Accelerators that create radioactive material, clarifying required and/or accepted interlock systems, and clarifying the requirements and responsibilities of the Radiation Safety Officer. Also under consideration are stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification and overall improvement of the text of the regulation.

Legislative review is required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-96-10 et seq.

Notice of Drafting:

The Department of Health and Environmental Control is proposing to amend R.61-107.19, Solid Waste Management: Solid Waste Landfills and Structural Fill. Interested persons may submit their views by writing to Kent Coleman, Division Director, Mining and Solid Waste Management Division, at S.C. Department of Health and Environmental Control, Bureau of Land and Waste Management, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on July 28, 2014, the close of the drafting comment period.

Synopsis:

Regulation 61-107.19 became effective May 23, 2008 and has not been amended. It replaced and simultaneously repealed Regulations 61-107.11 Solid Waste Management: Construction, Demolition, and Land-clearing Debris Landfills; 61-107.13 Solid Waste Management: Municipal Solid Waste Incinerator Ash Landfills; 61-107.16 Solid Waste Management: Industrial Solid Waste Landfills; and 61-107.258 Solid Waste Management: Municipal Solid Waste Landfills.

The proposed amendment of R.61-107.19, Solid Waste Management: Solid Waste Landfills and Structural Fill will address the process for permitting Class One, Class Two and Class Three landfills, and update requirements for structural fill sites. Additional changes to be considered include, but are not limited to,

clarifying, amending or reducing certain operating, monitoring, response and reporting requirements for permitted facilities.

Also under consideration will be stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification and overall improvement of the text of the regulation.

Legislative review is required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-7-260 and 44-7-370(A)

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend Regulation 61-84, *Standards for Licensing Community Residential Care Facilities*. Interested persons may submit written comments to Gwen C. Thompson, Bureau Chief, Bureau of Health Facilities Licensing, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201 or via email at thompsgw@dhec.sc.gov. To be considered, all comments must be received no later than 5:00 p.m., July 28, 2014, the close of the comment period.

Synopsis:

The Department of Health and Environmental Control proposes to amend Regulation 61-84. This amendment pertains to provisions relating to medication management, meal service, emergency procedures, design, construction, fire and life safety, and overall licensing requirements for community residential care facilities. The Department also intends to add language to incorporate current provider wide exceptions and memoranda that are applicable to community residential care facilities.

The Department may also include stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification and overall improvement of the text of the regulation.

Legislative review will be required.

COMMISSION ON HIGHER EDUCATION
CHAPTER 62

Statutory Authority: 1976 Code Sections 59-104-20, 59-149-10, and 59-150-370

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the regulation that addresses the policies and procedures for administering the Scholarship Appeals Regulation at the public and independent colleges and universities in the state. Interested persons may submit comments to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, July 28, 2014, the close of the drafting comment period.

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Synopsis:

The South Carolina Commission on Higher Education proposes to amend (R.62-1000 through 62-1040), the regulation that addresses the policies and procedures for administering the scholarship appeals process for LIFE, Palmetto Fellows and HOPE scholarship programs at the public and independent colleges and universities in the state. The existing regulation was last revised in 2006.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Specific sections of the regulation are being edited or rewritten to remove redundancy and outdated procedures, ensure the regulation is inclusive of all State scholarship programs, and make certain sections easier to interpret.

Legislative review of this proposal will be required.

COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-112-100

Notice of Drafting:

The Commission on Higher Education proposes to amend the regulation that addresses the determination of rates of tuition and fees. The purpose of this regulation is to assist higher education institutions with determining a student's status as a South Carolina resident for purposes of assessment of tuition and fees. Interested persons may submit comments in writing to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, S.C. Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, July 28, 2014, the close of the drafting comment period.

Synopsis:

The South Carolina Commission on Higher Education proposes to amend the regulation (R.62-600 through 62-612) that addresses the determination of rates of tuition and fees (Section 59-112-10 et seq.). This regulation governs institutional decisions regarding classifying a student as a South Carolina resident or a non-resident. The regulation was last amended in 2009.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to provide clarification to the definitions of independent and dependent persons, make other changes and to promote consistency in administration among the State institutions and their residency classification processes. Specific sections of the regulation are being rewritten to remove redundancy, ensure consistency with the current statute and make certain sections easier to interpret.

Legislative review of this proposal will be required.

COMMISSION ON HIGHER EDUCATION
CHAPTER 62

Statutory Authority: 1976 Code Sections 59-149-10 and 59-149-15

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the regulation that addresses the Legislative Incentives for Future Excellence (LIFE) Scholarship & Legislative Incentives for Future Excellence (LIFE) Scholarship Enhancement. Interested persons may submit comments to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, July 28, 2014, the close of the drafting comment period.

Synopsis:

The South Carolina Commission on Higher Education proposes to amend the regulation (R.62-1200.1 through 62-1200.75) that addresses the Legislative Incentives for Future Excellence (LIFE) Scholarship (Section 59-149-10 et seq.) & Legislative Incentives for Future Excellence (LIFE) Scholarship Enhancement (Section 59-149-15). The program regulation was last amended in 2011.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to provide clarification as to the eligibility, duration and continued eligibility, and awarding of the LIFE Scholarship and a LIFE Scholarship Enhancement, and procedures followed by institutions in disbursing LIFE Scholarship and LIFE Scholarship Enhancement funds to eligible students. Other changes will be proposed to promote consistency in administration among the state institutions by editing or rewriting sections to remove redundancy, ensure the regulation is consistent with the current statute, and make certain sections easier to interpret.

Legislative review of this proposal will be required.

COMMISSION ON HIGHER EDUCATION
CHAPTER 62

Statutory Authority: 1976 Code Section 59-150-360

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the regulation that addresses the policies and procedures for administering the Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions. Interested persons may submit comments to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, July 28, 2014, the close of the drafting comment period.

Synopsis:

The South Carolina Commission on Higher Education proposes to amend the regulation (R.62-900.150 through 62-900.200) that addresses the policies and procedures for administering the Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions (Section 59-150-360). Regulation for implementation of Lottery Tuition Assistance is the responsibility of the South Carolina State Board for Technical and Comprehensive Education for the technical college system, and the South Carolina Commission on Higher Education for the two-year public and private institutions. The regulations are to be developed in a coordinated effort, provide for the allocation of funds based on the tuition assistance granted at each

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institution, and be interchangeable between each of the institutions affected. The program regulation promulgated by the Commission was last amended in 2011.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program and promote consistency with program policies and procedures set forth by the S.C. State Board for Technical and Comprehensive Education in order to improve the compatibility of the regulation for all eligible institutions. Other changes are anticipated to include rewriting sections to promote consistency in administration of the grant program among the state's two-year public and independent colleges and universities.

Legislative review of this proposal will be required.

COMMISSION ON HIGHER EDUCATION

CHAPTER 62

Statutory Authority: 1976 Code Sections 59-104-20 and 59-104-25

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the regulation that addresses the policies and procedures for administering the Palmetto Fellows Scholarship Program at the public and independent colleges and universities in the state. Interested persons may submit comments to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, July 28, 2014, the close of the drafting comment period.

Synopsis:

The South Carolina Commission on Higher Education proposes to amend (R.62-300 through 62-375), the regulation that addresses the policies and procedures for administering the Palmetto Fellows Scholarship Program (Section 59-104-20 and 59-104-25) at the public and independent colleges and universities in the state. The program regulation was last amended in 2011.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to include editing or rewriting sections so as to clarify language, improve upon understanding of the regulation, and promote consistency in the administration of the scholarship program among the public and independent colleges and universities in the state.

Legislative review of this proposal will be required.

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

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the regulation that addresses the policies and procedures for administering the SC HOPE Scholarship Program at the public and independent colleges and universities in the state. Interested persons may submit comments to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, July 28, 2014, the close of the drafting comment period.

Synopsis:

The South Carolina Commission on Higher Education proposes to amend the regulation (R.62-900.85 through 62-900.140) that addresses the policies and procedures for administering the SC HOPE Scholarship Program (Section 59-150-370) at the public and independent colleges and universities in the state. The regulation was last amended in 2011.

Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to promote consistency in administration among state institutions by editing or rewriting certain sections to make or to remove redundancy, ensure the regulation is consistent with the current statute, and make certain sections easier to interpret.

Legislative review of this proposal will be required.

COMMISSION ON HIGHER EDUCATION
CHAPTER 62
 Statutory Authority: 1976 Code Section 59-114-75

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the existing regulation for the South Carolina National Guard College Assistance Program. Interested persons may submit comments in writing to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, July 28, 2014, the close of the drafting comment period.

Synopsis:

The South Carolina Commission on Higher Education promulgated regulation (R.62-250 through 62-263) for the operation and administration of the South Carolina National Guard College Assistance Program (Section 59-114-10 et seq.) in 2009. The program is administered by the Commission in coordination with the South Carolina National Guard and provides tuition assistance for eligible enlisted guard members enrolled in undergraduate programs. The Commission proposes amendments to this regulation in order to incorporate changes enacted by Act 151 of 2014 effective April 7, 2014, to clarify administrative procedures for the program, and to make changes that promote consistency in administration.

Legislative review of this proposal will be required.

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COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-111-75

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to repeal the regulation for the South Carolina National Guard Student Loan Repayment Program. Interested persons may submit comments in writing to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite 300, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, July 28, 2014, the close of the drafting comment period.

Synopsis:

The General Assembly passed legislation, Act 40 of 2007, to close the South Carolina Loan Repayment Program (Section 59-111-75) to new participants beginning with the 2007-08 school year and replace the program with a college assistance program for South Carolina National Guard members. As of the 2013-14 school year, the loan repayment program has been fully closed. As a result, the South Carolina Commission on Higher Education is repealing the program regulation (R.62-200 through 62-240) which is no longer needed.

Legislative review of this proposal will be required.

COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-142-20

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to amend the regulation that addresses the South Carolina Need-based Grants Program. Interested persons may submit comments to Dr. Karen Woodfaulk, Deputy Executive Director for Academic and Student Affairs, South Carolina Commission on Higher Education, 1122 Lady Street, Suite, 300, Columbia, S.C.29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, July 28, 2014, the close of the drafting comment period.

Synopsis:

The South Carolina Commission on Higher Education proposes to amend, the regulation (R.62-450 through 62-505) that addresses the South Carolina Need-based Grants Program (Section 59-112-10 et seq). Revisions to the existing regulation are being considered to clarify the policies and procedures for administering the program. Proposed amendments are anticipated to make changes to promote consistency in administration among the institutions. The amendments include rewriting sections to remove redundancy, ensuring the regulation is consistent with the current statute, and making certain sections easier to interpret.

Legislative review of this proposal will be required.

DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Section 50-11-600

Notice of Drafting:

The South Carolina Department of Natural Resources proposes to revise Regulation 123-170, South Carolina State Falconry Permit Regulations. Interested persons may submit their comments in writing to Derrell Shipes, SCDNR, PO Box 167, Columbia, SC, 29202. For questions, call 803.734.3938 or email shipesd@dnr.sc.gov. To be considered, all comments must be received in writing no later than July 9, 2014, the close of the drafting period.

Synopsis:

The Department intends to make changes to the falconry regulations that are consistent with the decision of the US Fish and Wildlife Service to require that individual states must issue permits to allow falconry. The federal action mandates state permitting, otherwise, falconry will not occur. These new regulations will address testing, permitting, inspections of facilities, and will be more liberal than the 30-plus year-old state regulations currently in effect.

Proposed regulations will not require legislative review.

18 PROPOSED REGULATIONS

Document No. 4465

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-62. Air Pollution Control Regulations and Standards

Preamble:

The United States Environmental Protection Agency (“EPA”) promulgates amendments to 40 C.F.R. Parts 50, 51, 52, 60, and 63 throughout each calendar year. Recent federal amendments include clarification, guidance, and technical amendments regarding New Source Performance Standards (“NSPS”) and National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories.

The Department proposes to amend Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards, to incorporate the EPA’s revision to the National Ambient Air Quality Standards for Fine Particulate Matter (“PM_{2.5}”), Sulfur Dioxide (“SO₂”), and Nitrogen Dioxide (“NO₂”) set forth in 40 C.F.R. Part 50. Additionally, the Department proposes to amend Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, and Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories, to incorporate by reference recent federal amendments promulgated from January 1, 2013 through December 31, 2013.

The Department is also proposing other changes to Regulation 61-62 that includes corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

In accordance with 1976 Code Section 1-23-120(H), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law. As such, neither a preliminary assessment report nor a preliminary fiscal impact statement is required.

A Notice of Drafting was published in the *State Register* on March 28, 2014, to initiate the statutory process to amend Regulation 61-62. The Notice of Drafting was also sent via Department list serve to appropriate stakeholders on April 3, 2014.

Discussion of Proposed Revisions:

SECTION CITATION/EXPLANATION OF CHANGE:

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 2, Ambient Air Quality Standards

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 2, Ambient Air Quality Standards:

Table is revised to make the information found therein more consistent with information found on the EPA’s National Ambient Air Quality Standards table which can be found at <http://www.epa.gov/air/criteria.html>. This includes revising: the primary annual PM_{2.5} standard from 15.0 mg/m³ to 12.0 µg/m³ and retaining the level of the 24-hour PM_{2.5} standard at 35 µg/m³; establishing a new 1-hour SO₂ standard at a level of 75 parts per billion and revoking both the existing 24-hour and annual primary SO₂ standards; and establishing a new 1-hour NO₂ standard at a level of 100 parts per billion. 40 C.F.R. Parts 50, 51, 52, 53, and 58. (See as reference: January 15, 2013 (78 FR 3086); June 22, 2010 (75 FR 35520); and February 9, 2010 (75 FR 6474)).

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards: Subpart A, Table, is amended to incorporate federal revisions at 78 FR 6674, January 30, 2013, by reference.

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards: Subpart Da, Table, is amended to incorporate federal revisions at 78 FR 24073, April 24, 2013, by reference.

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards: Subpart Ec, Table, is amended to incorporate federal revisions at 78 FR 28052, May 13, 2013, by reference.

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards: Subpart Ja, Table, is amended to incorporate federal revisions at 78 FR 76753, December 19, 2013, by reference.

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards: Subpart F, Table, is amended to incorporate federal revisions at 78 FR 10006, February 12, 2013, by reference.

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards: Subpart CCCC, Table, is amended to incorporate federal revisions at 76 FR 28662, May 18, 2011; and 78 FR 9112, February 7, 2013, by reference.

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards: Subpart DDDD, Table, is amended to incorporate federal revisions at 76 FR 28662, May 18, 2011; and 78 FR 9112, February 7, 2013, by reference.

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards: Subpart IIII, Table, is amended to incorporate federal revisions at 78 FR 6674, January 30, 2013, by reference.

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards: Subpart JJJJ, Table, is amended to incorporate federal revisions at 78 FR 6674, January 30, 2013, by reference.

Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards: Subpart OOOO, Table, is amended to incorporate federal revisions at 78 FR 58416, September 23, 2013, by reference.

Regulation, 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart A, Table, is amended to incorporate federal revisions at 78 FR 6674, January 30, 2013; 78 FR 7138, January 31, 2013; 78 FR 7488, February 1, 2013; and 78 FR 37133, June 20, 2013, by reference.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart F, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart G, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

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Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart H, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart I, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart M, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart N, Table, is amended to change Federal Register Notice page numbers to correct typographical errors. Table is amended to incorporate federal revisions at 77 FR 58220, September 19, 2012, by reference.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart O, Table, is amended to change Federal Register Notice page numbers to correct typographical errors. Table is amended to incorporate federal revisions at 71 FR 17712, April 7, 2006, by reference.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart R, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart S, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart T, Table, is amended to change Federal Register Notice page numbers to correct typographical errors. Table is amended to incorporate federal revisions at 64 FR 45187, August 19, 1999, and 64 FR 69637, December 14, 1999, by reference.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart X, Table, is amended to change Federal Register Notice page numbers to correct typographical errors. Table is amended to incorporate federal revisions at 70 FR 75320, December 19, 2005, by reference.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart Y, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart CC, Table, is amended to incorporate federal revisions at 78 FR 37133, June 20, 2013, by reference.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart DD, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart GG, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart II, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart JJ, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart KK, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart LL, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart SS, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart TT, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart UU, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart WW, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart YY, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart EEE, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart GGG, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart JJJ, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

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Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart LLL, Table, is amended to change Federal Register Notice page numbers to correct typographical errors. Table is amended to incorporate federal revisions at 78 FR 10006, February 12, 2013, by reference.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart MMM, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart NNN, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart PPP, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart RRR, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart HHHH, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart ZZZZ, Table, is amended to incorporate federal revisions at 78 FR 6674, January 30, 2013; and 78 FR 14457, March 6, 2013, by reference.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart EEEEE, Table, is amended to change Federal Register Notice page numbers to correct typographical errors.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart PPPPP, Table is amended to incorporate federal revisions at 68 FR 51830, August 28, 2003, by reference.

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart UUUUU, Table, is amended to change Federal Register Notice page numbers to correct typographical errors and to incorporate federal revisions at 77 FR 45967, August 2, 2012; and 78 FR 24073, April 24, 2013, by reference.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart YYYYY, Table is amended to incorporate federal revisions at 73 FR 72727, December 1, 2008, by reference.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart EEEEE, Table is amended to incorporate federal revisions at 72 FR 36363, July 3, 2007, by reference.

Regulation 61-62.63, National Emission Standards For Hazardous Air Pollutants (NESHAP) for Source Categories: Subpart JJJJJ, Table is established to incorporate federal revisions at 69 FR 55217, September 13, 2004, 70 FR 76918, December 28, 2005, 71 FR 70651, December 6, 2006, 76 FR 15554, March 21, 2011, 76 FR 15608, March 21, 2011, 76 FR 28662, May 18, 2011, 78 FR 7138, January 31, 2013, and 78 FR 7488, February 1, 2013, by reference.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to comment on the proposed amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, at a public hearing to be conducted by the Board of the South Carolina Department of Health and Environmental Control at its regularly-scheduled meeting on September 11, 2014. The public hearing is to be held in room 3420 (Board Room), Third floor, Aycock Building of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department twenty-four hours in advance of the meeting at the following address: <http://www.scdhec.gov/Agency/AgencyManagement/BoardofDirectors/>. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation to the Clerk of the Board for inclusion for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations to Michael C. Monroe by mail at Bureau of Air Quality, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; by facsimile at (803) 898-4487; or by e-mail at monroemc@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on July 28, 2014, the close of the comment period. Comments received during the write-in public comment period by the deadline requested above shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Michael C. Monroe at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201; by calling (803) 898-3261; or by emailing monroemc@dhec.sc.gov. A copy may also be obtained on the Department's Regulatory Information Internet Site at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate> in its DHEC Regulation Development Update. To access this document, click on the Air category, then scan down for this proposed 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: Amendment of Regulation 61-62, Air Pollution Control Regulations and Standards.

Purpose: The United States Environmental Protection Agency ("EPA") promulgated amendments to national air quality standards in 2013. The recent federal amendments include clarification, guidance and technical revisions to state implementation plan ("SIP") requirements promulgated pursuant to 42 U.S.C. 7410 & 7413, New Source Performance Standards ("NSPS") mandated by 42 U.S.C. 7411, and federal National Emission Standards for Hazardous Air Pollutants ("NESHAP") for Source Categories.

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The Department therefore proposes to amend Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards, to codify recent federal amendments to the National Ambient Air Quality Standards for Fine Particulate Matter (“PM_{2.5}”), Sulfur Dioxide (“SO₂”), and Nitrogen Dioxide (“NO₂”) set forth in 40 C. F. R. Part 50.

Additionally, the Department proposes to amend Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, and Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories, to codify federal amendments to these standards promulgated from January 1, 2013 through December 31, 2013.

The Department is also proposing other changes to Regulation 61-62 that includes corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

Legal Authority: In accordance with 1976 Code Section 1-23-120(H), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law.

Plan for Implementation: The proposed amendments will take effect upon approval by the Board of Health and Environmental Control and publication in the *State Register*. These requirements are in place at the federal level and are currently being implemented. The proposed amendments will be implemented in South Carolina by providing the regulated community with copies of the regulation, publishing associated information on our website at <http://www.scdhec.gov/Agency/RegulationsandUpdates/>, sending an email to stakeholders, and communicating with effected facilities during the permitting process.

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

The EPA promulgates amendments to 40 C.F.R. Parts 51, 52, 60, and 63 throughout each calendar year. Federal amendments in 2013 included new and revised NSPS rules, and NESHAPs for Source Categories. States are mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both state and federal regulations.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions resulting from these proposed revisions. The standards to be adopted are already effective and applicable to the regulated community as a matter of federal law, thus the regulated community has already incurred the cost of these regulations. The proposed amendments will benefit the regulated community by clarifying the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the recent changes in federal regulations through the proposed amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, will provide continued protection of the environment and public health.

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

The State's authority to implement federal requirements, which are beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

Text:

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

Document No. 4466

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

Statutory Authority: 1976 Code Sections 1-23-500, 1-23-600, 44-1-50, and 44-1-60

61-72. Procedures for Contested Cases

Preamble:

With the statutory creation of the Administrative Law Court and its authority to review contested cases, adjudicatory hearings as prescribed in R.61-72 no longer apply. As such, the Department proposes repeal of each section of R.61-72.

A Notice of Drafting for this proposed repeal was published in the *State Register* on April 25, 2014. General Assembly review is required.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons or parties may request a public hearing or submit comments on the proposed regulation by writing to Rupinderjit S. Grewal, S.C. DHEC, 2600 Bull St., Columbia, South Carolina 29201 or by email to grewalrs@dhec.sc.gov. To be considered, the Department must receive the written requests or comments no later than 5:00 p.m. on July 28, 2014, the close of the public comment period. The Department will submit a summary of public comments and Department responses to the Board of Health and Environmental Control for its consideration.

The Public Hearing is currently scheduled to be held before the Board during its regularly scheduled meeting on August 7, 2014 in Room 3420 (Board Room), Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. Please use the front entrance to the building facing Bull Street. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The Board's agenda is published by the Department 24 hours in advance of the meeting at the following address: <http://www.scdhec.gov/Agency/AgencyManagement/BoardofDirectors/>. The agenda will also provide notice of cancellation or any change in meeting times. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and provide applicable documents for the record.

Copies of the proposed regulation may be obtained on the Department's Regulatory Information internet site under the "General Counsel" category in the DHEC Regulation Development Update at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate> or by contacting Rupinderjit S. Grewal at the above address.

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Preliminary Fiscal Impact Statement:

The State will not incur costs as a result of the repeal of R.61-72, as the regulation currently has no legal effect due to the creation of the Administrative Law Court and its authority to review contested cases.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

Purpose: With the statutory creation of the Administrative Law Court and its authority to review contested cases, adjudicatory hearings as prescribed in R.61-72 no longer occur. The Department instead follows appeal procedures put forth in 1976 Code Section 44-1-60, which provides for appeal of final agency decisions to the Administrative Law Court. The requirements and procedures of R.61-72 no longer apply. As such, the Department proposes this repeal.

Legal Authority: 1976 Code Sections 1-23-500, 1-23-600, 44-1-50, and 44-1-60.

Plan for Implementation: Copies of the repeal will be available electronically on the South Carolina Legislature website and the Department regulation development website provided above. Printed copies will be available for a fee from the Department's Freedom of Information Office.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AND EXPECTED BENEFITS:

This repeal is needed in order to align the Department's regulations with governing statutory authority, residing at 1976 Code Sections 1-23-500, 1-23-600, 44-1-50, and 44-1-60. The repeal is reasonable because it does not advance beyond the scope of that authority. There are no issues with costs, as R.61-72 has been ineffective since statutory authority placed review authority in the Administrative Law Court of contested cases. There is no effect on the environment or public health. Expected benefits of the repeal include prevention of any confusion on the part of the public due to the presence of a regulation that has no legal effect.

DETERMINATION OF COSTS AND BENEFITS:

There are no issues with costs, as R.61-72 has been ineffective since statutory authority placed review authority in the Administrative Law Court of contested cases. Expected benefits of the repeal include prevention of any confusion on the part of the public due to the presence of a regulation that has no legal effect.

UNCERTAINTIES OF ESTIMATES:

There are no estimate uncertainties associated with this repeal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There are no effects on the environment or public health associated with this repeal.

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

There are no effects on the environment or public health associated with this repeal.

Statement of Rationale:

This repeal is needed in order to align the Department's regulations with governing statutory authority. With the creation of the Administrative Law Court and its authority to review contested cases, adjudicatory hearings as prescribed in R.61-72 no longer occur. There are no scientific or technical aspects of this repeal.

Text:

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

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Document No. 4427
ATTORNEY GENERAL
CHAPTER 13

Statutory Authority: 1976 Code Sections 11-48-10 et seq. (Supp. 2005)

- 13-1101. Definitions
- 13-1102. Quarterly Certifications and Escrow Deposits
- 13-1103. Notification of Compliance
- 13-1104. Quarterly Periods Defined
- 13-1105. Untimely or Incomplete Quarterly Reports or Escrow Deposits
- 13-1106. Certification of Tobacco Product Manufacturers for Tobacco Directory
- 13-1107. Removal of Tobacco Product Manufacturer from Tobacco Directory
- 13-1108. Rejection of Certification Application of Tobacco Product Manufacturers
- 13-1109. Notice of Approved Certification, Denial of Certification, and Removal from Tobacco Directory
- 13-1110. Bond Requirement for Nonparticipating Manufacturer
- 13-1111. Manufacturer and Importer Reports

Synopsis:

The South Carolina Office of the Attorney General proposes to add Article 3 to its Regulations, establishing a requirement of quarterly escrow deposits for certain tobacco product manufacturers as well as requirements related to the tobacco product manufacturer's annual Certificate of Compliance and various reports filed with the Office of the Attorney General.

The Notice of Drafting was published in the *State Register* on September 27, 2013.

Instructions:

Regulations should be placed in Chapter 13 of the Code of State Regulations. The Regulations should be placed as Article 3 immediately following Article 2, Securites, Subarticle 6. These Regulations should be published as Article 3, Tobacco Enforcement.

Text:

ARTICLE 3

TOBACCO ENFORCEMENT

13-1101. Definitions.

A. The following definitions shall apply to all rules promulgated and contained in Article 3:

1. "Brand Family" has the same meaning as in South Carolina Code Section 11-48-20(1).
2. "Cigarette distributor" has the same meaning as in South Carolina Code Section 11-48-20(6).
3. "Cigarette" has the same meaning as in South Carolina Code Section 11-48-20(2).
4. "Directory" means the listing of tobacco product manufacturers and brands maintained by the Attorney General pursuant to South Carolina Code Section 11-48-30.
5. "Escrow deposit" means deposits required to be made into a qualified escrow fund pursuant to South Carolina Code Section 11-47-30.

6. "Falsification" means no person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when the statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.

7. "Master Settlement Agreement" has the same meaning as in South Carolina Code Section 11-47-20(e).

8. "Nonparticipating manufacturer" has the same meaning as in South Carolina Code Section 11-48-20(3).

9. "Participating manufacturer" has the same meaning as in South Carolina Code Section 11-48-20(4).

10. "Qualified escrow fund" has the same meaning as in South Carolina Code Section 11-48-20(5)."

11. "Tobacco product manufacturer" has the same meaning as in South Carolina Code Section 11-48-20(7).

12. "Tobacco Product Manufacturer Certificate of Compliance" or "Certificate of Compliance" or "Certification" or "Certification application" or "application" means the application required to be completed and executed by all tobacco product manufacturers pursuant to South Carolina Code Section 11-48-30.

13. "Units sold" has the same meaning as in South Carolina Code Section 11-48-20(8).

13-1102. Quarterly Certifications and Escrow Deposits.

A. As authorized by South Carolina Code Section 11-48-50 and in order to promote compliance with South Carolina Code Section 11-47-10, et seq., all escrow deposits shall be made on a quarterly basis.

B. Quarterly escrow deposits shall be made no later than 30 days after the end of each calendar quarter in which sales are made.

C. Each failure to make a full, timely quarterly deposit shall constitute a separate violation of the South Carolina Code Sections 11-47-10, et seq. and 11-48-10, et seq.

D. The Attorney General's Office shall review the amount deposited by each nonparticipating manufacturer for each calendar quarter, and shall invoice each nonparticipating manufacturer for which it concludes that an additional deposit was owed.

E. An importer shall be jointly and severally liable for all escrow deposits due from a nonparticipating manufacturer with respect to nonparticipating manufacturer cigarettes that it imports.

13-1103. Notification of Compliance.

A. Nonparticipating manufacturers shall provide the Attorney General with official notification of the quarterly escrow deposit no later than midnight of the day upon which an escrow deposit is required. Nonparticipating manufacturers shall also provide their quarterly reports within the same deadline. Nothing in this rule eliminates the requirement under South Carolina Code Section 11-48-30 for a nonparticipating manufacturer to file its annual certification due on April thirtieth of each year.

13-1104. Quarterly Periods Defined.

A. For purposes of this Article, the calendar year shall be divided into the following quarters: January first through March thirty-first; April first through June thirtieth; July first through September thirtieth; and October first through December thirty-first.

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13-1105. Untimely or Incomplete Quarterly Reports or Escrow Deposits.

A. If the required quarterly escrow deposit is not timely made in full, or the required quarterly report is not provided to the Attorney General, or the Attorney General does not receive timely official notice of the quarterly escrow deposit, the delinquent nonparticipating manufacturer and its brand families shall be removed from the directory in accordance with South Carolina Code Section 11-48-30. Any such nonparticipating manufacturer that fails in any quarter to place into escrow the funds required herein shall be subject to the penalty provisions of Section 11-47-30; shall be deemed to have failed to comply with Section 11-48-30; and shall be subject to all enforcement actions available for a violation of Section 11-48-30.

13-1106. Certification of Tobacco Product Manufacturers for Tobacco Directory.

A. Pursuant to South Carolina Code Section 11-48-30, tobacco product manufacturers who seek to certify their cigarette brands for sale in South Carolina must complete and submit no later than the thirtieth day of April each year the "Tobacco Product Manufacturer Certificate of Compliance" made available on the South Carolina Office of the Attorney General website.

B. In exercising the discretion granted by Section 11-48-30 when considering an application submitted for certification, the Attorney General may consider the following:

1. Whether the entity tendering a certification request is a tobacco product manufacturer;
2. Whether the tobacco product manufacturer is the tobacco product manufacturer, as defined by Section 11-47-20(i), of the cigarette brand listed on the certification application;
3. Whether the brand family sought to be certified by the tobacco product manufacturer is also manufactured by another entity; and whether the tobacco product manufacturer has exclusive rights to the trademark for the brand family. Whether any other tobacco product manufacturer also manufactures cigarettes within the same brand family
4. Completeness, or lack thereof, of the certification request made by the tobacco product manufacturer;
5. Whether the tobacco product manufacturer has provided all requested documents supporting its certification request;
6. Whether the certification request is based on misrepresentation, falsification of facts, false information, nondisclosure, or concealment of facts;
7. Whether the tobacco product manufacturer is in full compliance with all provisions of local, state and federal law;
8. Whether the tobacco product manufacturer, predecessor of the tobacco product manufacturer, or previous manufacturer of the brand is the subject of litigation, including but not limited to violations of any South Carolina statute, regulation, or other law, including, but not limited to, violations of Sections 11-47-10, et seq., through 11-48-10, et seq.;
9. Whether the tobacco product manufacturer has failed to fully fund a qualified escrow fund approved by the Attorney General in a timely and thorough manner;
10. Whether all final judgments and penalties, including interest, costs and attorney fees thereon, in favor of the State of South Carolina, for violation of any South Carolina statute, regulation or other law, including but not limited to violations of Sections 11-47-10, et seq., through 11-48-10, et seq., have been fully satisfied for the brand family, or tobacco product manufacturer;

11. Whether the tobacco product manufacturer has failed to pay any judgment obtained in any jurisdiction, including any civil penalty stemming from any jurisdiction’s escrow deposit laws, or whether the tobacco product manufacturer is a defendant in a pending lawsuit brought by another state for failing to sufficiently fund an escrow account pursuant to that state’s escrow laws; or whether the tobacco product manufacturer has been removed from another state’s tobacco directory;

12. Whether the tobacco product manufacturer has corrected deficiencies in its certification request or criteria set forth herein in a timely and thorough manner;

13. Whether the tobacco product manufacturer has complied in a timely and thorough manner with any request by the Attorney General for additional information or documentation supporting its certification request or the criteria set forth herein;

14. Whether the tobacco product manufacturer is owned, either all or in part, by a person or entity with a current or prior interest in any other tobacco product manufacturer that is, or has been, not in compliance with any South Carolina statute, regulation, or other law, including but not limited to Sections 11-47-10, et seq., through 11-48-10, et seq., or is the subject of litigation for the same;

15. Whether the tobacco product manufacturer is managed or operated by a person with a current or prior interest in any other tobacco product manufacturer that is, or has been, not in compliance with any South Carolina statute, regulation, or other law, including but not limited to Sections 11-47-10, et seq., to 11-48-10, et seq., or is the subject of litigation for the same;

16. Whether the tobacco product manufacturer is owned, either all or in part, by a person or entity, that has failed to pay any judgment obtained in any jurisdiction, including any civil penalty stemming from any jurisdiction’s escrow deposit laws; and

17. Any other facts or circumstances the Attorney General determines are relevant.

C. Each Tobacco Product Manufacturer certified on the directory will be required to report its sales of cigarettes into South Carolina for each quarter, utilizing the form provided by the Attorney General on the Attorney General website.

13-1107. Removal of Tobacco Product Manufacturer from Tobacco Directory.

A. In a manner provided in Section 11-48-30, the Attorney General shall remove a tobacco product manufacturer or brand family from the directory if the Attorney General determines that the tobacco product manufacturer or the brand family no longer meets the requirements of Sections 11-47-10, et seq., through 11-48-10, et seq., and regulations promulgated thereto.

13-1108. Rejection of Certification Application of Tobacco Product Manufacturers.

A. In a manner provided in Section 11-48-30, the Attorney General shall reject the certification application of a tobacco product manufacturer or brand family to be listed in the directory if the Attorney General determines that the tobacco product manufacturer or the brand family does not meet the requirements of Sections 11-47-10, et seq., to 11-48-10, et seq., and regulations promulgated thereto.

13-1109. Notice of Approved Certification, Denial of Certification, and Removal from Tobacco Directory.

A. The Attorney General shall promptly notify a tobacco product manufacturer in writing at the address supplied in the certification form by facsimile, electronic mail, or regular mail if the manufacturer has met the

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requirements of Section 11-48-30 and will be included in the directory. The notice shall include each brand family that the Attorney General determines will be included in the directory.

B. If the Attorney General intends to deny a tobacco product manufacturer or brand family a place in the directory, to remove a manufacturer or brand family from the directory, or to exclude an entity because the entity is not a tobacco product manufacturer, the Attorney General shall mail a written "Notice of Removal" to the manufacturer or entity. The "Notice of Removal" shall specify:

1. The factual and legal basis upon which the Attorney General's intended action rests;
2. The actions that the tobacco product manufacturer or entity must undertake to cure the factual or legal deficiencies upon which the intended action is based, if any; and,
3. The date upon which attempts to cure the deficiencies, if any, must be completed and documentation of completion must be submitted to the Attorney General. In no event shall the Attorney General allow the tobacco product manufacturer or entity less than seven days within which to cure the deficiencies, if any, upon which the Attorney General's intended action is based.

C. If the deficiencies have been cured to the satisfaction of the Attorney General, the Attorney General shall notify a tobacco product manufacturer in writing by facsimile, electronic mail, or regular mail that the manufacturer or brand name family will be included in the directory in accordance with Section 11-48-30.

D. If any of the deficiencies have not been cured to the satisfaction of the Attorney General, the Attorney General shall take action in accordance with Section 11-48-30 denying or removing a manufacturer, brand family, or entity a place in the directory.

E. The Attorney General may, for any reason and at the Attorney General's discretion, extend any time period allowed by this article.

13-1110. Bond Requirement for Nonparticipating Manufacturer

A. In order to promote compliance with the South Carolina Tobacco Escrow Fund Act, if a newly qualified nonparticipating manufacturer is to be listed on the South Carolina Tobacco Directory, or if the Attorney General reasonably determines that any nonparticipating manufacturer who has filed a certification pursuant to Section 11-47-30 poses an elevated risk for noncompliance with the Tobacco Escrow Fund Act, neither such nonparticipating manufacturer nor any of its brand families shall be included in the Directory unless and until such nonparticipating manufacturer, or its United States importer that undertakes joint and several liability for the manufacturer's compliance, has posted a bond.

B. A nonparticipating manufacturer may be deemed to pose an elevated risk for noncompliance if:

1. The nonparticipating manufacturer has not previously established and funded a qualified escrow fund in South Carolina;
2. The nonparticipating manufacturer has been on the tobacco directory for less than one year;
3. The nonparticipating manufacturer has failed to make a timely and/or complete escrow deposit unless (i) the manufacturer did not make underpayment knowingly or recklessly and the manufacturer promptly cured the underpayment within 30 days of notice of it, or (ii) the underpayment or lack of payment is subject to a good faith dispute as documented to the satisfaction of the Attorney General and the underpayment is cured within 30 days;

4. The nonparticipating manufacturer has failed to pay any judgment, regardless of the status of the judgment under applicable statutes of limitations, obtained in any jurisdiction, including any civil penalties and other monetary amounts awarded stemming from any jurisdiction's escrow deposit laws;

5. The nonparticipating manufacturer or its brands or brand families or an affiliate or any of the affiliate's brands or brand families have been removed from the state's tobacco directory for noncompliance with the state law at any time during the calendar year or within the past three calendar years; or

6. In addition to the reasons specified above, the Attorney General may require a bond from a nonparticipating manufacturer if the Attorney General has reasonable grounds to believe the nonparticipating manufacturer may default on its obligations under the Tobacco Escrow Fund Act.

C. The bond shall be posted by corporate surety located within the United States in an amount equal to the greater of one hundred thousand (\$100,000) dollars or the amount of escrow the manufacturer in either its current or predecessor form was required to deposit as a result of its previous calendar year's sales in South Carolina. The bond shall be written in favor of the State of South Carolina and shall be conditioned on the performance by the nonparticipating manufacturer, or its United States importer that undertakes joint and several liability for the manufacturer's performance in accordance with the Tobacco Escrow Fund Act.

D. A newly qualified nonparticipating manufacturer may be required to post a bond under this section for the first three (3) years of the newly qualified nonparticipating manufacturer's listing or longer if the newly qualified nonparticipating manufacturer has been deemed to pose an elevated risk for noncompliance

13-1111. Manufacturer and Importer Reports.

A. Each manufacturer and importer that sells cigarettes in or into the State shall, within 15 days following the end of each month, file a report on a form to be prescribed by the Attorney General and certify to the State that the report is complete and accurate.

B. The report shall contain the following information: the total number of cigarettes sold by that manufacturer or importer in or into the State during that month, and identifying by name and number of cigarettes (i) the manufacturers of those cigarettes, (ii) the brand families of those cigarettes and (iii) the purchasers of those cigarettes. A manufacturer's or importer's report shall include cigarettes sold in or into the State through its sales entity affiliate.

C. The requirements of subsection (a) shall be satisfied and no further report shall be required under this Section with respect to cigarettes if the manufacturer or importer timely submits to the Department of Revenue and the Attorney General the report or reports required to be submitted by it with respect to those cigarettes under 15 U.S.C. § 376 and certifies to the State that the reports are complete and accurate.

D. Upon request by the Attorney General, a manufacturer or importer subject to this Section will provide copies of similar reports that it filed in other States.

E. Each manufacturer and importer that sells cigarettes in or into the State shall either: (i) submit its federal returns, as defined below, to the Attorney General by 60 days after the close of the quarter in which the returns were filed or (ii) submit to the United States Treasury a request or consent under Internal Revenue Code Section 6103(c) authorizing the Alcohol and Tobacco Tax and Trade Bureau and, in the case of a foreign manufacturer or importer, the U.S. Customs Service to disclose the manufacturer's or importer's federal returns, as defined below, to the Attorney General as of 60 days after the close of the quarter in which the returns were filed.

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F. A manufacturer that fails to file a complete and accurate report required herein may be removed from the Tobacco Directory.

Fiscal Impact Statement:

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

Statement of Rationale:

The rationale for this regulation is to promote and enhance the enforcement of the South Carolina Tobacco Escrow Fund Act and the South Carolina Tobacco Qualified Escrow Fund Enforcement Act.

Document No. 4435
BUILDING CODES COUNCIL
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-9-40 and 6-9-63(E)

8-1209. IRC Section R312.2 Window fall protection.

Synopsis:

The South Carolina Building Codes Council will amend Regulation 8-1209 to correct a scrivener's error made in the citation of the International Residential Code Section R312.2.

A copy of the referenced code can be found at:

http://publicecodes.cyberregs.com/icod/irc/2012/icod_irc_2012_3_sec012.htm

The Notice of Drafting was published in the *State Register* on August 23, 2013.

Instructions:

The following section of Chapter 8 is modified as provided below. All other sections remain unchanged.

Text:

8-1209. IRC Section R312.2 Window fall protection.

Where window fall protection is provided it shall be installed in accordance with Section R312.2.1.

R312.2.1 Window opening control devices. Window opening control devices shall comply with ASTM F 2090. The window opening control device, after operation to release the control device allowing the window to fully open, shall not reduce the minimum net clear opening area of the window unit to less than the area required by Section R310.1.1.

Fiscal Impact Statement:

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

Statement of Rationale:

The science and technology supporting the development of this regulation can be found in the corresponding code located at the website referenced in the preamble.

Document No. 4418
CONTRACTORS LICENSING BOARD
CHAPTER 29
Statutory Authority: 1976 Code Sections 40-1-70 and 40-10-60

Article 6. Regulations Administering Fire Protection Sprinkler Systems Act.

Synopsis:

Regulations 29-70 through 29-110 are updated in conformance with the Fire Protection Sprinkler Systems Act.

The Notice of Drafting was published in the *State Register* on August 23, 2013.

Instructions:

The following sections of Chapter 29 are modified as provided below. All other sections remain unchanged.

Text:

ARTICLE 6

REGULATIONS ADMINISTERING FIRE PROTECTION SPRINKLER SYSTEMS ACT

(Statutory Authority: 1976 Code Section 40-10-5 et seq.)

29-90. Renewals.

(A)(1) Fire sprinkler contractors' licenses expire on July 31 biennially of each even year.

(2) Licenses not renewed by July 31 of each even year will be expired and can be renewed by completing a renewal application and paying the applicable renewal license fee together with the late renewal fee as set out in SC Code Ann. Section 40-10-50(F).

(B)(1) Certification cards issued to those who have met the qualifications of either a NICET Level III or IV Technician Certification expire on the expiration date of the NICET Level III or IV certification. The primary qualifying party and qualifying party must provide the department with a current NICET Level III or IV Technician Certification in "Fire Protection Engineering Technology Automatic Sprinkler System Layout."

(2) Grandfathered qualifier certification cards expire on July 31 of each even year. If a license that has a grandfathered qualifier has lapsed for more than one hundred twenty days, the grandfathered qualifier certification card will be expired and cannot be reinstated. An initial application must be submitted by the licensee and meet all qualifications for initial licensure to engage in fire sprinkler system work.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are amended in conformance with the Fire Protection Sprinkler Systems Act.

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Document No. 4369

SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY

CHAPTER 37

Statutory Authority: 1976 Code Section 23-47-20(C)(15)

37-062. Training to Take Place within One Year of Hire

Synopsis:

S.C. Code §23-47-20(C)(15) authorizes the Law Enforcement Training Council to make regulations necessary for the training of telecommunication operators or dispatchers. The proposed addition to the regulation will allow 911 operators one year to attend training at the Academy, which is consistent with S.C. Code §23-23-40 which allows one year to attend training for law enforcement officers.

Notice of Drafting for the proposed amendments was published in the *State Register* on January 25, 2013.

Section-by-Section Discussion

37-062 This section is new and sets out that operator training must occur within one year of hire, which is consistent with S.C. Code §23-23-40 which allows one year to attend training for law enforcement officers.

Instructions:

Add new regulation as shown below.

Text:

37-062. Training to Take Place within One Year of Hire.

A. No operator employed or appointed on or after the effective date of these regulations by any agency in this State is authorized to receive, process, transmit and/or dispatch emergency and non-emergency calls for police, fire, emergency medical and other public safety services via communication devices unless he or she has been certified as qualified by the Council, except that any agency in this State may appoint or employ as an operator, a person who is not certified if, within one year after the date of employment or appointment, the person secures certification from the Council. Exceptions to the one-year rule may be granted by the Director in these cases:

1. military leave or injury occurring during the first year which would preclude the receiving of training within the usual period of time; or
2. in the event of the timely filing of application for training, which application, under circumstances of time and physical limitations, cannot be honored by the training academy within the prescribed period; or
3. upon presentation of documentary evidence that the candidate has successfully completed equivalent training in one of the other states which by law regulate and supervise the quality of operator training and which require a minimum basic or recruit course of duration and content at least equivalent to that provided in these regulations or by standards set by the Council; or
4. if it is determined by documentary evidence that the training will result in undue hardship to the requesting agency, the requesting agency must propose an alternate training schedule for approval.

B. Notwithstanding another provision of law, in the case of a candidate for certification who begins one or more periods of state or federal military service within one year after his date of employment or appointment, the period of time within which he must obtain the certification required to become an operator is automatically extended for an additional period equal to the aggregate period of time the candidate performed active duty or active duty for training as a member of the National Guard, the State Guard, or a reserve component of the Armed Forces of the United States, plus one hundred and eighty days. The Director must take all necessary and proper action to ensure that a candidate for certification as an operator who performs

military service within one year of his employment or appointment is not prejudiced in obtaining certification as a result of having performed state or federal military service.

Fiscal Impact Statement:

As operators are already required to attend training prior to beginning work as an operator, there is no anticipated fiscal impact from this change.

Statement of Rationale:

Revisions to these regulations are necessary to allow 911 operators one year to attend training at the Academy, which is consistent with S.C. Code §23-23-40 which allows one year to attend training for law enforcement officers.

Document No. 4374

SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY

CHAPTER 37

Statutory Authority: 1976 Code Section 23-47-20(C)(15)

37-068. Application for Issuance or Re-issuance of Certification

Synopsis:

S.C. Code §23-47-20(C)(15) authorizes the Law Enforcement Training Council to make regulations necessary for the training of telecommunication operators or dispatchers. The proposed additions to the regulations will add a section to make 911 operators’ process for application for issuance or re-issuance of certification comparable to S.C. Reg. 38-002.

Notice of Drafting for the proposed amendments was published in the *State Register* on January 25, 2013.

Section-by-Section Discussion

37-068 This section is new and will make 911 operators’ process for application for issuance or re-issuance of certification comparable to S.C. Reg. 38-002.

Instructions:

Add new regulation as shown below.

Text:

37-068. Application for Issuance or Re-issuance of Certification.

A. All candidates for issuance or re-issuance of operator’s certification shall be submitted to the Academy within fifteen business days after hire on a form prescribed by the Council.

B. All candidates for issuance or re-issuance of operator certification must not have any active notification(s) from the South Carolina Department of Social Services notifying the Academy and/or the Council to revoke certification pursuant to S.C. Code §63-17-1060.

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Fiscal Impact Statement:

There will be no fiscal impact from the proposed changes.

Statement of Rationale:

Revisions to these regulations are necessary to add a section to make 911 operators' process for application for issuance or re-issuance of certification comparable to S.C. Reg. 38-002.

Document No. 4370
SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY
CHAPTER 37
Statutory Authority: 1976 Code Section 23-47-20(C)(15)

37-063. Requirement of Good Character

Synopsis:

S.C. Code §23-47-20(C)(15) authorizes the Law Enforcement Training Council to make regulations necessary for the training of telecommunication operators or dispatchers. The proposed addition to the regulation will require 911 operators to be persons of good character, which is consistent with S.C. Reg. 38-003 for law enforcement officers.

Notice of Drafting for the proposed amendments was published in the *State Register* on January 25, 2013.

Section-by-Section Discussion

37-063 This section is new and sets out the requirements for good character.

Instructions:

Add new regulation as shown below.

Text:

37-063. Requirement of Good Character.

A. Background Investigations.

Every agency who requests operator's certification shall conduct a background investigation in accordance with guidelines issued by the Council.

B. Certification to the Council.

Every agency who requests operator's certification shall certify to the Council that, in the opinion of the agency, the candidate is of good character and has not engaged in misconduct as defined in R.37-073. However, a finding of good character is subject to final approval by the Council.

C. Availability of Background Information.

Information obtained in any background investigation made in response to these regulations, shall be available, upon request, to the Academy and/or Council for its review and to any future prospective agency to assist them in a determination of an applicant's good character for operator's or law enforcement certification.

Fiscal Impact Statement:

There is no fiscal impact from this change.

Statement of Rationale:

Revisions to these regulations are necessary to require 911 operators to be persons of good character, which is consistent with S.C. Reg. 38-003 for law enforcement officers.

Document No. 4400
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1) (2004), 59-25-110 (2004), 59-26-10 et seq. (2004 and Supp. 2012), and 20 U.S.C. 6301 et seq. (2002)

43-300. Accreditation Criteria

Synopsis:

Regulation 43-300 governs the accreditation process for schools and districts in South Carolina. Currently, schools and districts are accredited through the South Carolina Department of Education (SCDE). The proposed amendment would provide a second accreditation option by allowing districts and schools to gain accreditation through an accrediting entity accepted by higher education in lieu of accreditation through the SCDE.

The Notice of Drafting was published in the *State Register* on July 26, 2013.

Instructions:

Regulation 43-300 is replaced in its entirety by the regulation below.

Text:

43-300. Accreditation Criteria.

I. Each school district shall provide the defined program approved by the State Board of Education that complies with standards prescribed for the boards of trustees; district operations; elementary grades; middle grades; secondary grades; career and technology education centers; summer school programs; and adult education. If a school district's defined program is evaluated as failing to comply with prescribed standards, it shall be considered as offering a program that is deficient in meeting local educational needs and such failure shall be indicated in the status of the accreditation classification.

II. State Board of Education Approval Procedures: To be accredited by the State Board of Education, a school district or school shall obtain approval for the school district's or school's educational program by one of the following procedures.

A. Option 1. Accreditation through the South Carolina Department of Education (SCDE). Meet the standards in the defined program and all current statutes and regulations as prescribed by the State Board of Education and General Assembly determined by the SCDE through the procedures described below. With regard to special schools, the following documents contain the full text of accreditation standards adopted by the State Board of Education. The documents are on file in the Offices of the South Carolina Department of Education and the South Carolina Legislative Council:

Defined Minimum Program for the John de la Howe School

Defined Minimum Program for the South Carolina School for the Deaf and the Blind

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Defined Minimum Program for the South Carolina Wil Lou Gray Opportunity School
Defined Minimum Program for the South Carolina Department of Juvenile Justice

B. Option 2. Accreditation through an Accrediting Entity Accepted by Higher Education. Submit documentation to the State Board of Education that the district and schools meet all accreditation standards and are considered fully accredited by an accrediting entity accepted by higher education (i.e., AdvancED/Southern Association of Colleges and Schools (SACS)). Use of an accrediting entity other than AdvancED will require approval by the State Board of Education. All deficiencies identified through desk or on-site monitoring must be resolved prior to the district or school utilizing Option 2. If district's or school's accreditation rating becomes less than fully accredited when utilizing Option 2, the district or school will automatically be reviewed by the South Carolina Department of Education's Option 1 procedures. A list of schools and/or districts selecting Option 2 for accreditation will be included in the SCDE's Annual Report of the Accreditation of School Districts in South Carolina to the State Board of Education.

III. Option 1 accreditation procedures for each school district or school not submitting documentation of Option 2 accreditation:

A. On or before October 15, data assurances documenting the compliance of standards for boards of trustees; district operations; elementary grades; middle grades; secondary grades; career and technology education; summer school programs; and adult education will be submitted to the South Carolina Department of Education.

B. The South Carolina Department of Education will process the accreditation data and identify existing deficiencies for the following educational units: (1) Boards of Trustees, (2) District Operations, (3) Elementary Grades, (4) Middle Grades, (5) Secondary Grades, (6) Summer School Programs, (7) Career and Technology Education, and (8) Adult Education. Accreditation data will also be collected annually through desk and on-site monitoring of selected schools and districts. The listings of deficiencies will be reviewed by South Carolina Department of Education staff and results of the preliminary analysis indicating existing deficiencies will be provided to districts and schools for verification.

C. The preliminary analysis data shall result in the SCDE assigning one of the following accreditation preliminary classifications no later than February 1:

Accredited/All Clear indicates that a district or school is in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly.

Accredited/Advised indicates that a district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly, but the deficiencies may be easily corrected and/or substantial progress can be made in removing existing deficiencies.

Accredited/Warned indicates that a district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly for a second year. Districts that have a Warned accreditation classification are required to make substantial progress toward removal of deficiencies before submitting accreditation data the subsequent school year or the district's accreditation will be placed on Probation.

Accredited/Probation indicates that a district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly for a third year. Serious deficiencies exist and the district, school, or program will lose its accreditation unless satisfactory progress is made toward the removal of the deficiencies before the next school year.

Accreditation Denied indicates that the district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly for a fourth year and does not merit accreditation. If the accreditation of a high school is denied, that school cannot issue State high school diplomas subsequent to the school year in which the accreditation is denied. Schools which have been classified as Accreditation Denied by the defined program accreditation procedures shall not be eligible for funding in the following fiscal year until an acceptable plan to eliminate the deficiencies is submitted and approved by the State Board of Education.

D. Each district and school is required to reply to the preliminary accreditation classification in writing to the South Carolina Department of Education, no later than February 22 and to provide written documentation to request removal of deficiencies prior to the South Carolina Department of Education assigning a final accreditation classification.

E. A copy of the final accreditation classification report for all Option 1 schools and districts will be provided to district superintendents, school principals, directors of career and technology education, directors of adult education, and members of the boards of trustees. The State Board of Education will receive the accreditation classification of all districts and schools utilizing Option 1 in the SCDE's Annual Report of the Accreditation of School Districts in South Carolina.

IV. Additional Requirement for Career and Technical Education:

In addition to the policies of the State Board of Education, programs under the jurisdiction of other state accrediting, certifying, or licensing boards shall meet requirements established by these boards.

V. On-Site Verification Visits by State Accountability Team

In addition to annual recommendation of a district's or school's accreditation classification, the SCDE's state accountability team will conduct desk audits and on-site verification visits on all districts and schools following a five-year cycle and yearly on those which have an accreditation status of accredited/ warned, accredited/probation, or those districts and schools whose previous visit violations are still unresolved for the current year. The state accountability team will facilitate and conduct on-site verification visits within thirty days to districts and schools as directed by the State Board of Education or the State Superintendent of Education. The results of the verification visit will be reported to the State Board of Education.

Fiscal Impact Statement:

No additional state funding is requested. The SCDE estimates that no additional costs will be incurred by the state and its political subdivisions in complying with the proposed revisions to Regulation 43-330.

Statement of Rationale:

Regulation 43-300 governs the accreditation process for schools and districts in South Carolina. Currently, schools and districts are accredited through the SCDE. The proposed amendment would provide a second accreditation option by allowing districts and schools to gain accreditation through an accrediting entity accepted by higher education in lieu of accreditation through the SCDE.

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Document No. 4401
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Section 59-5-60 (2004)

43-130. Accreditation Standards Filed

Synopsis:

The State Board of Education proposes to repeal this regulation. The regulation will be combined with R.43-300, Accreditation. References to Palmetto Unified will be removed because a regulation is being promulgated for the institution.

The Notice of Drafting was published in the *State Register* on June 28, 2013.

Instructions:

Regulation 43-130 is repealed.

Text:

43-130. Repealed.

Fiscal Impact Statement:

None.

Statement of Rationale:

The regulation will be combined with R.43-300, Accreditation. References to Palmetto Unified will be removed because a regulation is being promulgated for the institution.

Document No. 4419
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Sections 59-5-60(1),(3),and (6) (2004), 59-39-100 (Supp. 2012), and
20 U. S. C. 6301 et seq. (2002)

43-259. Adult Education

Synopsis:

The State Board of Education is responsible for the administration, coordination, and management of adult basic and adult secondary (high school equivalency diploma and high school diploma) education for the purpose of facilitating and coordinating adult basic and adult secondary (high school equivalency diploma and high school diploma) education programs for South Carolina adults whose level of educational attainment is below high school, as prescribed by state and federal laws and regulations.

Per the request of the Senate Education Committee, the State Board of Education withdrew the regulations, made the changes as delineated below, and resubmitted the regulation:

14 references to “License” should revert to “Certified”

Under “Statement of Rationale”, page7, “Adult Education licensure requirements were revised”, “licensure” should be changed to “certification”.

Per the request of the House Education and Public Works Committee, the State Board of Education withdrew the regulations, made the changes as delineated below, and resubmitted the regulation:

Section II.A.3. was amended to remove the possibility for students seventeen years of age and officially enrolled in school to be assigned to an adult education program even if the local school board finds the student to have an unusual need or physical, social, or economic problem that can be served more effectively by the adult education program. The Committee requests that the stricken language be reinserted. The State Board reinstated that language.

Notice of Drafting for the proposed amendments was published in the *State Register* on July 26, 2013.

Instructions:

Regulation 43-259 is modified as provided below.

Text:

43-259. Adult Education.

I. The State High School Equivalency Diploma

The State Board of Education (SBE) will issue a state high school equivalency diploma to eligible candidates who successfully complete a SBE approved high school equivalency test. The SBE authorizes the administration of approved high school equivalency tests by the South Carolina Department of Education (SCDE) under policies established by the SBE.

A. Eligibility Requirements for Equivalency Diploma Candidates

1. Service Personnel and Veterans

To be eligible for a state high school equivalency diploma, the candidate must be seventeen years of age or older and must be either a resident of South Carolina or a former resident whose most recent elementary or secondary school attendance was in South Carolina.

2. General Adult Population

a. To be eligible for a state high school equivalency diploma, the candidate must be seventeen years of age or older, must not be currently enrolled in high school, and must either be a current resident of South Carolina or a former resident whose most recent elementary or secondary school attendance was in South Carolina.

b. A candidate for a state high school equivalency diploma who is seventeen or eighteen years of age must submit a "Verification of School Withdrawal" form completed by either the school principal or attendance supervisor of the last South Carolina school he or she attended or from the district superintendent of the school. The "Verification of School Withdrawal" form must verify the candidate's date of birth and the date of his or her last attendance at the school. In the event that the last school he or she attended was outside South Carolina, a person seventeen or eighteen years of age may either submit a letter signed by his or her

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high school principal or designee verifying his or her date of birth and the date of last attendance in school or submit a letter from the superintendent of schools in the district in which he or she currently resides indicating that the candidate is not enrolled in any schools within the school district. A copy of the candidate's driver's license, state-issued identification card, or birth certificate must accompany the letter. Verification letters are to be submitted with the application for testing.

c. A candidate over the age of eighteen who has been enrolled in high school during the current school year must submit a "Verification of School Withdrawal" form completed by either the school principal or attendance supervisor of the last South Carolina school he or she attended or from the district superintendent. The "Verification of School Withdrawal" form must verify the candidate's date of birth and the date of his or her last attendance at the school.

3. Juvenile Offenders

Certain juvenile offenders who are under the jurisdiction of the State Department of Juvenile Justice may be granted an exception to the requirement that in order to be eligible for a state high school equivalency diploma, a candidate must be seventeen years of age or older and not be currently enrolled in high school during the current school year.

For a juvenile offender to qualify for this exception, the following criteria must be met:

a. The juvenile is at least sixteen years of age.

b. The juvenile is under the jurisdiction of the family court based on an adjudication of delinquent behavior and must be committed to a juvenile correctional institution or committed to participate in community-based alternative programs under the jurisdiction of the Department of Juvenile Justice.

c. The family court certifies that it is in the best interest of the juvenile for him or her to be exempted from the public school compulsory attendance law.

d. The juvenile's enrollment in public school or completion of a community-based alternative program would not be feasible upon his or her release from a juvenile correctional institution either because it is necessary that he or she find immediate employment or because he or she will immediately enroll in postsecondary education.

B. Passing Score Requirements

1. Eligible candidates who were initial examinees before July 1, 1991, were awarded a state high school equivalency certificate if they attained an average standard score of 45 or above for the five tests in the GED battery. The South Carolina high school equivalency certificate was not awarded after July 1, 1995.

2. Eligible candidates who were examinees after July 1, 1991, were awarded a state high school equivalency diploma if they attained a minimum-standard score of 35 on each of the five tests in the GED battery and an average standard score of 45 or above for the five tests.

3. Eligible candidates who were examinees after January 1, 1997, were awarded a state high school equivalency diploma if they attained a minimum-standard score of 40 on each of the five tests in the GED battery and an average standard score of 45 or above for the five tests.

4. Eligible candidates who are examinees after January 1, 2002, will be awarded a state high school equivalency diploma if they attain a minimum standard score of 410 on each of the five tests in the GED battery and an average standard score of 450 or above for the five tests.

5. Passing score requirements for all high school equivalency tests authorized by the SCDE after December 31, 2013, will follow test publisher’s guidelines and any additional requirements established by the SBE.

C. Testing and Credential Application Procedures

1. High School Equivalency Testing in South Carolina

a. High school equivalency tests may be scheduled and administered at adult education centers, technical or community colleges, and other locations approved by the director of the SCDE’s Office of Adult Education.

b. Eligible candidates must submit an application to the SCDE’s High School Equivalency Testing Office, or an approved high school equivalency testing center, and pay the required fee set by the SCDE for the testing service and the diploma.

c. Official score reports will be provided to initial examinees only after the completion of the entire high school equivalency test battery.

d. Nonresident individuals who are living temporarily in South Carolina may be permitted to take the high school equivalency tests in South Carolina if they meet minimum age requirements and are not enrolled in high school. Nonresident individuals will not be awarded a state high school equivalency diploma unless their most recent elementary or secondary school of attendance was in South Carolina. Nonresidents must submit an application for testing services to the SCDE’s High School Equivalency Testing Office or an approved high school equivalency test center and must pay the required fee set by the SCDE to cover the full costs of the testing and the score report.

e. Guidelines for the re-testing of high school equivalency candidates are outlined in the SCDE High School Equivalency Testing Office Policies and Procedures Manual.

2. High School Equivalency Testing Outside South Carolina

Eligible candidates tested outside South Carolina must submit a diploma application to the SCDE’s High School Equivalency Testing Office and must pay the required fee to cover the costs of the diploma. Applicants must arrange for official score reports to be sent to the chief examiner in the SCDE’s High School Equivalency Testing Office. Score reports will be accepted as official only when sent directly by an official high school equivalency testing center, by the transcript service of the Defense Activity for Nontraditional Education Support (DANTES), or by the GED Testing Service in Washington, D.C. Eligible candidates who are tested outside of South Carolina must meet the state’s passing score requirements in order to receive a state high school equivalency diploma.

II. Adult Education: High School Diploma Program

A. Graduation Requirements

1. The student must earn a total of 24 prescribed units of credit and pass the exit examination to earn a state high school diploma. The unit requirements are distributed as follows:

Unit Requirements	
English/language arts	4.0
Mathematics	4.0
Science	3.0

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U.S. History and Constitution	1.0
Economics	0.5
U.S. Government	0.5
Other social studies course(s)	1.0
Computer science (including keyboarding)*	1.0
Electives	9.0

24.0 total

* Keyboarding may count up to one-half unit of the computer science requirement.

2. A student may transfer credit earned in the adult education program to a secondary school to count toward the units of credit required for a state high school diploma earned through the regular course of study at a high school, if for each unit being transferred, the student has spent a minimum of 120 hours in class time in that subject at that level and the teacher was properly certified to teach the course.

3. Membership in an adult education program shall be limited to individuals eighteen years of age or older who have left the elementary or secondary school, except when the local school board assigns students under the age of eighteen years who are not officially in membership in a regular school. Students under eighteen may be assigned to an adult education program when they exhibit either an unusual educational need or physical, social, or economic problem that can be served more effectively by the adult education program. Schools should provide counseling regarding all alternatives available to high school students considering dropping out. No student under the age of sixteen may be assigned to the adult education program for any reason.

4. No student shall be graduated from the adult education program prior to the time that he or she would have graduated from a regular high school unless written approval is granted by the high school principal and the SCDE's Office of Adult Education. For a student to be eligible to receive a state high school diploma, he or she must complete one semester in residence (i.e., through actual attendance in the adult education program). This semester in residence is a prerequisite for the state high school diploma and may not be waived. For the purposes of adult education programs, a semester in residence is defined as follows: a minimum of 60 hours of classroom attendance for a student needing only 1 unit to graduate, and a minimum of 30 hours of classroom attendance for a student who needs only one-half unit to graduate. Completion of a one-half unit or one unit via the virtual school program while enrolled in an adult education program will satisfy the semester-in-residence requirement. A student who enters an adult education program needing only to pass one or more subtests of the state exit examination must attend a minimum of 12 hours in classroom attendance prior to taking the state exit exam.

5. The student must complete a study of and pass an examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the *Federalist* papers, and American institutions and ideals.

6. A student may earn an unlimited number of units of credit per school year with a maximum of six earned through classroom attendance.

B. Provisions for Granting Course Credit

1. Course credit shall be accepted when official transcripts are received from schools that are accredited by a state or by one of the following: New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

2. An adult education program may award credit for courses that have been approved by the SCDE in a proficiency-based system, see R.43-234, II.C., Defined Program, Grades 9–12 and Graduation Requirements. Credit shall only be accepted from institutions validated by the SBE or accredited by one of the following: New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

3. High school diploma credit may be granted only by a teacher certified in the specific area in which credit is to be awarded. If the adult education teacher is not certified in the specific area in which the student is seeking credit, another currently employed adult education teacher that is certified in the specific area may review the student's work and award the unit of credit on that basis. Documentation of the high school credit awarded becomes part of the student's permanent record.

4. Adult Education students are eligible to earn high school units through the district's dual credit arrangement, see R.43-234, III., Defined Program, Grades 9–12 and Graduation Requirements.

C. Approved Programs and Granting of Credit

No credit toward a state high school diploma shall be granted to any adult education student unless the program has been officially approved in writing by the Office of Adult Education and the Office of Federal and State Accountability at the SCDE. Program-related requirements include, but are not limited to, the following:

1. Each district must provide properly certified administrative, teaching, and supervisory staff for the adult education program. Staff members may be either full-time or part-time, according to the size of the program.

2. Each director must either be certified in one of the acceptable areas of certification for an adult education director or hold both an advanced degree in the field of adult education and a South Carolina teaching certificate.

3. Each adult education program must have a director (full-time or part-time).

4. Each center supervisor or program coordinator must either meet the same qualifications for certification as set forth in item 2 above for adult education directors or have a master's degree or a bachelor's degree and five years of adult education experience.

5. Each adult education teacher must be properly certified and meet the appropriate federal statutory requirements.

6. Each adult education high school subject-area teacher must be properly certified and meet appropriate federal statutory requirements to teach the subject area in which he or she is assigned to teach.

7. Any staff member who is assigned duties in a subject for which he or she is not properly certified must hold a valid teaching credential, must have completed 12 semester hours of credit in the assigned subject, and must have obtained an out-of-field permit in that subject from the Office of Educator Certification. The staff member must earn 6 semester hours toward proper certification each year for renewal of the out-of-field permit. After June 30, 2006, out-of-field permits will no longer be issued to teachers who teach core academic subjects as specified by the appropriate federal statutory requirements. These core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. The Director of the Office of Adult Education may waive the requirement of properly certified teachers in instances of critical needs. Critical needs may include but are not limited to the

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following: there is no certification available in the particular subject area; there is no certified teacher available because of the location of the class or meeting time of the class. Non-certified teachers must work under the supervision of an on-site, properly certified teacher. Non-certified teachers may not provide instruction in courses awarding Carnegie units of credit.

8. In order to earn credit toward a state high school diploma earned through an adult education program, a student must attend class a minimum of 60 hours to receive consideration for a unit of high school credit and 30 hours for consideration for one-half unit of high school credit. Actual course credit will be awarded only after the student has completed all course requirements. Completion of a one-half unit or one unit via the virtual school program while enrolled in an adult education program will satisfy the attendance requirement.

9. Applications for innovative-approach programs must be submitted to the SCDE's Office of Adult Education when a departure from certain established standards is necessary for the implementation of the new program. Requests for prior approval must be made to the Office of Adult Education and must be approved by the SCDE's Office of Federal and State Accountability.

10. An accurate record of the attendance and achievements of each student must be kept and must be stored in locked, fireproof filing cabinets or vaults or in a secure database with backup copies. Records of high school credits earned must be retained indefinitely.

11. Students enrolled in the high school completion program must be given access to appropriate library facilities or the Internet.

Fiscal Impact Statement:

It is estimated that there will be no fiscal impact.

Statement of Rationale:

The proposed changes are needed in order to remove most references to the Tests of General Educational Development (GED) and replace with high school equivalency diploma. The limit on high school units earned via the South Carolina virtual school program was removed. References to the South Carolina Virtual School Program were changed to virtual school program. Adult Education teacher certification requirements were revised.

Document No. 4420

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-43-10 et seq. (2004)

43-237.1. Adult Education Program

Synopsis:

The administration, coordination, and management of adult basic and adult secondary (high school equivalency diploma and high school diploma) education for South Carolina adults whose level of educational attainment is below high school level, as prescribed by state and federal laws and regulations, is the responsibility of the State Board of Education.

Per request of the Senate Education Committee, the State Board of Education withdrew the regulation, made the changes delineated below, and resubmitted the regulation (licensed changed to certified):

M. Enrollment Count

Adult students who have been instructed a minimum of twelve (12) hours in adult education classes may be counted for enrollment only once during a fiscal year in the same program. Approved programs of study are those outlined in the federally approved SC Assessment Policy (Adult Basic Education, Adult Secondary Education, English as a Second Language, or Workplace Literacy) and taught by certified adult education instructors or by qualified volunteers .

The Notice of Drafting was published in the *State Register* on July 26, 2013.

Instructions:

Regulation 43-237.1 is modified as provided below.

Text:

43-237.1. Adult Education Program.

A. Adult Education Program

The program of adult education is provided for adults who want to acquire a basic education, to prepare for a high school equivalency test, to develop literacy skills, to obtain the knowledge and skills necessary for employment and self-sufficiency, or to complete the requirements for a state high school diploma. Enrollment in the program of adult education for a state high school diploma shall be limited to adults who are residents in South Carolina.

B. Basic Education Program

The curriculum of an adult basic education program shall include organized and systematic instruction in reading, writing, and speaking the English language, numeracy, problem solving, English-language acquisition, and other literacy skills.

Each adult education program shall provide instruction at the various levels as defined in the National Reporting System for Adult Education (NRS).

Cooperation with other agencies and programs is needed in order for public education to provide for the adult population's variety of needs. A school district with the written approval of the Office of Adult Education may contract with another school district in South Carolina for the operation of the adult program. Diploma programs must have written approval from the Office of Adult Education.

C. Adult Education Facilities

(1) Buildings shall be adequate in size and arrangement.

(2) Buildings shall be kept clean and comfortable.

(3) Each room shall be designed and equipped to serve specific purposes. Adequate lighting, ventilation, and heating shall be provided in all utilized areas.

(4) All operating adult school facilities shall comply with the safety regulations prescribed by the State Fire Marshal and with the sanitation and health regulations prescribed by the State Board of Health.

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D. Health Certificates

All personnel shall be screened for tuberculosis as required by (S.C. Code Ann. Sections 44-29-150, 160 (1976)). Guidelines for screening of school employees for tuberculosis are available in all county health departments.

E. In-Service Education

Each adult education director shall develop and implement an organized in-service education program for professional personnel. Staff members should be involved in the planning and evaluation of these activities, which should focus on the problems, needs, purposes, and goals of the adult education program. A copy of the in-service education plan shall be made available to the adult education supervisor upon request.

F. Length of School Term

Each approved adult education high school diploma course shall include a minimum of sixty (60) hours of instruction for each unit of credit (exclusive of registration, exams, issuing materials, etc.), unless the course is offered via the virtual school program or via an approved proficiency-based system.

G. Supervision of Instruction

Supervision and improvement of the adult education instructional program is the direct responsibility of the adult education director.

H. Allocations to School Districts

State funds shall be allocated to school districts on a formula basis as determined by the adult student enrollment and student performance as of June 30 each year.

1. General Program Support

Using actual allocations, school districts shall develop a budget that includes the following allowable expenses: directors' salaries, teacher salaries, instructional materials and supplies, "other costs," employee benefits, and indirect costs. These expenditures shall be approved by the Office of Adult Education. Disbursements for teacher salaries, instructional materials, equipment and supplies, and other costs shall be paid at a rate determined by the local board of education.

2. Employee Benefits

Federal and state funds may be used for payment of employee benefits for those employees whose salaries are paid with federal and state funds.

I. Allocations to Other Entities

Allocations of federal funds to other entities that are deemed eligible under the Workforce Investment Act will be made on the same formula basis as school districts. The end-of-the-year report compiled by the Office of Adult Education shall be used as the basis for determining the amount to be allocated.

J. Allocations to Other Agencies

Allocations of federal funds to other agencies that are deemed eligible under the Workforce Investment Act will be made on the same formula basis as school districts. The end-of-the-year report compiled by the Office of Adult Education shall be used as the basis for determining the amount to be allocated.

K. Base Amount

After the costs of the State Office of Adult Education operations, local directors' salaries, leadership funds, other agencies' funds, special initiatives, and entities' allocations are subtracted from the state and federal grants, the remainder shall be distributed through a formula that considers the number of participants and the current student performance formula for adult education programs. This formula will produce the program allocation amount for the up-coming school year.

L. Non-fundable Classes

No class or course for adults that is recreational or social shall be eligible for funding; therefore, enrollment in such classes shall not be counted for funding purposes, and no state or federal adult education funds may be used to support such classes. This standard applies to physical education and physical fitness classes.

M. Enrollment Count

Adult students who have been instructed a minimum of twelve (12) hours in adult education classes may be counted for enrollment only once during a fiscal year in the same program. Approved programs of study are those outlined in the federally approved SC Assessment Policy (Adult Basic Education, Adult Secondary Education, English as a Second Language, or Workplace Literacy) and taught by certified adult education instructors or by qualified volunteers .

N. Quarterly Expenditure Claims

Adult Education Expenditure Reports shall be submitted to the Office of Finance on a quarterly basis.

O. Expenditure Reports

Program expenditure reports are reviewed quarterly by the staff of the Office of Adult Education to ascertain if expenditures are consistent with allocations.

P. Local Funds

Local funds for the adult education program are expended at the discretion of the local school officials.

Q. Project Proposals

Project proposals define the plans and methods by which the program will operate and include a needs assessment of the local community served by the program. No reimbursements are made prior to the final approval of a proposal.

R. Indirect Costs

If a school district chooses to claim indirect costs, the restricted cost rate is applicable to adult education federal funds.

S. Travel Reimbursement

When travel expenses are reimbursed through the Office of Adult Education, current state employee travel regulations apply.

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T. Membership

The fees for memberships in professional organizations are disallowed as expenditures from state or federal adult education funds.

U. Local Program Income

If the adult education program charges fees for tuition or materials, those funds can only be spent on additional, approved adult education activities. The funds may not go into the district's general fund or be used for any activity other than adult education.

Fiscal Impact Statement:

It is estimated that there will be no fiscal impact.

Statement of Rationale:

The proposed changes are needed in order to remove most references to the Tests of General Educational Development (GED). Current references will be changed to indicate high school equivalency testing program. Language regarding length of school term and funding allocations will be revised.

Document No. 4421

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Section 24-25-10 (2007)

43-229. Defined Program for the Palmetto Unified School District (PUSD)

Synopsis:

The Palmetto Unified School District No. 1 (PUSD) was established in 1981 by the South Carolina General Assembly pursuant to S.C. Code Ann. § 24-25-10 to provide educational services to inmates through a statewide school district. PUSD, as a sanctioned school district, is also mandated to comply with the regulations of the State Board of Education (SBE) unless otherwise noted. The PUSD shall provide a defined educational program that complies with standards prescribed for the Board of Trustees and district operations for secondary grades and adult education programs.

The purpose of the PUSD is to enhance the quality and scope of education services for inmates within the South Carolina Department of Corrections. PUSD's mission is to maximize the academic, vocational, and life skills of student inmates in preparation for their successful return to society.

The proposed regulation will address the requirements to successfully operate the PUSD just as any other state-identified school district except where the unique needs and situations of incarcerated students require modifications or exceptions. The requirements of this regulation will help to ensure that the purpose of the PUSD is implemented and supported.

The Notice of Drafting was published in the *State Register* on June 28, 2013.

Instructions:

New regulation added.

Text:

43-229. Defined Program for the Palmetto Unified School District (PUSD)

Palmetto Unified School District No. 1 (PUSD) was established in 1981 by the South Carolina General Assembly, pursuant to S.C. Code Ann. § 24-25-10, to provide educational services to inmates through a statewide school district. PUSD as a sanctioned school district is also mandated to comply with the regulations of the State Board of Education (SBE) unless otherwise noted in this regulation.

I. District Organization

The PUSD shall provide a defined educational program that complies with standards prescribed for the Board of Trustees, district operations, secondary grades, and adult education, unless otherwise noted in this regulation.

A. Due to the uniqueness of the school population served by the PUSD (i.e., the large number of students over the public school age of 21 and age disparity within each institution), the operation of a dual program of secondary and adult education for the majority of the district's schools is necessary. The following classifications will be recognized as the organizational patterns for school operation within the district:

Secondary (Grades 9–12)

Adult Education (Level 1, Level 2, High School Equivalency Programs)

B. Students of public school age (17–21) are assigned under pupil classification system as set forth in the Education Finance Act (EFA) as either secondary students (grades 9–12), students enrolled in a high school equivalency program, students with disabilities, or career and technology education (CATE) students. Students who become twenty-one years old after September 1 of the school year will remain under the secondary grade pupil classification for the entire school year. Students over public school age will be assigned to the adult education program.

C. Accredited schools shall operate a minimum of 1,170 instructional hours for all students. Exercises for issuing diplomas to graduates shall be scheduled at the discretion of the PUSD. High school diploma credits will be awarded per Regulation 43-234, Defined Program, Grades 9–12 and Graduation Requirements.

II. District Governance

A. Board of Trustees

1. The school district Board of Trustees must ensure quality schooling by providing rigorous, relevant instructional programs for all students.

2. The PUSD shall be under the control and management of its Board of Trustees. With the consent of the agency director, the Board of Trustees shall operate as the executory agent for the schools under its jurisdiction and shall perform administrative functions as stated in S.C. Code Ann. § 24-25-70, Powers and Duties of School Boards.

B. Board Policies

Written school board policies, cooperatively developed by employees, administrative staff, and the Board of Trustees, are essential for successful operation of the district's school system. School board policies establishing the guidelines and responsibilities shall outline the relationship of board members, the

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superintendent, and staff; provide understanding and clarity of purpose; and facilitate administration. Copies of the school board policies shall be filed on the district's web page.

C. School Budgets

Notwithstanding any other provision of the law, the Board of Trustees in this state shall annually make available to the general public its budget for that year.

D. District Strategic Plan and School Renewal Plans

The PUSD will submit a five-year strategic plan to the South Carolina Department of Education (SCDE) with annual updates due by April 30 each year. The district strategic plan, school renewal plans, and annual updates must be reviewed and approved by the local Board of Trustees. District and school planning should be in compliance with Regulation 43-261.

III. School and District Reporting Requirements

The need for uniformity in collecting and reporting information makes it necessary for the district to maintain a record system for accurate reporting of information to the SCDE, the United States Department of Education (ED), and the General Assembly. Compatibility of data at the district level is required in the following areas:

A. Finance

The PUSD shall maintain accurate accounting records of all financial transactions in accordance with the SCDE's standard fiscal procedures as outlined by the State Budget and Control Board. Funds will be expended within the parameters set forth in the SCDE's Funding Manual.

B. Personnel

The PUSD shall maintain an accurate record of all personnel and submit required staff information utilizing a prescribed format to the appropriate office(s) at the SCDE.

C. Facilities and Equipment

The PUSD shall maintain an accurate inventory record of all equipment and real property owned by the district.

D. Students

The PUSD shall maintain accurate and confidential student records. The superintendent or designee shall verify the accuracy of enrollment, attendance, and membership by category which shall be submitted to appropriate office(s) at the SCDE.

1. Student Records

a. The PUSD will maintain accurate student data according to the pupil accounting system prescribed by the SCDE.

b. The district superintendent or designee will verify the accuracy of the student enrollment, attendance, membership by category, and submit this information to the SCDE.

2. Course Records for Students

The district superintendent or designee will verify the accuracy of course records for students.

3. Student Enrollment

a. Students will not be concurrently enrolled in the Adult Basic Education (ABE) funding database and the EFA funding database.

b. Cases of extended or chronic illnesses that are certified by a physician and absences due to emergency conditions may be approved by the principal as excusable.

c. Any student who receives fewer than 120 clock hours of instruction during a school year will not be eligible to receive a full unit of credit unless the Board of Trustees approves excessive absences in accordance with Regulation 43-274, and the student makes up the work missed to satisfy the 120-hour requirement, unless that credit is earned in a proficiency-based course, as permitted under Regulation 43-234.

4. Transfer of Students

a. Accurate accounting records shall be developed and maintained for student transfers and withdrawals according to Regulation 43-273. Comprehensive transcripts shall be submitted directly to the receiving school. A permanent record of the transferred student shall be retained in the school from which the student is transferred. All transfers and withdrawals shall be in accordance with Regulation 43-273, Transfers and Withdrawals.

b. Units earned by a student in an accredited high school of this state or in a school of another state, which is accredited under the regulations of the Board of Education of that state, will be accepted under the same value which would apply to students in the school to which they transferred.

IV. School Personnel Based on EFA Requirements

A. School Personnel Workload

1. PUSD will be divided into regions. Each region will have no more than three (3) schools. Each region will be staffed by a full-time properly certified principal.

2. Each region will be staffed by a properly certified guidance counselor.

3. Each region will be staffed by a properly certified media specialist.

4. All students with disabilities under the Individuals with Disabilities Education Act (IDEA) will receive special education and related services consistent with their individualized education program (IEP), in accordance with the IEP. Caseload and class size must adhere to the relevant state regulations governing special education.

B. Minimum District Staff

The South Carolina Department of Corrections (SCDC) shall employ a superintendent of the PUSD who shall be employed full time.

C. Additional District Staff

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Operation of the school program involves functions of management and administration as well as teaching, counseling, supervising, and related activities. The enrollment and scope of the educational program will determine the size of the district staff as determined by the superintendent. Any additional personnel who may need to be employed and who have responsibilities for supervising instructional programs and pupil services shall be properly certified.

D. All certified staff will be paid according to the statewide minimum salary schedule, adjusted for 235-day school year.

E. Program of Professional Development and Evaluation

1. The PUSD shall provide professional development for all educational personnel on an annual and long-range basis.

2. Each school shall implement a district-approved professional development program in addition to regularly scheduled faculty meetings. These activities shall be correlated with the district's professional development and strategic plans as well as the school renewal plan.

V. Programs of Study

To assure a continuous learning experience, students may enter a course at any time. Students enrolled in a Carnegie unit course may receive one unit of credit upon successful completion of a course that requires a minimum of 120 hours of instruction. One-half credit may be awarded for a course that requires a minimum of 60 hours of instruction, and one-fourth credit may be awarded for a course requiring 30 hours of instruction. A student enrolled in a course offered by the SCDE's virtual education program or another Distance Learning program may receive one unit of credit upon successful completion of a course as required by the SCDE. In addition, the PUSD may offer proficiency-based courses pursuant to the requirements of Regulation 43-234.

A. Minimum Course Offerings

1. The number of course offerings will be determined by the PUSD superintendent according to the size of student enrollment and course needs of students, The courses offered may include, but are not limited to, the areas of English language arts, mathematics, social studies, science, the arts, and CATE.

2. Each school shall provide adequate personnel, facilities, equipment, and supplies for its instructional program as determined by the superintendent.

3. The instructional day must be at least 6 hours, excluding lunch, or the equivalent weekly in accordance with § 59-1-425. In order to receive EFA funding, students must attend a minimum of 200 minutes daily or its equivalent for an annual accumulation of 36,000 minutes according to R.43-172.

4. Due to the individualized instructional program and the ever changing school population within the district, special consideration shall be given to allow credit and non-credit students to attend classes concurrently. Students at different unit credit levels shall also be allowed to attend classes concurrently in the same subject area.

B. High School Credit Courses

1. No student may earn more than one unit of credit for 120 hours of instruction.

2. Regulation 43-262 regarding assessment shall apply to students enrolled in high school courses.

C. High School Equivalency Programs

1. A candidate for a state high school equivalency certificate who is seventeen to twenty-one years of age and incarcerated within the South Carolina Department of Corrections must submit proper documentation completed by either a PUSD school principal, adult education director, or the district superintendent indicating the candidate is no longer enrolled in a program generating EFA funding. The documentation must verify the candidate's date of birth and the date of his or her last attendance at the PUSD EFA program. Verification letters are to be submitted with the application for testing.

2. EFA students who pass a high school equivalency exam may be enrolled in a CATE vocational class or be withdrawn from school. Those who are under the age of twenty-one and fail the high school equivalency exam will remain in the EFA database. Students who re-enroll must meet the minimum requirements as set forth in the Pupil Accounting Manual per Regulation 43-172.

D. Classroom Instruction

Classroom instruction will be based on the current SBE-adopted and approved academic standards for a given content area. Content areas shall include, but not be limited to, English language arts, mathematics, science, social studies, the arts, and CATE. CATE programming shall be offered at each school. Additional courses may be offered depending upon student enrollment, need, and availability of a certified teacher as designated by the superintendent or designee and as required by SBE Regulation 43-234 to include financial literacy; environmental studies; foreign language; alcohol, tobacco, and other drugs; and visual and performing arts. Other courses in the areas of physical education, health education, other elective courses, and Advanced Placement offerings should be provided as appropriate.

E. Impact of Crime Classes

Impact of Crime classes may be offered in all schools that have teaching assistants as a transitional skill, as designated by the superintendent/designee.

F. Special Education

1. A specialized program of instruction utilizing the resource, itinerant, or self-contained model shall be made available to students with disabilities. Special education and related services must be provided to students with disabilities as set forth in their individualized education programs (IEPs); and to the maximum extent possible, they must be educated with their nondisabled peers in the least restrictive environment, consistent with the Individuals with Disabilities Education Act (2004) and SBE Regulation 43-243. Students with disabilities must have available to them a free appropriate public education, consistent with SBE Regulation 43-243 and 34 C.F.R. § 300.102(a)(2).

2. Student/teacher ratios will comply with SBE Regulation 43-205.

G. Instructional Materials

EFA students may be issued state-adopted instructional materials. Students will pay for lost or damaged materials. Replacement materials will not be issued until the debt is paid.

H. Media Center

The district shall utilize the institutional libraries. A committee, as designated by the superintendent/designee, and the media specialist shall be responsible for reviewing and selecting reading

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materials that are appropriate for the needs of students, including print and electronic or digital versions of materials.

I. Advisory Councils

The superintendent or designee may establish advisory councils, including but not limited to a Student Advisory Council, Teacher Advisory Council, School Improvement Council, and a Career and Technology Advisory Council. Advisory councils shall meet no less than annually. No advisory council shall have any of the powers and duties reserved by law or regulation of the Board of Trustees.

J. Accident Prevention

Each school will comply with safety regulations as prescribed in state law and approved in the individual institution's emergency plan (Section 59-63-910, S.C. Code of Laws, 1976, as amended).

K. Emergency Closings

All school closings, other than for security reasons, must be approved by the district superintendent or designee and reported to the SCDE.

L. Displaying of United States and South Carolina Flags (R.43-188)

Each school will display the American and State flags appropriately.

VI. Adult Education

The adult education program is designed primarily for, but not limited to, adults over twenty-one years of age. Those students who are under twenty-one years of age that have withdrawn from a PUSD EFA school to prepare for a high school equivalency program may participate in the adult education program. The district shall provide educational programs, including the following:

Academic Education Level I (1–8), Level II (9–12), High School Diploma Program, and the SCDE virtual education program or other Distance Learning programs.

A. Academic Education

1. Level 1: Basic education shall include organized and systematic instruction in the skills of language arts and mathematics.

2. Level II: High school completion shall provide a more defined and structured program which will allow the student to work concurrently toward preparing for the high school equivalency diploma and/or toward receiving high school unit credits.

3. High School Diploma Program: High school credit may be granted for a course completed in an approved adult education program provided (1) the teacher is properly certified to teach the course, and (2) the student receives a minimum of 60 clock hours of instruction. A school may award one unit of credit for a course that has been approved by the SCDE in a proficiency-based system. A proficiency-based course may also be offered for one-fourth and one-half unit if the system specifies these units (R.43-234). High school diploma credits will be awarded per R.43-259, Graduation Requirements.

4. High School Equivalency Programs

a. Students who are not currently enrolled as part of the EFA funding formula will be eligible to take a high school equivalency program exam upon the recommendation of the principal or school leader. Attainment of a high school equivalency diploma will be determined by achieving a passing score as determined by the SCDE and approved by the SBE.

b. A candidate for a state high school equivalency certificate who is seventeen to twenty-one years of age and incarcerated within the South Carolina Department of Corrections must submit proper documentation completed by either a PUSD school principal, adult education director, or the district superintendent indicating the candidate is no longer enrolled in a program generating EFA funding. The documentation must verify the candidate's date of birth and the date of his or her last attendance at the PUSD EFA program. Verification letters are to be submitted with the application for testing.

B. Adult Basic Education (ABE) Personnel

1. Each adult education teacher must be properly certified and meet appropriate federal statutory requirements.

2. Each adult education high school subject area teacher must be properly certified and meet appropriate federal statutory requirements to teach the subject area in which he or she is assigned to teach in order to award a Carnegie unit.

C. Special Education Services

Special education and related services must be provided to students with disabilities as set forth in their individualized education programs (IEPs); and to the maximum extent possible, they must be educated with their nondisabled peers in the least restrictive environment, consistent with the Individuals with Disabilities Education Act (2004) (IDEA) and SBE Regulation 43-243. Students with disabilities must have available to them a free appropriate public education, consistent with SBE Regulation 43-243 and 34 C.F.R. § 300.102(a)(2), until they graduate with a South Carolina high school diploma or reach the maximum age for coverage under the IDEA. .

D. ABE Professional Development

ABE staff will participate in adult education professional development as required by the SCDE.

The following SBE Regulations do not apply to PUSD:

- R.43-220—Gifted and Talented
- R.43-231—Defined Program Grades K–5
- R.43-232—Defined Program 6–8
- R.43-240—Summer School Programs
- R.43-241—Medical Homebound Instruction
- R.43-242—Driver Training
- R.43-244—Interscholastic Activities
- R.43-246—Instruction at a Place Other Than School
- R.43-265—Parental/Family Literacy
- R.43-268—Academic Assistance Programs Grades 4–12

Fiscal Impact Statement:

No fiscal impact.

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Statement of Rationale:

This new regulation will support PUSD's compliance, as a sanctioned school district, with the regulations of the SBE. The PUSD shall provide a defined educational program that complies with standards prescribed for the Board of Trustees and district operations for secondary grades and adult education programs.

Document No. 4403
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-1-320 (2004), 59-5-60 (2004), and 4 U.S.C. 1 et seq.

43-188. Displaying the Flag

Synopsis:

Regulation 43-188, Displaying the Flag, has been in effect since 2006. The purpose of the amendment is to include language to establish further guidance for displaying the flag which may be adopted by the State Board of Education that is not inconsistent with the law.

The Notice of Drafting was published in the *State Register* on July 26, 2013.

Instructions:

Regulation 43-188 is replaced in its entirety by the regulation below.

Text:

43-188. Displaying the Flag.

I. Display of the United States Flag

Schools shall display the United States flag each school day and shall fly the flag in accordance with the laws regulating the display of the United States flag as set forth in 4 U.S.C. Section 6-10 and consistent with the guidance related to the State Capitol Building as set forth in S.C. Code Ann. Section 10-1-161.

II. South Carolina Flag

The South Carolina flag shall be flown consistent with 4 U.S.C. Section 6-10 and the guidance related to the State Capitol Building as set forth in S.C. Code Ann. Section 10-1-161 as it applies to the flying of state flags with the United States flag.

Fiscal Impact Statement:

No additional state funding is requested. The SCDE estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to Regulation 43-188.

Statement of Rationale:

Regulation 43-188, Displaying the Flag, has been in effect since 2006. The purpose of the amendment is to include language to establish further guidance for displaying the flag which may be adopted by the State Board of Education that is not inconsistent with the law.

Document No. 4404
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-5-65 (2004 & Supp. 2012), and
 59-59-10 et seq. (Supp. 2012)

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

Synopsis:

The State Board of Education (SBE) proposes to amend R.43-279, Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts, to change the title of Section V., add a reference to Regulation 43-243, and delete subsections A–E. This proposal is being made because disciplinary procedures for students with disabilities are addressed in Regulation 43-243(v)(B). The SBE also proposes to remove Appendix A as it merely summarizes the regulation and to remove Appendix B as it is simply a listing of state laws.

The Notice of Drafting was published in the *State Register* on July 26, 2013.

Instructions:

Regulation 43-279 is modified as provided below:

Text:

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

I. Expectations for Student Conduct in South Carolina Public Schools

Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending the public schools of the state of South Carolina.

II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts, which previously have adopted discipline policies that are consistent with and contain the elements included in this regulation, may retain their local policies as adopted.

III. Levels of Student Misconduct

A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious.

B. Three levels of student misconduct are identified: disorderly conduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation.

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C. This regulation includes a listing of possible sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary sanctions increases.

D. Suggested sanctions within the Level I misconduct category range from verbal reprimand to in-school suspension. Level II misconduct includes sanctions ranging from temporary removal from class to expulsion, while Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.

E. A local school board, in its discretion, may authorize more stringent standards than those contained in this regulation.

IV. Minimum Standards

A. Disorderly Conduct-Level I

1. Disorderly conduct is defined as those activities engaged in by student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which disturb the classroom or school. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disorderly conduct may include, but are not limited to:

- a. Classroom tardiness;
- b. Cheating on examinations or classroom assignments;
- c. Lying;
- d. Acting in a manner so as to interfere with the instructional process;
- e. Abusive language between or among students;
- f. Failure to complete assignments or carry out directions;
- g. Use of forged notes or excuses;
- h. Cutting class;
- i. School tardiness;
- j. Truancy;
- k. Other disorderly acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disorderly conduct are:

a. Upon observation or notification and verification of an offense, the staff member should take immediate action to rectify the misconduct. The staff member should apply an appropriate sanction, and should maintain a record of the misconduct and the sanction.

b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem should be referred to the appropriate administrator for action specified by local school board policy.

c. The administrator should meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and should effect the appropriate disciplinary action.

d. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disorderly conduct may include, but are not limited to:

a. Verbal reprimand;

b. Withdrawal of privileges;

c. Demerits;

d. Detention;

e. Corporal punishment;

f. In-school suspension;

g. Other sanctions as approved by local school authorities.

B. Disruptive Conduct-Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Disorderly conduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disruptive conduct may include, but are not limited to:

a. Use of an intoxicant;

b. Fighting;

c. Vandalism (minor);

d. Stealing;

e. Threats against others;

f. Trespass;

g. Abusive language to staff;

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h. Refusal to obey school personnel or agents (such as volunteer aides or chaperones) whose responsibilities include supervision of students;

i. Possession or use of unauthorized substances, as defined by law or local school board policy;

j. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;

k. Unlawful assembly;

l. Disrupting lawful assembly;

m. Other acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

a. Upon observation or notification and verification of an offense, the administrator should investigate the circumstances of the misconduct and should confer with staff on the extent of the consequences.

b. The administrator should notify the parent or guardian of the student's misconduct and related proceedings. The administrator should meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct, and effect the appropriate disciplinary action.

c. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:

a. Temporary removal from class;

b. Alternative education program;

c. In-school suspension;

d. Out-of-school suspension;

e. Transfer;

f. Referral to outside agency;

g. Expulsion;

h. Restitution of property and damages, where appropriate, should be sought by local school authorities;

i. Other sanctions as approved by local school authorities.

C. Criminal Conduct-Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. These activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of law enforcement authorities, and/or action by the

local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of criminal conduct may include, but are not limited to:

- a. Assault and battery;
- b. Extortion;
- c. Bomb threat;
- d. Possession, use, or transfer of dangerous weapons;
- e. Sexual offenses;
- f. Vandalism (major);
- g. Theft, possession, or sale of stolen property;
- h. Arson;
- i. Furnishing or selling unauthorized substances, as defined by local school board policy;
- j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons).

3. The basic enforcement procedures to be followed in instances of criminal conduct are:

a. Upon observation or notification and verification of an offense, the administrator should confer with the staff involved, should effect the appropriate disciplinary action, and, if appropriate, should meet with the student.

b. If warranted, the student should be removed immediately from the school environment. A parent or guardian should be notified as soon as possible.

c. If appropriate, school officials should contact law enforcement authorities.

d. Established due process procedures shall be followed when applicable.

e. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:

a. Out-of-school suspension;

b. Assignment to alternative schools;

c. Expulsion;

d. Restitution of property and damages, where appropriate, should be sought by local school authorities;

e. Other sanctions as approved by local school authorities.

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D. Extenuating, Mitigating or Aggravating Circumstances

A local school board may confer upon the appropriate administrator the authority to consider extenuating, mitigating or aggravating circumstances which may exist in a particular case of misconduct. Such circumstances should be considered in determining the most appropriate sanction to be used.

V. Discipline of Students with Disabilities

For additional information regarding Disciplinary Procedures for students with disabilities, see R 43-243.

VI. Other Areas of Student Conduct Which May Be Regulated by Local School Board Policy

A. Other areas of student conduct which are subject to regulation by local school boards include, but are not limited to:

1. School attendance;
2. Use of and access to public school property;
3. Student dress and personal appearance;
4. Use of tobacco in the public schools;
5. Speech and assembly within the public schools;
6. Publications produced and/or distributed in the public schools;
7. The existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
8. Other activities not in conflict with existing state statutes or regulations.

B. Other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. The term “legal limits” signifies the requirements of the federal and state constitutions and governing statutes, standards and regulations, the fundamental common-law requirement that rules of student conduct be reasonable exercises of the school’s authority in pursuance of legitimate educational and related functions, and special limitations arising from constitutional guarantees.

Fiscal Impact Statement:

No additional state funding is requested. The South Carolina Department of Education estimates that no additional costs will be incurred in complying with the proposed revisions to R.43-279.

Statement of Rationale:

Because the disciplining of students with disabilities is addressed in Regulation 43-243(v)(B), an additional regulation is not needed. Additionally, because Appendix A merely summarizes the regulation, its inclusion is duplicative. Appendix B is a duplication of statute.

Document No. 4405
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Section 59-5-60 (2004)

43-500. Operation and Funding of Teacher Training Courses in Mathematics, Science, Reading and Computer Education

Synopsis:

The State Board of Education proposes to repeal Regulation 43-500, Operation and Funding of Teacher Training Courses in Mathematics, Science, Reading and Computer Education. Regulation 43-500 is being repealed to comport with current practice. The regulation is no longer part of agency practice.

The Notice of Drafting was published in the *State Register* on July 26, 2013.

Instructions:

Regulation 43-500 is repealed.

Text:

43-500.Repealed.

Fiscal Impact Statement:

None.

Statement of Rationale:

This regulation is no longer part of agency practice so it is no longer needed. Repealing this regulation will comport with current practice.

Document No. 4422
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1) (2004), 59-25-110 (2004), 59-26-10 et seq. (2004 and Supp. 2012), and 20 U.S.C. 6301 et seq. (2001)

43-62. Requirements for Additional Areas of Certification

Synopsis:

Regulation 43-62 governs the requirements for add-on certification for educators in South Carolina. Amendments to Regulation 43-62 will (1) refine and update requirements for an educator to be endorsed in online teaching; and (2) change the wording of the regulation to replace certification with licensure in keeping with agency norms. These changes allow the Board to continue to provide appropriately certified educators for South Carolina public schools.

Per request of the Senate Education Committee, the State Board of Education withdrew the regulation, made the changes delineated below, and resubmitted the regulation:

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Derivatives of the usage of “License” (license, licenses, licensed, licensure) in place of derivatives of “Certificate” should revert to the original, appropriate term used (Certification, etc.).

The drafting notice was published in the *State Register* on August 23, 2013.

Instructions:

Regulation 43-62 is modified as provided below.

Text:

43-62. Requirements for Additional Areas of Certification.

I. GENERAL INFORMATION

A. Individuals who desire to add areas of certification to an existing certificate must complete a State Board of Education-approved program and present a passing score on the appropriate content-area examination(s) in the specific subject field, or complete the following add-on certification requirements specified by the Board.

B. In the event that the State Board of Education should eliminate, revise, or adopt new certification areas, currently certified individuals who are affected may retain the areas of certification for which they previously qualified. However, the State Board of Education may require previously certified individuals to upgrade their certification by completing the new requirements within a specified period of time.

C. The following designations apply to the grade spans for teacher certification in South Carolina, effective September 1, 2005.

CERTIFICATION GRADE SPANS

Early childhood = pre-Kindergarten–grade 3

Elementary = grades 2–6

Middle-level = grades 5–8

Secondary = grades 9–12

The areas of art, music, physical education, English for Speakers of Other Languages (ESOL), foreign languages, theater, and exceptional children education (all categories) have a pre-Kindergarten (pre-K–12) grade span.

D. Instructional areas may not be added to certificates in guidance, media specialist, or school psychologist unless the applicant has completed a teacher education program designed and approved for initial certification purposes.

E. Certification is divided into four sections: (1) regular program, (2) exceptional children education, (3) career and technology education, and (4) other types of specialized certification.

II. REGULAR PROGRAM ADD-ON CERTIFICATION REQUIREMENTS

The following areas are included:

A. Art

B. Driver Education

C. Early Childhood Education

D. Elementary Education

- E. English
- F. English for Speakers of Other Languages (ESOL)
- G. Gifted and Talented
- H. Health Education
- I. Literacy
- J. Mathematics
- K. Middle-level Education
- L. Music Education
- M. Physical Education
- N. Science
- O. Social Studies
- P. Theater
- Q. World Languages

A. ART

- 1. Bachelor’s degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Art History/Appreciation	6
Work devoted to the basic techniques of design and color	6
Work devoted to drawing and painting (the student should use as many different media as possible)	6
School art program	3
Crafts	3

B. DRIVER EDUCATION

- 1. Bachelor’s degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- 3. Evidence of at least three years of successful driving experience. Applicant must provide a copy of his or her driver’s record from the applicable state transportation department. An applicant whose driver’s license has six or more points against it will not be accepted for add-on certification in driver education.
- 4. Valid driver’s license issued by South Carolina or another state in which the teacher is a legal resident. (If a teacher holding certification in driver education has his or her driver’s license revoked or suspended, the teacher must report this action to the Office of Educator Certification upon which the certification in driver education will automatically be rescinded.)

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5. Professional education

The following twelve (12) hours are required to add the area of driver education to an existing certificate.

	Semester Hours
Basic instructor's course in driver education	3
Advanced instructor's course in driver education	3
Electives (from the list below)	6
Range and Simulation of Driver Education	
Emergency Maneuvers	
Multimedia Systems in Traffic Safety Education	
Research Methods in Traffic Safety Education	
General Safety	
Drugs in Relation to Highway Safety	
Motorcycle Safety Education	
Administration of Traffic Safety Education	

C. EARLY CHILDHOOD EDUCATION

1. Bachelor's degree

2. Initial or professional certificate at the elementary, middle, secondary, or pre-K–12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
The Behavior and Development of the Young Child*	3
Curriculum for Early Childhood Education	3
Methods and Materials for Early Childhood	3
Practicum in Early Childhood Education**	3
Teaching Reading at the Elementary Level	3
OR	
Emergent Literacy	
Content courses in math, science, and social studies	9
(each must be represented)	

*Credits earned in the area of child psychology are acceptable.

**The practicum requirement may be waived based on one year's successful experience teaching in pre-K to third grade.

D. ELEMENTARY EDUCATION

1. Bachelor's degree

2. Initial or professional certificate in early childhood, middle, secondary, or pre-K–12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Teaching of Reading in the Elementary School	6
Child Growth and Development	3
Mathematics for the Elementary School Teacher	3
Science for the Elementary Teacher	3
Social Studies for the Elementary Teacher	3
One of the following courses	3
Literature for Children	
Art for the Elementary School Teacher	
Music for the Elementary School Teacher	
Health for the Elementary School Teacher	

E. ENGLISH

1. Bachelor’s degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Language Structure and Skills	
Composition and Rhetoric	6
Advanced Composition and Rhetoric	3
Development of Modern English	3
Modern English Grammar	3
Teaching of Reading (Secondary)	3
Literature	
British Literature	3
American Literature	3
Adolescent Literature	3
Literary Criticism	3
Electives (Literature)	6

5. Endorsement in Advanced Placement English requires certification in English and the successful completion of the requisite Advanced Placement Institute.

F. ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)

1. Bachelor’s degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the South Carolina content area examination(s) required by the State Board of Education

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4. Specialized Preparation	Semester Hours
Principles and Strategies for Teaching ESOL to Elementary and Secondary Learner	3
Linguistics	3
Teaching Reading and Writing to Limited English Proficient (LEP) Learners	3
Two electives from the following courses	6
Practicum in the Instruction of ESOL to Elementary and Secondary Learners*	
Testing/Assessment for Language Minority Learners	
ESOL Curriculum Design and Materials Development	
Teaching English through the Content Areas	
Bilingual Special Education	
Second Language Acquisition for Teachers of Elementary and Secondary Learners	
English Grammar/Structure	
Cultural Diversity in Education	

*Practicum may be waived based on one year's successful experience teaching ESOL.

5. Second-language learning experiences documented by any one of the following:

(a) six semester hours in a single second language;

(b) completion of intensive language training by the Peace Corps, the Foreign Service Institute, or the Defense Language Institute;

(c) placement in a third-year-level course in the foreign language department at an accredited college or university; or

(d) demonstration of second-language proficiency in a language that is unavailable at accredited institutions through verification in writing from an official designated by the South Carolina Department of Education.

G. GIFTED AND TALENTED EDUCATION

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Requirements for elementary-level	
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted and Talented Students	3
Advanced Curriculum Practices for Gifted and Talented Students	3
Identification, Current Trends, and Issues in Gifted and Talented Education	3
Special Topics in Gifted and Talented Education	3

Practicum in Gifted and Talented Education	3
Requirements for middle-level	
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted	3
Advanced Curriculum Practices for Gifted and Talented Student	3
Content-area courses at the graduate level*	9

*For middle school teachers, content-area courses at the graduate level must be applicable to curriculum and instruction at the middle school level.

Requirements for secondary-level	Semester Hours
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted and Talented Students	3
Advanced Curriculum Practices for Gifted and Talented Students	3
Content-area courses at the graduate level*	9

*For high school teachers, content-area courses at the graduate level must be applicable to curriculum and instruction at the high school level.

Gifted and Talented Endorsement (only)

In order to fulfill Regulation 43-220(II)(C), all teachers of a Gifted and Talented course or class must complete a training program that is approved by the South Carolina Department of Education. Completion of the training specified here fulfills this requirement and provides an endorsement in Gifted and Talented Education:

A professional certificate in the teaching area
AND

Six (6) hours in the following courses	Semester Hours
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted and Talented Students	3

H. HEALTH EDUCATION

1. Bachelor’s degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the required content area examination(s) required by the State Board of Education

4. Specialized Preparation Required	Semester Hours
Human Anatomy and Physiology (in addition to the 12 semester hours of basic science requirements)	3–4
School Health Program	2–3
Emergency Preparedness and First Aid	2–3

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Additional Courses (selected from a minimum of three additional areas for a total of twenty-four semester hours)

Environmental Health	2–3
Foods and Nutrition Education	2–3
Contemporary Health Problems	2–3
Drug Education and Drug-Taking Behaviors	2–3
Family Living and Sex Education	2–3
Mental Health	2–3
Valuing and Decision Making in Health Education	2–3
Consumer Health Education	2–3
Community and Public Health Practices	2–3
Chronic and Communicable Disease	2–3

I. LITERACY

1. LITERACY TEACHER

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
- (d) Two years of successful teaching experience
- (e) Specialized preparation (graduate credit)

	Semester Hours
a. Foundations of Reading	3
b. Assessment Strategies for Reading	3
c. Content Area Reading and Writing	3
d. Instructional Strategies for Reading	3
e. Optional Practicum in Literacy*	3

*Practicum experiences should be included in the requirements of the courses as deemed necessary by each institution. These field experiences can be within a teacher's classroom and should support experiences with small and large group instruction. A separate practicum experience may be offered as a stand-alone course option.

2. LITERACY COACH

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
- (d) Five years of successful teaching experience
- (e) Twelve (12) semester hours in courses required for Literacy Teacher

(f) Specialized preparation (graduate credit)	Semester Hours
a. Reading Instruction and Assessment for Diverse Learners	3
b. Coaching for Literacy Education	3
c. Action Research in Literacy Coaching	3
d. Practicum Experience*	3

*Based on individual program of study established by institution

3. LITERACY SPECIALIST

- (a) Bachelor’s degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
- (d) Five years of successful teaching experience
- (e) Twenty-four (24) semester hours in courses required for Literacy Teacher and Literacy Consultant or Literacy Coach

(f) Specialized preparation (graduate credit)	Semester Hours
a. Administration and Supervision in Literacy	3
b. Curriculum Development	3
c. Literacy Research	3
d. Additional Education Leadership Course *	3

*(Principalship, organizational theory for school administrators, school and community relations, school personnel, basic technology in administration, education evaluation, or public school administration)

J. MATHEMATICS

- 1. Bachelor’s degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Algebra (abstract, matrix, and linear)	6
Modern Geometry or Foundations of Geometry	3
Calculus	8
Three electives from the following subject areas	9
Probability or Statistics	
Applied or Discrete Mathematics	
Number Theory	
Analysis	

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Algebra or Geometry (advanced courses)

5. Endorsement in Advanced Placement Mathematics requires the successful completion of the requisite Advanced Placement Institute.

K. MIDDLE-LEVEL EDUCATION

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, secondary, or pre-K–12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

Teachers who hold a professional certificate and who have three or more years of experience teaching in middle grades within the past five years on or before July 1, 2009, will be awarded middle-level certification in each subject area in which he or she has three or more years of successful experience according to the guidelines for Middle Grades Teacher Education and Certification, adopted by the State Board of Education.

Prior to October 1, 2007, teachers who meet the experience requirement and are adding middle-level certification will be exempt from the coursework, subject area exams and the pedagogy exam required for add-on certification in specific middle-level areas.

Between October 1, 2007, and July 1, 2009, teachers who meet the experience requirement and are adding middle-level certification must pass the subject area exam, and the pedagogy exam required by the State Board of Education in order to add subject-specific middle-level certification.

Teachers who have a teaching certificate but do not meet the three (3) year teaching requirement by July 1, 2009, must complete all coursework and examinations required for add-on certification in middle-level areas.

All teachers who teach in the middle grades must qualify for middle-level certification according to the phase-in plan approved by the State Board of Education.

4. Early Childhood, Elementary, Middle, or Secondary Teachers Adding Middle-level Education

(a) Specialized Preparation	Semester Hours
Middle-level Curriculum and Organization	3
Early Adolescent Growth and Development and Learning Communities	3
Teaching Reading and Writing in the Content Area	3
(b) Content preparation (for secondary teachers adding the same content field at the middle level)	Semester Hours No Additional Content Coursework Required
(c) Content preparation (for early childhood, elementary, or middle-level teachers adding a content field at the middle-level)	15*

*All coursework must be in the particular middle-level field to be added (language arts, social studies, mathematics, or science), and, in the fields of social studies and science, at least three subject areas must be represented within the content field.

L. MUSIC EDUCATION

1. CHORAL

- (a) Bachelor’s degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Specialized Preparation	Semester Hours
Applied Music (divided equally between piano and voice)*	18 (or 3 full years)
Theory (harmony, ear training, sight singing)	12
Conducting	4
History and/or Literature of Music**	6
Instruction in choral methods (or two semesters)	3
Participation in ensembles (large or small)	3 full years

*A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of Applied Music.

**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

(e) Endorsement in Advanced Placement Music requires certification in music and the successful completion of the requisite Advanced Placement Institute.

2. INSTRUMENTAL

- (a) Bachelor’s degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Specialized Preparation (band or orchestra)	Semester Hours
Applied music (divided equally among piano, one additional major instrument , and two additional instrument families)*	18 (or 3 full years)
Theory (harmony, ear training, sight singing)	12
Conducting	4
History and/or Literature of Music**	6
Instruction in wind, string and percussion instruments and in voice (or two semesters)	3
Participation in ensembles (large or small)	3 full years

*A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of Applied Music.

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**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

(e) Endorsement in Advanced Placement Music requires certification in music and the successful completion of the requisite Advanced Placement Institute.

3. PIANO, VOICE, VIOLIN

(a) Bachelor's degree

(b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level

(c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Specialized Preparation (band or orchestra)	Semester Hours
Applied music (piano, voice, violin, organ)*	18
Theory (harmony, ear training, sight singing)	12
Conducting	4
History and/or Literature of Music**	6
Instruction in wind, string and percussion instruments (or two semesters)	3
Participation in ensembles (large or small)	3 full years

*A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of applied music.

**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

M. PHYSICAL EDUCATION

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
History, Principles, or Philosophy of Physical Education	3
Organization and Administration, Curriculum, or Evaluation of Physical Education	3
Human Physiology and Anatomy (in addition to the twelve semester hours in basic science requirements)	3
Materials and applied techniques	21

(This area involves multiple courses that require an understanding and mastery of the techniques of the various activities and their presentation and adaptation to the various age levels and groups.)

Required courses

- Games and Rhythms for the Elementary School-Aged Child
- Individual and Dual Sports
- Intramurals and Interscholastic Sports
- Movement Education
- Recreation and Outdoor Education
- Team Sports

Elective courses

- Adapted Physical Education (exceptional or atypical children)
- Aquatics and Water Sports
- Stunts, Tumbling, and Gymnastics
- Rhythms
- Safety, First Aid, and Athletic Injuries
- Games and Activities of Low Organization

N. SCIENCE

1. Bachelor’s degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation (for teaching all sciences in high school)*

	Semester Hours
Biology	6–8
Chemistry	6–8
Physics	6–8
Marine Biology/Science	6–8
Electives in the following subject areas:	6–12
Biology	
Chemistry	
Physics	
Geology	
Geography	
Astronomy	

*At least eighteen (18) semester hours of the thirty (30) semester hours must be in courses with a laboratory.

Certification will be granted in any one of the specific sciences when at least eighteen (18) semester hours of credit are presented. Six or more semester hours must be in laboratory courses.

5. Endorsement in the Advanced Placement sciences requires certification in a science area and the successful completion of the requisite Advanced Placement Institute.

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O. SOCIAL SCIENCES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation (for teaching all social studies in high school)	Semester Hours
Social studies	6
U.S. History	6
European History	6
Electives from economics, government, geography, and sociology (not more than 6 hours in any one field)	12
Electives from economics, geography, government, history, psychology, sociology, and the history of religion	6
History	
U.S. History	6
European History	6
Electives from history and/or government	6
One social studies field	18

(Certification will be granted in any one of the specific subjects--economics, geography, government, psychology, and sociology--for which eighteen (18) semester hours are presented.)

5. Endorsement in the Advanced Placement social sciences requires certification in a social studies area and the successful completion of the requisite Advanced Placement Institute.

P. THEATER

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Acting	3
Technical Theater (including stagecraft, lighting, Costuming, makeup)	6
Directing	3
Dramatic Literature	6
History of the Theater	3
Creative Drama	3
Theater arts elective	3

*In meeting the above requirements, the applicant with training or experience in the professional theater may offer the following substitutions for the courses listed:

(a) At least three (3) months full-time or twelve (12) months part-time acting training in a non-degree granting professional acting school (provided that the school employs at least three different teachers) may be substituted for the acting course.

(b) At least six (6) months of full-time employment in technical theater may be substituted for technical theater courses.

(c) Experience as director of at least five (5) full-length plays produced for a paying audience may be substituted for the directing course.

Q. WORLD LANGUAGES (including American Sign Language)

1. Bachelor’s degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation (one world-language field)*	Semester Hours
French	18
German	18
Latin	18
Spanish	18
Russian	18
Japanese	18
American Sign Language	21
ASL coursework (12)	
ASL electives (9)**	

(ASL linguistics must be included among electives)

*The semester hours required must be above the six-hour introductory course.

**ASL electives may include Deaf Literature and Folklore, Discourse in American Sign Language, Deaf Studies in these United States, Discourse Analysis of ASL, Deaf History, Deaf Culture, Careers in American Sign Language, or other related coursework.

5. Endorsement in an Advanced Placement world language requires certification in the particular world language and the successful completion of the requisite Advanced Placement Institute.

III. EXCEPTIONAL CHILDREN ADD-ON CERTIFICATION

The following areas are included:

- A. Early Childhood Special Education
- B. Education of Blind and Visually Impaired
- C. Education of Deaf and Hard of Hearing
- D. Emotional Disabilities
- E. Learning Disabilities
- F. Mental Disabilities

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- G. Multi-categorical Special Education
- H. Severe Disabilities
- I. Speech Language Therapist

A. EARLY CHILDHOOD SPECIAL EDUCATION

1. Bachelor's Degree
2. Initial or professional certificate at the early childhood or elementary level, or in special education or Speech and Language
3. Minimum qualifying score on the content area examination(s) required by the State Board of Education
4. Specialized Preparation

	Semester Hours
Human Growth and Development	3
Introduction to Early Childhood Special Education	3
Partnerships in Early Childhood Special Education: Teaming with Parents and Professionals	3
Assessment of Young Children with Disabilities	3
Procedures for Working with Young Children with Disabilities	
Social/Emotional Development and Guidance for Young Children with Disabilities	3
Practicum/Field Experience*	3

*Practicum may be waived based on two years' successful experience teaching young children with disabilities.

NOTE: Individuals who have three (3) years teaching experience within the last five (5) years with young children with disabilities (birth to six years) will be granted add-on certification in Early Childhood Special Education by achieving the minimum qualifying score on the content area examination(s) required by the State Board of Education for Early Childhood Special Education within the five-year period.

Timeline: Effective July 1, 2016, all individuals working as Early Childhood Special Education teachers will be required to hold certification in Early Childhood Special Education.

B. EDUCATION OF BLIND AND VISUALLY IMPAIRED

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
4. Specialized Preparation

	Semester Hours
Teaching of Reading	3
Nature of Visually Impaired	3
Educational Procedures for Visually Impaired	3
Braille—Reading and Writing	3
Advanced Braille (that includes Nemeth Code)	3
Anatomy, Physiology, and Function of the Eye	3
Low Vision	3
Teaching Students with Multiple Handicaps	3

Practicum in Instruction of the Visually Impaired Child* 3

*Practicum may be waived based on two years' successful experience teaching visually impaired.

C. EDUCATION OF DEAF AND HARD OF HEARING

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Teaching of Reading	3
Methods/Procedures for Teaching Speech Reading	3
Psychology of Hearing Impaired	3
Teaching of Language to Students with Hearing Impairment	3
Two electives from the following courses	6
Educational Assessment	
Anatomy of the Auditory and Speech Mechanism	
History of Education and Guidance for the Hearing Impaired	
Audiology, Hearing Aids, and Auditory Training	
Methods of Teaching Elementary School Subjects	
Principles of Speech Correction	
Physical Education and Recreation for the Exceptional Child	
Nature of Emotional Disabilities	
Nature of Learning Disabilities	
Remedial Reading	
Practicum in Instruction of the Exceptional Child	
Introduction to Rehabilitation and Community Services	
Educational Psychology	

D. EMOTIONAL DISABILITIES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Emotional Disabilities	3
Methods/Procedures for Emotional Disabilities	3
Behavior Management	3
Teaching Reading in General and Special Education	3

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Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Emotional Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching emotional disabilities

E. LEARNING DISABILITIES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Learning Disabilities	3
Methods/Procedures for Learning Disabilities	3
Behavior Management	3
Teaching Reading in General and Special Education	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Learning Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching learning disabilities.

F. MENTAL DISABILITIES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Characteristics of Mental Disabilities	3
Methods/Procedures for Mental Disabilities	3
Behavior Management	3
Teaching Reading in General and Special Education	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Mental Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching mental disabilities.

G. MULTI-CATEGORICAL SPECIAL EDUCATION

This area allows teachers to serve learners with mild to moderate disabilities, which include autism, emotional disabilities, learning disabilities, mental disabilities, and traumatic brain injury.

1. Bachelor's degree

2. Initial or professional certificate in either mental disabilities, emotional disabilities, or learning disabilities

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Learning Disabilities	3
Characteristics of Mental Disabilities	3
Characteristics of Emotional Disabilities	3
Methods/Procedures for Learning Disabilities	3
Methods/Procedures for Mental Disabilities	3
Methods/Procedures for Emotional Disabilities	3
Behavior Management	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Emotional Disabilities, and/or, Learning Disabilities, and/or, Mental Disabilities	6
OR	

5. If certified in one area (mental disabilities, emotional disabilities, or learning disabilities) coursework is required in each of the two areas other than the teacher’s certification area.

Characteristics	3
Methods in Procedures	3
Practicum*	3
OR	

6. If certified in two areas (mental disabilities, emotional disabilities, or learning disabilities) coursework is required in the one remaining certification area.

Characteristics	3
Methods in Procedures	3
Practicum*	3

*Practicum (three semester hours) may be waived based on two years’ successful experience teaching mental, emotional, or learning disabilities, as appropriate.

H. SEVERE DISABILITIES

This area allows teachers to serve learners with moderate to severe cognitive disabilities, which include mental disabilities, multiple disabilities, orthopedic impairment, autism, traumatic brain injury, and other health impairments.

1. Bachelor’s degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

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4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Severe Disabilities	3
Methods/Procedures for Teaching Individuals with Moderate to Severe Disabilities	3
Behavior Management	3
Language/Communication Skills for Exceptional Children	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Severe Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching severe disabilities.

I. SPEECH LANGUAGE THERAPIST

(Included in Regulation 43-64 under Requirements for Certification at the Advanced Level)

IV. CAREER AND TECHNOLOGY ADD-ON CERTIFICATION

The following areas are included:

- A. Agriculture
- B. Business and Marketing Technology
- C. Computer Programming
- D. Family and Consumer Science
- E. Industrial Technology

A. AGRICULTURE

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
(a) Agriculture	
Plant sciences (including agronomy, horticulture, and/or forest)	15
Animal sciences (including dairy or poultry)	6
Agricultural engineering (mechanization)	6
Agricultural economics	6
Agricultural sciences electives	18
(b) One specific Agricultural Education field	
Agricultural mechanics	18
Animal science	18
Environmental science and natural resources	18
Forestry	18
Horticulture	18
Agriculture sciences electives (required for each of the five required Agricultural Education fields)	6

B. BUSINESS AND MARKETING TECHNOLOGY

1. Bachelor’s degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Accounting	6
Business Communications	3
Business Law	
Computer applications and technology (to include, but not be limited to: word processing, spreadsheets, database management, and Web publishing//multimedia)	9
Economics	3
Entrepreneurship	3
Hospitality, Tourism or Hotel/Motel Management	3
International Business	3
Management	3
Marketing	3
Instructional Methods for Teaching Business, Marketing, Computer Technology	3

C. COMPUTER PROGRAMMING (for Career and Technology Education programming courses)

1. Bachelor’s degree
2. Initial or professional certificate at the secondary level in any subject area.
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Computer programming (any combination of currently relevant language(s) being used in business)	9

Note: Programming courses completed at the post-secondary level within the past five years may be counted toward this endorsement.

D. FAMILY AND CONSUMER SCIENCE

1. Bachelor’s degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

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4. Specialized Preparation	Semester Hours
Child Development or Human Growth and Development	3
Computer Technology or Introduction to Computer	3
Consumer Economics and Resource Management	3
Curriculum and Evaluation in Family and Consumer Sciences (FCS) or Instructional Strategies	3
Food Science or Food Composition	3
General Chemistry and Lab or Chemical Sciences and Law	4
Housing: Design and Environment or Residential Technology	3
Human Sexuality	3
Introduction to the Exceptional Child or Introduction to Special Education	3
Marriage and Family Relations or Education for Parenthood	3
Professional Foundations of Family and Consumer Sciences	3
OR	
The Professional and the Family Advanced Child Care and Family Relations	
One of the following courses	3
Human Nutrition	
Meal Management	
Nutrition and Food	
Quality Food Production	
One of the following courses	3
Clothing Design and Construction	
Contemporary Aspects of Clothing	
Creative Apparel Design	
Essentials of Textiles	

E. INDUSTRIAL TECHNOLOGY

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Transportation	6
Communication	6
Manufacturing	6
Construction	6
Computer Assisted Drafting (CAD)	3
New and emerging areas of technology such as bio-related technology, computer technology, and designing and problem solving	9

V. SPECIALIZED ENDORSEMENTS

The following areas are included:

- A. Adjunct Instructor
- B. Fine Arts
- C. Montessori
- D. Online Teaching
- E. Teaching Children of Poverty

A. ADJUNCT INSTRUCTOR

Eligibility Requirements

1. The individual must have earned a bachelor's degree or higher from a regionally accredited college or university, and

2. A school district in the state must be willing to employ the individual as a teacher on a part-time basis in a content field at the middle or secondary school level, or in the related arts or physical education at the elementary level.

Application Requirements

3. The applicant must

(a) complete the application process for South Carolina educator certification, including an all-clear fingerprint review;

(b) have earned a bachelor's degree or higher with a major in the field of certification, or must submit passing scores on the content certification exam(s) required for the certification area; and

(c) submit verification of five years of occupational experience within the past ten years in, or related to, the content field of the certificate or which the individual is applying; and

4. The school district seeking to employ the individual must provide the following documentation to the Office of Educator Certification:

(a) a request and justification for employment of the instructor,

(b) an assurance that the employment of this instructor will not displace a certified teacher already employed, and

(c) an assurance that the adjunct instructor's teaching assignment will be less than a .5 full-time equivalent position and will not exceed two credit-bearing courses in an academic year.

Stipulations

The following stipulations apply to the South Carolina Adjunct Teaching Certificate:

5. The Adjunct Teaching Certificate is valid only in the sponsoring school district and is not transferrable to any other school district or state.

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6. The adjunct instructor must be assigned a state-certified mentor in the same general subject area(s) in which the instructor is assigned to teach.

7. The adjunct instructor must be evaluated annually by the school district and must receive successful performance reviews for the certificate to be reissued for subsequent years at the request of the sponsoring school district.

8. The adjunct instructor must complete a minimum of 20 contact hours of professional development approved by the employing school district each three-year period the certificate is held.

9. The salary for the adjunct instructor will be determined by the employing school district.

B. FINE ARTS

1. Teachers for advanced fine arts programs who do not meet the requirements for certification any existing area of certification will be issued an initial teaching certification if all of the following requirements are met:

(a) The school district has in operation an advanced program in the fine arts that has been approved by the South Carolina Department of Education.

(b) The school district superintendent requests certification for the prospective teacher in writing, describing the situation in which the teacher will work and the exact nature of the proposed duties of the teacher.

(c) The candidate has earned an undergraduate or graduate degree in fine arts from a nationally or regionally accredited institution of higher education or an institution that has programs approved for teacher education by the State Board of Education in the area of the fine arts that the teacher is to teach.

(d) The candidate presents evidence of at least two years of successful professional experience in the area of the fine arts that he or she is expected to teach.

(e) The candidate presents an acceptable score(s) on the required teaching content-area examination(s).

2. The initial certificate in Fine Arts will be issued for three years. It can be renewed in accordance with Regulation 43-53.I.A. A total of twelve (12) semester hours of credit, which includes teaching methods and psychology of learning in graduate professional education, will be required for professional certification.

3. In addition to the graduate professional education requirement specified above, the initial certificate will be converted to the professional certificate upon successful completion of induction requirements, ADEPT, and the pedagogy examination required by the State Board of Education.

C. MONTESSORI

1. Levels of Montessori Certification

Primary (3K–5K)

Elementary I (Grades 1–3)

Elementary II (Grades 4–6)

Middle (Grades 6–8)

2. Individuals who wish to add Montessori to an existing certificate must meet the following requirements.

(a) Bachelor’s degree

(b) Initial or professional certificate at the appropriate level (early childhood, elementary, middle, or pre-K–12 level *)

(c) Completion of a training program at the appropriate level accredited by the Montessori Accreditation Council for Teacher Education (MACTE)

*A minimum qualifying score on the content area examination(s) required by the State Board of Education for early childhood, elementary, or middle level certification is also required for individuals with a prerequisite certificate in a preK–12 field who wish to add the appropriate Montessori level.

3. Individuals who wish to qualify for initial Montessori certification must complete a State Board of Education–approved undergraduate or graduate teacher preparation program in early childhood, elementary, or middle-level with a Montessori emphasis (i.e., includes all requirements for a MACTE training program) AND submit passing scores on the certification examinations approved by the State Board of Education at the appropriate level.

OR

4. Verify completion of a bachelor’s degree, a MACTE-approved training program, and passing scores on the appropriate certification examination(s) approved by the State Board of Education, including the pedagogy exam. Additional certification fields may not be added to an initial Montessori certificate under this option unless the educator completes a State Board of Education-approved teacher preparation program in the additional field.

D. ONLINE TEACHING

This is an optional certification endorsement that is intended to enhance an educator’s skills and knowledge beyond that required for traditional teaching and to prepare the individual to teach classes within an online environment. The online endorsement is only valid for educators to teach in their specific content area.

Individuals who wish to add Online Teaching to an existing certificate must meet the following requirements.

1. Bachelor’s degree

2. Initial or professional certificate at any level

3. Specialized Preparation (required topics)*	Semester Hours
Teaching Online Courses Effectively	3
Knowledge of Utilizing Online Learning Management Systems	3

4. Elective Courses (select two topics from the list below)*	
Learning Web Tools to Enhance Online Engagement	3
Instructional Design and Assessment	3
Advanced Online Teaching Skills and Techniques	3
Internet Safety for Online Learners	3
Using Digital Portfolios to Measure Student Achievement	3
Differentiating Instruction and Assessment for Diverse Populations	3
Personalized Online Instruction and Development	3
Enhancing Online Course Design for Students with Disabilities	3

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Waiver Provisions

Coursework listed above may be waived and certification endorsement in Online Teaching granted for teachers who have successfully taught three online courses through an accredited educational institution or professional development program within three years of application . Verification must be provided in a form prescribed by the South Carolina Department of Education.

*All coursework listed above will be offered online by the South Carolina Department of Education (SCDE) for graduate credit in conjunction with selected colleges or universities. Courses are listed by topics rather than specific names of courses to allow for flexibility and for current technology trends. Additional topics may be added as needed by the SCDE.

E. TEACHING CHILDREN OF POVERTY

This is an optional endorsement and add-on certification that is intended to enhance the skills of educators who work with children and youth who live in poverty.

1. Endorsement

- a. Bachelor's degree
- b. Initial or Professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level

AND

c. Six semester hours in the following courses	Semester Hours
Living in Poverty	3
One course from among the following:	3
Language, Literacy, and Poverty	
Teaching and Assessing Children of Poverty	
Home, Community, and Classroom Partnerships in High Poverty Areas	

2. Add-on Certification

- a. Bachelor's degree
- b. Initial or Professional certificate at the early childhood, elementary, middle, secondary or pre-K–12 level

c. Specialized Preparation	Semester Hours
Living in Poverty	3
Language, Literacy, and Poverty	3
Teaching and Assessing Children of Poverty	3
Home, Community, and Classroom Partnerships in High Poverty Areas	3

NOTE: All courses must include a field experience component.

Fiscal Impact Statement:

None.

Statement of Rationale:

The amendments to this regulation will refine and update requirements for an educator to be endorsed in online teaching.

Document No. 4406
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004) and 59-25-110 (2004)

43-64. Requirements for Certification at the Advanced Level

Synopsis:

The Office of School Leadership strives to stay abreast of current and future opportunities in preparing educators with principal Certification in "turnaround" and transformational strategies in order to address schools' low-academic performance. These schools have been designated by the federal government as Priority Schools. The proposed amendment to Regulation 43-64 reflects our desire to provide an endorsement to those educators with principal Certification who complete specialized training in the transformational leaders' academy.

The amendments to Regulation 43-64 outline the processes used for preparing those with principal Certification to lead persistently low-achieving schools.

Per the request of the Senate Education Committee, the State Board of Education withdrew the regulation and made the changes delineated below. The State Board of Education is hereby resubmitting the regulation with the following changes:

14 references to "Licensure" should revert to "Certification" – Page 1: two references, Page 2: four references; Page 3: three references; Page 4: four references; and Page 6: one reference.

17 references to "License" should revert to "Certificate" – Page 1: one reference; Page 2: four references; Page 3: seven references; and Page 4: five references.

The Notice of Drafting was published in the *State Register* on June 28, 2013.

Instructions:

Regulation 43-64 is modified as provided below.

Text:

43-64. Requirements for Certification at the Advanced Level

I. ADMINISTRATION

A. Elementary School Principal and Supervisor (Tier 1)

1. Master's degree
2. Valid South Carolina Educator's Professional Certificate at the elementary level

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3. Minimum qualifying score(s) on the area examinations required by the State Board of Education
4. Verification of three years' teaching experience, including at least one year of teaching in grades PreK–8
5. Completion of an advanced program approved by the State Board of Education for the training of elementary principals and supervisors Note: Eligibility for Tier 2 certification requires successful completion of the Principal Induction Program (PIP) in the principal's first year, as well as an overall rating of Proficient or Exemplary on the Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP) evaluation instrument in the second year of employment as a principal.

B. Secondary School Principal and Supervisor (Tier 1)

1. Master's degree
2. Valid South Carolina Professional Certificate at the secondary level
3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
4. Verification of three years' teaching experience, including at least one year of teaching in grades 7-12
5. Completion of an advanced program approved by the State Board of Education for the training of secondary principals and supervisors Note: Eligibility for Tier 2 certification requires successful completion of the PIP in the principal's first year, as well as an overall rating of Proficient or Exemplary on the PADEPP evaluation instrument in the second year of employment as a principal.

C. Elementary or Secondary School Principal or Supervisor (Tier 1 Alternative Route for Career Changers)

1. Master's degree
2. Verification of at least three years of successful experience in leadership, supervision, upper-level management, or other position in a business, corporation, agency, or the military with responsibilities similar to those of a principal
3. Recommendation for elementary or secondary principal certification (Tier 1 Alternative Route for Career Changers) by the superintendent of a South Carolina public school district interested in employing the individual as an assistant principal
4. Elementary or Secondary Principal Certification (Tier 1 Alternative Route for Career Changers). A one-year certificate that may be extended annually provided that the following requirements are met:

(a) Year One: At the end of this year, the South Carolina Department of Education (SCDE) must receive verification that the educator has completed a full year of experience as an assistant principal in a public school, has received a passing score on the area examination(s) required for certification of principals by the State Board of Education, and has received a successful rating on an SCDE-approved evaluation instrument from the employing school district. Additionally, the employing school district must submit a written request for a one-year extension of the educator's elementary or secondary principal certificate (Tier 1 Alternative Route for Career Changers).

(b) Years Two and Three: At the end of each of these years, the SCDE must receive verification that the educator has completed a full year of experience as an assistant principal in a public school and has received a successful rating on an SCDE-approved evaluation instrument from the employing school district. At the end of each year, the employing school district must submit a written request for a one-year extension to

the educator’s elementary or secondary principal certificate (Tier 1 Alternative Route for Career Changers). Also, by the end of Year Three, the educator must have successfully completed the program of study (i.e., training program) approved by the State Board of Education in order to be eligible for continued certificate extensions.

(c) Years Four and beyond: Upon meeting the requirements for Years One through Three, as described above, the educator is eligible for a professional Tier 1 certificate and employment as an assistant principal or as a principal.

5. Elementary or Secondary Principal Certificate (Tier 2). In order to be eligible to advance to an elementary or secondary principal certificate (Tier 2), the educator must have successfully completed all requirements as an assistant principal for Years One, Two, and Three, as described above. Additionally, the educator must successfully complete the PIP, receive an overall rating of *Proficient* or *Exemplary* on the PADEPP evaluation instrument in the second year of employment as a principal, and receive a recommendation for certificate advancement from the employing school district. If the overall rating on the PADEPP evaluation instrument in the second year of employment as a principal is *Needs Improvement*, the principal will remain on Tier 1 certification until the SCDE receives verification from the employing school district that the principal has achieved an overall rating of *Proficient* or *Exemplary* on PADEPP.

D. Specialized Endorsement for School Transformational Leaders’ Academy

According to R43-62(V.), South Carolina educator provides for optional endorsements that are intended to enhance the skills of educators. In order to enhance the specialized skills of principals leading turnaround schools, the transformational leaders’ academy will prepare selected educators with a principal’s in transformational strategies in order to lead their persistently low-achieving school in raising student achievement.

Requirements for endorsement:

1. Current Tier 1 or Tier 2 Elementary and/or Secondary School Principal and Supervisor
2. Successful completion of the academy

Endorsement Grade Span: PreK–12

E. District Superintendent

1. Master’s degree
2. Valid South Carolina Professional Certificate at the elementary, middle, or secondary level
3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
4. Verification of a total of three years’ experience as a PreK–12 or postsecondary teacher and two years as a school or school district administrator, postsecondary administrator, or school business administrator
5. Completion of an advanced program approved by the State Board of Education for the training of school superintendents

F. District Superintendent (Alternative Route for Career Changers)

1. Master’s degree

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2. Verification of at least ten years of successful experience in a senior position(s) of leadership, such as chief executive officer in a business, corporation or agency, military officer, or other position with responsibilities similar to those of a district superintendent

3. Recommendation for certification by a local school board in a South Carolina public school district interested in employing the individual as a superintendent

4. Submission of a plan of study by the local school board that the individual must complete within three years to include, at a minimum, the areas of curriculum and instruction, school finance, and school law. The candidate must also submit a passing score on area examination(s) required by the State Board of Education for district superintendents within the first year of employment as a superintendent.

5. Issuance of an initial certificate for one year. This certificate may be extended annually for two additional years at the request of the local school board based on verification of successful performance reviews.

6. Issuance of a professional certificate upon completion of the specified program of study, and minimum qualifying scores on the required certification examination(s), and the recommendation by the local school board after three years of successful service as superintendent.

G. Vocational/Technology/Career Center Director

1. Valid South Carolina secondary principal or supervisor certificate and certification in one of the following areas:

- Agriculture
- Family and Consumer Sciences
- Health Occupations
- Industrial Technology
- Business and Marketing Technology
- Career Technology Education

OR

2. Valid South Carolina secondary principal or supervisor certificate and three years of experience as a director or assistant director in a Vocational/Technology/Career Center

OR

3. Master's degree from a State Board of Education approved teacher education program in vocational education, including fifteen semester hours in administration and certification in one of the following areas:

- Agriculture
- Family and Consumer Sciences
- Health Occupations
- Industrial Technology
- Business and Marketing Technology
- Career and Technology Education

The fifteen semester hours in administration required above are to be selected from the areas listed below:

- General School Administration
- School Personnel Administration

Techniques of Supervision
School Law
School Finance
Human Growth and Development
Curriculum Development

AND

4. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
5. Verification of five years' experience as a preK–12 or postsecondary teacher, school or school district administrator, postsecondary administrator, or business administrator

II. OTHER INSTRUCTIONAL SUPPORT AREAS

A. ELEMENTARY AND SECONDARY GUIDANCE

1. Master's degree
2. Completion of an advanced program approved by the State Board of Education for the preparation of school counselors
3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

B. SCHOOL PSYCHOLOGIST

1. SCHOOL PSYCHOLOGIST I
 - (a) Master's degree
 - (b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists
 - (c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
2. SCHOOL PSYCHOLOGIST II
 - (a) Specialist degree
 - (b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists
 - (c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
3. SCHOOL PSYCHOLOGIST III
 - (a) Doctorate degree
 - (b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists

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- (c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

C. SPEECH LANGUAGE THERAPIST

1. Master's degree
2. Completion of an advanced program approved by the State Board of Education for the preparation of speech language therapists
3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

D. MEDIA SPECIALIST

1. Master's degree
2. Completion of an advanced program approved by the State Board of Education for the preparation of media specialists or school library media specialists
3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education.

Fiscal Impact Statement:

Additional costs will be incurred to provide the training for the School Transformational Leaders Academy.

Statement of Rationale:

The proposed amendment to Regulation 43-64 reflects our desire to provide an endorsement to those educators with principal who complete specialized training in the transformational leaders' academy. The amendments to Regulation 43-64 outline the processes used for preparing those with principal Certification to lead and turnaround persistently low-achieving schools.

Document No. 4397
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 44-29-180 (2002 and Supp. 2012) and 59-5-60 (2004)

43-272. School Admission

Synopsis:

Regulation 43-272 identifies the immunization and other records needed for students to enter school and to enroll in the different grade levels to be in compliance with the Department of Health and Environmental Control. A revision in the grade-level enrollment documents and references to Career and Technical Education will be updated.

The Notice of Drafting was published in the *State Register* on June 28, 2013.

Instructions:

Regulation 43-272 is replaced in its entirety by the regulation below.

Text:

43-272. School Admission.

A. Kindergarten and Grades 1–12: Each kindergarten and first-grade pupil not previously enrolled shall submit a birth certificate or other documentation to verify a birth record in special situations as allowed by a local board of trustees. All students in grades K–12 must show evidence of compliance with Department of Health and Environmental Control rules and regulations concerning immunization.

B. Preregistration for Grades 9–12: Each high school shall develop a preregistration form outlining the courses in which a student may enroll for their entire high school career.

C. Preregistration for Career Centers: Each career center shall develop a preregistration form in cooperation with participating high schools which outlines the career and technology education courses students may take in Grades 9–12.

Fiscal Impact Statement:

No additional state funding is requested. The SCDE estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to Regulation 43-272.

Statement of Rationale:

Regulation 43-272 identifies the immunization and other records needed for students to enter school and to enroll in the different grade levels to be in compliance with the Department of Health and Environmental Control. The amendments make Regulation 43-272 consistent with Section 44-29-180 by including grades 7–12. This is already a statutory requirement. Each school must ensure that no child shall be admitted in grades kindergarten through twelve (K–12) or any child development program under the control of the South Carolina Department of Education without first presenting a valid South Carolina Certificate of Immunization. A revision in the grade-level enrollment documents and references to Career and Technical Education will be updated.

Document No. 4391

STATE BOARD OF EDUCATION**CHAPTER 43**

Statutory Authority: 1976 Code Section 59-13-100 (2004)

43-162. School Superintendent Compensation and Benefits/Expenses.

Synopsis:

The State Board of Education proposes to repeal Regulation 43-162, School Superintendent Compensation and Benefits/Expenses. There is no statutory authority for this regulation, and this should be a matter of local control.

The Notice of Drafting was published in the *State Register* on June 28, 2013.

Instructions:

Regulation 43-162 is repealed.

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Text:

43-162. Repealed.

Fiscal Impact Statement:

None.

Statement of Rationale:

There is no legislative authority for this regulation. Superintendent compensation is a matter of local school district control.

Document No. 4407
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004) and 59-16-10 et seq. (Supp. 2012)

43-248. South Carolina Virtual School Program

Synopsis:

Section 59-5-60 of the Code of Laws of South Carolina delineates the general powers of the State Board of Education, which includes the ability to promulgate regulations governing the South Carolina Virtual School Program. The amendments in the regulation will address the changes implemented by the General Assembly in terms of enrollment and credit limitations in the current regulations. Additionally, some additional minor changes are being recommended to make the program more easily accessible for all students across the state by better streamlining the registration and enrollment processes.

Per request of the Senate Education Committee, the State Board of Education withdrew the regulation, made the changes delineated below, and resubmitted the regulation (license to certificate):

Section VIII.B.1. be changed as follows:

1. A virtual education program instructor must either hold a valid teaching certificate (with attendant training, if required) in the subject area he or she is teaching or receive special approval from the SCDE on the basis of his or her credentials.

Per the request of the House Education and Public Works Committee, the State Board of Education withdrew the regulation, made the changes delineated below, and resubmitted the regulation:

Paragraph IV.B 3 will read as follows "Districts that fail to reasonably accommodate nonpublic school students will be ineligible to participate in the virtual education program."

Paragraph VII. B. states that the virtual education program may charge a fee to students if the program's funds are reduced or unavailable. The paragraph does not contain any limitation to the amount that the program may charge. SDE includes the following sentence: "The virtual education program may charge a fee to students so long as the fee does not exceed the per pupil cost of the program."

The Notice of Drafting was published in the *State Register* on July 26, 2013.

Instructions:

Regulation 43-248 is modified as provided below.

Text:

43-248. Virtual Education Program.

I. Overview of the Virtual Education Program

A. The State Board of Education (SBE) is authorized under S.C. Code Ann. Sections 59-16-10 through 59-16-80 to “establish the virtual education program to ensure consistent high quality education for the students of South Carolina utilizing technology-delivered courses.” These procedural regulations are based on that legislation.

B. The virtual education legislation makes the following stipulations:

1. Any public, private, or homeschooled student legally residing in South Carolina who is twenty-one years of age or younger is eligible to enroll in the virtual education program.

2. A private school or homeschooled student enrolled in the virtual education program is not entitled to receive any of the services or privileges that are available to public school students other than the right to receive an appropriate unit of credit for a completed course.

3. The virtual education program is not a school but a program; therefore, it is not authorized by statute to issue a state high school diploma.

C. These regulations—which are predicated on the virtual education program statute, other state statutes, and SBE regulations—are subject to modification by the South Carolina Department of Education (SCDE) only if those statutes or regulations are amended.

II. Virtual Education Program Sponsorship

A. Sponsor Registration

1. In order to become a virtual education sponsor, a public school district, a public school, a private school, or a homeschooling parent (statutes that apply to homeschooling are S.C. Code Ann. Sections 59-65-40, 59-65-45, 59-65-46, and 59-65-47) must be registered with the virtual education program.

2. In order to be registered as a virtual education program sponsor, the school district, public school, private school, or homeschooling parent must fulfill the following requirements:

- a. have in place a program of studies that leads to a diploma,
- b. comply with the policies governing online courses established by the virtual education program,
- c. identify the individual(s) who will advise the student regarding courses he or she will need to earn a diploma, and
- d. identify the individual who will assist the student in resolving any technology issues that may arise.

B. Sponsor Responsibilities

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1. All registered virtual education program sponsors must fulfill the following responsibilities:

a. verify that a student is a legal resident of the state of South Carolina before enrolling him or her in the virtual education program,

b. update sponsor registration information, and

c. respond to a student's request to enroll in a virtual education course.

2. A sponsor may forfeit its right to enroll students in the virtual education program if it fails to abide by these requirements.

III. Virtual Education Program Student Enrollment

A. Student Responsibilities

1. Sponsor Approval

a. The student must secure approval to take a specific course from the public school or district or nonpublic sponsor:

(1) *In-school students*—those who are in membership in a public school (includes homebound, home-placed, and off-campus students and students enrolled in an adult education program)—must have approval from the school principal or his or her designee.

(2) *Nonpublic school students*—those who are not in membership in a public school but are instead enrolled in a private school or are homeschooled—must have approval from the nonpublic sponsor:

(a) the private school that the student attends, or

(b) the homeschooling parent/legal guardian.

(3) *Out-of-school students*—those who have not officially withdrawn from a particular public school and are entered in the student database as non-funded (includes expelled students) or those who have not officially withdrawn from a particular private school—must have approval from the district superintendent or the head of the private school. If a district or private school policy does not allow credit to be recorded on an *out-of-school* student's transcript, the student cannot be granted approval to take a virtual education program course.

b. A student who is no longer enrolled in any school and who is at least seventeen years of age must enroll in a public adult education program for sponsorship to take a course from the virtual education program.

2. Computer Access

The student must furnish his or her own computer, or have access to one, and must have Internet access in order to take the virtual education program courses, although the sponsor is not prohibited from providing these.

3. Online Agreements

a. The student must indicate a willingness to abide by the acceptable use policy posted on the virtual education program's Web site.

b. The student must agree to abide by the virtual education program policies and expectations posted on the virtual education program Web site.

4. Online Application

a. The student must complete an online application for the course(s) he or she has approval to take.

b. The student must contact his or her instructor within three days of the start of class.

B. Parent/Legal Guardian Responsibility

1. The parent/legal guardian of a student who is seventeen years of age or younger must give approval for the student to take a course with the virtual education program.

2. The parent/legal guardian of a student who is seventeen years of age or younger must agree that the student will abide by the acceptable use policy posted on the virtual education program Web site.

C. SBE Responsibility

1. The SBE will implement a system for prioritizing the students who have enrolled in virtual education program courses if the virtual education program is unable to provide the courses these students need.

2. First priority will be given to students needing an initial credit course(s) to graduate on time.

3. The next priority will be given to those students who need to take a content recovery course required for graduation.

4. The next priority will be given to those students who need to take a course(s) needed for graduation not being offered in their schools.

5. Beyond these three priorities, students will be served on a first-come, first-served basis.

IV. Virtual Education Program Course Grades and Units of Credits

A. Virtual Education Program Responsibilities

1. The virtual education program must provide to the student's sponsor a certified grade report specifying the course title, the inclusive course dates, the final numeric grade, the quality points, and the unit value after the student has completed the final exam(s).

2. The certified grade report for courses requiring an End-of-Course Examination Program (EOCEP) test will be provided to the sponsors of all nonpublic school students after the test has been administered. The final numeric grade on this report will be calculated in accordance with the requirements outlined in Regulation 43-262.4, End-of-Course Tests.

3. The virtual education program may authorize another entity to provide the grade report to a nonpublic sponsor.

4. The virtual education program must maintain student course records.

B. Sponsor Responsibilities

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1. All sponsors must award the numeric grade and unit value to the student enrolled in a course through the virtual education program by recording them on the student's transcript in his or her permanent record in the same manner as is done with any other course the student takes.

2. All nonpublic sponsors must contact the district test coordinator in the public school district in which they reside to arrange for students to take the appropriate EOCEP tests online.

3. Each district must determine whether it will charge nonpublic sponsors a fee for the administration of the EOCEP tests. If a fee is charged, it must be reasonable and must be directly related to the district's added costs for providing this testing service and cannot exceed the fee established by the SBE. Districts that fail to reasonably accommodate nonpublic school students will be ineligible to participate in the virtual education program.

4. All sponsors must ensure that the final examination for each course is conducted in a proctored environment.

5. All sponsors must provide all reports as stipulated in these regulations.

6. Units earned by a student through the virtual education program will be accepted in the public schools if the student presents his or her grade report from the virtual education program or if his or her transcript reflects the numeric grade and unit value that were recorded on the grade report issued by the virtual education program.

C. Student Responsibilities

1. The student must complete all assignments, course examinations, and state assessments that are required for the particular course in order for the virtual education program to issue the grade report.

2. The student must complete the course requirements within the enrollment course period or request an extension from his or her instructor.

D. Instructor Responsibilities

1. The instructor must establish the minimum course requirements that the student must complete.

2. The instructor must consult the virtual education program to determine whether the circumstances surrounding the student's request for a course extension is warranted.

V. EOCEP Assessments

A. All EOCEP tests must be administered under the supervision of a public school district in accordance with stipulations specified in the current SCDE EOCEP test administration manual. All test security statutes and SBE regulations in this manual apply to nonpublic sponsors and nonpublic students.

B. A student who is taking a course for which an EOCEP test is required must take the test online in the school district where he or she resides. If an online testing location is unavailable, the district's test coordinator must find a location in a nearby district. The district's responsibility extends no further than locating the test site.

VI. Virtual Education Program Course-Selection Procedures and Criteria

A. The virtual education program may offer a particular course only if that course is either

1. required to be offered by Regulation 43-234, Defined Program, Grades 9–12; or
2. requested by students, parents, or sponsors on the virtual education program online survey; or
3. requested by a sponsor under circumstances that the virtual education program deems valid.

B. The virtual education program must ensure that any course it develops, purchases, or contracts meets the following three criteria:

1. is aligned with the state academic standards,
2. integrates high quality Web-based strategies into instruction, and
3. uses the level of technology required for a computer-mediated environment.

VII. Virtual Education Program Course Costs

A. The SBE will determine when and if the virtual education program may charge fees and tuition. If program funds are either reduced or unavailable, the virtual education program may charge a fee to students . The virtual education program may charge a fee to students so long as the fee does not exceed the per pupil cost of the program. Students eligible for free and reduced lunch will not be charged.

B. In addition, the virtual education program may contract with districts/schools to provide a course(s) to a class of students enrolled in that course during a specific period of the school day and/or districts/schools that wish to guarantee that their students are served regardless of their priority.

VIII. Virtual Education Program Instructors

A. Instructor Employment

1. The SCDE is responsible for employing all virtual education program instructors.
2. Instructors may be employed either as SCDE-classified staff or as SCDE-contracted adjunct staff.

B. Instructor Qualifications

1. A virtual education program instructor must either hold a valid teaching certificate (with attendant training, if required) in the subject area he or she is teaching or receive special approval from the SCDE on the basis of his or her credentials.

2. An in-state virtual education program instructor who does not hold a valid South Carolina teaching certificate or who has not been employed by a South Carolina public school district in the last five years must undergo a criminal records check by the South Carolina Law Enforcement Division. An out-of-state virtual education program instructor must undergo any criminal records check that the SCDE determines to be necessary.

C. Instructor Requirements

1. Virtual education program instructors must successfully complete all virtual education program pre-service and in-service training requirements.

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2. Training topics must include the development and organization of online courses; the technical aspects of online course delivery; the management of virtual classrooms; and the monitoring and assessment of student performance, progress, and achievement.

D. Instructor Evaluation

1. Virtual education program instructors who are SCDE-classified staff will be evaluated in accordance with state laws and regulations. Virtual education program instructors who are SCDE-contracted adjunct staff employed as temporary employees will be evaluated on the basis of the same criteria as are SCDE-classified staff.

2. Virtual education program instructors must meet all applicable Assisting, Developing, and Evaluating Professional Teaching (ADEPT) requirements.

E. Instructor Loads

1. The student load for each instructor is determined by the particular course(s) the instructor is teaching.
2. The teaching load for each instructor must not exceed one hundred and fifty students at any given time.

IX. Required Reports

A. Sponsor Responsibility

1. School districts and nonpublic sponsors must report to the virtual education program the reason for a student's withdrawal from a course at the time he or she withdraws.

2. The report must be submitted at the time the student withdraws.

B. Virtual Education Program Responsibility

1. The virtual education program will report to the SBE annually.
2. The report must contain the following information:
 - a. the courses being offered through the virtual education program during the current school year,
 - b. the number of local school districts participating and the number of the district students participating,
 - c. the number of private schools participating and the number of the private school students participating,
 - d. the number of homeschool students participating,
 - e. the success rates for students by courses,
 - f. the number of students who withdraw from a course and the reason for each student's withdrawal,
 - g. the number of students who were prevented from enrolling in a course because of space limitations,
 - h. the total monies expended by the virtual education program, and
 - i. the results of the virtual education program online survey of students, parents, and sponsors.

C. SCDE Responsibility

1. The SCDE will provide the Education Oversight Committee with access to student records annually.
2. All records must contain final course grades and scores on state assessments.

Fiscal Impact Statement:

No additional state funding is requested at this time.

Statement of Rationale:

Regulation 43-248, South Carolina Virtual School has been in effect since 2007. The State Board of Education is amending the regulation to remove the credit limits placed on students within the program per the “Expanded Virtual Learning Act” signed on June 13, 2013. Throughout the regulation, the name South Carolina Virtual School Program or SCVSP has been amended to read virtual education program to allow for a program name change to reduce confusion with other virtual charter schools that already exist within the state.

Document No. 4408
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-65 (2004 and Supp. 2012), 59-65-90 (2004),
 20 U.S.C. 7112 (2002) and 42 U.S.C. 5601 et seq. (2002)

43-274. Student Attendance

Synopsis:

Regulation 43-274 establishes lawful and unlawful absences, defines truancy and reporting requirements, establishes intervention plans, and outlines referrals with judicial intervention and the South Carolina Department of Juvenile Justice. This regulation also discusses the time frame allowed for students to complete make-up work from their absences. The amendment includes guidelines for extenuating circumstances for make-up work from student absences.

Per the request of the House Education and Public Works Committee, the State Board of Education withdrew the regulation, made the changes delineated below, and resubmitted the regulation:

Section VII.(B)(2) states that the extenuating circumstances for which a board may excuse a student include, but are not limited to, medical conditions, family emergencies, and other academic requirements that are considered to be a maximum load. Make-up requirements that run longer than thirty days must be completed prior to the start of a new school year. The final sentence is reworded to read more clearly as follows: "Make-up requirements that extend beyond thirty days due to extenuating circumstances must be completed prior to the beginning of the subsequent new year".

The Notice of Drafting was published in the *State Register* on July 26, 2013.

Instructions:

Regulation 43-274 is replaced in its entirety by the regulation below.

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Text:

43-274. Student Attendance.

I. Lawful and Unlawful Absences

School districts must adopt policies to define and list lawful and unlawful absences.

(A) Lawful absences include but are not limited to

(1) absences caused by a student's own illness and whose attendance in school would endanger his or her health or the health of others,

(2) absences due to an illness or death in the student's immediate family,

(3) absences due to a recognized religious holiday of the student's faith, and

(4) absences due to activities that are approved in advance by the principal.

(B) Unlawful absences include but are not limited to

(1) absences of a student without the knowledge of his or her parents, or

(2) absences of a student without acceptable cause with the knowledge of his or her parents.

(C) Suspension is not to be counted as an unlawful absence for truancy purposes.

II. Truancy

The State Board of Education recognizes that truancy is primarily an educational issue and that all reasonable, educationally sound, corrective actions should be undertaken by the school district prior to resorting to the juvenile justice system.

(A) Truant

A child ages 6 to 17 years meets the definition of a truant when the child has three consecutive unlawful absences or a total of five unlawful absences.

(B) Habitual Truant

A "habitual" truant is a child age 12 to 17 years who fails to comply with the intervention plan developed by the school, the child, and the parent(s) or guardian(s) and who accumulates two or more additional unlawful absences. This child may need court intervention and an initial truancy petition may be filed. The written intervention plan, and documentation of non-compliance, must be attached to the truancy petition asking for court intervention.

(C) Chronic Truant

A "chronic" truant is a child ages 12 to 17 years who has been through the school intervention process, has reached the level of a "habitual" truant, has been referred to Family Court and placed on an order to attend school, and continues to accumulate unlawful absences. Should other community alternatives and referrals fail to remedy the attendance problem, the "chronic" truant may be referred to the Family Court for violation of a previous court order. All school intervention plans existing to this point for this child and family must

accompany the Contempt of Court petition as well as a written recommendation from the school to the court on action the court should take.

III. Intervention Plans

(A) Each district must develop a policy relating to requirements for intervention. The district plan for improving students' attendance must be in accordance with any applicable statutes.

(B) Once a child is determined to be truant as defined in Section II(A), school officials must make every reasonable effort to meet with the parent(s) or guardian(s) to identify the reasons for the student's continued absence. These efforts should include telephone calls and home visits, both during and after normal business hours, as well as written messages and e-mails. School officials must develop a written "intervention plan" to address the student's continued absence in conjunction with the student and parent(s) or guardian(s).

(C) The intervention plan must include but is not limited to

(1) Designation of a person to lead the intervention team. The team leader may be someone from another agency.

(2) Reasons for the unlawful absences.

(3) Actions to be taken by the parent(s) or guardian(s) and student to resolve the causes of the unlawful absences.

(4) Documentation of referrals to appropriate service providers and, if available, alternative school and community-based programs.

(5) Actions to be taken by intervention team members.

(6) Actions to be taken in the event unlawful absences continue.

(7) Signature of the parent(s) or guardian(s) or evidence that attempts were made to involve the parents(s) or guardian(s).

(8) Documentation of involvement of team members.

(9) Guidelines for making revisions to the plan.

(D) School officials may utilize a team intervention approach. Team members may include representatives from social services, community mental health, substance abuse, and prevention, and other persons the district deems appropriate to formulate the written intervention plans.

IV. Referrals and Judicial Intervention

At no time should a child ages 6 to 17 years be referred to the Family Court to be placed on an order to attend school prior to the written intervention planning being completed with the parent(s) or guardian(s) by the school. A consent order must not be used as an intervention plan from any local school or school district. Should the parent(s) or guardian(s) refuse to cooperate with the intervention planning to remedy the attendance problem, the school district has the authority to refer the student to Family Court in accordance with S.C. Code Ann. Section 59-65-50 (2004), and a report shall be filed against the parent(s) or guardian(s) with the Department of Social Services in compliance with S.C. Code Ann. Section 20-7-490(2)(c)(Supp. 2002).

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(A) Petition for a School Attendance Order

If the intervention plan is not successful and further inquiry by school officials fails to cause the truant student and/or parent(s) or guardian(s) to comply with the written intervention plan or if the student and/or parent(s) or guardian(s) refuses to participate in intervention and the student accumulates two or more additional unlawful absences, the student is considered an “habitual” truant. Each referral must include a copy of the plan and specify any corrective action regarding the student and/or the parent(s) or guardian(s) that the district recommends that the court adopt as well as any other available programs or alternatives identified by the school district. The intervention plan must be attached to the petition to the Family Court and served on the student and the parent(s) or guardian(s).

(B) Petition for Contempt of Court

Once a school attendance order has been issued by the Family Court and the student continues to accumulate unlawful absences, the student is considered to be a “chronic” truant and school officials may refer the case back to Family Court. The school and district must exhaust all reasonable alternatives prior to petitioning the Family Court to hold the student and/or the parent(s) or guardian(s) in contempt of court. Any petition for contempt of court must include a written report indicating the corrective actions that were attempted by the school district and what graduated sanctions or alternatives to incarceration are available to the court in the community. The school district must include in the written report its recommendation to the court should the student and/or parent(s) or guardian(s) be found in contempt of court.

V. Coordination with the South Carolina Department of Juvenile Justice

Each school district should coordinate with the local office of the South Carolina Department of Juvenile Justice to establish a system of graduated sanctions and alternatives to incarceration in truancy cases.

VI. Transfer of Plans

If a student transfers to another public school in South Carolina, intervention plans shall be forwarded to the receiving school. School officials will contact the parent(s) or guardian(s) and local team members to review the plan and revise as appropriate. Court ordered plans may be amended through application to the court.

VII. Approval of Absences in Excess of Ten Days and Approval of Credit

(A) Approval or Disapproval of Absences

The district board of trustees, or its designee, shall approve or disapprove any student’s absence in excess of ten days, whether lawful, unlawful, or a combination thereof, for students in grades K-12. For the purpose of awarding credit for the year, school districts must approve or disapprove absences in excess of ten days regardless as to whether those absences are lawful, unlawful, or a combination of the two.

(B) High School Credit

In order to receive one Carnegie unit of credit, a student must be in attendance at least 120 hours, per unit, regardless of the number of days missed, or must demonstrate proficiency as determined by the local school district. This exception to the 120-hour requirement is to be administered by local school districts on a case-by-case basis and only for students who have excessive absences that have been approved by the local school board. General request for proficiency-based credit must be made through the process described in Regulation 43-234. Students whose absences are approved should be allowed to make up any work missed in order to satisfy this requirement. Local school boards should develop policies governing student absences giving appropriate consideration to unique situations that may arise within their districts when students do not

meet the minimum attendance requirements. Therefore, districts should allow students, whose excessive absences are approved in part 1 of this section, to make-up work missed to satisfy this requirement.

Examples of make-up work may include

(1) after-school and/or weekend make-up programs that address both time and academic requirements of the course(s), or

(2) extended-year programs that address both time and academic requirements of the course(s). All make-up time and work must be completed within thirty days from the last day of the course(s). The district board of trustees or its designee may extend the time for student's completion of the requirements due to extenuating circumstances that include but are not limited to the student's medical condition, family emergencies, and other student academic requirements that are considered to be a maximum load. Make-up requirements that extend beyond thirty days due to extenuating circumstances must be completed prior to the beginning of the subsequent new year.

VIII. Reporting Requirements

The South Carolina Department of Education will develop and implement a standard reporting system for the adequate collection and reporting of truancy rates on a school-by-school basis.

IX. Guidelines

Additional information relating to the implementation of this regulation will be contained in South Carolina Department of Education Guidelines. The South Carolina Department of Education will review and update these guidelines as needed.

Fiscal Impact Statement:

No additional state funding is requested. The South Carolina Department of Education (SCDE) estimates that no additional costs will be incurred by the state and its political subdivisions in complying with the proposed revisions to Regulation 43-274.

Statement of Rationale:

Regulation 43-274, Students Attendance, establishes lawful and unlawful absences, defines truancy and reporting requirements, establishes intervention plans, and outlines referrals with judicial intervention and the South Carolina Department of Juvenile Justice. This regulation also discusses the time frame allowed for students to complete make-up work from their absences. The amendment includes guidelines for extenuating circumstances for make-up work from student absences.

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Document No. 4409
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Section 59-5-67 (2004)

43-201.1. Teacher Grants

Synopsis:

The State Board of Education proposes to repeal Regulation 43-201.1, Teacher Grants. This program is no longer funded and, therefore, this regulation is no longer necessary.

The Notice of Drafting was published in the *State Register* on July 26, 2013.

Instructions:

Regulation 43-201.1 is repealed.

Text:

43-201.1. Repealed.

Fiscal Impact Statement:

None.

Statement of Rationale:

There is no longer funding for this program and, therefore, the regulation is no longer needed.

Document No. 4396
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-21-510 et seq. (2004 and Supp. 2012), and 59-33-10 et seq. (2004)

43-243.4. Utilization of General Teacher Certification.

Synopsis:

The State Board of Education proposes to repeal Regulation 43-243.4, Utilization of General Teacher Certification. This certificate is no longer issued. Repealing the regulation would allow expanding the type courses that teachers with a generic teaching credential can instruct, which would now include students with emotional disabilities receiving special education and related services for the majority of the school day. This will allow schools and districts greater flexibility in the provision of services to their students.

The Notice of Drafting was published in the *State Register* on June 28, 2013.

Instructions:

Regulation 43-243.4 is repealed.

Text:

43-243.4. Repealed.

Fiscal Impact Statement:

None.

Statement of Rationale:

This type of certificate is no longer issued by the State Board of Education; therefore, the regulation is no longer needed.

Document No. 4316
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
CHAPTER 47
Statutory Authority: 1976 Code Section 41-29-110

47-8. Employer-Employee Relationship

Synopsis:

The South Carolina Department of Employment and Workforce proposes to amend Regulation 47-8 to include factors that are used to determine whether a claimant is an employee or an independent contractor.

The Notice of Drafting regarding these regulations was published on October 26, 2012 in the *State Register*.

Instructions:

Replace Regulation 47-8. Employer-Employee Relationship as printed below.

Text:

47-8. Employer-Employee Relationship.

The South Carolina Department of Employment and Workforce is not bound by the rulings of other entities when making its determination about whether an employer-employee relationship exists for the purpose of determining liability under the South Carolina Department of Employment and Workforce Laws. The Department may consider in its determinations rules, regulations, opinions, laws, and interpretations published by the United States Department of Labor, Internal Revenue Service, South Carolina Department of Revenue, South Carolina Wage and Hour Division, and State and Federal Court decisions.

Under South Carolina Annotated Section 41-27-230(1)(b), the common law rules govern the determination of an employer-employee relationship. The common law test focuses on whether the employer has the right to control the worker in the performance of his or her work. The Department will examine these factors in determining whether an employer-employee relationship exists:

- a. Whether the employer has the right to control or exercises control over the services performed for the job;
- b. Whether the employer furnishes the equipment;
- c. Whether the method of payment indicates an employment relationship, and

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d. Whether the employer has the right to terminate the employment relationship.

Fiscal Impact Statement:

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

Statement of Rationale:

The purpose of amending Regulation 47-8 is to clarify the regulation. There was no scientific or technical basis relied upon in the development of this regulation.

Document No. 4410
ENVIRONMENTAL CERTIFICATION BOARD
CHAPTER 51
Statutory Authority: 1976 Code Sections 40-1-70 and 40-23-60

51-1. Applications for Certification.

51-2. Examinations.

51-3. Levels of Licensure, Requirements for Each Level, Operator-in-Charge Requirements for Facilities.

51-4. Renewal of License and Permit, Continuing Education.

51-5. Operator-in-Training Licenses.

51-6. Fees.

51-7. Definitions.

Synopsis:

The South Carolina Environmental Certification Board proposes to amend its regulations in conformance with its practice act.

The Notice of Drafting was published in the *State Register* on July 26, 2013.

Instructions:

The following sections of Chapter 51 are modified as provided below.

Text:

51-1. Applications for Certification.

Any person who desires to become certified by the board must make application on the proper form. The board on request will furnish this form. The application for initial certification must be accompanied by a nonrefundable fee as specified in 51-6. An application for Well Driller that is not acted upon by the applicant within twelve (12) months of receipt by the board shall become inactive.

51-2. Examinations.

A. Examinations, required for licensure, are approved by the board. An applicant may apply under the Americans' with Disabilities Act (ADA) and provide documentation for consideration.

B. An examination fee will be charged for each examination taken by an applicant.

C. Such examinations as may be prescribed under this rule will be administered through a provider approved by the board.

51-3. Levels of Licensure, Requirements for Each Level, Operator-in-Charge Requirements for Facilities.

A. The board shall certify qualified applicants in accordance with the levels of licensure defined in this article. In each case, the applicant must meet at least the minimum experience requirements set for the level of licensure being sought. Further, each applicant must comply with the examination requirements, as established in 51-2, relevant to the level of licensure desired.

B. An applicant's education, both degree-related and non-degree-related, may be considered by the board in determining whether the applicant meets the experience requirements for licensure. However, no applicant shall receive a graded certificate without having completed at least one (1) year of actual operating experience. This applies for "C", "B" and "A" level licensure only.

C. There will be no additional application fee for an operator to progress from a lower license to a higher one. However, an examination fee will be charged for each examination taken by an applicant.

D. Licensees and applicants are responsible for notifying the board within fifteen (15) days, whenever they change employers and their position requires certification.

E. The levels of licensure for water treatment plant and water distribution operators, and the requirements for each level, are defined in Section 40-23-300, South Carolina Code of Laws, 1976 as amended.

F. The levels of licensure for physical/chemical wastewater treatment plant operators, and the requirements for each level, are defined as:

1. To be licensed by the board as a "Trainee" physical/chemical wastewater treatment plant operator an applicant must:

a. submit an application on forms approved by the board and the prescribed fee.

2. To be licensed by the board as "D" physical/chemical wastewater treatment operator an applicant must:

a. hold a valid "Trainee" License;

b. have a high school diploma or the equivalent;

c. pass an examination approved by the board;

d. have completed at least one (1) year of actual operating experience at a physical/chemical wastewater facility, or the equivalent; and,

e. submit an affidavit of employment documenting the experience.

3. To be licensed by the board as a "C" physical/chemical wastewater treatment plant operator an applicant must:

a. hold a valid "D" License;

b. pass an examination approved by the board;

c. have completed at least two (2) years of actual operating experience at a physical /chemical wastewater facility, or the equivalent; and,

d. submit an affidavit of employment documenting the experience.

4. To be licensed by the board as a "B" physical/chemical wastewater treatment plant operator an applicant must:

a. hold a valid "C" License;

b. pass an examination approved by the board;

c. have completed at least three (3) years of actual operating experience at a physical/chemical wastewater facility, or the equivalent; and,

d. submit an affidavit of employment documenting the experience.

5. To be licensed by the board as an "A" physical/chemical wastewater treatment plant operator an applicant must:

a. hold a valid "B" License;

b. pass an examination approved by the board;

c. have completed at least four (4) years of actual operating experience at a physical/chemical wastewater facility, or the equivalent; and,

d. submit an affidavit of employment documenting the experience.

G. The levels of licensure for biological wastewater treatment plant operators, and the requirements for each level, are defined as:

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1. To be licensed by the board as a "Trainee" biological wastewater treatment plant operator an applicant must:

a. submit an application on forms approved by the board and the prescribed fee.

2. To be licensed by the board as a "D" biological wastewater treatment plant operator an applicant must:

a. hold a valid "Trainee" License;

b. have a high school diploma or the equivalent;

c. pass an examination approved by the board;

d. have completed at least one (1) year of actual operating experience at a biological wastewater facility, or the equivalent; and,

e. submit an affidavit of employment documenting the experience.

3. To be licensed by the board as a "C" biological wastewater treatment plant operator an applicant must:

a. hold a valid "D" Operator License;

b. pass an examination approved by the board;

c. have completed at least two (2) years of actual operating experience at a biological wastewater facility, or the equivalent; and,

d. submit an affidavit of employment documenting the experience.

4. To be licensed by the board as a "B" biological wastewater treatment plant operator an applicant must:

a. hold a valid "C" License;

b. pass an examination approved by the board;

c. have completed at least three (3) years of actual operating experience at a biological wastewater facility, or the equivalent; and,

d. submit an affidavit of employment documenting the experience.

5. To be licensed by the board as an "A" biological wastewater treatment plant operator an applicant must:

a. hold a valid "B" License;

b. pass an examination approved by the board;

c. have completed at least four (4) years of actual operating experience at a biological wastewater facility, or the equivalent; and,

d. submit an affidavit of employment documenting the experience.

H. The operator-in-charge of a biological wastewater treatment plant classified by the Department of Health and Environmental Control as requiring the services of a licensed operator must hold licensure as a biological wastewater treatment plant operator at a level no lower than the level of license designated for the classification or grouping assigned the plant by the Department of Health and Environmental Control:

1. Group IB wastewater treatment plants require an operator with at least a "D" license.

2. Group IIB wastewater treatment plants require an operator with at least a "C" license.

3. Group IIIB wastewater treatment plants require an operator with at least a "B" license.

4. Group IVB wastewater treatment plants require an operator with at least an "A" license.

I. The operator-in-charge of a physical/chemical wastewater treatment plant classified by the Department of Health and Environmental Control as requiring the services of a certified operator must hold licensure as a physical/chemical wastewater treatment plant operator at a level no lower than the level of licensure designated for the classification or grouping assigned the plant by the Department of Health and Environmental Control.

1. Group I-P/C wastewater treatment plants require an operator with at least a "D" Physical/Chemical license.

2. Group II-P/C wastewater treatment plants require an operator with at least a "C" Physical/Chemical license.

3. Group III-P/C wastewater treatment plants require an operator with at least a "B" Physical/Chemical license.

4. Group IV-P/C wastewater treatment plants require an operator with at least an "A" Physical/Chemical license.

J. Actual operating experience shall be verified by an affidavit.

51-4. Renewal of License and Permit, Continuing Education.

A. Each license issued by the board shall be renewed annually or biennially on or before June 30. Any license not renewed within three hundred sixty-five (365) days of the date on which the license expired shall be considered lapsed and declared nonrenewable.

B. The board shall charge a renewal fee, the amount of such fee to be fixed by the board, in accordance with 51-6. Renewal applications received between July 1 and June 30 of the following year shall be subject to a reinstatement fee of two hundred dollars (\$200.00).

C. A person who practices while a license is lapsed may be fined up to five hundred dollars (\$500.00).

D. A certificate revoked for cause by the board may be reinstated only by action of the board.

E. Each applicant applying for renewal of any license must provide evidence of having completed twelve (12) hours of relevant continuing education every two (2) years. Alternatively, in accordance with 40-23-230(C)(3), a licensee may demonstrate he complies with the current continuing education requirements after the department renews the license, provided he does not engage in licensed activity until he has completed the continuing education requirement. Continuing education credit shall be in accordance with Continuing Education Guidelines as approved by the board. In lieu of continuing education, the applicant may take and pass the appropriate examination for his/her license grade.

51-5. Operator-in-Training Licenses.

A. Biological Wastewater Operators, Physical/Chemical Wastewater Operators, Water Treatment Operators, and Water Distribution Operators.

1. For biological wastewater treatment operators, physical/chemical wastewater treatment operators, water treatment operators, and water distribution operators the board shall issue "trainee" licenses that are valid for two (2) years for new personnel with qualifications as stated in 51-3. Operation under this license shall always be under the direct supervision of a legally licensed operator of the proper grade. All applications must be endorsed by the applicant's chief operator, or operator-in-charge.

B. Application for Trainee Licenses.

1. Trainee licenses will be valid only for the two (2) year period and will not be renewed except when an examination for a graded certificate has been passed.

51-6. Fees.

These fees shall be assessed, collected and adjusted on behalf of the board by the Department of Labor, Licensing and Regulation in accordance with this chapter and Section 40-1-50(D).

- A. Biological Wastewater Treatment Operator Application - \$50
- B. Biological Wastewater Treatment Operator Certification by Reciprocity - \$50
- C. Biological Wastewater Treatment Operator Renewal - \$30
- D. Bottled Water Operator Application - \$50
- E. Bottled Water Certification by Reciprocity - \$50
- F. Bottled Water Renewal - \$30
- G. Water Distribution System Operator Application - \$50
- H. Water Distribution System Operator Certification by Reciprocity - \$50
- I. Water Distribution System Operator Renewal - \$30
- J. P/C Wastewater Treatment Operator Application - \$50
- K. P/C Wastewater Treatment Operator Certification by Reciprocity - \$50
- L. P/C Wastewater Treatment Operator Renewal - \$30
- M. Well Driller Application - \$50
- N. Well Driller Certification by Reciprocity - \$50
- O. Well Driller Renewal - \$50
- P. Water Treatment Plant Operator Application - \$50
- Q. Water Treatment Plant Operator Certification by Reciprocity - \$50

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- R. Water Treatment Plant Operator Renewal - \$30
- S. Roster (Licensee) List - \$10

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are updated to conform to the Board's practice act.

Document No. 4423
BOARD OF REGISTRATION FOR GEOLOGISTS
CHAPTER 131
Statutory Authority: 1976 Code Sections 40-1-70 and 40-77-60

131-01 through 131-15. Board of Registration for Geologists

Synopsis:

The South Carolina Board of Registration for Geologists is amending its regulations to conform to the current practice of biennial renewal.

The Notice of Drafting was published in the *State Register* on June 28, 2013.

Instructions:

The following sections of Chapter 131 are modified as provided below.

Text:

131-01. Definitions.

Definitions found in Section 40-77-20 apply to this chapter.

(A) "Applicant" means any person who has made application for registration.

(B) "Subordinate" means any person who assists a registered professional geologist or a registered professional engineer in the practice of geology without assuming the responsible charge of work.

(C) "Geologist-in-training" means a person who fulfills the requirements for registration as a professional geologist and has passed the fundamentals examination required for registration but has not acquired the professional work experience or passed the practical examination required for registration as a professional geologist.

(D) "Registrant" means any person currently registered as a professional geologist or geologist-in-training.

(E) "Continuing education" means participation in an organized continuing education experience under responsible sponsorship and capable direction. One (1) contact hour is a typical 50-minute classroom instructional session or its equivalent.

131-02. Officers of the Board.

At the first meeting of each calendar year, the Board shall elect from among its members a chairman, vice-chairman, and other officers as the Board determines necessary.

131-03. Meetings.

(A) The Board shall meet at least two (2) times during every calendar year and at other times upon the call of the chairman or a majority of the Board members.

(B) A majority of the members of the Board constitutes a quorum; however, if there is a vacancy on the Board, a majority of the members serving constitutes a quorum.

(C) Board members are required to attend meetings or to provide proper notice and justification of inability to do so. Unexcused absences from meetings may result in removal from the Board as provided in Section 1-3-240, South Carolina Code of Laws 1976, as amended. The Board shall make the final decisions as to an acceptable excuse for absences of Board members.

131-04. General Registration Provisions for Geologists-in-Training.

An applicant for initial registration as a geologist-in-training must:

(A)(1) be a graduate of a geologic curriculum of a minimum of thirty (30) semester hours or forty-five (45) quarter hours of geology or geophysics approved by the Board, including an earned bachelor's degree or advanced degree from an accredited college or university, or

(2) graduated in a geologic or a related science curriculum of four scholastic years or more with a minimum of thirty semester hours or forty-five quarter hours in geology or geophysics from a school or college other than those approved by the board in item (1) with a specific record of five years or more of experience in geological work of a character satisfactory to the board or passing written examinations in geologic subjects designed to measure knowledge and skill approximating that attained through graduation in an approved geologic curriculum and passing the written examinations as required in item (1); and

(B) submit an application on forms approved by the Board and the required fees, and have certified transcripts of all undergraduate or postgraduate college credits supplied directly to the Board from the school(s) or college(s); and

(C) pass a fundamentals examination approved by the Board; and

(D) be of good ethical character.

131-05. General Registration Provisions for Professional Geologists.

An applicant for initial registration as a professional geologist must:

(A) be a graduate of a geologic curriculum of a minimum of thirty (30) semester hours or forty-five (45) quarter hours of geology approved by the Board, including an earned bachelor's degree or advanced degree from an accredited college or university; and

(B) submit an application on forms approved by the Board and the required fees, and have certified transcripts of all undergraduate or postgraduate college credits supplied directly to the Board from the school(s) or college(s). A geologist-in-training applying for registration as a professional geologist is not required to submit additional copies of college transcripts; and

(C) pass a fundamentals and practical examination approved by the Board. The Board may authorize an applicant to take both the fundamentals and practical examination on the same day. The applicant must receive passing scores on both examinations taken to qualify for registration; and

(D) submit evidence of at least five (5) years of full-time professional geological work satisfactory to the Board, either as a geologist-in-training or in geologic work germane to the public practice of geology. For persons who have graduated in geology or a related science curriculum of at least four (4) years but not from a school or college approved by the Board, the work experience must consist of eight (8) years. In counting years of experience the Board may give credit, not in excess of one (1) year, for graduate degrees in geology provided such graduate degrees are not the initial degree in geology; and

(E) be of good ethical character.

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131-06. Examinations.

(A) Examinations shall be held at least annually provided there are qualified applicants.

(B) Applicants must be approved by the Board and notified in writing for authorization to take the examination. Each qualified applicant must provide written authorization from the Board to take the examination and provide picture identification prior to entering the examination room.

(C) Applicants are required to take examinations designed to test the applicant's general geological education and to measure the applicant's practical experience and knowledge in the application of geology and the code of professional ethics.

(D) Applicants taking an examination must receive a scaled score of seventy (70) or higher to pass the examination.

(E) An examination candidate who has failed an examination may, within thirty (30) days after the date of notice of the results of the examination, appeal the results of the examination to the Board. The petition for appeal must be in writing and must state the basis upon which the appeal is made. The examination candidate may be required to pay the required fee and costs of processing the appeal to the Board and/or testing organization.

(F) The Board, in its discretion, may adjust the scoring based on the outcome of an appeal by the candidate.

(G) An applicant may apply for re-examination twice without filing a new application and shall be re-examined upon payment of the required fee. An applicant who fails the same examination for a third time shall file a new application before being re-examined. A new application may not be filed sooner than one (1) year following the date of the last re-examination.

131-07. Temporary Registration.

(A) An applicant for a temporary registration to engage in the practice of geology must:

(1) present evidence that the applicant's residence is in another state, or that the applicant has been a resident of South Carolina for six (6) months or less; and

(2) possess an active, current, and unrestricted registration under the laws of another state or territory that had requirements that were, at the date of registration, equivalent to the requirements in effect at the time of the application in South Carolina or meet the academic and experience requirements to become a professional geologist; and

(3) submit an application on a form approved by the Board, along with the required fee.

(B) The Board shall specify the duration of any temporary registrations. The term of any temporary registration may not exceed six (6) months. An applicant shall not receive more than one (1) issuance of a temporary registration to practice geology in South Carolina.

131-08. Registration by Endorsement or Reciprocity.

(A) An applicant for registration as a professional geologist by endorsement must:

(1) hold a current, active, and unrestricted license under the laws of another state or territory that had requirements that were, at the date of licensure, equivalent to the requirements in effect at the time of the application in South Carolina; and

(2) submit an application on a form approved by the Board, along with the required fees.

(B) An applicant for registration as a professional geologist by reciprocity must:

(1) hold a current, active, and unrestricted license under the laws of another state or territory with which South Carolina has entered into an agreement regarding reciprocity; and

(2) submit an application on a form approved by the Board, along with the required fees.

131-09. Appeal.

A person aggrieved by a final action of the Board denying or revoking his/her registration may appeal in accordance with Section 40-1-160 and the Administrative Procedures Act, South Carolina Code of Laws 1976, as amended.

131-10. Requirements for Renewal/Reactivation of Expired or Lapsed Registrations.

(A) All applications for renewal shall be filed with the Board prior to June thirtieth (30th) of the biennial renewal year. Renewal applications must be accompanied by the appropriate fee and a statement attesting to the required number of continuing education credits (CEC) per biennium. Registered professional geologists who have not properly renewed their registration for failure to complete the required CEC and/or failure to submit the appropriate renewal fee must apply for late renewal during a six (6) month penalty period following the expiration date. Late renewal applications must be accompanied by documentation, if applicable, indicating completion of the required CEC's as specified in Regulation 131-11 and a fee equal to the biennial renewal fee plus fifty percent (50%) penalty fee. Registrants undergoing late renewal are not authorized to conduct the public practice of geology until their renewal is completed and the registrant receives written notice from the Board that their registration is renewed.

(B) A registrant whose registration has been expired or lapsed for five (5) years or less may reactivate the registration upon submission of an application on a form approved by the Board, along with the required fee and evidence of CEC for each biennium during which the registration was expired, not to exceed thirty-two (32) hours and the submission of a notarized statement that the registrant has not engaged in the practice of geology in this State during the time the registration was expired or lapsed.

(C) The Board may require a registrant whose registration has been expired or lapsed for more than five (5) years to apply and qualify as if never registered in this State.

131-11. Seals.

(A) Each registered professional geologist shall obtain a seal, which may be an embosser or a rubber stamp bearing the registrant's name, registration number, and the legend "Registered Professional Geologist." The seal of the registrant shall be used in accordance with this section.

(B) The seal and signature of a registrant on a document constitutes a certification that the document was prepared by the registrant or under his direct supervision, and that the registrant has reviewed the document in sufficient depth to fully coordinate and assume responsibility for materials prepared by another registrant.

(C) When sealing of documents is required by statute, other authority or contract, an imprint of the registrant's valid seal shall appear, along with his signature and date, on the cover page of geologic reports or other geologic documents bound in book form as well as on each sheet of unbound geologic drawings, cross sections, or maps prepared by or under the responsible charge or direct supervision of the registrant whenever these documents are relevant to public welfare or the safeguard of life, health, property and the environment, pursuant to Section 40-77-290, South Carolina Code of Laws 1976, as amended.

(D) Additions, deletions, or other revisions to sealed documents shall not be made unless such changes are sealed, dated, and signed by the registrant who made the revisions or under whose direction and control said revisions were made.

131-12. Continuing Professional Competency.

(A) Professionals licensed to practice geology are required to demonstrate a continuing development of professional competency. Each registrant shall submit a continuing education report on a form approved by the Board as a condition of renewal.

(B) Continuing Education Requirements.

(1) Every registrant is required to obtain thirty-two (32) contact hours for each biennium of registration.

(2) If a registrant exceeds the biennial requirements in any renewal period, a maximum of eight (8) contact hours may be carried forward into the ensuing renewal period.

(C) Determination of Credit.

(1) Continuing education credit shall be in accordance with Continuing Education Guidelines as approved by the Board.

(2) Upon request, the Board may require proof of attendance of successful completion of continuing education credits. Final approval of continuing education credits shall be at the discretion of the Board.

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(D) Record Keeping.

(1) The responsibility for maintaining records used to support credits claimed is that of the registrant. Records required to substantiate continuing education activities may include, but are not limited to:

- (a) dates of attendance; and
- (b) number of actual contact hours certified by the registrant; and
- (c) copies of registration receipts attached to continuing education submission form; and/or
- (d) appropriate proof of course completion.

(2) For additional credit as course instructor or trip leader, written proof that the event was conducted as described must be provided. Each continuing education event must have separate documentation.

(E) Exceptions.

(1) A registrant may apply for an exemption from or reduction of the continuing education requirement by submitting a request in writing to the Board, including a statement of the grounds upon which a reduction or exemption should be granted, along with the requested reduction or exemption. The Board may grant exemptions or reductions in the following cases:

- (a) if the registrant is serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year, in which case the registrant shall be required to present evidence of sixteen (16) hours of continuing education; or
- (b) if the registrant is experiencing illness, physical disability, or other extenuating circumstances.

131-13. Fees.

(1) All fees required shall be transmitted by money order, bank draft, or a check made payable to the Board. No fees are refundable.

(A) Application Fees

- | | |
|----------------------------|----------|
| (1) Geologist-in-Training | \$ 75.00 |
| (2) Professional Geologist | \$400.00 |

(B) Renewal Fees

- | | |
|--|--|
| (1) Professional Geologist | \$300.00 |
| (2) Late Renewal from July 1-December 31 | Renewal plus fifty (50%) percent penalty fee |
| (3) Reactivation of Registration | \$300.00 plus renewal fee |

(C) Replacement Certificate

\$ 10.00

(D) Examination Appeal

\$ 50.00 + actual costs charged by testing organization

(E) Roster fee

\$ 10.00

(F) Temporary Registration

\$300.00

131-14. Code of Ethics for Professional Geologists and Geologists-in-Training.

(A) General Obligations.

- (1) Registrants shall be guided by the highest standards of person integrity and professional conduct.
- (2) Registrants shall pursue honesty, integrity, loyalty, fairness, impartiality, candor, fidelity to trust, inviolability of confidence, and honorable conduct as a way of life.

(B) Obligations to the Public.

(1) Registrants shall uphold the public health, safety, and welfare in the performance of professional services, and avoid even the appearance of impropriety.

(2) Registrants shall observe and comply with the requirements and intent of all applicable laws, codes, and regulations.

(3) Registrants shall not knowingly participate in any illegal activity, or knowingly permit the publication of his or her reports, maps, or other documents for illegal purpose.

(4) Registrants shall neither offer nor make any illegal payment, gift, or other valuable consideration to a public official for the purpose of influencing a decision by such official; nor shall a registrant accept any payment, gift, or other valuable consideration which would appear to influence a decision made on behalf of the public by the registrant acting in a position of public trust.

(5) Registrants who are aware of decisions or actions by an employer, client, or colleague which violates any law or regulation, the registrant shall advise against such action, and when such violation appears to materially affect the public health, safety, or welfare, shall advise the appropriate public officials, including but not limited to, the Board of Registration, responsible for the enforcement of such law or regulation.

(6) Registrants shall be accurate, truthful, and candid in all communications with the public.

(7) Registrants shall not knowingly engage in false or deceptive advertising, or make false, misleading, or deceptive representations or claims in regard to the profession of geology or which concern his or her own professional qualifications or abilities or those of other professional geologists.

(8) Registrants shall not issue false statements or false information which the registrant knows to be false or misleading, even though directed to do so by an employer or client.

(9) Registrants shall avoid making sensational, exaggerated, and unwarranted statements that may mislead or deceive members of the public or any public body.

(10) Registrants should participate as citizens and as professionals in public affairs.

(11) Registrants acting in a position of public trust shall exercise authority impartially, and shall not seek to use authority for personal profit or to secure any competitive advantage.

(12) Registrants should promote public awareness of the effects of geology and geological processes on the quality of life.

(C) Obligations to Employers and Clients.

(1) Registrants shall serve their employers and clients faithfully and competently within their overall professional and ethical obligations.

(2) Registrants shall disclose to a prospective employer or client the existence of any owned or controlled mineral or other interest which may, either directly or indirectly, have a pertinent bearing on such employment.

(3) Registrants having or expecting to have a beneficial interest in a property on which the registrant reports shall state in the report the fact of the existence of such interest or expected interest.

(4) Registrants employed or retained by one (1) employer or client shall not accept, without that employer's or client's written consent, an engagement by another if the interests of the two (2) are in any manner conflicting.

(5) Registrants shall not accept referral fees from any person to whom an employer or client is referred; however, nothing herein shall prohibit a registrant from being compensated by the employer or client for consultation, or for other services actually performed.

(6) Registrants shall not offer or pay referral fees to any person who refers an employer or client to the registrant; however nothing herein shall prohibit a registrant from compensating the person giving the referral for consultation, or for other services actually performed.

(7) Registrants should protect, to the fullest extent possible, the interest of his employer or client to a standard that is consistent with public health, safety, and welfare and the registrant's legal, professional, and ethical obligations.

(8) Registrants shall not use, directly or indirectly, any confidential information obtained from or in the course of performing services for an employer or client in any way which is adverse or detrimental to the interests of the employer or client, except with the prior consent of the employer or client or when disclosure is required by law.

(9) Registrants who have made an investigation for an employer or client shall not seek to profit economically from the information gained without written permission of the employer or client, unless it is clear that there can no longer be a conflict of interest with the original employer or client.

(10) Registrants shall not use his or her employer's or client's resources for private gain without the prior knowledge and consent of his or her employer or client.

(11) Registrants shall serve their employers and clients competently.

(12) Registrants shall perform professional services or issue professional advice which is only within the scope of the education and experience of the registrant and the registrant's professional associates, consultants, or employees, and shall advise the employer or client if any professional advice is outside of the professional geologist's personal expertise.

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(13) Registrants shall not give a professional opinion or submit a report without being as thoroughly informed as might be reasonably expected, considering the purpose for which the opinion or report is requested.

(14) Registrants shall engage, or advise an employer or client to engage, and cooperate with other experts and specialists whenever the employer's or client's interests would be best served by such service.

(15) Registrants shall serve their employers and clients diligently and perform their services in a timely manner.

(16) Registrants who find that obligations to an employer or client conflict with professional or ethical standards shall have such objectionable conditions corrected or resign.

(D) Obligations to Professional Colleagues.

(1) Registrants shall respect the rights, interests, and contributions of their professional colleagues.

(2) Registrants shall give due credit for work done by others in the course of a professional assignment, and shall not knowingly accept credit due another.

(3) Registrants shall not plagiarize another in oral and written communications, or use materials prepared by others without appropriate attribution.

(E) Obligations to the Profession.

(1) Registrants shall continually strive to improve the profession of geology so that it may be of ever increasing benefit to society.

(2) Registrants shall strive to improve their professional knowledge and skills.

(3) Registrants shall cooperate with others in the profession and encourage the dissemination of geological knowledge.

(4) Registrants shall work toward the improvement of standards of geological education, research, training, and practice.

(5) Registrants shall uphold these standards by precept and example and also encourage by counsel and advice to other registrants, their adherence to such standards.

(6) Registrants who have knowledge of a violation of these rules by another registrant shall notify the Board of such violation.

131-15. Complaints.

Complaints shall be filed and processed in accordance with Chapter 1 of Title 40 and the Administrative Procedures Act, South Carolina Code of Laws 1976, as amended.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are updated to conform to biennial renewal in the Board's practice act.

Document No. 4388

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-62. Air Pollution Control Regulations and Standards

Synopsis:

1. The Department has amended R.61-62, Air Pollution Control Regulations and Standards, to codify and update “General” language.

2. The Department also amended R.61-62.1, Definitions and General Requirements, and the SIP:

a) (Section I, Definitions) to modify the definition for “Commissioner” to include the term “Director;” to add definitions for the terms “Code of Federal Regulations (CFR),” “NAICS Code,” and “SIC Code;” and to strike the majority of the definition for “Volatile Organic Compound” (VOC) which included an exemptions list. The exemptions list for VOC is amended on an almost annual basis and requires a SIP amendment. Therefore, the Department proposed to reference 40 CFR 51.100(s) as the federal definition is often amended before the Department is able to complete the regulatory process outlined in the Administrative Procedure Act.

b) (Section II, Permit Requirements) to update the activities list which an owner or operator may undertake prior to obtaining a construction permit; to update and streamline exemption thresholds for construction permits; to outline construction permit requirements for sources of VOCs; to update and clarify construction permit application requirements; to streamline and update general construction permit requirements; to clarify and update operating permit renewal request requirements; to strike the Department’s requirement to public notice registration permits; to update and streamline registration permit text; to update and streamline transfer of ownership/operation requirements; and to amend the Department’s public participation procedures to allow for posting on the Department’s website.

c) (Section III, Emissions Inventory) to incorporate into South Carolina regulatory text and the SIP the Clean Air Act requirement for sources in ozone nonattainment areas to submit an annual emissions statement; and to update and clarify annual and three-year emissions inventory reporting requirements as current regulatory text and format was found by owners and operators to be confusing. No new reporting requirements are included in these changes.

d) (Section IV, Source Tests) to incorporate provisions from two Final Rules published by the Environmental Protection Agency (Restructuring of the Stationary Source Audit Program (SSA) (75 FR 55636) and Protocol Gas Verification Program and Minimum Competency Requirements for Air Emission Testing (PGVP Rule) (76 FR 17288)). This amendment reflects a change in EPA’s SSA program. EPA no longer provides the Department with audit samples for sources. Source owners, operators, and representatives must purchase samples from an Audit Sample Provider when a sample is commercially available. The Department also clarified air emissions testing and reporting requirements and added language to reflect federal testing competency requirements as found in the PGVP Rule which does not affect state testing.

3. The Department also amended R.61-62.5, Standard 1, Emissions from Fuel Burning Operations; R.61-62.5, Standard 4, Emissions from Process Industries; and the SIP to incorporate comments from a previous regulatory action which did not require General Assembly review. The Department evaluated the comments received and determined to streamline sulfur dioxide emission standards in Standard 1; change reporting requirements from quarterly to semi-annual periods to reflect federal requirements; update state regulations that have been made obsolete by a National Emission Standard for Hazardous Air Pollutants and/or New Source Performance Standard; and strike total reduced sulfur periodic testing requirements from Standard 4.

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4. The Department also amended R.61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, to make the state definition of applicability more consistent with the federal definition found in 40 CFR Section 63.40(b) and to move the “Note” regarding state authority to the beginning of R. 61-62.63 for clarity and usability.

5. The Department also amended R.61-62 to reflect minor revisions aimed at enhancing the clarity and usability of these regulations per the 5-year audit.

A Notice of Drafting was published in the South Carolina State Register (Volume 37, Issue 8) and on the Bureau of Air Quality Regulatory Development website on March 22, 2013. Notice of the Department’s intent to draft these regulations was also published on the DHEC Regulatory Internet site in its DHEC Regulation Development Update. The Department met with external stakeholders on April 16, 2013. Two comments were received which are not germane to this package. The public comment period ended on April 22, 2013. No comments were received.

A Notice or Proposed Regulation was published in the State Register on August 23, 2013. Comments were received from both the South Carolina Chamber of Commerce’s Environmental/Technical Committee and Region 4 of the Environmental Protection Agency. Comments were taken into consideration during the drafting of this Notice of Final Regulation.

Discussion of Revisions:

SECTION CITATION/EXPLANATION OF CHANGE:

Regulation 61-62, Air Pollution Control Regulations and Standards

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

Is amended to add a reference to the S.C. Code of Laws outlining statutory authority, to add codification to and update “General” language, and to add codification and make minor edits to the “Table of Contents.”

Regulation 61-62.1, Definitions and General Requirements

Regulation 61-62.1 Definitions and General Requirements, Section I, Definitions:

Added definition “18. Code of Federal Regulations (CFR) – Means the general and permanent rules codified and published in the Federal Register by the departments and agencies of the federal government.” is added in alpha numeric order.

Regulation 61-62.1 Definitions and General Requirements, Section I, Definitions:

Definition for “Commissioner” is amended to make the words “Commissioner” and “Director” synonymous in Regulation 61-62 for clarity.

Regulation 61-62.1 Definitions and General Requirements, Section I, Definitions:

Definition for “Hospital” is amended to hyphenate the number “twenty four” for consistency.

Regulation 61-62.1 Definitions and General Requirements, Section I, Definitions:

Definition for “Industrial Furnace,” paragraph 1, is amended to add hyphens to the phrase “case by case” for consistency with the rest of Regulation 61-62.

Regulation 61-62.1 Definitions and General Requirements, Section I, Definitions:

Added definition “54. NAICS Code - Means North American Industry Classification System (NAICS) Code, a six digit coding system, which attempts to classify all business establishments by the types of products or services they provide.” is added in alphanumeric order.

Regulation 61-62.1 Definitions and General Requirements, Section I, Definitions:

Added definition “81. SIC Code – Means Standard Industrial Classification Codes which are four digit numerical codes designed by the U.S. Department of Labor in order to create uniform descriptions of business establishments.” is added in alphanumeric order.

Regulation 61-62.1 Definitions and General Requirements, Section I, Definitions:

Definition for “Volatile Organic Compound (VOC)” is amended to cite 40 CFR 51.100(s)(1).

Note: State Register Document 4387, an amendment of R.61-62, is expected to be published as final at <http://www.scstatehouse.gov/regs/4387.docx> on December 27, 2013, as Doc. No. 4387 does not require Legislative Review. Document 4387 is being promulgated to comply with federal law and contains a proposal to amend the definition of Volatile Organic Compounds. Proposed amendments contained in Document 4387 are anticipated to take effect as law by publication in the South Carolina State Register prior to the proposed amendments contained herein (Document 4388) which also amend the definition of Volatile Organic Compounds. After final publication of Document 4387 in the State Register, the Department intends to strike the majority of the text contained in the definition for Volatile Organic Compounds (to include the text which is being added as part of Document 4387) and to cite 40 CFR 51.100(s)(1) (the federal definition). Document 4388 will be submitted to the General Assembly for review and, if approved, is expected to take effect six to twelve months after Document 4387 is state effective.

Regulation 61-62.1 Definitions and General Requirements, Section I, Definitions:

Definitions are renumbered in alpha-numeric order from definition “18.” to the end to account for newly added definitions and to ensure clarity and consistency.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph A.1.a is amended to properly cite items in Section II per the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph A.1.c.ix through Paragraph A.1.c.xvii are being amended or added to expand the list of activities that may take place on a site before obtaining a construction permit.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph A.1.d is amended to properly cite items in Section II per the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B is amended to make the word “From” lowercase for title capitalization consistency throughout Regulation 61-62.1.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B.1 is amended to properly cite items in Section II per the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B.1.b is amended to define the abbreviation for Btu/hr and the use the proper abbreviation hereafter for clarity and consistency.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B.1.c is amended to utilize the previously established unit abbreviation “Btu/hr.”

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Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B.2 is amended to properly cite items in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B.2.a is amended to strike the unit "British thermal unit per hour" in order to utilize the previously established unit abbreviation.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B.2.h is amended to mirror the exemption thresholds for construction permits with the Title V Insignificant Activity List and to allow for flexibility at higher levels without exempting federally applicable limits that are not otherwise exempt.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B.3 is amended to properly cite items in Section II per the 2011 South Carolina Legislative Council's Standards Manual. Paragraph B.3 is also amended to make an allowance for the Department to develop emission thresholds for exemptions which will not interfere with the attainment or maintenance of any state or federal standard.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B.5 is added to outline construction permit exemption requirements for sources of VOCs.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B.5 is renumbered as Paragraph B.6 and amended to properly cite items in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B.5.d is renumbered as Paragraph B.6.d and is amended to properly cite Regulation 61-62.5, Standard No. 7.1.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph B.6 is renumbered as Paragraph B.7 and is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph C.3 is amended to properly cite items in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph C.3.a is amended to clarify construction permit application requirements.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph D.1 is divided into two items (Paragraph D.1 and Paragraph D.2) for usability.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph D.2 is renumbered as Paragraph D.3 to account for the newly codified Paragraph D.2. The newly codified paragraph is also amended for grammatical correctness and divided into Paragraph D.3 and Paragraph D.4 for usability.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph D.3 is renumbered as Paragraph D.5.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph D.4 is renumbered as Paragraph D.6 and is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph D.5 is renumbered as Paragraph D.7.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph E.1.b is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph E.1.c is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph E.1.e is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph E.2.a is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph E.2.b is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph E.3.a is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph E.4.a is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual. Paragraph E.4.a is also divided into Paragraphs E.4.b, E.4.c, and E.4.d. Paragraphs E.4.b and E.4.c are subsequently recodified as Paragraphs E.4.e and E.4.f respectively.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph E.5.a is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph E.5.b is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph F.2 is amended to strike the word "permittee" and to replace it with the phrase "owner or operator" for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph F.3.b is amended to strike the word "permittee" and to replace it with the phrase "owner or operator" for consistency and clarification.

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Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph G.1 is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph G.2.b is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph G.2.c is amended to strike the requirement for a conditional major operating permit renewal to be public noticed, to properly cite items in Section II per the 2011 South Carolina Legislative Council's Standards Manual, and to strike the word "permittee" and to replace it with the phrase "owner or operator" for consistency and clarification. Paragraph G.2.c is also divided into Paragraph G.2.d for usability and Paragraphs G.2.d and G.2.e are subsequently recodified as Paragraphs G.2.e and G.2.f respectively.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph G.3.a is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph G.4.a is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph G.4.b is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph G.5.a is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph G.6.a is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph G.6.b is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph G.7.a is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual. Paragraph G.7.a is also divided into Paragraphs G.7.b, G.7.c, and G.7.d. Paragraphs G.7.b and G.7.c are subsequently recodified as Paragraphs G.7.e and G.7.f respectively.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph H.2 is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph H.3 is amended to strike the word "permittee" and to replace it with the phrase "owner or operator" for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph H.4 is amended to change the word “effect” to “affect” to correct a typographical error.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph H.4.a is amended to clarify operating permit renewal request requirements.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph H.4.h is amended to indicate that “A summary of facility-wide potential uncontrolled and controlled emissions with a regulatory applicability determination” “must be provided” as part of an operating permit renewal request.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph I.1.a is amended to strike the requirement for the Department to public notice a registration permit.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph I.2.a is amended to properly cite items in Section II per the 2011 South Carolina Legislative Council’s Standards Manual, update language, and to divide the Paragraph into Paragraph I.2.b.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph I.2.b is recodified as Paragraph I.2.c and the reference to registration permit public notice is struck.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph I.3.a is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph I.4 is added to provide for the allowance for the Department to reopen a registration permit for cause.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph J is amended to strike the period at the end of the item title for consistency.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph J.1.g is amended to strike the word “permittee” and to replace it with the phrase “owner or operator” for consistency and clarification. Paragraph J.1.g is also amended to correct a grammatical error and to explain record keeping requirements.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph L.2 is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph L.3.a is amended to strike the word “permittee” and to replace it with the phrase “owner or operator” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:
Paragraph L.3.c is amended to strike the word “permittee” and to replace it with the phrase “owner or operator” for consistency and clarification.

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Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph L.3.d is amended to strike the word “permittee” and to replace it with the phrase “owner or operator” for consistency and clarification, and to properly cite items in Section II per the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph L.4 is amended to strike the word “permittee” and to replace it with the phrase “owner or operator” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph M is amended to strike the word “agent,” to replace it with the word “operator” for consistency and clarification, and to clarify the requirements for a transfer of ownership.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph N.1 is amended to allow the Department to notice permitting activities on the Department’s website.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph N.2 is amended and divided into Paragraphs N.2.a, N.2.b, N.2.c, N.2.d, N.2.e, N.2.f, and N.2.g to clarify the components of a public notice.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph N.3 is amended and divided into Paragraphs N.3.a and N.3.b to clarify the public comment process.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph N.6 is amended to properly cite an item in Section II per the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section II, Permit Requirements:

Paragraph O is amended to strike the phrase “permittee” and to replace it with the phrase “owner or operator” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:

Title is amended to include “AND EMISSIONS STATEMENTS.”

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:

Paragraph A, Introductory Paragraph, is newly codified as “Paragraph A.1” and amended for grammatical correctness. Paragraph A.2 is added to define an “emissions statement.”

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:

Paragraph B through Paragraph C, Table 1, is struck. All emissions inventory information contained therein is reworded, reformatted, and clarified as Paragraph B through Paragraph B.1.c, Table 2. There are no new requirements associated with these changes. Paragraph C.1.a requirements for TAP and HAP data to be collected every third year will be omitted from reformatted text (this data will be requested annually as part of annual emissions inventories as is current practice).

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:

Paragraph C.2.a (newly recodified as Paragraph B.2.a) is amended for grammatical correctness.

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:

Paragraph C.2.b (newly recodified as Paragraph B.2.b, B.2.b.i, B.2.b.ii, and B.2.b.iii) is amended to clarify emissions inventory reporting requirements for newly permitted and constructed Title V Sources which have obtained or are in the process of obtaining a Title V permit and newly permitted and constructed nonattainment area sources.

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:
Paragraph C.2.c (newly recodified as Paragraph B.2.c) is amended for clarity, grammatical correctness, and to reflect codification and formatting changes to Section III.

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:
Paragraph C.2.d (newly recodified as Paragraph B.2.d) is amended for grammatical correctness and to reflect codification and formatting changes to Section III.

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:
Paragraph C.2.e (newly recodified as Paragraph B.2.e) is amended for grammatical correctness.

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:
Paragraph C.2.e.ix (newly recodified as Paragraph B.2.e.ix) is amended for grammatical correctness.

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:
Paragraph C.2.e.xi (newly recodified as Paragraph B.2.e.xi) is amended to strike the requirement from regulatory text for TAP and HAP data to be collected every third year (this data will be requested annually as part of annual emissions inventories as is current practice).

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:
Paragraph C.2.g (newly recodified as Paragraph B.2.g) is amended for grammatical correctness.

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:
Paragraph C.2.h (newly recodified as Paragraph B.2.h) is amended for grammatical correctness.

Regulation 61-62.1, Definitions and General Requirements, Section III, Emissions Inventory:
Paragraph C through Paragraph C.4 are added to outline the requirements for emissions statements in ozone nonattainment areas and to include emissions statements in the SIP.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:
Paragraph A.1 is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:
Paragraph B.1 is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:
Paragraph B.1.a is amended to properly cite an item in Section IV per the 2011 South Carolina Legislative Council’s Standards Manual, to strike the phrase “owner or operator,” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:
Paragraph B.1.b is amended to include the phrase “or amended test plan” for clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:
Paragraph B.3.a is amended to strike the phrase “owner or operator,” to replace it with the phrase “owner, operator, or representative” for consistency and clarification, and to strike a comma for punctuational correctness.

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Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph B.3.b is amended to strike the phrase “owner or operator,” to replace it with the phrase “owner, operator, or representative” for consistency and clarification, and to properly cite an item in Section IV per the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph B.5.a is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph B.5.b is amended to clarify and to properly cite items in Section IV per the 2011 South Carolina Legislative Council’s Standards Manual. Paragraph B.5.b is also amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph B.6 is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph B.7 is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph B.8 is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph B.9 is amended to strike the phrase “owner or operator,” to replace it with the phrase “owner, operator, or representative” for consistency and clarification, and to strike an extraneous semicolon.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph C, Introductory Text, is amended to properly cite items in Section IV per the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph C.1 is amended to replace the word “Facility” with the word “General” for clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph C.3.a is amended to strike an unnecessary comma for clarity.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph C.7.d is amended to add a period after the abbreviation “etc.”

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph C.7.l is amended to strike the unnecessary word “and” at the end of the item.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph C.7.m is amended to strike the period at the end of the item and replace it with “; and” for list consistency.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph C.7.n is added to include source test method performance audit samples and their results to “Internal Quality Assurance/Quality Control (QA/QC) Measures.”

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph D.1 is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification. Paragraph D.1 is also amended to include the requirements for a complete source test notification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph D.2 is amended to strike each instance of the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph D.4 is amended to clarify the requirements that must be met for an individual to be “qualified” to conduct a source test as outlined in the Final Rule: Protocol Gas Verification Program and Minimum Competency Requirements for Air Emission Testing (76 FR 17228).

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph D.5 is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph D.6 is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph E is amended in its entirety to reflect federal changes to the Stationary Source Audit Program as outlined in the Final Rule: Restructuring of the Stationary Source Audit Program (75 FR 55636). This “restructuring” requires source owners to obtain commercially available audit samples from Accredited Audit Sample Providers (AASP) rather than obtaining audit samples from the Department/EPA as was the practice in the past. The Rule and CFR also contain a list of test methods for which EPA does not require audit samples. This exemption list will be incorporated into 62.1 at Section IV.E.3.a.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph F.1 is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph F.2.b is amended to add a period after the abbreviation “etc.”

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph F.2.c is amended to add a period after the abbreviation “etc.”

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:

Paragraph F.2.o is amended to properly cite an item in Section IV per the 2011 South Carolina Legislative Council’s Standards Manual and to reflect federal changes to the Stationary Source Audit Program as outlined in the Final Rule: Restructuring of the Stationary Source Audit Program (75 FR 55636). The final test report must indicate that no sample was commercially available if EPA did not have one listed on their website 60 days prior to the beginning of the compliance test.

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Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:
Paragraph F.2.r is amended to strike the unnecessary word “and” at the end of the item.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:
Paragraph F.2.s is amended to strike the period at the end of the item and replace it with “; and” for list consistency.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:
Paragraph F.2.t is added to include applicable or required certifications to final test report requirements.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:
Paragraph G, Introductory Text, is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:
Paragraph H is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section IV, Source Tests:
Paragraph I is amended to strike the phrase “owner or operator” and to replace it with the phrase “owner, operator, or representative” for consistency and clarification.

Regulation 61-62.1, Definitions and General Requirements, Section V, Credible Evidence:
Paragraph C.1 is amended to strike the reference “(Supp. 2000)” per the outline for citations found in the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.1, Definitions and General Requirements, Section V, Credible Evidence:
Paragraph C.2 is amended to strike the reference “(Supp. 2000)” per the outline for citations found in the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Emissions from Fuel Burning Operations

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section I, Visible Emissions:
Paragraph A is amended for grammatical consistency.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section I, Visible Emissions:
Paragraph B is amended for grammatical consistency.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section I, Visible Emissions:
Paragraph D is amended to define the abbreviation “EPA” to be used hereafter for consistency.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section II, Particulate Matter Emissions:
Paragraph B is amended to properly abbreviate the unit “pounds.”

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section III, Sulfur Dioxide Emissions:
Paragraph A is amended to streamline sulfur dioxide emission standards and all succeeding text (Paragraphs B-D) is struck in response to a comment made by Chamber ETC on the 2011 End of the Year Revision (State Register Doc. No. 4330) for simplicity in light of Regulation 61-62.5, Standard 2, Ambient Air Quality Standards.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph A.1 is amended to properly cite an item in Section IV per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph A.1.b is amended to remove parenthesis from Section numbers for consistency.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph A.2 is amended to change the word "this" to the word "the" in the phrase "this Department" for consistency. Paragraph A.2 is also amended to codify previously uncodified text.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph A.2.a is amended to strike the period after the unit citation Btu/hr for consistency.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph A.2.b is amended to strike the hyphen in the term "non-compliance" for consistency and to strike uncodified text which is added to Paragraph A.2 as part of this action.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph B.1 is amended for consistency with the 2011 South Carolina Legislative Council's Standards Manual. Paragraph B.1 is also amended in response to a comment made by Chamber ETC on the 2011 End of the Year Revision (State Register Doc. No. 4330) in order to "align reporting requirements with CFR 60.51Da(j), 40 CFR 60.49Db(w) and 40 CFR 60.48Dc(j)." Paragraph B.1 is also being amended to add codification to previously uncodified text.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph B.1.a is amended to properly cite Section I per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph B.1.c is amended to properly cite Section I per the 2011 South Carolina Legislative Council's Standards Manual, and to strike uncodified text which is being added to Paragraph B.1 as part of this action.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph C is amended to properly cite Section IV per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph D.1 is amended to properly cite an item in Section IV per the 2011 South Carolina Legislative Council's Standards Manual and to make other nonsubstantive changes identified in the five-year regulatory audit.

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Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph D.2 is amended to make nonsubstantive changes identified in the five-year regulatory audit.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph D.3 is amended to replace the phrase “this agency” with the phrase “the Department” for consistency.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph E is amended to properly cite an item in Section IV per the 2011 South Carolina Legislative Council’s Standards Manual and to make other nonsubstantive changes identified in the five-year regulatory audit.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph F is amended to replace the word “plant” with the word “source” and to hyphenate the phrase “case by case” for consistency.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section IV, Opacity Monitoring Requirements:

Paragraph F.3 is amended to properly cite an item in Section IV per the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section VI, Periodic Testing:

Introductory Paragraph is amended to strike the chemical name “sulfur dioxide” and replace it with the previously established chemical formula “SO₂” to avoid confusion.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 1, Section VI, Periodic Testing:

Paragraph C is amended to strike the unnecessary comma after the word “Woodwaste.”

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Emissions from Process Industries

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section II, Sulfuric Acid Manufacturing:

Paragraph A is amended to reflect and utilize the chemical formula for sulfur dioxide.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section III, Kraft Pulp and Paper Manufacturing:

Section III introductory text is amended to strike the phrase “rate of emissions” and replace it with the phrase “opacity.” The Table in Section III is amended to strike the third column “Maximum Allowable Emissions of Particulate Matter in Pounds/Equivalent Ton of Air Dried, Unbleached Pulp Produced” in response to a comment made by the South Carolina Chamber of Commerce’s Environmental/Technical Committee (Chamber ETC) on the 2011 End of the Year Revision (State Register Doc. No. 4330) which stated that the “limits have been replaced by equal or lower limits in...40 CFR 63, Subpart MM.” The Department partly agrees, but sees the need to retain opacity.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section V, Cotton Gins:

Paragraph A.8 is amended to correct a typographical error.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section V, Cotton Gins:

Paragraph D is amended to add codification to previously uncoded text which requires the codification of Paragraphs D.1 through D.4 to change to Paragraphs D.1.a through D.1.d.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section X, Non-Enclosed Operations:
Paragraph B is amended to strike an unnecessary comma.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section XI, Total Reduced Sulfur (TRS) Emissions of Kraft Pulp Mills:
Paragraph C is amended to properly cite an item in Section XI per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section XI, Total Reduced Sulfur (TRS) Emissions of Kraft Pulp Mills:
Paragraph C.1 is amended to properly cite an item in Section XI per the 2011 South Carolina Legislative Council's Standards Manual.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section XI, Total Reduced Sulfur (TRS) Emissions of Kraft Pulp Mills:
Paragraph D.1.c(ii) is amended to codify previously uncodified text as Paragraphs D.1.d(i) and D.1d.(ii).

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section XI, Total Reduced Sulfur (TRS) Emissions of Kraft Pulp Mills:
Paragraph D.3 is amended in response to a comment made by Chamber ETC on the 2011 End of the Year Revision (State Register Doc. No. 4330) in order to "align reporting requirements with CFR 60.284(d)."

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section XI, Total Reduced Sulfur (TRS) Emissions of Kraft Pulp Mills:
Paragraph D.3.a is amended to add a serial comma for consistency.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section XII, Periodic Testing:
Title is amended to include "Particulate Matter Emissions and/or Sulfur Dioxide (SO₂)."

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section XII, Periodic Testing:
Paragraph A, Title, is struck for clarification.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section XII, Periodic Testing:
Paragraphs A.1 through A.7 are recodified as Paragraphs A through G.

Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4, Section XII, Periodic Testing:
Paragraph B is struck in response to a comment made by Chamber ETC on the 2011 End of the Year Revision (State Register Doc. No. 4330) as "this section adds requirements to older sources that are monitored exactly the same way, and by a preferential method, as newer sources." The Department's justification deviates from Chamber ETC's comment but agrees with the proposed revision.

Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP)

Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP):
Appendix A is struck as it was found to be unnecessary per the five-year regulatory audit.

Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP):
Appendix B is struck as it was found to be unnecessary per the five-year regulatory audit.

Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP):
Appendix C is struck as it was found to be unnecessary per the five-year regulatory audit.

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Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP):
Appendix D is struck as it was found to be unnecessary per the five-year regulatory audit.

Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP):
Appendix E is struck as it was found to be unnecessary per the five-year regulatory audit.

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories:

“Note” is added prior to Subpart A, General Provisions, in response to a comment made by the Environmental Protection Agency to State Register Doc. No. 2506, “For the sake of clarity we suggest that you add a note to the beginning of the regulation stating its purpose...” This “Note” was originally incorporated “prior to Subpart C” in May 2000 and after several revisions is now found prior to 63.50 in Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j). The “Note” is removed from Subpart B as part of this action and is amended to reflect standardization from the five-year regulatory audit.

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j):

Section 63.40, Applicability, paragraph (a) is amended to make the definition of “Applicability” more consistent with 40 CFR 63.40(b).

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j):

Section 63.43, Paragraph (l)(2) is amended to strike the word “of” in the phrase “owner of operator,” and to replace it with the word “or” for consistency and clarification.

Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j):

Section 63.44, Requirements for Constructed or Reconstructed Major Sources Subject to a Subsequently Promulgated MACT Standard or MACT Requirement, “Note” is struck for clarity and to properly place the “Note” “to the beginning of the regulation” as suggested by EPA in a comment in response to State Register Doc. No. 2506.

Instructions:

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

Text:

61-62. Air Pollution Control Regulations and Standards.

Regulation 61-62 shall be revised as follows:

(Statutory Authority: Section 48-1-10 et seq., S.C. Code of Laws, 1976, as amended.)

A. General. The standards and procedures herein prescribed are necessary to maintain reasonable standards of purity of the air resources of the State consistent with the public health, safety, and welfare of its citizens, maximum employment, the industrial development of the State, the propagation and protection of terrestrial and marine flora and fauna, and the protection of physical property and other resources.

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Regulation 62.1, Definitions and General Requirements

Regulation 61-62.1.I.18 through I.99 shall be revised as follows to include new definitions at 18, 54, and 81; changes to definitions 19, 37, 42, 44, and 96; and to renumber the definition section from 18 to end as necessary:

18. Code of Federal Regulations (CFR) – Means the general and permanent rules codified and published in the Federal Register by the departments and agencies of the federal government.

19. Commercial Incinerator – Means an incinerator that burns non-hazardous waste from commercial activities with a design capacity of no more than 1250 pounds per hour (lb/hr) and which burns no more than six (6) tons per day (tons/day). Incinerators of this type not meeting these limits are considered municipal waste combustors. This definition does not include retail and industrial incinerators nor does it include waste from maintenance activities at commercial establishments.

20. Commissioner – Means the Commissioner (also known as the Director) of the Department of Health and Environmental Control.

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21. Conditional Major Source – Means a stationary source that obtains a federally enforceable physical or operational limitation from the Department to limit or cap the stationary source’s potential to emit to avoid being defined as a major source as defined by applicable federal and state regulations.

22. Continuous Emission Monitoring System or CEMS – Means a monitoring system for continuously measuring and recording the emissions of a pollutant from an affected facility.

23. Continuous Program of Physical On-site Construction – Means significant and continuous site preparation work such as major clearing or excavation followed by placement of footings, pilings, and other materials of construction, assembly, or installation of unique facilities or equipment at the site of the source. With respect to a change in the method of operating, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

24. Crematory Incinerator – Means any incinerator designed and used solely for the burning of human remains or animal remains.

25. Department – Means the South Carolina Department of Health and Environmental Control.

26. Dioxins/Furans – Means the combined emissions of tetra- through octa-chlorinated dibenzo-paradioxins and dibenzofurans, as measured by EPA Reference Method 23 (40 Code of Federal Regulations (CFR) 60, Appendix A).

27. Emission Data – Means the definition contained in 40 CFR 2.301(a)(2), July 1, 1986, is incorporated by reference.

28. Emission Limitation (and Emission Standard) – Means a requirement established by the state or by the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

29. Federally Enforceable – Means all limitations and conditions which are enforceable by the Administrator and citizens under the Act, including those requirements developed pursuant to 40 CFR 60, 61, 63, and 70; requirements within the South Carolina State Implementation Plan (SIP); and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51 Subpart I, including operating permits issued under an EPA-approved program that is incorporated into the SIP and expressly requires adherence to any permit issued under such program.

30. Fuel Burning Operation – Means use of a furnace, boiler, device, or mechanism used principally, but not exclusively, to burn any fuel for the purpose of indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion.

31. Fugitive Dust – Means a type of particulate emission that becomes airborne by forces of wind, man’s activity, or both, including, but not limited to, construction sites, tilled land, materials storage piles, and materials handling.

32. Fugitive Emissions – Means emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

33. Garbage – Means animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

34. Hazardous Air Pollutant (HAP) – Means a pollutant which is the subject of National Emission Standards for Hazardous Air Pollutants (NESHAP) promulgated by the EPA by publication in the Federal Register.

35. Hazardous Waste – Means any waste identified as such by Regulation 61-79.

36. Hazardous Waste Fuel – Means hazardous waste that has a heat value greater than 5000 British thermal unit per pound (Btu/lb) and is burned in an industrial or utility boiler or industrial furnace for energy recovery, except for hazardous wastes exempted by Section 266.30(b) of Regulation 61-79.

37. Hazardous Waste Incinerator – Means an incinerator whose primary function is to combust hazardous waste, except for devices which have qualified for exemption as provided in Sections 264.340(b) or 265.340(b) of Regulation 61-79.

38. Hospital – Means any facility which has an organized medical staff, maintains at least six (6) inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of twenty-four (24) hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuing medical supervision.

39. Hospital/Medical/Infectious Waste Incinerator or HMIWI or HMIWI Unit – Means any device that combusts any amount of hospital waste and/or medical/infectious waste.

40. Hospital Waste – Means discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

41. Incinerator – Means any engineered device used in the process of controlled combustion of waste for the purpose of reducing the volume; removing the contamination and/or reducing or removing the hazardous potential of the waste charged by destroying combustible matter leaving the noncombustible ashes, material, and/or residue; and which does not meet the criteria nor classification as a boiler nor is listed as an industrial furnace.

42. Industrial Boiler – Means a boiler that produces steam, heated air, or other heated fluids for use in a manufacturing process.

43. Industrial Furnace – Means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:

- a. Cement kilns
- b. Lime kilns
- c. Aggregate kilns
- d. Phosphate kilns
- e. Coke ovens
- f. Blast furnaces
- g. Smelting, melting, and refining furnaces (including pyrometallurgical devices such as tray furnaces, cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces)
- h. Titanium dioxide chloride process oxidation reactors

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- i. Methane reforming furnaces
- j. Pulping liquor recovery furnaces
- k. Combustion devices used in the recovery of sulfur values from spent sulfuric acid

l. Such other devices as the Department may determine on a case-by-case basis using one (1) or more of the following factors:

- i. The design and use of the device primarily to accomplish recovery of material products;
- ii. The use of the device to burn or reduce raw materials to make a material product;
- iii. The use of the device to burn or reduce secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;
- iv. The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;
- v. The use of the device in common industrial practice to produce a material product; and
- vi. Other factors as appropriate.

44. Industrial Incinerator – Means any incinerator utilized in an industrial plant that does not meet the definition for any other type of incinerator or an incinerator used to combust Type 5 or 6 waste at any site.

45. In Existence – Means that the owner or operator has obtained all necessary construction permits required by this Department and either has:

- a. Begun, or caused to begin, a continuous program of physical on-site construction of the source; or
- b. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time, or that the owner or operator possesses a valid operating permit for the source prior to the effective date of a regulation or standard.

46. Kraft Pulp Mill – Means any stationary source which produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at a high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

47. Major Source – Means, except as otherwise provided, any source which directly emits, or has the potential to emit, greater than or equal to the major source threshold as defined by applicable federal and state regulations.

48. Malfunction – Means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions. During periods of malfunction the operator shall operate within established parameters as much as possible, and monitoring of all applicable operating parameters shall continue until all waste has been combusted or until the malfunction ceases, whichever comes first.

49. Mass Emission Rate – Means the weight discharged per unit of time.

50. Medical/Infectious Waste – Means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals listed below; and any waste defined as infectious waste in Regulation 61-105, Infectious Waste Management. The definition of medical/infectious waste does not include hazardous waste identified or listed in Regulation 61-79.261; household waste, as defined in Regulation 61-79.261.4(b)(1); ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials identified in Regulation 61-79.261.4(a)(1).

a. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.

b. Human pathological waste – tissues, organs, body parts, and body fluids that are removed during surgery or autopsy or other medical procedures, and specimens of body fluids and their containers.

c. Human blood and blood products including:

i. Liquid waste human blood;

ii. Products of blood;

iii. Items saturated and/or dripping with human blood; or

iv. Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers which were used or intended for use in either patient care, testing, and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

d. Sharps – instruments used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.

e. Animal waste including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals, or testing of pharmaceuticals.

f. Isolation wastes – biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from highly communicable diseases or isolated animals known to be infected with highly communicable diseases.

g. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

51. Multiple-Chamber Incinerator – Means an incinerator consisting of at least two (2) refractory lined combustion chambers (primary and secondary) in series, physically separated by refractory walls, interconnected by gas passage ports or ducts.

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52. Municipal Solid Waste, MSW, or Municipal-type Solid Waste – a. Means household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional wastes include:

- i. Yard waste;
- ii. Refuse-derived fuel; and
- iii. Motor vehicle maintenance materials limited to vehicle batteries and tires.

b. Household, commercial/retail, and institutional waste (MSW) does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which includes, but is not limited to, railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes (including Type 5 or 6 waste); medical waste; radioactive contaminated waste; hazardous waste; or motor vehicles (including motor vehicle parts or vehicle fluff).

53. Municipal Waste Combustor, MWC, or Municipal Waste Combustor Unit – Means any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected incinerators (with or without heat recovery), modular incinerators (starved-air or excess-air), boilers (for example, steam generating units) and furnaces (whether suspension-fired, grate-fired, mass-fired, or fluidized bed-fired, etc.), air curtain incinerators, and pyrolysis/combustion units. Municipal waste combustors do not include pyrolysis/combustion units located at plastics/rubber recycling units. Municipal waste combustors do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems. For the purpose of determining reconstruction or modification, as defined in 40 CFR 60 Subpart A, or Regulation 62.5, Standard No. 3, to a municipal waste combustor, the following applies:

a. The boundaries of a municipal solid waste combustor are defined as follows. The municipal waste combustor unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustor water system. The municipal waste combustor boundary starts at the municipal solid waste pit or hopper and extends through:

i. The combustor flue gas system, which ends immediately following the heat recovery equipment or, if there is no heat recovery equipment, immediately following the combustion chamber;

ii. The combustor bottom ash system, which ends at the truck loading station or similar ash handling equipment that transfers the ash to final disposal, including all ash handling systems that are connected to the bottom ash handling system; and

iii. The combustor water system, which starts at the feed water pump and ends at the piping exiting the steam drum or superheater.

b. The municipal waste combustor unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set.

54. NAICS Code - Means North American Industry Classification System (NAICS) Code, a six digit coding system, which attempts to classify all business establishments by the types of products or services they provide.

55. Non-Industrial Boiler – Means any boiler not classified as an industrial boiler.
56. Non-Industrial Furnace – Means any furnace not classified as an industrial furnace.
57. Non-Spec. Oil (Off-Spec. Oil) – See definition of used oil.
58. Opacity – Means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
59. Open Burning – Means any fire or smoke-producing process which is not conducted in any boiler plant, furnace, high temperature processing unit, incinerator or flare, or in any other such equipment primarily designed for the combustion of fuel or waste material.
60. Part 70 Permit – Means any permit or group of permits covering a source subject to the permitting requirements of Regulation 61-62.70. The use of the term “Title V Permit” shall be construed to mean “Part 70 Permit.”
61. Particulate Matter – Means any material, except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions.
62. Particulate Matter Emissions – Means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method described in 40 CFR 60, July 1, 1987, or an equivalent or alternative method approved by the Department, with the concurrence of the EPA.
63. Pathological Waste – Means waste material consisting of only human or animal remains, anatomical parts, and/or tissue; the bags/containers used to collect and transport the waste material; and animal bedding (if applicable).
64. Plant – Means, except as otherwise provided, any stationary source or combination of stationary sources, which is located on one (1) or more contiguous or adjacent properties and owned or operated by the same person(s) under common control.
65. Plastics/Rubber Recycling Unit – Means an integrated processing unit where plastics, rubber, and/or rubber tires are the only feed materials (incidental contaminants may be included in the feed materials) and they are processed into a chemical plant feedstock or petroleum refinery feedstock where the feedstock is marketed to and used by a chemical plant or petroleum refinery as input feedstock. The combined weight of the chemical plant feedstock and petroleum refinery feedstock produced by the plastics/rubber recycling unit on a calendar quarter basis shall be more than seventy (70) percent of the combined weight of the plastics, rubber, and rubber tires processed by the plastics/rubber recycling unit on a calendar quarter basis. The plastics, rubber, and/or rubber tire feed materials to the plastics/rubber recycling unit may originate from the separation or diversion of plastics, rubber, or rubber tires from MSW or industrial solid waste; and may include manufacturing scraps, trimmings, and off-specification plastics, rubber, and rubber tire discards. The plastics, rubber, and rubber tire feed materials to the plastics/rubber recycling unit may contain incidental contaminants (for example, paper labels on plastic bottles, metal rings on plastic bottle caps, etc.).
66. PM_{2.5} – Means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method based on Appendix L of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method designated in accordance with 40 CFR 53.

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67. PM_{2.5} Emissions – Means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method approved by the Department with concurrence of the EPA.

68. PM₁₀ – Means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method designated in accordance with 40 CFR 53.

69. PM₁₀ Emissions – Means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by a reference method approved by the Department with concurrence of the EPA.

70. Potential to Emit – Means the maximum capacity of a source to emit a regulated pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a regulated pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a source.

71. Process Industry – Means any source engaged in the manufacture, processing, handling, treatment, forming, storing, or any other action upon materials except fuel-burning operations.

72. Process Weight – Means the total weight of all materials introduced into a source operation, including air and water where these materials become an integral part of the product and solids used as fuels, but excluding liquids and gases used solely as fuels.

73. Process Weight Rate – a. Means a rate established as follows:

i. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

ii. For cyclical or batch unit operations or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

b. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

74. Pyrolysis/Combustion Unit – Means a unit that produces gases, liquids, or solids through the heating of waste; and the gases, liquids, or solids produced are combusted and emissions vented to the atmosphere.

75. Refuse – Means garbage, rubbish, and/or trade waste.

76. Refuse-derived Fuel – Means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including low-density fluff refuse-derived fuel through densified refuse-derived fuel and pelletized refuse-derived fuel.

77. Retail Business Type Incinerator – Means an incinerator that combusts waste typical of a retail business rather than domestic, commercial, or industrial activities.

78. Rubbish – Means solid wastes from residences and dwellings, commercial establishments, and institutions.

79. Salvage Operations – Means any operation of a business, trade, or industry engaged in whole or in part in salvaging or reclaiming any product or material including, but not limited to, metals, chemicals, shipping containers, drums, or automobiles.

80. Secondary Emissions – Means emissions which would occur as a result of the construction or operation of a major source or major modification but do not come from the major source or major modification itself. Secondary emissions shall be specific, well defined, quantifiable, and shall impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

a. Emissions from ships or trains moving to or from the new or modified source.

b. Emissions from any offsite support operation which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or major modification.

81. SIC Code – Means Standard Industrial Classification Codes which are four digit numerical codes designed by the U.S. Department of Labor in order to create uniform descriptions of business establishments.

82. Sludge Incinerator – Means an incinerator that combusts wastes containing more than ten (10) percent (dry weight basis) sludge produced by municipal or industrial waste water treatment plants or each incinerator that charges more than 2205 pounds per day (lb/day) (dry weight basis) of sludge produced by municipal or industrial wastewater treatment plants.

83. Smoke – Means small gasborne and airborne particles arising from a process of combustion in sufficient number to be observable by a person of normal vision under normal conditions.

84. Solid Fuel – Means a fuel which is fired as a solid such as coal, lignite, and wood.

85. Spec. Oil – See definition of used oil.

86. Stack – Means any flue, conduit, chimney, or opening arranged to conduct an effluent into the open air.

87. Stack Height – Means the vertical distance measured in feet between the point of discharge from the stack or chimney into the outdoor atmosphere and the elevation of the land thereunder.

88. Standard Conditions – Means 760 millimeters of mercury (mmHg) at twenty-five (25) degrees Centigrade (C).

89. Stationary Source – Means any building, structure, installation, or process which emits or may emit an air pollutant subject to regulation by any national or state standard. Use of the term “source” is to be construed to mean “stationary source.”

90. Substantial Loss – Means, generally, a loss which would equal or exceed ten (10) percent of the total initial project cost.

91. Synthetic Minor Source – Means a stationary source that obtains a federally enforceable physical or operational limitation from the Department to limit or cap the stationary source’s potential to emit to avoid being defined as a major source or major modification, as defined by applicable federal and state regulations.

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92. Total Reduced Sulfur (TRS) – Means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide that are released during the kraft pulping operation.

93. Total Suspended Particulate (TSP) – Means particulate matter as measured by the method described in Appendix B, 40 CFR 50, July 1, 1987.

94. Trade Waste – Means all solid, liquid, or gaseous material or rubbish resulting from construction, building operations, or the prosecution of any business, trade, or industry including, but not limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, and cinders.

95. Untreated Lumber – Means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or “pressure-treated.” Pressure-treating compounds include, but are not limited to, chromate copper arsenate, pentachlorophenol, and creosote.

96. Used Oil – Means any oil that has been refined from crude or synthetic oil and as a result of use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and may be economically recyclable. This also includes absorbent material contaminated with used oil such as oily rags or absorbent blankets. Two (2) types of used oil are defined as follows:

a. Spec. Oil (Specification Oil) – Used oil that meets the following specifications: *

i. Arsenic – 5 parts per million (ppm) maximum;

ii. Cadmium – 2 ppm maximum;

iii. Chromium – 10 ppm maximum;

iv. Lead – 100 ppm maximum;

v. Nickel – 120 ppm maximum;

vi. Total halogens – 4000 ppm maximum; and**

vii. Flash Point – 100 degrees Fahrenheit (F) (37.8 degrees C) minimum.

* This specification does not apply to used oil fuel mixed with a hazardous waste.

** Used oil containing more than 1000 ppm total halogens is presumed to be a hazardous waste. The burden of proof that this is not true rests with the user.

b. Non-Spec. Oil (Off-Spec. Oil) – Used oil that does not meet the specification above.

97. Utility Boiler – Means a boiler that produces steam, heated air, or other heated fluids for sale or for use in producing electric power for sale.

98. Virgin Fuel – Means unused solid, liquid, or gaseous commercial fuel. Also, clean wood or bark that has not been processed other than for size reduction excluding clean wood or bark burned in an air curtain incinerator.

99. Volatile Organic Compound (VOC) – a. Means any organic compound which participates in atmospheric photochemical reactions; or which is measured by a reference method (as specified in 40 CFR 60, as of July 1, 1990), an equivalent method, an alternative method, or which is determined by procedures specified under any subpart of 40 CFR 60. This definition does not include compounds that have negligible photochemical reactivity according to the methods employed by the EPA to determine compounds listed in 40 CFR 51.100(s).

b. For purposes of determining compliance with emission limits, VOCs will be measured by the approved test methods. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

c. The following compound(s) are VOCs for purposes of all recordkeeping, emissions reporting, photo-chemical dispersion modeling, and inventory requirements which apply to VOCs and shall be uniquely identified in emission reports, but are not VOCs for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate (TBAC or TBAc).

100. Waste – Means any discarded material including, but not limited to, used oil, hazardous waste fuel, hazardous waste, medical waste, municipal solid waste (MSW), sludge, waste fuel, and waste classification Types 0 through 6 or any material which as a result of use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

a. Type 0 – Trash, a mixture of highly combustible waste such as paper, cardboard, wood boxes, and combustible floor sweepings from commercial and industrial activities. The mixture contains up to ten (10) percent by weight of plastic bags, coated paper, laminated paper, treated corrugated cardboard, oily rags, and plastic or rubber scraps.

Typical composition: ten (10) percent moisture, five (5) percent incombustible solids, and has a heating value of approximately 8500 Btu/lb as fired.

b. Type 1 – Rubbish, a mixture of combustible waste such as paper, cardboard cartons, wood scrap, foliage, and combustible floor sweepings from domestic, commercial, and industrial activities. The mixture contains up to twenty (20) percent by weight of restaurant or cafeteria waste, but contains little or no treated papers, plastic, or rubber wastes.

Typical composition: twenty-five (25) percent moisture, ten (10) percent incombustible solids, and has a heating value of approximately 6500 Btu/lb as fired.

c. Type 2 – Refuse, consisting of an approximately even mixture of rubbish and garbage by weight. This type of waste is common to apartment and residential occupancy.

Typical composition: up to fifty (50) percent moisture, seven (7) percent incombustible solids, and has a heating value of approximately 4300 Btu/lb as fired.

d. Type 3 – Garbage, consisting of animal and vegetable wastes from restaurants, cafeterias, hotels, hospitals, markets, and like installations.

Typical composition: up to seventy (70) percent moisture, up to five (5) percent incombustible solids, and has a heating value of approximately 2500 Btu/lb as fired.

e. Type 4 – Human and animal remains, consisting of carcasses, organs, and solid organic wastes from hospitals, laboratories, abattoirs, animal pounds, and similar sources.

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Typical composition: up to eighty-five (85) percent moisture, five (5) percent incombustible solids, and having a heating value of approximately 1000 Btu/lb as fired.

f. Type 5 – By-product waste, gaseous, liquid, or semi-liquid, such as tar, paints, solvents, sludge, fumes, etc., from industrial operations. Btu values shall be determined by the individual materials to be destroyed.

g. Type 6 – Solid by-product waste, such as rubber, plastics, wood waste, etc., from industrial operations. Btu values shall be determined by the individual materials to be destroyed.

101. Waste Fuel – Means waste that does not meet hazardous waste criteria but has a heat value greater than 5000 Btu /lb.

102. Yard Waste – Means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that are generated by residential, commercial/retail, institutional, and/or industrial sources as part of maintenance activities associated with yards or other private or public lands. Yard waste does not include construction, renovation, and demolition wastes, which are exempt from the definition of MSW in this section. Yard waste does not include clean wood, which is also exempt from the definition of MSW in this section.

Regulation 61-62.1.II.A.1.a, shall be revised as follows:

a. Except as allowed under Section II.A.1.b and A.1.c below, any person who plans to construct, alter, or add to a source of air contaminants, including installation of any device for the control of air contaminant discharges, shall first obtain a construction permit from the Department prior to commencement of construction.

Regulation 61-62.1.II.A.1.c, shall be revised as follows:

c. The owners or operators of sources not requesting to use federally enforceable construction permit conditions to limit potential to emit, sources not subject to regulations with more stringent start of construction limitations, or sources not otherwise exempt from permit requirements, may undertake the following on-site activities prior to obtaining a construction permit:

- i. Planning;
- ii. Engineering and design;
- iii. Geotechnical investigation;
- iv. Site land clearing and grading;
- v. Setting up temporary trailers to house construction staff and contractor personnel;
- vi. Ordering of equipment and materials;
- vii. Receipt and storing of equipment;
- viii. Pouring of the foundation up to and including the mounting pads and slab on grade;
- ix. Relocation of utilities;
- x. For existing sources, relocation/installation of piping, electrical service, and instrumentation;
- xi. Temporary power for the site (such as power lines);
- xii. Site drainage including ditches and culverts;
- xiii. Temporary dewatering activities associated with the excavations;
- xiv. Temporary gravel (Right Out of Crusher (ROC)) road beds for the site;
- xv. Soil only excavations;
- xvi. Temporary telecommunications for the site (such as telephone and internet); and
- xvii. Security fencing related to the storage of equipment and materials.

Regulation 61-62.1.II.A.1.d, shall be revised as follows:

d. In the event that the source does not qualify for issuance of a construction permit, the owners or operators accept the financial risk of commencing the activities listed in Section II.A.1.c.i through A.1.c.xvii above.

Regulation 61-62.1.II.B, shall be revised as follows:**B. Exemptions from the Requirement to Obtain a Construction Permit**

1. No construction permits shall be required for the sources listed in Section II.B.1.a through B.1.c below, which burn virgin fuel and which were constructed prior to February 11, 1971, and which are not located at a facility that meets the definition of a major source as defined in Regulation 61-62.70.2(r); however, modifications at these facilities may trigger the requirement to obtain a construction permit.

- a. Natural gas boilers.
- b. Oil-fired boilers of 50×10^6 British thermal unit per hour (Btu/hr) rated input capacity or smaller.
- c. Coal-fired boilers of 20×10^6 Btu/hr rated input capacity or smaller.

2. No construction permits shall be required for the sources listed in Section II.B.2.a through B.2.h below, unless otherwise specified by Regulation 61-62.70 or any other state or federal requirement. A source's exemption status may change upon the promulgation of new regulatory requirements applicable to any of the sources listed in Section II.B.2.a through B.2.g, or to any other sources that have been determined to have total uncontrolled emissions less than the thresholds in Section II.B.2.h, or to any similar sources that have been granted an exemption by the Department.

- a. Boilers and space heaters of less than 1.5×10^6 Btu/hr rated input capacity which burn only virgin liquid fuels or virgin solid fuels.
- b. Boilers and space heaters of less than 10×10^6 Btu/hr rated input capacity which burn only virgin gas fuels.
- c. Comfort air-conditioning or ventilation systems.
- d. Motor vehicles.
- e. Laboratory hoods.
- f. Emergency power generators as described below:
 - i. Generators of less than or equal to 150 kilowatt (kW) rated capacity.
 - ii. Generators of greater than 150 kW rated capacity designated for emergency use only and are operated a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of use such as an hour meter.
- g. Sources emitting only steam, air, nitrogen, oxygen, carbon dioxide, or any physical combination of these.

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h. Sources with a total uncontrolled potential to emit (PTE) of less than five (5) tons per year each of particulates, sulfur dioxide, nitrogen oxides, and carbon monoxide; and a total uncontrolled PTE of less than 1000 pounds per month (lbs/month) of VOCs will not require construction permits. Unless otherwise exempt, sources may be exempted under this section at higher emission levels if there is a demonstration that there are no applicable limits or requirements. These applicable requirements include federally applicable limits or requirements. However, these sources may be required to be included in any subsequent construction or operating permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit. For toxic air pollutant exemptions, refer to Regulation 61-62.5, Standard No. 8. Emissions calculations and any other information necessary to document qualification for this exemption must be maintained onsite and provided to the Department upon request.

3. The Department will place the exempt sources listed in Section II.B.2.a through B.2.g above, and other sources that have been determined will not interfere with the attainment or maintenance of any state or federal standard, on a list of sources to be exempted without further review. The Department may develop emission thresholds for exemption that have been determined will not interfere with the attainment or maintenance of any state or federal standard, to be maintained with the list of sources to be exempted without further review. This list of sources and source emission thresholds that are exempt without further review from the requirement to obtain a construction permit will be maintained by the Department and periodically published in the South Carolina State Register for use by the public and the regulated community. Requests to the Department may be made to add sources to the list.

4. Sources with only fugitive emissions must submit source information, and the need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not be limited to, the nature and amount of the pollutants, location, proximity to residences and commercial establishments, etc.

5. Sources of VOCs greater than 1000 lbs/month may not require a permit. This determination will take into consideration, but will not be limited to, applicability to state and federal requirements. No waiver will be permissible if federal requirements apply unless otherwise exempt. Emissions calculations and any other information necessary to document qualification for this exemption and the need for permit(s) will be made by the Department on a case-by-case basis. Exempt sources of VOCs may be required to be included in any subsequent construction or operating permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit.

6. Requests for exemption from the requirement to obtain a construction permit, for new sources similar to sources already on the Department maintained list established in Section II.B.3 above, or for modifications to existing equipment, including the reconstruction, relocation, and replacement of existing equipment, which may qualify for exemption as per Section II.B.2.h and Section II.B.4 above, shall include the following information:

- a. A complete description of the existing equipment and proposed modification;
- b. The pollutant(s) being emitted and any deviation from the parameters provided in earlier permit applications, permit exemptions, and issued permits;
- c. Any ambient air quality demonstrations needed for Regulation 61-62.5, Standards No. 2, No. 7, and No. 8; and
- d. A regulatory review to demonstrate the project is not a CAA Title I modification nor subject to Regulation 61-62.5, Standards No. 7 and No. 7.1.

7. The construction permitting exemptions in Section II.B do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements. The Department reserves the right to

require a construction permit, and the need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not be limited to, the nature and amount of the pollutants, location, proximity to residences and commercial establishments, etc.

Regulation 61-62.1.II.C.3, shall be revised as follows:

3. Construction permit applications shall provide the information described in Section II.C.3.a through C.3.p. This information should be submitted on Department forms, but project specific information may need to be provided in addition to that requested in applicable forms.

Regulation 61-62.1.II.C.3.a, shall be revised as follows:

a. The facility name; and the name, mailing address, and telephone number of the owner or operator for the facility;

Regulation 61-62.1.II.D, shall be revised as follows:

D. General Construction Permits

1. The Department may develop and issue general construction permits applicable to similar sources for new construction projects or minor modifications to existing sources.

2. General construction permits shall incorporate all requirements applicable to the construction of similar sources and shall identify criteria by which sources may qualify for coverage under a general construction permit.

3. Sources may submit a construction permit application to the Department with a request for coverage under the conditions and terms of a general construction permit for similar sources. The Department shall grant a general construction permit to sources certifying qualification for and agreeing to the conditions and terms of a general construction permit for similar sources.

4. Sources shall be subject to enforcement action for operation without a valid permit if a source is later determined not to qualify for coverage under a general construction permit.

5. The Department may grant a source's request for authorization to operate under a general construction permit, but such a grant shall be a final permit action for purposes of judicial review.

6. The permit application for general construction permits may deviate from the requirements of Section II.C above, provided that such application includes all information necessary to determine qualification for, and to assure compliance with, the general permit.

7. A source that qualifies for coverage under a Department issued general construction permit may submit a construction permit application to the Department and request an individual construction permit in lieu of coverage under a general construction permit.

Regulation 61-62.1.II.E.1.b, shall be revised as follows:

b. Stationary sources requesting a synthetic minor construction permit shall submit a complete permit application package to the Department as prescribed by Section II.E.5 below.

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Regulation 61-62.1.II.E.1.c, shall be revised as follows:

c. Stationary sources requesting a synthetic minor construction permit shall undergo the public participation procedures of Section II.N below.

Regulation 61-62.1.II.E.1.e, shall be revised as follows:

e. In the event of a denial of a synthetic minor construction permit application, the Department shall notify the applicant in writing of the reasons for the denial. The Department shall not accept a subsequent synthetic minor construction permit application until the applicant has addressed the concerns specified by the Department which caused the denial. The source shall correct all deficiencies noted by the Department within sixty (60) calendar days of receiving notice of the denial, or submit a complete major source construction permit application, as prescribed by Section II.C above, if the source desires to proceed with the project.

Regulation 61-62.1.II.E.2.a, shall be revised as follows:

a. A stationary source desiring to restrict its potential to emit shall submit a written request to the Department for a federally enforceable construction permit conditioned to constrain the operation of the source, along with a completed construction permit application package as prescribed by Section II.E.5 below. The construction of the new or modified source shall not commence until the source has received an effective permit to construct.

Regulation 61-62.1.II.E.2.b, shall be revised as follows:

b. The owner or operator shall submit written notification to the Department of the date construction is commenced, postmarked no later than thirty (30) days after such date, and written notification of the actual date of initial startup of each new or altered source, postmarked within fifteen (15) days after such date. A written request to obtain an operating permit shall be submitted to the Department no later than fifteen (15) days after the actual date of initial startup of each new or altered source in accordance with Section II.F below. A satisfactory compliance inspection by a Department representative may precede the issuance of an operating permit for any newly constructed or modified source.

Regulation 61-62.1.II.E.3.a, shall be revised as follows:

a. Synthetic minor construction permits shall contain the standard permit conditions listed in Section II.J.1 below and any special permit conditions required to verify a source's compliance with the emissions limitations and operational requirements.

Regulation 61-62.1.II.E.4, shall be revised as follows:

4. General Synthetic Minor Construction Permits

a. The Department may, after notice and opportunity for public participation provided under Section II.N below, issue a general synthetic minor construction permit applicable to similar sources.

b. Any general synthetic minor construction permit shall incorporate all requirements applicable to the construction of similar synthetic minor sources and shall identify criteria by which sources may qualify for the general permit.

c. Sources may submit a permit application to the Department with a request for coverage under the conditions and terms of a general synthetic minor construction permit for similar sources. The Department shall grant the general synthetic minor construction permit to sources certifying qualification for and agreeing to the conditions and terms of the general synthetic minor construction permit for similar sources.

d. The source shall be subject to enforcement action for operation without a valid permit if the source is later determined not to qualify for the conditions and terms of the general synthetic minor construction permit.

e. The Department may grant a source's request for authorization to operate under a general permit without further public notice, but such a grant shall be a final permit action for purposes of judicial review.

f. The Department shall provide timely notice to the public of any authorization given to a facility to operate under the terms of a general permit. Such notice may be made on a periodic, summarized basis covering all facilities receiving authorization since the last notice.

Regulation 61-62.1.II.E.5.a, shall be revised as follows:

a. In addition to the minimum information required by Section II.C.3 above, any facility applying for a synthetic minor construction permit must also provide the following:

Regulation 61-62.1.II.E.5.b, shall be revised as follows:

b. The permit application for general synthetic minor construction permits may deviate from the requirements of Section II.E.5.a provided that such application includes all information necessary to determine qualification for, and to assure compliance with, the general permit.

Regulation 61-62.1.II.F.2, shall be revised as follows:

2. The owner/operator or professional engineer in charge of the project shall certify that, to the best of his/her knowledge and belief and as a result of periodic observation during construction, the construction under application has been completed in accordance with the specifications agreed upon in the construction permit issued by the Department. If construction is certified as provided above, the owner or operator may operate the source in compliance with the terms and conditions of the construction permit until the operating permit is issued by the Department. If construction is not built as specified in the permit application and associated construction permit(s), the owner/operator must submit to the Department a complete description of modifications that are at variance with the documentation of the construction permitting determination prior to commencing operation. Construction variances that would trigger additional requirements that have not been addressed prior to start of operation shall be considered construction without a permit.

Regulation 61-62.1.II.F.3.b, shall be revised as follows:

b. For sources not subject to Regulation 61-62.70, or not yet covered by an effective Title V operating permit, the owner or operator shall submit a written request for a new or revised operating permit to cover any new, or altered source, postmarked no later than fifteen (15) days after the actual date of initial startup of each new or altered source.

Regulation 61-62.1.II.G.1, shall be revised as follows:

1. The requirements of Section II.G shall apply to those sources that request a federally enforceable permit to limit their potential to emit to less than major source thresholds.

Regulation 61-62.1.II.G.2, shall be revised as follows:

2. General Provisions

a. Any stationary source that satisfies the definition of a major source may request a federally enforceable conditional major operating permit to limit the source's potential to emit and become a conditional major

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source. Any stationary source that has received a synthetic minor construction permit to limit the source's potential to emit below major source threshold levels, that is not required to obtain a Title V operating permit, shall be issued a conditional major operating permit to consolidate the source's limitations on potential to emit and shall be considered a conditional major source.

b. Stationary sources requesting a conditional major operating permit shall submit a complete request for a new or revised operating permit to the Department as required by Section II.G.6 below.

c. Stationary sources requesting an original conditional major operating permit shall undergo the public participation procedures of Section II.N below.

d. Submission of a request for renewal meeting the requirements in Section II.H below, shall allow the owner or operator to continue operating pursuant to the most recent conditional major operating permit until such time as the Department has taken final action on the request for renewal.

e. The Department shall act on a request for a conditional major operating permit and shall notify the source in writing of its approval, conditional approval, or denial.

f. In the event of a denial of a conditional major operating permit request, the Department shall notify the source in writing of the reasons for the denial. The Department shall not accept a subsequent conditional major operating permit request until the source has addressed the concerns specified by the Department which caused the original denial. The source shall correct all deficiencies noted by the Department or submit a complete permit application in accordance with Regulation 61-62.70 in order to receive a Title V operating permit.

Regulation 61-62.1.II.G.3.a, shall be revised as follows:

a. Any owner or operator desiring to be permitted as a conditional major source shall submit an operating permit request containing the information identified in Section II.G.6 below. A federally enforceable conditional major operating permit shall constrain the operations of the source such that potential emissions fall below applicable regulatory levels and therefore exclude the source from the requirements to have a Title V operating permit.

Regulation 61-62.1.II.G.4.a, shall be revised as follows:

a. Any owner or operator who plans to construct, alter, or add to a source of air contaminants, including the installation of any device for the control of air contaminant discharges, and desires a conditional major operating permit shall provide a written request to the Department for a federally enforceable synthetic minor construction permit conditioned to constrain the operation of the source, along with a complete construction permit application package containing the information identified in Section II.G.6 below. The construction of the new or modified source shall not commence until the source has received an effective permit to construct from the Department.

Regulation 61-62.1.II.G.4.b, shall be revised as follows:

b. A written request to obtain a conditional major operating permit shall be submitted to the Department, postmarked no later than fifteen (15) days after the actual date of initial startup of each new or altered source. This request shall include any additional information required in Section II.G.6 below. These facilities will be issued conditional major operating permits without further public notice if no substantive changes to limitations are required. A satisfactory compliance inspection by a Department representative may precede the issuance of an operating permit for any newly constructed or modified source.

Regulation 61-62.1.II.G.5.a, shall be revised as follows:

a. Conditional major operating permits shall contain the standard permit conditions listed in Section II.J.1 below, and any special permit conditions required to verify a source's compliance with the emissions limitations and operational requirements.

Regulation 61-62.1.II.G.6.a, shall be revised as follows:

a. In addition to the minimum information required by Section II.C.3 above, any facility requesting a conditional major operating permit must also provide the following:

Regulation 61-62.1.II.G.6.b, shall be revised as follows:

b. The request for general conditional major operating permits may deviate from the requirements of Section II.G.6 provided that such request includes all information necessary to determine qualification for, and to assure compliance with, the general permit.

Regulation 61-62.1.II.G.7, shall be revised as follows:

7. General Conditional Major Operating Permits

a. The Department may, after notice and opportunity for public participation provided under Section II.N below, issue a general conditional major operating permit applicable to similar sources.

b. Any general conditional major operating permit shall incorporate all requirements applicable to the operation of similar conditional major sources and shall identify criteria by which sources may qualify for a general permit.

c. Sources may submit a permit application to the Department with a request for coverage under the conditions and terms of a general conditional major operating permit for similar sources. The Department shall grant a general conditional major operating permit to sources certifying qualification for and agreeing to the conditions and terms of a general conditional major operating permit for similar sources.

d. The source shall be subject to enforcement action for operation without a valid permit if the source is later determined not to qualify for the conditions and terms of a general conditional major operating permit.

e. The Department may grant a source's request for authorization to operate under a general permit without further public notice, but such a grant shall be a final permit action for purposes of judicial review.

f. The Department shall provide timely notice to the public of any authorization given to a facility to operate under the terms of a general permit. Such notice may be made on a periodic, summarized basis covering all facilities receiving authorization since the last notice.

Regulation 61-62.1.II.H, shall be revised as follows:

H. Operating Permit Renewal Requests

1. Any source that wishes to have its operating permit renewed must submit a written request to the Department.

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2. The provisions of Section II.H shall apply only to those sources not subject to Regulation 61-62.70. For sources covered by an effective Title V operating permit, the operating permit renewal request required by Regulation 61-62.70 shall serve as the request to operate for the purposes of this regulation.

3. For sources not subject to Regulation 61-62.70, the owner or operator shall submit an operating permit renewal request to the Department no later than ninety (90) days prior to the operating permit expiration date. The source may be inspected by the Department in order to decide whether to renew the permit. Past records of compliance and future probability of compliance will be considered in making the decision regarding renewal.

4. Operating permit renewal requests shall include a description of any changes at the facility that have occurred since issuance of the last operating permit that may affect the operating permit or operating permit review. In general, the description shall include any addition, alteration, or removal of sources, including sources exempt from construction permit requirements; addition, alteration, or removal of emission limitations; any changes to monitoring, recordkeeping, or reporting requirements; and any changes or additions to special permit conditions. The following items should be addressed as part of the operating permit renewal request:

a. The facility name; and the name, mailing address, and telephone number of the owner or operator for the facility;

b. The location of the facility including its street address and the name, mailing address, and telephone number of the facility's contact person;

c. The facility's Federal Employer Identification Number or Federal Tax ID Number;

d. Any change to the SIC Code or NAICS Codes of the products or product lines;

e. Any construction permits to be incorporated into the operating permit, either whole or in part, any listed information descriptions that have been removed or decommissioned, and any changes to exempted sources listed in the current operating permit;

f. Any change to the facility's planned operating schedules or description of the facility's current and/or proposed processes, including the physical and chemical properties and feed rate of the materials used and produced (in lb/hr) from which the facility determined actual and potential emissions;

g. Any changes to current process flow diagram or production process layout shall be addressed, showing the flow of materials and intermediate and final products. Updated process flow diagram or production process layout must identify major equipment, machines, and process steps or product lines within the production process; all product streams; all exhaust streams (emission points) including fugitive within the production process; all waste streams; and all control devices including inherent process control devices used within the production process;

h. A description, including the CAS number (if applicable), of all emissions from each source. Mass emission data and emission calculations, including the potential uncontrolled and controlled mass emission rate of each criteria pollutant and other air contaminants such as VOCs, TAPs, and HAPs emitted from each source. Emission calculations must be based on proper documentation that supports the basis of the emission rates such as stack test data, AP-42 emission factors, material balance, and/or engineering estimates. All assumptions used in the emission calculations must be provided. Fugitive emissions (for example, emissions from filling operations, pumps, valves, flanges, etc.) must be included in the emission calculations. A summary of facility-wide potential uncontrolled and controlled emissions with a regulatory applicability determination must be provided. If existing data supplied to the Department remains correct, identify documents referenced to comply with this requirement;

i. If no longer accurate, a revised air dispersion modeling analysis or other information demonstrating that emissions from the facility will not interfere with the attainment or maintenance of any ambient air quality standard. As needed, include a description of each stack or vent related to the proposed and/or existing source(s), minimum anticipated height(s) above ground, maximum anticipated internal dimensions, discharge orientation(s), exhaust volume flow rate(s), exhaust gas temperature(s), and rain protection device(s), if any. If existing data supplied to the Department remains correct, identify document(s) referenced to comply with this requirement; and

j. Other information as may be necessary for proper evaluation of the operating permit request.

Regulation 61-62.1.II.1.a, shall be revised as follows:

a. The Department may develop registration permits applicable to similar sources. Any registration permit developed shall specify compliance with all requirements applicable to the construction and operation of that specific category of stationary sources and shall identify criteria by which sources may qualify for the registration permit.

Regulation 61-62.1.II.1.2, shall be revised as follows:

2. Application for Coverage Under a Registration Permit

a. A source that qualifies may elect to apply to the Department for coverage under a registration permit in lieu of a construction and operating permit as provided in Section II.A and F above. The Department shall grant a registration permit to sources certifying qualification for and agreeing to the conditions and terms of the registration permit applicable to similar sources.

b. The source shall be subject to enforcement action for operation without a valid permit if the source is later determined not to qualify for the conditions and terms of a registration permit. The Department reserves the right to require a construction and/or operating permit; the requirement for a permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but may not be limited to, the nature and amount of the pollutants, location, and proximity to residences and commercial establishments.

c. The Department may grant a source's request for authorization to operate under a registration permit, but such a grant shall be a final permit action for purposes of judicial review.

Regulation 61-62.1.II.1.3.a, shall be revised as follows:

a. Registration permits shall contain any applicable permit conditions listed in Section II.J below as the Department finds appropriate.

Regulation 61-62.1.II.1.4, shall be added as follows:

4. Any registration permit may be reopened by the Department for cause or to include any new standard or regulation which becomes applicable to a source during the life of the permit.

Regulation 61-62.1.II.J, Title, shall be revised as follows:

J. Permit Conditions

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Regulation 61-62.1.II.J.1.g, shall be revised as follows:

g. A copy of the Department issued construction and/or operating permit must be kept readily available at the facility at all times. The owner or operator shall maintain such operational records; make reports; install, use, and maintain monitoring equipment or methods; sample and analyze emissions or discharges in accordance with prescribed methods at locations, intervals, and procedures as the Department shall prescribe; and provide such other information as the Department reasonably may require. All records required to demonstrate compliance with the limits established under a permit shall be maintained on site for a period of at least five (5) years from the date the record was generated.

Regulation 61-62.1.II.L.2, shall be revised as follows:

2. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions in Section II.L.3 below are met.

Regulation 61-62.1.II.L.3.a, shall be revised as follows:

a. An emergency occurred and the owner or operator can identify the cause(s) of the emergency;

Regulation 61-62.1.II.L.3.c, shall be revised as follows:

c. During the period of the emergency, the owner or operator took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in the permit; and

Regulation 61-62.1.II.L.3.d, shall be revised as follows:

d. The owner or operator gave a verbal notification of the emergency to the Department within twenty-four (24) hours of the time when emission limitations were exceeded, followed by a written report within thirty (30) days. The written report shall include, at a minimum, the information required by Section II.J.1.c.i through J.1.c.viii above. The written report shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

Regulation 61-62.1.II.L.4, shall be revised as follows:

4. In any enforcement action, the owner or operator seeking to establish the occurrence of an emergency has the burden of proof.

Regulation 61-62.1.II.M, shall be revised as follows:

M. Transfer of Ownership/Operation

Within thirty (30) days of the transfer of ownership/operation of a facility, the current permit holder and prospective new owner/operator shall submit to the Department a written request for transfer of the source operating or construction permit(s). The written request for transfer of the source operating or construction permit(s) shall include any changes pertaining to the facility name; the name, mailing address, and telephone number of the owner or operator for the facility; and any proposed changes to the permitted activities of the source. Transfer of the operating or construction permit(s) will be effective upon written approval by the Department.

Regulation 61-62.1.II.N, shall be revised as follows:

N. Public Participation Procedures

1. When determined to be appropriate by the Department (or specified by regulation), notice of permitting activity shall be provided to the public and other entities for their review and comment. Public notice shall be given by publication in a newspaper of general circulation in the area where the source is located, or by posting on the Department's website, or by publication in the South Carolina State Register, and to persons on a mailing list developed by the Department, including those who request in writing to be on the list. The Department may use other means of public notice.

2. The notice shall include the following:

- a. The name and physical address of the facility;
- b. The name and address of the Department;
- c. Applicable activities involved in the permit action;
- d. Applicable emission change involved in any permit modification;
- e. The name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, and all other materials available to the Department that are relevant to the permit decision, except for information entitled to confidential treatment (the contents of any proposed or draft permit shall not be treated as confidential information);
- f. A brief description of the comment procedures; and
- g. The time and place of any public hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled).

3. The Department shall provide at least thirty (30) days for public and EPA comment and shall give notice of any public hearing at least thirty (30) days in advance of the hearing.

a. The Department shall keep a record of the commenters and the comments made during the public comment period.

b. The Department shall consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application.

4. A newly constructed or modified source issued a federally enforceable final construction permit will not require an additional public comment period and/or hearing to obtain an operating permit, unless the source proposes a change in the original construction and/or operational plan, prior to commencing construction, which the Department determines would require an additional public comment period and/or hearing.

5. Any proposed new or modified stationary source required to undergo a public comment period shall not commence any construction until all public participation procedures of this section are completed, and the source has received an effective construction permit from the Department.

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6. Maintenance activities, repairs, and replacements which the Department determines to be routine for that source category shall not, by themselves, be required to undergo the public participation procedures of Section II.N.

Regulation 61-62.1.II.O, Introductory Text, shall be revised as follows:

Upon presentation of credentials and other documents as may be required by law, the owner or operator shall allow the Department or an authorized representative to perform the following:

Regulation 61-62.1.III, shall be revised as follows:

SECTION III – EMISSIONS INVENTORY AND EMISSIONS STATEMENTS

A. General

1. An 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. The requirements of this section notwithstanding, an emissions inventory may be required from any source at any time.

2. An emissions statement is a less detailed statement which focuses on emissions estimates for pollutants associated with a nonattainment designation.

B. Emissions Inventory Reporting Requirements

1. Beginning with the effective date of this regulation, sources must submit an emissions inventory for the previous calendar year by March 31 at a frequency as outlined below:

a. Type A Sources are Title V Sources with potential annual emissions greater than or equal to any of the emission thresholds listed for Type A Sources in Table 1 below. Type A Sources must submit an emissions inventory every year.

Table 1 - Minimum Point Source Reporting Thresholds by Pollutant (tpy potential to emit¹)	
Pollutants	Type A Sources: Annual Cycle
SO _x	≥2500
VOC	≥250
NO _x	≥2500
CO	≥2500
Pb	---
PM ₁₀	≥250
PM _{2.5}	≥250
NH ₃	≥250

¹ Tons per year (tpy) potential to emit means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, will be treated as part of its design if the limitation is enforceable by the Administrator and included in the source’s permit prior to the end of the reporting year.

b. All other Title V Sources with potential annual emissions less than the emission thresholds listed for Type A Sources in Table 1 above must submit emissions inventories every three (3) years beginning with calendar year 2014 data.

c. Nonattainment area (NAA) Sources are sources located in a NAA with potential annual emissions during any year of the three (3) year cycle greater than or equal to any of the emission thresholds listed for NAA Sources in Table 2 below. These sources that are not also Type A Sources must submit emissions inventories every three (3) years beginning with calendar year 2014 data.

Table 2 - Minimum Point Source Reporting Thresholds by Pollutant (tpy potential to emit¹)	
Pollutant	NAA² Sources: Three-year Cycle
SO _x	≥100
VOC	≥100 (moderate O ₃ NAA)
	≥50 (serious O ₃ NAA)
	≥25 (severe O ₃ NAA)
	≥10 (extreme O ₃ NAA)
NO _x	≥100 (all O ₃ NAA)
CO	≥100 (all O ₃ NAA)
	≥100 (all CO NAA)
Pb	≥5
PM ₁₀	≥100 (moderate PM ₁₀ NAA)
	≥70 (serious PM ₁₀ NAA)
PM _{2.5}	≥100
NH ₃	≥100

¹ Tons per year (tpy) potential to emit means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, will be treated as part of its design if the limitation is enforceable by the Administrator and included in the source’s permit prior to the end of the reporting year.

² Special point source reporting thresholds apply for certain pollutants by type of NAA. The pollutants by nonattainment area are:
 Ozone: VOC, NO_x, and CO;
 Carbon Monoxide: CO; and
 Particulate matter less than 10 microns: PM₁₀.

2. Other Requirements

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a. Unless otherwise indicated, all emissions inventories must be submitted to the Department by March 31 following the year of inventory. All applicable information must be recorded in the current format for reporting emissions data provided by the Department.

b. All newly permitted and constructed Title V Sources which have obtained or are in the process of obtaining a Title V permit and all newly permitted and constructed NAA Sources must complete and submit to the Department an initial emissions inventory for the source's first partial calendar year of operation and an emissions inventory for the source's first full calendar year of operation.

i. The partial year emissions inventory must be submitted to the Department no later than March 31 of the year following the source's partial year of operation and must include an emissions inventory from the source's operation start date through December 31 of the same year.

ii. The first full calendar year emissions inventory must be submitted to the Department by March 31 of the year following the source's first calendar year of operation.

iii. Sources must submit future emissions inventories on the schedule as described in paragraph B.1.a, paragraph B.1.b, and paragraph B.1.c of this section.

c. Any existing sources that are determined by the Department to be subject to Regulation 61-62.70, Title V Operating Permit Program, and/or NAA Sources must complete and submit to the Department an emissions inventory for the previous calendar year within ninety (90) days. These sources must then submit future emissions inventories on the schedule as described in paragraph B.1.a, paragraph B.1.b, and paragraph B.1.c of this section.

d. 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 source's emissions. These sources may submit a new emissions inventory following the first full calendar year of operation after the modification. These sources must then submit future emissions inventories on the schedule described in paragraph B.1.a, paragraph B.1.b, and paragraph B.1.c of this section.

e. Information required in an emissions inventory submittal to the Department must include 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 in the current format for reporting emissions data provided by the Department;
- x. Any desired information listed in 40 CFR 51 Subpart A (December 17, 2008), that is requested by the Department;
- xi. Emissions data from all regulated pollutants; and
- xii. Any additional information reasonably related to determining if emissions from an air source are causing standards of air quality to be exceeded.

f. 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.

g. Emission estimates from insignificant activities listed on a source's permit are 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 must include these emissions in their next required emissions inventory submittal.

h. Copies of all records and reports relating to emissions inventories as required in this section must be retained by the owner/operator at the source for a minimum of five (5) years.

C. Emissions Statement Requirements

1. Sources in areas designated nonattainment for an ozone National Ambient Air Quality Standard (NAAQS) must submit to the Department by March 31 for the previous calendar year an emissions statement which includes emissions estimates for both VOCs and nitrogen oxides (NO_x) beginning with the effective date of this regulation.

2. The statement must contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement.

3. All applicable information must be recorded in the current format for reporting emissions data provided by the Department.

4. Copies of all records and reports relating to emissions statements as required in this section must be retained by the owner or operator at the source for a minimum of five (5) years.

Regulation 61-62.1.IV.A.1, shall be revised as follows:

1. This section shall apply to the owner, operator, or representative of any source which conducts:

Regulation 61-62.1.IV.B.1, shall be revised as follows:

1. Prior to conducting a source test subject to this section, the owner, operator, or representative shall ensure that:

a. A written site-specific test plan, including all of the information required in Section IV.C below, has been developed and submitted to the Department. If the Department has previously approved a site-specific test plan, the owner, operator, or representative may submit a letter which references the approved plan and which includes a thorough description of amendments to the plan; and

b. Written Department approval of the site-specific test plan or amended test plan, methods, and procedures has been received.

Regulation 61-62.1.IV.B.3, shall be revised as follows:

3.a. The owner, operator, or representative of a source proposing to use alternative source test methods shall ensure that the alternative source test method is either validated according to EPA Reference Method 301 (40 CFR 63, Appendix A, December 29, 1992) and any subsequent amendments or editions, or approved by the Department.

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b. The owner, operator, or representative shall ensure that requests for approval of alternative source test methods are submitted to the Department along with the site-specific test plan, and that the submission contains all of the information required by Section IV.C below.

Regulation 61-62.1.IV.B.5, shall be revised as follows:

5.a. The owner, operator, or representative shall submit site-specific test plans or a letter which amends a previously approved test plan at least forty-five (45) days prior to the proposed test date. Sources conducting tests for substances listed in Regulation 61-62.5, Standard No. 8, shall submit site-specific test plans or a letter which amends a previously approved test plan at least sixty (60) days prior to the proposed test date.

b. If the only amendments to a previously approved test plan are to facility information included in Section IV.C.1.a and C.1.b below, the requirement in Section IV.B.5.a above will not apply. The owner, operator, or representative, however, shall submit the amendments at least two (2) weeks prior to the proposed test date.

Regulation 61-62.1.IV.B.6, shall be revised as follows:

6. Within thirty (30) days of site-specific test plan receipt, the Department will notify the owner, operator, or representative of site-specific test plan approval or denial or will request additional information.

Regulation 61-62.1.IV.B.7, shall be revised as follows:

7. The owner, operator, or representative shall submit any additional information requested by the Department necessary to facilitate the review of the site-specific test plan.

Regulation 61-62.1.IV.B.8, shall be revised as follows:

8. Approval of a site-specific test plan for which an owner, operator, or representative fails to submit any additional requested information will be denied.

Regulation 61-62.1.IV.B.9, shall be revised as follows:

9. Neither the submission of a site-specific test plan, nor the Department's approval or disapproval of a plan, nor the Department's failure to approve or disapprove a plan in a timely manner shall relieve an owner, operator, or representative of legal responsibility to comply with any applicable provisions of this section or with any other applicable federal, state, or local requirement or prevent the Department from enforcing this section.

Regulation 61-62.1.IV.C, Introductory Text, shall be revised as follows:

A site-specific test plan shall include, at a minimum, the following (Section IV.C.1 through C.8):

Regulation 61-62.1.IV.C.1, shall be revised as follows:

1. General Information:

Regulation 61-62.1.IV.C.3.a, shall be revised as follows:

a. Description of the process including a description of each phase of batch or cyclic processes and the time required to complete each phase;

Regulation 61-62.1.IV.C.7.d, shall be revised as follows:

- d. Procedure for conducting leak checks on vacuum lines, pitot tubes, flexible bags, orsats, etc.;

Regulation 61-62.1.IV.C.7.i, shall be revised as follows:

- 1. Methods for recovery checks, field blanks, lab blanks, reagent blanks, proof rinse blanks, and analytical blanks;

Regulation 61-62.1.IV.C.7.m, shall be revised as follows:

- m. Proposed range of recoveries for data acceptability and method of data interpretation if sample recovery is not within the proposed range; and

Regulation 61-62.1.IV.C.7.n, shall be added as follows:

- n. Procedure for obtaining, analyzing, and reporting source test method performance audit samples and results.

Regulation 61-62.1.IV.D, shall be revised as follows:

D. Notification and Conduct of Source Tests

1. Prior to conducting a source test subject to this section, the owner, operator, or representative shall ensure that a complete written notification is submitted to the Department at least two (2) weeks prior to the test date. Submission of a site-specific test plan or amendments to a previously approved test plan does not constitute notification. Requirements for a complete notification include the following:

- a. Facility name, permit number, mailing address, physical address, and contact name and phone number;
- b. Source(s) being tested, source identification number(s), and pollutant(s) being tested;
- c. Proposed test date and start time for each source being tested; and
- d. Approved test plan being used to conduct the test identified by Department approval date.

2. In the event the owner, operator, or representative is unable to conduct the source test on the date specified in the notification, the owner, operator, or representative shall notify the Department as soon as practical by telephone and follow up in writing within thirty (30) days. Telephone notification shall include a description of the circumstance(s) causing the cancellation of the test, and a projected retest date. The written follow-up report shall include a description of the condition(s) which prevented the source test from being conducted, and when applicable, what corrective action was performed, or what equipment repairs were required.

3. Rescheduling of canceled source tests must meet the two-week notice requirement. However, shorter notification periods may be allowed subject to Department approval.

4. All tests shall be conducted by or under the direction of a person qualified by training and/or experience in the field of air pollution testing or, where required by federal regulation, meeting the minimum competency requirements for air emissions testing as specified in ASTM D7036-04, Standard Practice for Competence of Air Emission Testing Bodies.

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5. Unless approved otherwise by the Department, the owner, operator, or representative shall ensure that source tests are conducted while the source is operating at the maximum expected production rate or other production rate or operating parameter which would result in the highest emissions for the pollutants being tested. Examples of the operating parameters that may affect emission rates are: type and composition of raw materials and fuels, isolation of control equipment modules, product types and dimensions, thermal oxidizer combustion temperature, atypical control equipment settings, etc. Some sources may have to spike fuels or raw materials to avoid being permitted at a more restrictive feed or process rate. Any source test performed at a production rate less than the rated capacity may result in permit limits on emission rates, including limits on production if necessary.

6. When conducting a source test subject to this section, the owner, operator, or representative of a source shall provide the following:

- a. Department access to the facility to observe source tests;
- b. Sampling ports adequate for test methods;
- c. Safe sampling site(s);
- d. Safe access to sampling site(s);
- e. Utilities for sampling and testing equipment; and
- f. Equipment and supplies necessary for safe testing of a source.

Regulation 61-62.1.IV.C.E, shall be revised as follows:

E. Source Test Method Performance Audit Program

1. The Department may request that samples collected during any source tests be split with the Department for analysis by an independent or Department laboratory. Any request for split samples will be made in advance of the source test.

2. Performance testing shall include a test method performance audit (PA) during the performance test if a PA sample is commercially available.

a. PAs consist of blind audit samples supplied by an accredited audit sample provider (AASP) and analyzed during the performance test in order to provide a measure of test data bias.

b. An “accredited audit sample provider (AASP)” is an organization that has been accredited to prepare audit samples by an independent, third party accrediting body.

3. The source owner, operator, or representative of the tested facility shall obtain an audit sample, if commercially available, from an AASP for each test method used for regulatory compliance purposes.

a. No audit samples are required for the following test methods: Methods 3A and 3C of Appendix A-2 of 40 CFR 60; Methods 6C, 7E, 9, and 10 of Appendix A-4 of 40 CFR 60; Method 18 of Appendix A-6 of 40 CFR 60; Methods 20, 22, and 25A of Appendix A-7 of 40 CFR 60; and Methods 303, 318, 320, and 321 of Appendix A of 40 CFR Part 63.

b. If multiple sources at a single facility are tested during a compliance test event, only one audit sample is required for each method used during a compliance test.

c. Upon request, the Department may waive the requirement to include an audit sample if the Department determines that an audit sample is not necessary. A waiver of the performance audit requirements to conduct a PA for a particular source does not constitute a waiver of performance audit requirements for future source tests.

d. “Commercially available” means that two or more independent AASPs have blind audit samples available for purchase. If the source owner, operator, or representative cannot find an audit sample for a specific method, the owner, operator, or representative shall consult the EPA Web site at the following URL, <http://www.epa.gov/ttn/emc>, to confirm whether there is an AASP that can supply an audit sample for that method.

e. If the EPA Web site does not list an available audit sample at least 60 days prior to the beginning of the compliance test, the source owner, operator, or representative shall not be required to include an audit sample as part of the quality assurance program for the compliance test.

f. When ordering an audit sample, the source, operator, or representative shall give the AASP an estimate for the concentration of each pollutant that is emitted by the source or the estimated concentration of each pollutant based on the permitted level and the name, address, and phone number of the Department.

g. The source owner, operator, or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the Department and shall report the results of the audit sample to the AASP. The source owner, operator, or representative shall make both reports at the same time and in the same manner or shall report to the Department first and then report to the AASP.

h. If the method being audited is a method that allows the samples to be analyzed in the field and the tester plans to analyze the samples in the field, the tester may analyze the audit samples prior to collecting the emission samples provided a representative of the Department is present at the testing site. The source owner, operator, or representative may request in the test protocol a waiver to the requirement that a representative of the Department must be present at the testing site during the field analysis of an audit sample.

i. The final test report shall document any attempt to obtain an audit sample and, if an audit sample was ordered and utilized, the pass/fail results as applicable.

4. The Department shall have discretion to require any subsequent remedial actions of the owner, operator, or representative based on the split samples and/or performance audit results.

Regulation 61-62.1.IV.F.1, shall be revised as follows:

1. The owner, operator, or representative of a source subject to this section shall submit a written report of the final source test results to the Department by the close of business on the 30th day following the completion of the test, unless an alternative date has been requested in and approved with the site-specific test plan prior to testing or is otherwise specified in a relevant federal or state standard.

Regulation 61-62.1.IV.F.2.b, shall be revised as follows:

b. Emission calculations and emission rates in units of the applicable standard, permit limit, etc.;

Regulation 61-62.1.IV.F.2.c, shall be revised as follows:

c. Allowable emission rates in units of the applicable standard, permit limit, etc.;

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Regulation 61-62.1.IV.F.2.o, shall be revised as follows:

o. Results of performance audits pursuant to Section IV.E above or documentation that no audit sample was commercially available 60 days prior to the beginning of the compliance test;

Regulation 61-62.1.IV.F.2.r, shall be revised as follows:

r. Description of any deviations from approved analytical procedures;

Regulation 61-62.1.IV.F.2.s, shall be revised as follows:

s. Description of any problems encountered during sampling and analysis, and explanation of how each was resolved; and

Regulation 61-62.1.IV.F.2.t, shall be added as follows:

t. Legible copies of any applicable or required certifications (for example, Visible Emission Observer, Qualified Source Testing Individual (QSTI), etc.).

Regulation 61-62.1.IV.G, Introductory Text, shall be revised as follows:

Within fifteen (15) days of submission of a test report indicating noncompliance, the owner, operator, or representative shall submit to the Department a written plan which includes at a minimum:

Regulation 61-62.1.IV.H, shall be revised as follows:

H. Analytical Observation

Upon request by the Department, the owner, operator, representative, or the source test consultant shall ensure that Department representatives are provided access to the analytical laboratory for observation of instrument calibrations and analysis of field and audit samples.

Regulation 61-62.1.IV.I, shall be revised as follows:

I. Site Inspection

Upon request by the Department and prior to approval of the site-specific test plan, the owner, operator, or representative shall ensure Department representatives are provided access to the site for inspection of the source(s) to be tested.

Regulation 61-62.1.V.C, shall be revised as follows:

C. The following are applicable in the determination of noncompliance by the Department or for compliance certification by the owners or operators of stationary sources:

1. Enforcement - Consistent with South Carolina's Environmental Audit Privilege and Voluntary Disclosure Act, codified as S.C. Code Ann. Sections 48-57-10 et seq., and notwithstanding any other provision in the South Carolina Air Quality Implementation Plan, any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not a person has violated or is in violation of any standard in the plan; and

2. Compliance Certifications - Consistent with South Carolina's Environmental Audit Privilege and Voluntary Disclosure Act, codified as S.C. Code Ann. Sections 48-57-10 et seq., and notwithstanding any other provision in the South Carolina Air Quality Implementation Plan, the owner or operator may use any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed for the purpose of submitting compliance certifications.

Regulation, 62.5, Standard Number 1, Emissions from Fuel Burning Operations

Regulation 61-62.5, Standard 1, Section I.A shall be revised as follows:

A. Existing Sources

No one shall discharge to the ambient air from any existing source constructed prior to February 11, 1971, smoke which exceeds opacity of forty (40) percent. The forty (40) percent opacity limit may be exceeded for soot blowing, but may not be exceeded for more than six (6) minutes in a one hour period nor be exceeded for more than a total of twenty-four (24) minutes in a twenty-four (24) hour period. Emissions caused by soot blowing shall not exceed sixty (60) percent.

Regulation 61-62.5, Standard 1, Section I.B shall be revised as follows:

B. New Sources

No one shall discharge to the ambient air from any source constructed on or after February 11, 1971, smoke which exceeds opacity of twenty (20) percent. The twenty (20) percent opacity limit may be exceeded for soot blowing, but may not be exceeded for more than six (6) minutes in a one hour period nor be exceeded for more than a total of twenty-four (24) minutes in a twenty-four (24) hour period. Emissions caused by soot blowing shall not exceed sixty (60) percent.

Regulation 61-62.5, Standard 1, Section I.D shall be revised as follows:

D. Test Method

The method which is approved by the Department for determining compliance with opacity limitations under this Section is EPA Reference Method 9 (40 Code of Federal Regulations (CFR) 60, Appendix A, as revised July 1, 1986). Alternate methods may be utilized only if approved in advance by the Department and by the Environmental Protection Agency (EPA).

Regulation 61-62.5, Standard 1, Section II.B, Introductory Text, shall be revised as follows:

All fuel burning operations of 10 million Btu/hr heat input and smaller constructed prior to February 11, 1971, shall be allowed 0.8 pounds (lbs) per million Btu input.

Regulation 61-62.5, Standard 1, Section III shall be revised as follows:

SECTION III - SULFUR DIOXIDE EMISSIONS

The maximum allowable discharge of sulfur dioxide (SO₂) from fuel burning operations shall be 2.3 lbs SO₂ per million Btu input.

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Regulation 61-62.5, Standard 1, Section IV.A.1 shall be revised as follows:

1. Fossil Fuel Fired Boilers

The owner or operator of any fossil fuel-fired steam generator of more than 250 million Btu/hr heat input capacity shall install, calibrate, operate, and maintain no later than June 14, 1978, continuous monitoring system(s) for the measurement of opacity which meets the performance specifications of Section IV.D except where:

Regulation 61-62.5, Standard 1, Section IV.A.1.b shall be revised as follows:

b. Oil or a mixture of gas and oil are the only fuels burned and the steam generator is able to comply with the provisions of Sections I and II of this standard without utilization of particulate matter collection equipment, and where the steam generator has never been found, through any administrative or judicial proceedings, to be in violation of Section I of this standard.

Regulation 61-62.5, Standard 1, Section IV.A.2 shall be revised as follows:

2. Woodwaste Boilers

The owner or operator of any woodwaste boiler, not equipped with a wet scrubber, will be required to install, calibrate, operate, and maintain continuous monitoring system(s) approved by the Department for the measurement of opacity, if it meets one or more of the criteria listed in items A.2.a and A.2.b. If a boiler is fired on more than one fuel, the total capacity will determine the applicability.

a. Any woodwaste boiler of at least 100×10^6 Btu/hr rated heat input.

b. Any woodwaste boiler, regardless of size, that has been operating in noncompliance with any applicable state air pollution control regulations and standards.

Regulation 61-62.5, Standard 1, Section IV.B.1 shall be revised as follows:

1. The owner or operator of any fossil fuel-fired steam generator subject to the provisions of Section IV.A shall submit a written Continuous Opacity Monitor report to the Department semi-annually or more often if requested. All semi-annual reports must be postmarked by the 30th day following the end of each semi-annual period. The report shall include, at a minimum, the information in items B.1.a through B.1.c below. A letter shall be sent in lieu of a semiannual report if no incidences occurred during the reporting period.

a. All integrated six (6) minute opacity measurements for periods during which the applicable provisions of Section I have been exceeded, together with their nature and cause.

b. For periods of monitoring system malfunction:

(i) The date and time identifying each period during which the monitoring system was inoperative, except for zero and span checks.

(ii) The nature of monitoring system repairs or adjustments.

(iii) Proof of opacity monitoring system performance may be required by the Department whenever repairs or adjustments have been made.

c. Boiler system repairs or adjustments made to correct violations of the provisions of Section I.

Regulation 61-62.5, Standard 1, Section IV.C shall be revised as follows:

C. Exemption from Reporting Requirements

A temporary exemption from the opacity monitoring and reporting requirements of Section IV may be granted during any period of monitoring system(s) malfunction, provided the owner or operator shows, to the satisfaction of the Department, that the malfunction was unavoidable and is being repaired as expeditiously as possible.

Regulation 61-62.5, Standard 1, Section IV.D shall be revised as follows:

D. Equipment Performance Specifications

1. The continuous opacity monitoring system(s) required by Section IV.A.1 (for fossil fuel fired steam generators) shall conform with the performance specifications set forth in 40 CFR 60, Appendix B, Performance Specification 1, as revised July 1, 1986, which is incorporated by reference as a part of this standard except that where the term "Administrator" is used the term "Department" shall be substituted. In addition, the opacity monitoring system(s) shall complete a minimum of one (1) cycle of operation for each successive 10-second period, be installed such that representative measurements of opacity from the affected steam generator are obtained, and have an instrument span of approximately eighty (80) percent opacity.

2. The owner or operator shall record the zero and span drift in accordance with the method prescribed by the manufacturer of such opacity monitoring system(s); subject the system(s) to the manufacturer's recommended zero and span check at least once daily unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; adjust the zero and span whenever the 24-hour zero drift or 24-hour calibration drift limits of 40 CFR 60, Appendix B, Performance Specification 1, as revised July 1, 1986, are exceeded; adjust the opacity monitoring system(s) purchased prior to September 11, 1974, whenever the 24-hour zero drift or 24-hour calibration drift exceeds four (4) percent opacity for those generators constructed prior to February 11, 1971, and two (2) percent opacity for those generators constructed after February 11, 1971.

3. The monitoring systems must be approved by the Department prior to installation.

Regulation 61-62.5, Standard 1, Section IV.E shall be revised as follows:

E. Monitor Location

When the effluents from two (2) or more affected steam generators of similar design and operating characteristics are combined before released to the atmosphere, the opacity monitoring system(s) shall be installed on the combined effluent. When the affected steam generators are not of similar design and operating characteristics, or when the effluent from one (1) affected steam generator is released to the atmosphere through more than one (1) point, the owner or operator shall apply for an alternate procedure to comply with the requirements of Section IV.

Regulation 61-62.5, Standard 1, Section IV.F shall be revised as follows:

F. Exemptions from Monitoring Requirements

Whenever the requirements for continuous opacity monitoring cannot be implemented by the owner or operator due to physical source limitations, extreme economic burden, or infrequent steam generator operation of less than thirty (30) days per year, or when the specified monitoring procedure would not provide accurate opacity determinations, alternate monitoring and reporting requirements may be approved on a case-by-case

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basis provided the owner or operator submits a written request to the Department which includes, but is not limited to:

1. The basis or reason(s) that alternate requirements are necessary;
2. A proposal of the alternate monitoring and reporting requirements; and
3. Any other information needed by the Department to make a determination that the alternate requirements are adequate to meet the intent of Section IV.

Regulation 61-62.5, Standard 1, Section VI, Introductory Text, shall be revised as follows:

An owner or operator of any source listed below shall ensure that scheduled periodic tests for particulate matter emissions are conducted every two (2) years or as required by permit conditions and are performed in accordance with the provisions of Regulation 61-62.1, Section IV, Source Tests. An owner or operator shall demonstrate compliance with SO₂ emissions by source testing, continuous monitoring, or fuel analysis as required by permit conditions.

Regulation 61-62.5, Standard 1, Section VI.C shall be revised as follows:

C. Woodwaste or combination woodwaste boilers greater than 20 x10⁶ Btu/hr rated input.

Regulation, 62.5, Standard Number 4, Emissions from Process Industries

Regulation 61-62.5, Standard 4, Section II.A shall be revised as follows:

A. The rate of emission of sulfur dioxide (SO₂) from sulfuric acid manufacturing shall be limited to no more than four (4) pounds of SO₂ per ton of 100 percent sulfuric acid produced and emissions of acid mist to 0.5 pounds of sulfuric acid per ton of 100 percent acid produced.

Regulation 61-62.5, Standard 4, Section III shall be revised as follows:

SECTION III - KRAFT PULP AND PAPER MANUFACTURING

The opacity from kraft pulp and paper manufacturing shall be limited to the following:

	Maximum Allowable Stack Opacity
Recovery Furnace	40 percent
Dissolving Tank	20 percent
Lime Kiln	20 percent

Regulation 61-62.5, Standard 4, Section V.A.8 shall be revised as follows:

8. Low pressure exhausts – The exhaust air systems at a cotton gin following the gin stand (including lint cotton cleaning and battery formation process) in which material is conveyed by low pressure air and is typically controlled by condensers.

Regulation 61-62.5, Standard 4, Section V.D, shall be revised as follows:

D. Alternative Control Measures

1. The owner or operator of a cotton ginning operation may petition the Department to use alternative control measures to those specified in this rule. The petition shall include:

- a. The name and address of the petitioner;
- b. The location and description of the cotton ginning operation;
- c. A description of the alternative control measure; and
- d. A demonstration that the alternative control measure is at least as effective as the control device or method specified in this rule.

2. Once approved, repairs and maintenance of such devices will not require notification to the Department.

Regulation 61-62.5, Standard 4, Section X.B shall be revised as follows:

B. The owner or operator of all such operations shall maintain dust control of the premises and any roadway owned or controlled by the owner or operator by paving or other suitable measures. Oil treatment is prohibited.

Regulation 61-62.5, Standard 4, Section XI.C shall be revised as follows:

C. Case-by-Case Exceptions to Provisions of Section XI.B Above

Regulation 61-62.5, Standard 4, Section XI.C.1 shall be revised as follows:

1. If the owner or operator of a source of TRS compounds regulated by this standard can demonstrate that compliance with applicable portions of Section XI.B would not be economically feasible, the Department may, on a case-by-case basis, allow emission limitations less stringent than those required by applicable parts of Section XI.B. All data pertinent to the showing of economic infeasibility must accompany a petition for this relief, and shall include a present value analysis showing economic infeasibility.

Regulation 61-62.5, Standard 4, Section XI.D.1.c(ii) shall be revised as follows:

(ii) For the continuous measurement of the scrubbing liquid supply pressure to the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within plus or minus fifteen (15) percent of design scrubbing liquid supply pressure. The pressure sensor or tap is to be located close to the scrubber liquid discharge point. The Department may be consulted for approval of alternative locations.

d.(i) Continuously monitored operating and/or stack parameters may be used as substitutes for TRS monitors provided that it is demonstrated to the satisfaction of the Department that a correlation exists between the monitored parameter and TRS concentration and the other requirements in paragraph D.1 above are fulfilled.

(ii) Alternative equivalent methods of monitoring must be approved by the Department and EPA.

Regulation 61-62.5, Standard 4, Section XI.D.3 shall be revised as follows:

3. Each owner or operator required to install a continuous monitoring system shall submit a written report of excess emissions (as defined in applicable subparts) to the Department for every semi-annual period unless specified on a more frequent cycle by the Department. All semi-annual reports shall be postmarked by the 30th day following the end of each semi-annual period and shall include the following information:

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Regulation 61-62.5, Standard 4, Section XI.D.3.a shall be revised as follows:

a. For emissions from any recovery furnace, periods of excess emissions are all 12-hour average TRS concentrations above twenty (20) parts per million by volume (ppmv) for old design recovery furnaces, five (5) ppmv for new design recovery furnaces, and above twenty-five (25) ppmv for cross recovery furnaces;

Regulation 61-62.5, Standard 4, Section XII shall be revised as follows:

SECTION XII - PERIODIC TESTING – PARTICULATE MATTER EMISSIONS AND/OR SULFUR DIOXIDE (SO₂)

An owner or operator of a source listed below shall perform scheduled periodic tests for particulate matter emissions and/or SO₂ every two (2) years except as noted, or on a schedule as stipulated by special permit conditions, and shall ensure that source tests are conducted in accordance with Regulation 61-62.1, Section IV, Source Tests.

A. Recovery furnaces and lime kilns of pulp and paper mills. Smelt tank vents will be required to be tested every four (4) years.

B. Rotary kilns, clinker coolers, and rotary dryers of Portland Cement plants.

C. Sulfuric acid plants.

D. Metallurgical furnaces greater than ten (10) tons per hour normal output.

E. Asphalt plants. Asphalt plants that have a baghouse operating in a satisfactory manner with sufficiently low visible emissions may be exempted at the discretion of the Department. Asphalt plants will be required to produce “surface mix” during compliance source testing. “Surface mix” is hot laid asphaltic concrete surface courses (except sand asphalt surface mix) as defined in Section 403 of the 1986 edition of the South Carolina State Highway Department’s “Standard Specifications for Highway Construction” manual. The Department may, at its discretion, waive this requirement if sufficient evidence indicates that less than twenty-five (25) percent of the plant’s total annual production is surface mix.

F. Fertilizer plants.

G. Any other sources which are deemed necessary.

Regulation, 62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP)

Regulation 61-62.61, Appendix A, shall be deleted.

Regulation 61-62.61, Appendix B, shall be deleted.

Regulation 61-62.61, Appendix C, shall be deleted.

Regulation 61-62.61, Appendix D, shall be deleted.

Regulation 61-62.61, Appendix E, shall be deleted.

Regulation, 62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories

Regulation 61-62.63, Note, shall be added as follows:

Note: Section 112 of the Clean Air Act as amended in 1990 requires the United States Environmental Protection Agency (EPA) to issue emission standards for all major sources of the listed hazardous air pollutants (HAPs). These rules are generally known as “maximum achievable control technology” (MACT) standards. On June 26, 1995 [60 FR 32913], the EPA granted full approval to the State of South Carolina under Section 112(l)(5) and 40 CFR 63.91 of the State’s program for receiving delegation of Section 112 standards that are unchanged from federal rules as promulgated. These rules are incorporated by reference by the Department and the tables are periodically revised as MACT standards are amended or promulgated. The word “Administrator” as used in these MACT standards shall mean the Department of Health and Environmental Control with the exception of the sections within these subparts that may not be delegated by the EPA.

Regulation 61-62.63.40(a) shall be revised as follows:

(a) Applicability. The requirements of Sections 63.40 through 63.44 of this subpart apply to any owner or operator who constructs or reconstructs a major source of HAPs after the effective date of this subpart unless the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h), or Section 112(j) of the Act and incorporated in another subpart of Part 63, or the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before the effective date of Section 112(g)(2)(B) in the State.

Regulation 61-62.63.43(l)(2) shall be revised as follows:

(2) An owner or operator of a constructed or reconstructed major source which has obtained a MACT determination shall be deemed to be in compliance with Section 112(g)(2)(B) of the Act only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the final Notice of MACT Approval. Any violation of such requirements by the owner or operator shall be deemed by the Department and by EPA to be a violation of the prohibition on construction or reconstruction in Section 112(g)(2)(B) for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action under the Act.

Regulation 61-62.63.44(c), Note, shall be deleted as follows:**Fiscal Impact Statement:**

The Department estimates that there will be no increased costs to the State or its political subdivisions as a result of the proposed changes as any potential costs have already been incurred based on federal programs implemented in 2010 at the federal level. Other proposed changes are being made to streamline State requirements and therefore reduce economic burden.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

Purpose: The amendments to R.61-62, Air Pollution Control Regulations and Standards, will support the Department’s goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. These amendments expand and clarify definitions applicable to air pollution control regulations and standards; streamline permitting options; clarify reporting and testing requirements; and

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provide internal consistency and clarification of references, punctuation, codification, formatting, and spelling to improve the overall text of R.61-62.

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

Plan for Implementation: These amendments will take effect upon approval by the S.C. General Assembly, and publication in the State Register. The proposed amendments will be implemented in South Carolina by providing the regulated community with copies of the regulation, publishing associated information on our website at <http://www.scdhec.gov/administration/regs/>, sending an email to stakeholders, and communicating with affected facilities during the permitting process.

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

The Department amended R.61-62, Air Pollution Control Regulations and Standards, to codify and update “General” language.

The Department also amended R.61-62.1, Definitions and General Requirements, and the SIP:

a. (Section I, Definitions) to modify the definition for “Commissioner” to include the term “Director;” to add definitions for the terms “Code of Federal Regulations (CFR),” “NAICS Code,” and “SIC Code;” and to strike the majority of the definition for “Volatile Organic Compound” (VOC) which includes an exemptions list. The exemptions list for VOC is amended on an almost annual basis and requires a SIP amendment. Therefore, the Department is referencing 40 CFR 51.100(s) as the federal definition is often amended before the Department is able to complete the process outlined in the Administrative Procedure Act.

b. (Section II, Permit Requirements) to update the activities list which an owner or operator may undertake prior to obtaining a construction permit; to update and streamline exemption thresholds for construction permits; to outline construction permit requirements for sources of VOCs; to update and clarify construction permit application requirements; to streamline and update general construction permit requirements; to clarify and update operating permit renewal request requirements; to strike the Department’s requirement to public notice registration permits; to update and streamline registration permit text; to update and streamline transfer of ownership/operation requirements; and to amend the Department’s public participation procedures to allow for posting on the Department’s website.

c. (Section III, Emissions Inventory) to incorporate into South Carolina regulatory text and the SIP the Clean Air Act requirement for sources in ozone nonattainment areas to submit an annual emissions statement; and to update and clarify annual and three-year emissions inventory reporting requirements as regulatory text and format was found by owners and operators to be confusing. No new reporting requirements are included in these changes.

d. (Section IV, Source Tests) to incorporate provisions from two Final Rules published by the Environmental Protection Agency (Restructuring of the Stationary Source Audit Program (SSA) (75 FR 55636) and Protocol Gas Verification Program and Minimum Competency Requirements for Air Emission Testing (PGVP Rule) (76 FR 17288)). These amendments reflect a change in EPA’s SSA program. EPA no longer provides the Department with audit samples for sources. Source owners, operators, and representatives must purchase samples from an Audit Sample Provider when a sample is commercially available. The Department also clarified air emissions testing and reporting requirements and added language to reflect federal testing competency requirements as found in the PGVP Rule which does not affect state testing.

The Department also amended R.61-62.5; Standard 1, Emissions from Fuel Burning Operations, and Standard 4, Emissions from Process Industries, and the SIP to incorporate comments from a previous regulatory action

which did not require General Assembly review. The Department evaluated the comments received and determined to streamline sulfur dioxide emission standards in Standard 1; change reporting requirements from quarterly to semi-annual periods to reflect federal requirements; update state regulations that have been made obsolete by a National Emission Standard for Hazardous Air Pollutants and/or New Source Performance Standard; and strike total reduced sulfur periodic testing requirements from Standard 4.

The Department also amended R.61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, to make the state definition of applicability more consistent with the federal definition found in 40 CFR Section 63.40(b) and to move the “Note” regarding state authority to the beginning of R.61-62.63 for clarity and usability.

The Department also amended R.61-62 to reflect minor revisions aimed at enhancing the clarity and usability of these regulations per the 5-year audit.

The intent of these amendments is to simplify and correct certain issues in our regulatory guidelines to support the Department’s goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. There will be no detrimental effect on the environment and public health from the amendments to R.61-62, Air Pollution Control Regulations and Standards, and the SIP.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions resulting from this revision. Amendments to 62.1, Definitions and General Requirements, will have various positive economic effects. Striking the text of the definition for Volatile Organic Compounds will save the Department man-hours in that most End of the Year Revision processes will no longer require a SIP amendment due to a change in the VOC exemption list. Expanding the list of activities which may take place prior to obtaining a construction permit and updating exemption thresholds for construction permits in an effort to mirror exemption thresholds with the Title V Insignificant Activity List will reduce some of the economic burden of source owners and operators. Allowing the Department to develop emission thresholds to exempt sources without further review will save the Department and sources man-hours. Streamlining permit requirement and renewal language will reduce the economic burden to source owners by enabling them to submit complete and correct permit applications and transfer of ownership documentation in a timely fashion. Striking the requirement for the State to public notice registration permits and allowing the State to public notice other permits on the Department’s website will save the State public notification funds. The cost of the amendments to the Stationary Source Audit Program have previously been incurred by the regulatory community as program changes are already effective and applicable to the regulated community as a matter of federal law.

Amendments to R.61-62.5, Standard 1, Emissions from Fuel Burning Operations, and Standard 4, Emissions from Process Industries, will reduce the economic burden on source owners as efforts are being made to streamline state requirements with current New Source Performance Standards and National Emission Standards from Hazardous Air Pollutants from Source Categories. This effort will also reduce reporting frequencies and testing requirements.

The proposed amendments will benefit the regulated community by clarifying the regulations and increasing their ease of use which will reduce economic burden.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions.

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EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The amendments to R.61-62, Air Pollution Control Regulations and Standards, will provide continued protection of the environment and public health.

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

There will be no detrimental effect on the environment and/or public health associated with these revisions. Rather, State's authority to implement programs for which the State has been delegated authority, which are beneficial to public health and the environment, would be compromised if these amendments were not adopted in South Carolina. Permit streamlining and regulatory text clarification will have a positive effect on both the environment and public health.

Statement of Rationale:

The Department began this process by developing an internal workgroup to evaluate the existing air quality regulations to provide clarification, delete or update obsolete requirements, and correct typographical errors as necessary per the 5-year review and in response to comments received from a previous regulatory action which did not require General Assembly review. The Department met with the commenting group during the initial drafting process and proposed changes based on internal and external consensus. The Department also held an external stakeholder meeting to take recommendations and comments on those regulatory amendments identified by the workgroup. No germane comments were received during the external stakeholder meeting, but comments were received during the Notice of Proposed Rulemaking comment period and taken into consideration when drafting the Notice of Final Regulation for R.61-62 and the SIP. These regulatory amendments will provide clarity and specificity to the existing regulations, omit obsolete requirements, and provide additional permitting options to the regulated community.

Document No. 4429

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-37-70 et seq.

61-123. Critical Congenital Heart Defects Screening on Newborns

Synopsis:

South Carolina Act No. 0064, effective September 11, 2013, enacted the Emerson Rose Act, S.C. Code Section 44-37-70 et seq. The Act, at 1976 Code Sections 44-37-70 et seq., directed the Department to promulgate regulations to perform a pulse oximetry screening tests, or another approved screening to detect congenital heart defects, on every newborn in its care, when the baby is twenty-four to forty-eight hours of age, or as late as possible if the baby is discharged from the hospital before reaching twenty-four hours of age. This regulation will comply with the Act by mandating congenital heart defect screening on newborns. See sectional discussion below and Statements of Need and Reasonableness and Rationale herein.

A Notice of Drafting for this regulation was published in the *State Register* on September 27, 2013.

Sectional Discussion of New Regulation

Section 100 provides the purpose and scope of the regulation and definitions of key terms in the regulation.

Section 200 addresses screening criteria and procedures.

Section 300 addresses religious objections.

Instructions: Add new R.61- 123, Critical Congenital Heart Defects Screening on Newborns, to Chapter 61 regulations.

Text:

61-123. Critical Congenital Heart Defects Screening on Newborns.

Statutory Authority: 1976 Code Section 44-37-70 et seq.

Table of Contents:

SECTION 100. Purpose and Scope; Definitions.

SECTION 200. Screening Criteria and Procedures.

SECTION 300. Religious Objection.

SECTION 100. Purpose and Scope; Definitions.

101. Purpose and Scope.

The purpose of this regulation is to provide requirements regarding screening of newborns for critical congenital heart defects. Congenital heart defects are the leading cause of infant death due to birth defects. Some critical congenital heart defects can cause severe and life-threatening symptoms that require intervention within the first days of life. Newborns with abnormal pulse oximetry screening results require immediate confirmatory testing and intervention. Many newborn lives potentially could be saved by earlier detection and treatment of congenital heart defects. The South Carolina Birth Outcomes Initiative, established by the Department of Health and Human Services to improve care and outcomes for mothers and newborns, has acknowledged the value of pulse oximetry screening of newborns, and under this initiative all South Carolina birthing hospitals have committed to implementing this screening for newborns. The American Academy of Pediatrics, the American College of Cardiology Foundation, and the American Heart Association recommend pulse oximetry screening for newborns.

102. Definitions.

A. Birthing facility. An inpatient or ambulatory health care facility licensed by the Department of Health and Environmental Control that provides birthing and newborn care services.

B. Department. The South Carolina Department of Health and Environmental Control.

C. Department Approved Screening. A critical congenital heart defects screening approved by the Department of Health and Environmental Control as an alternative to pulse oximetry screening based on standards set forth by the United States Secretary of Health and Human Services' Advisory Committee on Heritable Disorders in Newborns and Children, the American Heart Association, and the American Academy of Pediatrics.

D. Pulse Oximetry. Pulse oximetry is a noninvasive test that estimates the percentage of hemoglobin in blood that is saturated with oxygen.

SECTION 200. Screening Criteria and Procedures.

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201. Screening Criteria.

Each birthing facility licensed by the Department shall perform on every newborn in its care a pulse oximetry or other Department approved screening to detect critical congenital heart defects when the baby is twenty-four (24) to forty-eight (48) hours of age, or as late as possible if the baby is discharged from the hospital before reaching twenty-four (24) hours of age.

202. Procedures.

A. When performing pulse oximetry screenings, licensed facilities shall use motion-tolerant pulse oximeters that report functional oxygen saturation, have been validated in low-perfusion conditions, have been cleared by the Food and Drug Administration (FDA) for use in newborns, and have a two percent root-mean-square accuracy. Any pulse oximeter used for screening shall meet FDA recommendations.

B. If reusable probes are utilized, licensed facilities shall appropriately clean the probes between uses to minimize the risk of infection. Pulse oximeters are validated only with the specific probes recommended by the manufacturer; therefore, to optimize valid screening, licensed facilities shall use only manufacturer-recommended pulse oximeter probe combinations.

C. Performing a pulse oximetry or Department approved screening does not replace a complete history and physical examination.

SECTION 300. Religious Objection.

If a parent or guardian of a newborn objects, in writing, to the screening, for reasons pertaining to religious beliefs only, the newborn is exempt from the screening required by Section 44-37-70 of the South Carolina Code of Laws of 1976, as amended.

Fiscal Impact Statement:

The regulation will have no substantial fiscal or economic impact on the state or its political subdivisions.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: New R.61-123, Critical Congenital Heart Defects Screening on Newborns.

Purpose: This regulation will implement the provisions of the Emerson Rose Act, S.C. Code Section 44-37-70 et seq.

Legal Authority: Emerson Rose Act, S.C. Code Section 44-37-70 et seq.

Plan for Implementation: Upon approval from the S.C. General Assembly and publication as a final regulation in the South Carolina State Register, copies of the regulation will be available electronically on the South Carolina Legislature Online website, and the Department regulation development website (<http://www.scdhec.gov/regulatory.htm>). Printed copies will be available for a fee from the Department's Freedom of Information Office. Staff will educate the regulated community on the provisions of the Act and the requirements of the regulation.

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

The regulation is needed and reasonable because it will satisfy a legislative mandate to implement the provisions of the Emerson Rose Act. The regulation allows for intended benefits of the Act regarding critical congenital heart defect screening.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of this regulation will not require additional resources beyond those allowed for in the Act. There is no anticipated additional cost by the Department or State government due to any inherent requirements of this regulation.

External Costs: There will be a cost to the licensees of birthing facilities of purchasing and maintaining equipment. There will be no cost to the public for implementation of the regulation.

External Benefits: Congenital heart defects are the leading cause of infant death due to birth defects. According to the United States Secretary of Health and Human Services' Advisory Committee on Heritable Disorders in Newborns and Children, congenital heart disease affects approximately seven to nine of every thousand live births in the United States and Europe. Pulse oximetry is a noninvasive test that estimates the percentage of hemoglobin in blood that is saturated with oxygen. When performed on a newborn when the baby is twenty-four to forty-eight hours of age, or as late as possible if the baby is discharged from the hospital before reaching twenty-four hours of age, pulse oximetry screening is often more effective at detecting critical, life-threatening congenital heart defects which otherwise go undetected by current screening methods.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment.

The regulation will provide standards for pulse oximetry or other department approved screening to detect critical congenital heart defects in South Carolina newborns.

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

There would not be a detrimental effect on the environment. However, if the regulation is not implemented, critical congenital heart defects in newborns may go undetected by current screening methods.

Statement of Rationale:

The Department promulgated this regulation to implement the provisions of the Emerson Rose Act, S.C. Code Section 44-37-70 et seq.

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Document No. 4460

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 48-2-50 (1993), 48-39-145 et seq., and Clean Air Act, 42 U.S.C.A. 7401 et seq.

61-30. Environmental Protection Fees

Synopsis:

The South Carolina Department of Health and Environmental Control (Department) has amended R.61-30, *Environmental Protection Fees*. The amendment revises Section 61-30.G(3), Schedule of Air Quality Fees, to increase fees in order to cover the cost of its Title V Permit program. “Such costs are defined as those necessary to administer the permit program, the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, support staff, equipment, legal services, contracts with consultants and program expenses listed in Section 502(b)(3)(a) of Title V of the 1990 amendments to the Federal Clean Air Act.” Regulation 61-30.G(3)(a)(i).

The Clean Air Act, 42 U.S.C. 7401, *et seq.*, sets forth the minimum requirements for air quality in the United States and requires states to develop and maintain a Title V permit program. 40 C.F.R. Section 70.9(b)(1) provides “...[t]he State program shall establish a fee schedule that results in the collection and retention of revenues sufficient to cover the permit program costs.” The legal authority for R. 61-30, Environmental Protection Fees, is S.C. Code Section 48-2-50 (2008 & Supp. 2012) *et seq.* and Clean Air Act, 42 U.S.C. Section 7401 *et seq.*

This amendment was promulgated to comply with federal law and does not require legislative review. S.C. Code Ann. Section 1-23-120(H).

A Notice of Drafting was published in the *State Register* on December 27, 2013. The comment period closed on January 27, 2014. No comments were received.

A Notice of Proposed Regulation was published in the *State Register* on March 28, 2014 (Doc. No. 4460). Notice was also published in the Department’s monthly *DHEC Regulation Development Update* on the webpage and distributed to the Bureau’s electronic mail recipient list. Additionally, Department staff contacted all of the South Carolina Title V permitted facilities to make them aware of the proposed maintenance fee. A staff-conducted informational forum was held on April 28, 2014; three people representing two sources attended and one person made comments. Written comments were also received during the comment period. Staff considered these comments and made one change to the proposed regulation by adding “Title V” to the proposed text at R. 61-30.G(3)(a)(i) to clarify that this regulation applies to the Title V air quality program.

Discussion of Revisions:

SECTION CITATION/EXPLANATION OF CHANGE:

Regulation 61-30.G(3)(a), General.

Regulation 61-30.G(3)(a)(i):

Paragraph (i) was amended to remove the word “permit” such that the fees assessed are sufficient to cover the reasonable costs associated with the whole “air quality program.”

Regulation 61-30.G(3)(a)(ii):

Paragraph (ii) was amended to add the word “Section” before the citation “G(3)(a)(i).” for consistency and clarification per the 2011 South Carolina Legislative Council’s Standards Manual.

Regulation 61-30.G(3)(a)(iv):

Paragraph (iv) was added to provide a point of reference (Regulation 61-62.1) for the definitions and types of permits used in this schedule of fees.

Regulation 61-30.G(3)(a)(v):

Paragraph (3)(a)(v) was added to provide clarity related to the applicable fees assessed and to be clear that both annual fees and annual maintenance fees are to apply to sources subject to Regulation 61-62.70.

Regulation 61-30.G(3)(b)(i):

Paragraph (b)(i) was amended to add the abbreviation “CPI” after the phrase “Consumer Price Index” to clarify the abbreviation used later in the regulation.

Regulation 61-30.G(3)(b)(iii):

Paragraph (b)(iii) was removed here and codified in a later section of the regulation.

Regulation 61-30.G(3)(c):

Paragraph (3)(c) was added to allow for the collection of a new annual Title V program maintenance fee.

Regulation 61-30.G(3)(c) (Table 1):

Table 1 was added to (3)(c) to establish the amount and types of sources that will be subject to the new annual Title V program maintenance fee.

Regulation 61-30.G(3)(d):

Paragraph (d) (formally paragraph (3)(b)(iii)) was recodified and proposed to be amended to cover the distribution of funds in the non-reverting account.

Regulation 61-30.G(3)(e):

Paragraph (e) (formally paragraph (3)(c)) was recodified.

Instructions: Amend Regulation 61-30.G(3), pursuant to each instruction provided below with the text of the amendments.

Text:

61-30. Environmental Protection Fees.

Replace Section 61-30.G(3) in entirety to read:

(3) Air Quality.

(a) General.

(i) The fees assessed are those fees sufficient to cover reasonable costs associated with the development, processing, and administration of the Title V air quality program. Such costs are defined as those necessary to administer the permit program, the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, support staff, equipment, legal services, contracts with consultants and program expenses listed in Section 502(b)(3)(a) of Title V of the 1990 amendments to the Federal Clean Air Act.

(ii) Fees collected shall be placed in a separate non-reverting account within the Department to be used exclusively for the expenses in Section G(3)(a)(i).

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(iii) Except as provided in Section F of this regulation, fees are non-refundable.

(iv) Types of permits used in Table 1 below refer to the Definitions used in Regulation 61-62.1.

(v) All sources are subject to the fee schedule in paragraph (b) below. All sources subject to Title V requirements under Regulation 61-62.70 are also subject to the fee schedule in paragraph (c) below.

(b) Annual Fee. The source owner or operator must pay an annual permit fee to the Department. Beginning on July 1, 1994, and for each subsequent year, fees will be as follows:

(i) \$25.00 per ton (plus Consumer Price Index (CPI) adjustment) of regulated pollutant based on the actual emissions for the preceding calendar year or any other period determined by the Department to be representative of normal source operation. The CPI adjustment is that percentage of \$25.00/ton equal to the percentage, if any, by which the CPI for the most recent calendar year ending before the beginning of such year exceeds the CPI for 1989.

(ii) New sources or any source without sufficient data to be able to determine actual emissions must be assessed the above \$25.00 a ton fee with appropriate CPI adjustment calculated on a pro rata basis for their months of operation. The fee must be based on permitted emissions, until such time as "Actual emissions" can be calculated, and must be paid before the operating permit is issued.

(c) Annual Title V Program Maintenance Fee. The owner or operator of a source subject to the Title V requirements under Regulation 61-62.70 will be assessed the following annual maintenance fee set forth in Table 1 and based on actual emissions as determined in paragraph (3)(b) above.

Actual Emission Level	Fee
< (less than) 10 tons	\$500.00
10 tons to 50 tons	\$1,000.00
> (greater than) 50 tons to 100 tons	\$2,000.00
> (greater than) 100 tons to 250 tons	\$3,500.00
> (greater than) 250 tons to 1,000 tons	\$6,500.00
> (greater than) 1,000 tons	\$10,000.00

(d) Should funds in the non-reverting account exceed the anticipated budgeted expenditures for the following year, the fee described in Section G.3.b(i) and (ii) and G.3.c. above may be adjusted by the Board. At no time shall this adjustment cause a depletion of funds to a level less than ten percent (10%) of the previous year's expenditures for the Title V permitting requirements of the 1990 Federal Clean Air Act. Any adjustment of fees will require a public hearing to propose the adjustment prior to a final decision by the Board.

(e) Exceptions.

(i) No fees will be assessed for emissions of carbon monoxide.

(ii) No fee will be assessed for actual or permitted emissions in excess of 4,000 tons/year per pollutant.

(iii) The Department may exclude, from the fee calculations, insignificant quantities of actual emission not required in a permit application pursuant to Regulation 61-62.70.5(c).

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: Regulation 61-30, Environmental Protection Fees.

Regulation 61-30 prescribes those fees applicable to applicants and holders of permits, licenses, and certifications, and registrations and established schedules for timely action on permit applications. This regulation also establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeal process to contest the calculation or applicability.

Purpose: These amendments revise Regulation 61-30.G(3), Schedule of Air Quality Fees, to increase fees in order to cover the cost of its Title V permit program. These costs include, but are not limited to, administering the permit program, support staff, equipment, legal services, contracts with consultants, program expenses associated with compliance assistance, and public notification requirements.

Legal Authority: The Clean Air Act requires that the Administrator promulgates regulations establishing the elements of a permit program. 40 C.F.R. Section 70.9(b)(1) provides "...[t]he State program shall establish a fee schedule that results in the collection and retention of revenues sufficient to cover the permit program costs." The legal authority for R. 61-30, Environmental Protection Fees, is S.C. Code Section 48-2-50 (2008 & Supp. 2012) *et seq.* and Clean Air Act, 42 U.S.C. Section 7401 *et seq.*

This amendment is being promulgated to comply with federal law and does not require legislative review, S.C. Code Ann. Section 1-23-120(H).

Plan for Implementation: These amendments will take effect upon publication in the *South Carolina State Register*. The amendments will be implemented in South Carolina by providing the regulated community with copies of the regulation, publishing associated information on our website at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/LawsAndRegulations/>, sending an email to stakeholders, and communicating with affected facilities during the permitting process and via annual emission inventory communications.

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

The Title V permitting program is a federal program designed to standardize air quality permits and the permitting process for major sources of emissions across the country. The Environmental Protection Agency ("EPA") promulgated regulations which require state and local permitting authorities to develop and submit a federally enforceable operating permit program for EPA approval, 40 C.F.R Section 70.9.

The South Carolina Department of Health and Environmental Control ("Department") developed and submitted its Title V permit program in 1993. The EPA in turn approved this program on June 26, 1995 (60 FR 32913). Requirements for this approval (see 40 C.F.R 70.4(b)(7)) include adequate state resources to administer the state's program.

The federal regulations state that the Administrator may withdraw the program support for a state that fails to, "collect, retain, or allocate fee revenue consistent with §70.9 of this part." 40 C.F.R. Section 70.10(c)(1)(ii)(D). If the Administrator withdraws support of a state program, the Administrator may collect fees from sources if the Administrator determines that the state fee provisions do not meet the requirements of

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Section 70.9. These federal fees maybe collected without regard to fees already collected by the state under Section 70.9. 40 C.F.R. Section 70.10(d).

Revenue supporting the Title V program (air emission fees) has declined significantly over the last few years. The installation of air pollution control technology on major stationary sources, the retirement or curtailment of operations by major sources including certain coal-fired power plants, and the conversion at many major facilities from burning coal or oil to burning natural gas has resulted in the decreased emission of regulated pollutants that are subject to annual emission fees. Eleven (11) coal-fired electric generating units (EGU) that were operating in South Carolina in 2011 have either closed (9) or have been converted to burn natural gas (2). Two additional EGUs are scheduled to close in the spring of 2016. In addition, several large coal-fired boilers at industrial facilities have been replaced with biomass or natural gas boilers.

As a result, the Bureau of Air Quality's fee collection has dropped significantly. By 2016, the program projects a total loss of \$2.6 million in Title V program fee revenue. Additional appropriations have been approved by the legislature, but a deficit of approximately \$900,000 will remain. In addition, the Department continues to make significant strides in increasing efficiencies and streamlining the permitting process which has and will also lead to decreases in the amount of fees collected. As more complex federal regulations are promulgated, including increasingly stringent National Ambient Air Quality Standards (NAAQS), sustained resources are needed to develop new strategies for ensuring South Carolina's air quality meets national regulations and standards, and the Department's Title V permit program must be maintained to meet these challenges.

Based on this projected deficit, the Department amended R. 61-30 to establish additional fees in order to provide the Department with the funds necessary to administer the Title V permit program. These fees have been prorated among the Title V regulated facilities based on quantity of emissions and permit complexity, and only assess additional fees sufficient to meet the program deficit and provide funds sufficient to cover all reasonable (direct and indirect) costs required to administer the Title V permit program. Without this additional fee, "The Administrator may withdraw approval of the state program and apply sanction, including administering a Federal program under Title V of the Act." 40 C.F.R. 70.10(b)(2). Therefore, these amendments are reasonable as they will ensure that the Department collects and maintains the funds necessary to administer the Title V permit program as mandated by federal law.

DETERMINATION OF COSTS AND BENEFITS:

There will necessarily be an increased cost to members of the regulated community that are subject to the Title V permit program. Title V facilities are considered "major" emitters because of the amount or type of pollutants they are permitted to emit and must be regulated by states or EPA. Of the 2254 air permitted facilities currently in South Carolina, the Department estimates that approximately 265 are Title V facilities and will be affected by this proposed revision. However, the Department believes the increased cost (by way of a tiered approach) is being done in a way that is equitable to all the affected sources. This amendment includes an annual maintenance fee to include six tiers ranging from \$500 for sources emitting less than 10 tons per year to \$10,000 for sources emitting greater than 1000 tons per year. This fee structure was developed after extensive stakeholder outreach to include a broad range of stakeholders. Support for this tiered approach is based on the Department's attempt to account for the quantity and types of emissions from the affected sources as well as the relative complexity of each associated permit.

There are no expected costs to public resources as the fees collected would be used to administer the Title V permit program.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Federal regulations are expected to continually increase and become even more stringent in the near future. Adoption of the fee increase through the amendments will provide continued protection of the environment and public health. In addition, this fee increase will ensure that the Department collects fees that are sufficient to retain its current authority to administer the Title V permit program and maintain a program that is acceptable to the EPA.

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

The State's authority to implement federal requirements, which are beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

Document No. 4430
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
 Statutory Authority: 1976 Code Sections 44-7-110 through 44-7-394 and 44-41-10(d)

61-16. Minimum Standards for Licensing Hospitals and Institutional General Infirmaries

Synopsis:

Statutory authority for Regulation 61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries, resides in S.C. Code Ann. Sections 44-7-110 through 44-7-394 (2002 & Supp. 2012) and 44-41-10(d) (2002). The Department substantially amended the regulation in April 1992 and again in 2002 for perinatal services. Since 1992, numerous improvements in healthcare practices and technology have enhanced the healthcare industry. This amendment updates the regulation and incorporates improvements in health care practice. Due to numerous amendments herein, the current regulation will be replaced in its entirety. See sectional discussion below and Statements of Need and Reasonableness and Rationale herein.

A Notice of Drafting for the proposed regulation was published in the *State Register* on September 27, 2013.

Sectional Discussion of Revised Regulation
 The Table of Contents has changed to accommodate current codification practice.

Chapter 1 was changed to Section 100. Section 100 addresses definitions. The definitions of Administrator, Annual, Contact Investigation, Dietitian, Health Assessment, Live Birth, License, Legally Authorized Healthcare Provider, Nurse, Quarterly, External Medical Surge, Internal Medical Surge, Inpatient Dialysis, Critical Access Hospital, Long Term Acute Hospital (LTACH), and Emergency Care were added. The definitions of Licensee, Patient, Facility, General Hospital, Specialized Hospital, Institutional General Infirmary, Privately-Owned Educational Institutional Infirmary, Designee, and Existing Facility were edited. The definitions of Public Health Centers, Diagnostic and Treatment Centers, Rehabilitation Facilities, Attic, Basement, Story, First Floor, Exit, Fire Resistive Rating, and Automatic Sprinkler System have been deleted.

Section 200 discusses Licensing Requirements and Fees and was updated to current code.

Section 300 is a new section that addresses Enforcing Regulations. This area discusses Inspections, Investigations, and Compliance.

Section 400 is a new section that addresses Enforcement Actions. This area discusses Violation Classifications.

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Chapter 2 was changed to Section 500. Section 500 was edited from Management to Staff and Training. Section 500 addresses Control, Chief Executive Officer, Medical Staff Appointment, Nursing Services, Employees, Job Orientation and In-Service Training, and Internal Emergencies.

Section 600 was part of Chapter 2 and changed to be its own section. Section 600 addresses Employee Health, New Employees, Employee Records, and Volunteer Employees.

Section 700 is a new section and addresses Reporting. This area discusses Fire Report, Accident and/or Incident Report, Facility Closure, Zero Census, Joint Annual Report, and Hospital Infections Disclosure Act (HIDA) and Reporting Requirements.

Section 800 is a new section and addresses the Requirements of the Lewis Blackman Act.

Section 900 is a new section and addresses Disaster Management. This area discusses Emergency Evacuation, Internal Medical Surge, External Medical Surge, Emergency Call Data, and Security.

Chapter 3 has been deleted and has been revised into Section 600.

Chapter 4 has been deleted and has been revised into Section 600.

Chapter 5 was changed to Section 1000. Section 1000 addresses Accommodations for Patients.

Chapter 6 was changed to Section 1100. Section 1100 addresses Medical Records. Substantial changes have been made to Section 1100 to include Physician's Responsibility, Organization, Indexing, Ownership, Contents, Orders for Medication and Treatment, Storage, Information Provided to Other Health Care Providers, Maintenance and Disposal, and Access to Medical Records.

Section 1200 is a new section and addresses Patient Care and Services. Section 1200 addresses Medications, Laboratory, Radiology, Pharmacy Services, Drug Distribution and Control, Physical Facility and Storage, Labeling of Medications, Central Supply, Surgery, Facilities, Equipment, Anesthesia, Outpatient Services, Emergency Services, Hemodialysis Services, Dental Surgery, Physical Therapy, Occupational Therapy, Psychiatric Services, Chemical and Substance Abuse Treatment Services, and Pediatrics.

Section 1300 is a revised section and addresses Perinatal Services.

Chapter 7 was changed to Section 1400. Section 1400 addresses Vital Statistics.

Chapter 8 was changed to Section 1500. Section 1500 addresses Food and Nutrition Service.

Chapter 9 was changed to Section 1600. Section 1600 addresses Maintenance.

Chapter 10 has been deleted and has been revised into Section 1800.

Chapter 11 was changed to Section 1700. Section 1700 addresses Housekeeping and Refuse Disposal.

Section 1800 is a new section and addresses Infection Control. This section addresses topics of General, Infection Control Training, Patient/Public Education and Disclosure, Live Animals, Laundry and Linens, Waste Management, and Water Requirements.

Chapter 12 has been deleted.

Chapter 13 was changed to Section 2200 and has been relocated to after Section 2100.

Chapters 14-19 are no longer kept as reserve chapters and have been deleted.

Chapter 20 was changed to Section 1900. Section 1900 addresses Design and Construction. Substantial edits have been made to areas General, Codes and Standards, Submission of Plans, Construction Inspections, Patient Rooms, Signal System, Nurses Station, Utility Rooms, and Operating Room Temperature and Humidity.

Section 2000 is a new section and addresses Fire Protection, Prevention and Life Safety.

Chapter 28 was changed to Section 2100. Section 2100 addresses Preventive Maintenance of Life Support Equipment.

Chapters 21, 22, 23, 24, 25, 26, 27, 29, 30, Appendix A and Appendix B have been deleted.

Instructions: Replace R.61-16 in its entirety with this amendment.

Text:

61-16. Minimum Standards for Licensing Hospitals and Institutional General Infirmaries.

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SECTION 100. DEFINITIONS

101. Definitions.

For the purpose of these Standards, the following definitions shall apply:

A. Administrator: The individual designated by the governing body or owner who is in charge of and responsible for the administration of the facility.

B. Annual (Annually): A time period that requires an activity to be performed at least every twelve to thirteen (12 to 13) months.

C. Contact Investigation: Procedures that occur when a case of infectious TB is identified, including finding persons (contacts) exposed to the case, testing and evaluation of contacts to identify Latent TB Infection (LTBI) or TB disease, and treatment of these persons, as indicated.

D. Department: The South Carolina Department of Health and Environmental Control.

E. Facility: Hospitals and institutional general infirmaries licensed by the Department, shall be defined and classified as follows:

1. General Hospital: A facility with an organized medical staff to maintain and operate organized facilities and services to accommodate two or more nonrelated persons for the diagnosis, treatment and care of such persons overnight and provides medical and surgical care of acute illness, injury or infirmity and may provide obstetrical care, and in which all diagnoses, treatment or care are administered by or performed under the direction of persons currently licensed to practice medicine, surgery, or osteopathy in the State of S.C.

2. Specialized Hospital: A facility which has an organized medical staff, maintains and operates organized facilities and services to accommodate two or more nonrelated persons for the diagnosis, treatment and/or care of such persons overnight and which provides a specialized service for one type of care, such as, maternity, orthopedics, pediatrics, E.E.N.T., psychiatry, etc., and in which all diagnoses, treatment or care are under the direction of persons currently licensed to practice medicine, surgery, osteopathy in the State of S.C.

3. Institutional General Infirmary: A facility which is established within the jurisdiction of a larger nonmedical institution and which maintains and operates organized facilities and services to accommodate two or more nonrelated students, residents or inmates with illness, injury or infirmity for a period exceeding 24 hours for the diagnosis, treatment and care of such persons and which provides medical, surgical and professional nursing care, and in which all diagnoses, treatment and care are performed under the direction of persons currently licensed to practice medicine and surgery in the State of S.C.

4. Long Term Acute Care Hospital (LTACH): A general hospital which has been classified and certified as a long term acute care hospital designed to provide extended medical and rehabilitative care for patients who are clinically complex and have acute or chronic conditions. In a LTACH patients have an average length of stay of 25 days or more.

5. Critical Access Hospital (CAH): A general hospital designated by the state as such through the Medicare Rural Hospital Flexibility Program, in accordance with 42CFR485 Subpart F.

6. Privately-Owned Educational Institutional Infirmary: These facilities may be established within the jurisdiction of a larger nonmedical institution which maintains and operates organized facilities and services to accommodate two or more nonrelated students, faculty, and staff with illness, injury, or infirmity for a period exceeding twenty-four hours for the diagnosis, treatment, and care of such persons and which provides medical, surgical, and professional nursing care, and in which all diagnoses, treatment, and care are performed under the direction of persons currently licensed to practice medicine and surgery in South Carolina. However, privately-owned education infirmaries also may care for patients who are not students, faculty, or staff when the privately-owned education infirmary has agreed to provide such care to this class or patients prior to January 1, 2007 pursuant to 44-7-261.

F. Designee: A physician, dentist, osteopath, podiatrist, physician's assistant, or advanced practice registered nurse who has staff privileges, selected by a prescriber to sign verbal orders for medication or treatment in the prescriber's absence.

G. Dietitian: An individual who is registered by the Commission on Dietetic Registration.

H. Existing Facility: A facility which was in operation and/or one which began the construction or renovation of a building, for the purpose of operating the facility, prior to the adoption of these standards. The licensing standards governing new facilities apply if and when an existing facility is not continuously operated and licensed under these Standards.

I. Health Assessment: An evaluation of the health status of a staff member or volunteer by a physician, other legally authorized healthcare provider, or registered nurse, pursuant to written standing orders and/or protocol approved by a physician's signature.

J. Licensee: The individual, corporation, organization, or public entity that has been issued a license to provide care, treatment, and services at a facility and with whom rests the ultimate responsibility for compliance with this regulation.

K. Live Birth: The complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of the voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. Heartbeats are to be distinguished from transient cardiac contractions and respirations are to be distinguished from fleeting respiratory efforts or gasps.

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L. License: A certificate issued by the Department to the licensee that authorizes the operation of a hospital or institutional general infirmary.

M. Legally Authorized Healthcare Provider: An individual authorized by law and currently licensed in South Carolina to provide specific medical treatments, care, or services to staff members and/or patients, e.g., advanced practice registered nurses, physician assistants.

N. New Facility: A facility which began operation and/or one which began construction or renovation of a building for the purpose of operating the facility after the adoption of these standards.

O. Nurse: A registered nurse, licensed practical nurse, or vocational nurse as those terms are defined by each party state's practice laws.

P. Patient: Any individual who is receiving treatment or services at the facility.

Q. Quarterly: A time period that requires an activity to be performed at least four (4) times a year within intervals ranging from eighty-one to ninety-nine (81 to 99) days.

R. External Medical Surge: Providing medical care services in an area outside of the licensed inpatient hospital building(s). For purposes of External Medical Surge, these locations are called Alternate Care Sites.

S. Internal Medical Surge: An emergency situation when a facility needs to set up and utilize beds beyond its licensed bed capacity in an area within the licensed inpatient facility building(s).

T. Inpatient Dialysis: Dialysis which, because of medical necessity, is furnished to an End-Stage Renal Disease (ESRD) patient on a temporary inpatient basis in a hospital.

U. Emergency Care: The treatment which is usually and customarily available at the respective hospital and that must be provided immediately to sustain a person's life, to prevent serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or to provide for the care of a woman in active labor and the infant.

SECTION 200. LICENSE REQUIREMENTS AND FEES

201. License Requirements.

A. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent itself (advertise or market) as a hospital or institutional general infirmary in South Carolina without first obtaining a license from the Department. Admission of patients or the provision of care, treatment, and/or services to patients prior to the effective date of licensure is a violation of S.C. Code Ann. Section 44-7-260(A) (1976, as amended). (I)

B. A license shall be effective for a period of time specified by the Department.

C. A new facility, or one that has not been continuously licensed under these or prior standards, shall not admit patients until permission is granted by the Department.

D. Hospitals that provide services to patients requiring skilled nursing care must maintain a separate license for the areas where the services are provided.

E. Upon receipt of a written request from the hospital authorities to the Department requesting such certification, any general hospital having a current license to operate may be certified as a suitable facility for the performance of abortions. (Section 44-41-10(d) of the S.C. Code of Laws of 1976.) (I)

F. Applicants for a license shall file application under oath on a form and frequency specified by the Department. An application shall be signed/authenticated by the owner, if an individual or partnership; or in the case of a corporation, by two of its officers; or in the case of a governmental unit, by the head of the governmental department having jurisdiction over it. The application shall set forth the full name and address of the facility for which the license is sought and of the owner in case his address is different from that of the facility; the names of persons in control thereof and such additional information as the Department may require, including affirmative evidence of ability to comply with reasonable standards, rules and regulations as may be lawfully prescribed. No proposed hospital shall be named nor may an existing hospital have its name changed to the same or similar name as a hospital licensed in the State.

G. A facility shall request issue of an amended license, by application to the Department prior to any of the following circumstances:

1. Change of ownership by purchase or lease;
2. Change of facility's name;
3. Addition or replacement of beds (an inspection will be required prior to issuance of license);
4. Deletion of beds; or
5. Reallocation of types of beds as shown on license.

202. Licensing Fees.

Each applicant shall pay a license fee prior to issuance of a license. The annual license fee shall be \$10.00 per licensed bed. Such fee shall be made payable by check or credit card to the Department and is not refundable.

203. Exceptions to Licensing Standards.

The Department reserves the right to make exceptions to these standards where it is determined that the health and welfare of the community requires the services of the facility. When an "exception" applies to an existing facility, it will continue to meet the standards in effect at the time it was licensed.

SECTION 300. ENFORCING REGULATIONS

301. General.

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding a proposed or licensed facility in order to enforce this regulation.

302. Inspections and Investigations.

A. An inspection shall be conducted prior to initial licensing. Inspections shall be conducted as deemed appropriate by the Department. (I)

B. All facilities, proposed facilities, or unlicensed facilities are subject to inspection or investigation at any time without prior notice by individuals authorized by South Carolina Code of Laws. (II)

C. Individuals authorized by the Department shall be granted access to all properties and areas, objects, and records. If photocopies are made for the Department inspector, they shall be used only for purposes of enforcement of regulations and confidentiality shall be maintained except to verify individuals in enforcement

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action proceedings. Physical area of inspections shall be determined by the extent to which there is potential impact or effect upon patients as determined by the inspector. (I)

D. A facility or proposed facility found noncompliant with the standards of this regulation shall submit an acceptable plan of correction to the Department that shall be signed by the administrator and returned by the date specified on the report of inspection or investigation. The written plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences (actual and similar); and
3. The actual or expected completion dates of those actions.

E. Reports of inspections or investigations conducted by the Department, including the response(s) by the facility or proposed facility, shall be provided to the public upon written request with the redaction of the names of those persons in the report as provided by S.C. Code Ann. Sections 44-7-310 and 44-7-315 (1976, as amended).

303. Compliance.

A. A license shall not be issued until the licensee has demonstrated to the Department that the proposed facility is in compliance with the licensing standards. In the event a licensee who already has a facility or activity licensed by the Department makes application for another facility or activity or increase in licensed capacity, the currently licensed facility or activity shall be in substantial compliance with the applicable standards prior to the Department issuing a license to the proposed facility or activity or an amended license to the existing facility. Facilities shall comply with applicable State, Federal, and local laws, codes, and regulations. (II)

B. The license is considered property of the Department and may not be duplicated in such a manner that it cannot be distinguished from the original. (II)

C. Any additions or renovations to an existing facility shall be approved by the Department prior to occupancy.

SECTION 400. ENFORCEMENT ACTIONS

401. General.

A. When the Department determines that a licensee, proposed licensee, or an unlicensed facility owner is in violation of statutory provisions, rules, or regulations relating to the operation of a facility, the Department, upon proper notice to the licensee, may impose a monetary penalty and/or deny, suspend, revoke, or refuse to issue or renew a license.

B. Food service permits may be revoked or suspended for violations in accordance with DHEC Regulation 61-25.

402. Violation Classifications.

Violations of standards in this regulation are classified as follows:

A. Class I violations are those that the Department determines to present an imminent danger to the health and safety of the persons in the facility or a substantial probability that death or serious physical harm could result there from. A physical condition or one (1) or more practices, means, methods or operations in use in a

facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. When a specific time is designated for correction, each day such violation exists after expiration of the time established by the Department shall be considered a subsequent violation.

B. Class II violations are those, other than Class I violations, that the Department determines to have a negative impact on the health and safety of persons in the facility. The citation of a Class II violation may specify the time within which the violation is required to be corrected. When a specific time is designated for correction, each day such violation exists after expiration of the time established by the Department shall be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. The citation of a Class III violation may specify the time within which the violation is required to be corrected. When a specific time is designated for correction, each day such violation exists after expiration of the time established by the Department shall be considered a subsequent violation.

D. Violations of §44-7-320(A)(1)(b) and (A)(1)(d) of the South Carolina Code of Laws of 1976, as amended, are considered Class I violations.

E. The notations, “(I)” or “(II)” placed within sections of this regulation, indicate those standards are considered Class I or II violations, respectively, if they are not met. Standards not so annotated are considered Class III violations.

F. In arriving at a decision to take enforcement action, the Department will consider the following factors: the number and classification of violations, including repeat violations; specific conditions and their impact or potential impact on health and safety of the patients; efforts by the facility to correct cited violations; behavior of the licensee that would reflect negatively on the licensee’s character, such as illegal or illicit activities; overall conditions of the facility; history of compliance; any other pertinent conditions that may be applicable to statutes and regulations.

G. When a decision is made to impose monetary penalties, the Department may invoke S.C. Code Ann. Section 44-7-320(C) (1976, as amended), to determine the dollar amount or may utilize the following schedule as a guide to determine the dollar amount:

Frequency of Violation of Standard within a 24-month period	MONETARY PENALTY RANGES		
	Class I	Class II	Class III
1st	\$ 200-1000	\$100-500	\$ 100
2nd	500-2000	200-1000	100-500
3rd	1000-5000	500-2000	200-1000
4th	5000	1000-5000	500-2000
5th	5000	5000	1000-5000
6th and more	5000	5000	5000

H. In addition to or in lieu of any action taken by the Department affecting the license of any hospital, when it is established that any officer, employee, or member of the hospital medical staff has recklessly violated the provisions of Section 1210.A.5, the Department may require the hospital to pay a civil penalty of up to ten thousand dollars pursuant to 44-7-260(E).

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I. Any Department decision involving the issuance, denial, renewal, suspension, or revocation of a license and/or the imposition of monetary penalties where an enforcement action order has been issued may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 44, Chapter 1; and Title 1, Chapter 23.

SECTION 500. STAFF AND TRAINING

501. General.

Every facility shall be organized, equipped, staffed and administered in order that adequate care may be provided for each person admitted.

502. Control.

A. The governing body, or the owner, or the person or persons designated by the owner as the governing authority shall be the supreme authority in the hospital responsible for the management control of the hospital and appointment of the medical staff. The governing body will work with the senior managers and leaders of the organized medical staff to annually evaluate the hospital's performance in relation to its mission, vision, and goals.

B. The governing body is ultimately accountable for the safety of patients and staff and the quality of care, treatment, and services provided.

C. A written set of bylaws for operation of the hospital shall be developed by the governing authority. Committees as determined by the needs and services of the hospital shall be provided. The medical staff shall be accountable to the governing authority for the clinical and scientific work of the hospital.

503. Chief Executive Officer.

The Chief Executive Officer shall be the administrator of the facility and be selected by the governing body or owner and shall have charge of and be responsible for the administration of the facility in all its branches and departments and shall see that the bylaws and amendments thereto are complied with. Any change in the position of the Chief Executive Officer shall be reported immediately by the governing body or owner to the Department in writing.

504. Medical Staff Appointment. (II)

A. The hospital shall have a medical staff organized in accordance with the facility's by-laws and accountable to the governing body including, but not limited to the quality of professional services provided by individuals with clinical privileges. Prior to a physician's initial appointment and periodic reappointment, the governing body shall assure itself that the physician is qualified and competent to practice in his profession. This organized group shall, with the approval of the hospital governing body, adopt bylaws, rules and regulations to govern its operation as an organized medical staff. Hospital bylaws shall contain renewal procedures, authority to limit or terminate staff privileges, and appeal procedures. (II)

B. To be eligible for membership on a staff an applicant must be licensed to practice in his profession in the State of South Carolina competent in his respective field, worthy in character and in matters of professional ethics, and meet the requirements of the hospital's bylaws. Medical staff membership must be limited to doctors of medicine or osteopathy by the State Board of Medical Examiners, dentists licensed to practice dentistry by the State Board of Dentistry and podiatrists licensed to practice podiatry by the State Board of Podiatry Examiners. No individual is automatically entitled to membership on the medical staff or to the exercise of any clinical privilege merely because he is licensed to practice in any state, because he is a member of any professional organization, because he is certified by any clinical examining board, or because he has

clinical privileges or staff membership at another hospital without meeting the criteria for membership established by the governing body of the respective hospital.

C. The medical staff, either as a whole or on a department or clinical service basis, shall meet at a frequency as determined by the facilities policies and procedures to review and analyze their clinical experience. Written minutes of such meetings shall be recorded and filed. There shall be mechanisms in place for monitoring and evaluation of the quality of patient care services, for improving services, and for evaluation of the effectiveness of improvement efforts.

D. The governing body may establish categories for membership in the medical staff. These categories for membership shall be identified and defined in the medical staff by-laws, rules, or regulations.

E. In hospitals maintaining organized departments or services, such as medicine, surgery, obstetrics, pediatrics, orthopedics, etc., the medical staff shall elect periodically a chief of staff and staff members to be the responsible heads or chiefs for each department or service, subject to the approval of the governing body. Minutes of all department or service meetings shall be recorded and filed.

F. In compliance with such rules for professional services of resident physicians as the medical staff prescribes, the medical staff shall supervise resident physicians in the diagnosis and treatment of all patients and in the performance of any other professional duties and shall recommend them for approval or disapproval to the governing body and chief executive officer. (II)

G. All persons admitted to any facility covered by these Standards must be under the care of a person duly licensed to practice medicine, dentistry or osteopathy. Patients of podiatrists and dentists who are members of the medical staff of a hospital must be co-admitted by a doctor of medicine or osteopathy who is a member of the medical staff of the hospital who shall be responsible for the general medical care of the patient. Oral surgeons who have successfully completed a postgraduate program in oral surgery accredited by a nationally recognized accredited body approved by the U.S. Department of Education may admit patients without the requirement of co-admission if permitted by the bylaws of the hospital and medical staff. (I)

H. All hospitals shall have a licensed physician available on call at all times. (I)

505. Nursing Services. (II)

A. Nursing Services shall be organized and staffed at all times to provide safe, appropriate, and individualized care to each patient. The authority, responsibility and function of all patient care providers shall be clearly defined by written hospital policy and position descriptions.

B. The hospital must have an organized nursing service that provides 24-hour nursing services. The nursing services must be furnished or supervised by a registered nurse. This service must be a well organized service of the hospital and under the direction of a single registered nurse. A registered professional nurse shall be designated to act in their absence. Nurses must be currently licensed in the state of South Carolina.

C. There shall be a sufficient number of duly licensed registered nurses on duty at all times provide nursing care to meet the needs of the patient population for all areas where nursing care is provided. A registered nurse must be on duty at all times.

D. Other personnel shall be employed to assist the registered nurse in providing nursing care. Licensed practical nurses and all other workers who are employed by a facility in nursing services shall be assigned based on their education, training, and competency.

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E. All personnel who render nursing care services in the hospital shall be under the supervision of nursing leadership and shall be subject to all policies and procedures of the facility.

F. All nurses employed in a nursing role in a facility shall be currently licensed to practice in South Carolina.

G. A procedure manual that is in accordance with current accepted practices must be readily available to the nursing personnel.

506. Employees. (II)

A. The Chief Executive Officer shall designate an individual to conduct Human Resources Management within the organization. That individual, and other individuals as needed, shall have responsibility for hiring, personnel management, compensation and benefits, and maintenance of accurate and complete personnel records.

B. The facility shall develop and make available to the employee a written job description for each type of job in the facility. Each job description shall include a written description of the education, experience, license, certification, or other qualifications required for the position.

C. The licensee shall maintain either personnel records or a data base in accordance with all appropriate state and federal laws. The personnel records shall contain, at a minimum, the following:

1. For clinical personnel, information sufficient to verify the employee's qualifications for the job for which that individual is employed. That information includes but is not limited to: employee's education, professional certification or licensure status, other training, experience and indication of clinical competence.

2. For nursing personnel, the information shall also include either a copy of the employee's South Carolina nursing license or a multi-state compact license. Applicants shall be hired only after obtaining verification of their license from the South Carolina Board of Nursing or verification of their multi-state license from the appropriate state Board.

3. For non-clinical personnel, information regarding the employee's education, training, experience and professional competence sufficient to verify the employee's qualifications for the job for which that individual is employed. Such information shall be kept current.

4. Current information relative to periodic work performance and/or competences evaluations.

5. Records of pre-employment health screenings and of subsequent health services rendered to the employees as are necessary to determine that all facility employees are physically able to perform the essential duties of their positions.

D. The facility shall develop, establish and maintain personnel policies and practices which support sound patient care. The policies shall be in writing and made available to all employees. The policies shall be reviewed periodically but no less than annually and the date of the most recent review shall be indicated on the written policies. A procedure shall be established for notifying employees of changes in the established personnel policies.

507. Job Orientation and In-Service Training.

A. Orientation of all new personnel shall be structured to educate them about the organization and environment of the facility, the employees' specific duties and responsibilities, and patients' needs. Each employee shall be familiar with the facility's emergency disaster plans. The hospital must ensure annual

training of employees regarding emergency management, including surge policies and procedures and events that would indicate a need to implement surge policies and procedures. This requirement for job orientation may be accomplished through any combination of in-person or online sessions, completion of modules, videos, or other types of training approaches.

B. In-service training programs shall be planned and provided for all personnel to ensure and maintain their understanding of their duties and responsibilities. Records shall be maintained to reflect program content and individuals attending. This requirement for in-service training may be accomplished through any combination of in-person or online sessions, completion of modules, videos, or other types of training approaches.

C. Either as a component of orientation or in a separate session, all new employees who will have contact with patients or who will handle or potentially handle blood, body fluids or tissue must receive general education regarding infection prevention and control within the hospital.

508. Plans and Training for Fires and Other Internal Emergencies. (II)

A. Each facility shall develop, in coordination with its supporting fire department and/or disaster preparedness agency, suitable written plans for actions to be taken in the event of fire and other emergencies. All employees shall be made familiar with these plans and instructed as to required actions.

B. Each employee shall receive instructions covering fire protection training.

C. A fire drill shall be conducted for each shift at least quarterly. Records of drills shall be maintained to report the date, time, shift and a description and evaluation of the drill.

D. Drills shall be designed and conducted to:

1. Assure that all personnel are capable of performing assigned tasks or duties;
2. Assure that all personnel know the location, use and how to operate firefighting equipment;
3. Assure that all personnel are thoroughly familiar with the fire plan; and
4. Evaluate the effectiveness of plans and personnel.

SECTION 600. EMPLOYEE HEALTH (II)

601. Employee Health Program.

A hospital shall provide an employee health program to support a safe, healthy workplace by providing timely and quality health assessments, prevention services and if needed, intervention strategies. In order to minimize the possibility of contamination and transfer of infection, the employee health program shall include the establishment of policies and monitoring procedures to ensure that all employees are free from communicable infections and open skin lesions.

602. New Employees.

A. To ensure that every person accepted for employment is medically capable of performing the required job duties, a new employee shall be required to satisfactorily pass a health assessment conducted prior to direct patient contact by one of the following:

1. Medical Doctor or Doctor of Osteopathy;

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2. Physician Assistant;
3. Nurse Practitioner; or

4. Registered nurse, pursuant to standing orders approved by a physician as required by hospital policy by the physician. The standing orders must be reviewed annually, with a copy maintained at the facility.

B. The health assessment must ensure that all potential hospital employees are evaluated for conditions related to infectious diseases that may have an impact on patient care, the employee, or other healthcare workers. Based upon recommendations of the CDC's Advisory Committee on Immunization Practices (ACIP) for immunization of healthcare personnel, as listed in the CDC Guideline for infection control in healthcare personnel (1998) and as amended, this evaluation must include:

1. Medical history, including immunization status and assessment for conditions that may predispose the person to acquiring or transmitting communicable diseases;

2. Tuberculosis screening, which is performed in a manner prescribed in the CDC and the Department's most current tuberculosis guidelines; and

3. Serologic screening for vaccine-preventable diseases, as deemed appropriate by the hospital.

C. The hospital must provide evidence of education of employees about influenza vaccination and must offer the influenza vaccine to these persons.

D. Employee health programs must provide evidence of ongoing review and monitoring of both CDC and the Department recommendations and updates and methods for revising the programs as needed.

603. Employee Records.

A. All employee health records, including any medical history, shall be retained in a separate and confidential file in Employee Health. Access to these records will be permitted only to those authorized through hospital policy.

B. The hospital shall have policies and procedures for the maintenance and destruction of employee health records after employment has been terminated.

604. Volunteer Workers. (II)

A. All volunteer workers who handle food or provide patient care shall have a physical examination prior to their initial food handling or patient care activity.

B. For patient care volunteers, the tuberculin testing and treatment program described in Section 602.B also applies.

SECTION 700. REPORTING (II)

701. Fire Report.

The Department shall be notified immediately regarding any fire, regardless of size or damage that occurs in the facility, and followed by a complete written report to include fire department reports, if any, to be submitted within a time period determined by the facility, but not to exceed 7 business days.

702. Accident and/or Incident Report.

A. A record of each accident and/or incident occurring in the facility, including serious medication errors and adverse drug reactions, shall be retained. Incidents resulting in death or serious injury shall be reported, in writing, to the Department within 10 days of the occurrence. Information included in a facilities' report that is acquired from a peer review committee shall maintain its privilege pursuant to S.C. Code of Laws Sections 40-71-20, 44-30-60, and 44-7-315. However, the duty of hospitals to report serious accidents and incidents is not affected by any privilege or confidentiality. The following incidents, including but not limited to those stated, shall be reported:

1. Suicides.
2. Wrong site surgery.
3. Medication errors resulting in death or serious injury.
4. Major fractures or head injuries resulting from falls or other events.
5. Patient death or serious injury resulting from being in a restraint.
6. Criminal events and assaults.
7. Transfusion errors.
8. Neonatal injuries.
9. Maternal deaths or injuries.
10. Elopement events.
11. Anesthesia-related events resulting in death or serious injury.
12. Ventilator errors resulting in death or serious injury.
13. Infant abductions.

B. Reports submitted to the Department shall contain at a minimum: facility name, patient age and sex, date of incident, location, witness names, extent and type of injury and how treated, *e.g.*, hospitalization, identified cause of incident, internal investigation results if cause unknown, identity of other agencies notified of incident and the date of the report.

703. Facility Closure.

A. Prior to the permanent closure of a facility, the Department shall be notified in writing of the intent to close and the effective closure date. Within 10 days of the closure, the facility shall notify the Department of the provisions for the maintenance of the records, the identification of displaced patients, the relocated site, and the dates and amounts of patient refunds. On the date of closure, the license shall be returned to Department.

B. In instances where a facility temporarily closes, the Department shall be given written notice within a reasonable time in advance of closure. At a minimum this notification shall include, but not be limited to: the reason for the temporary closure, the location where the patients have been/will be transferred, the manner in

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which the records are being stored, and the anticipated date for reopening. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current construction standards of the facility prior to its reopening. If the facility is closed for a period longer than one year, and there is a desire to re-open, the facility shall re-apply to the Department for licensure and shall be subject to all licensing requirements at the time of that application, including construction-related requirements for a new facility.

704. Zero Census.

In instances when there have been no patients in a facility for any reason for a period of 90 days or more, the facility shall notify the Department in writing that there have been no admissions, no later than the 100th day following the date of departure of the last active patient. At the time of that notification, the Department shall consider, upon appropriate review of the situation, the necessity of inspecting the facility prior to any new and/or re-admissions to the facility. If the facility has no patients for a period longer than one year, and there is a desire to admit a patient, the facility shall re-apply to the Department for licensure and shall be subject to all licensing requirements at the time of that application, including construction-related requirements for a new facility.

705. Joint Annual Report.

The Department requires each health care facility to annually complete a questionnaire named "Joint Annual Report" and return this report within the time period as specified in the report's accompanying cover letter.

706. Hospital Infections Disclosure Act (HIDA) & Reporting Requirements. (I)

A hospital is required to collect data and submit reports to the Department on hospital acquired infection rates to be in compliance with S.C. Code of Laws Sections 44-7-2410 through 44-7-2460. Hospitals are also required to report methods and adequacy of selected infection control processes. The Department will notify hospitals annually about the current HIDA reporting requirements and the methods for submitting those reports to the Department.

SECTION 800. REQUIREMENTS OF THE LEWIS BLACKMAN ACT (I)

801. Compliance.

In order to be in compliance with The Lewis Blackman Hospital Patient Safety Act, hospitals are required to:

A. Identify all clinical staff, clinical trainees, medical students, interns, and resident physicians as such with identification badges that include their names, their departments, and their job or trainee titles.

B. Institute a procedure whereby a patient may request that a nurse call his or her attending physician regarding the patient's personal medical care.

C. If the patient is able to communicate with and desires to call his or her attending physician or designee, upon the patient's request, the nurse must provide the patient with the telephone number and assist the patient in placing the call.

D. Provide a mechanism, available at all times, and the method for accessing it, through which a patient may access prompt assistance for the resolution of the patient's personal medical care concerns.

E. Establish procedures for the implementation of the mechanism providing for initiation of contact with administrative or supervisory clinical staff who shall promptly assess the urgent patient care concern and cause the patient care concern to be addressed.

F. Provide to each patient prior to, or at the time of the patient's admission to the hospital for inpatient care or outpatient surgery, written information describing the general role of clinical trainees, medical students, interns, and resident physicians in patient care.

SECTION 900. DISASTER MANAGEMENT(II)

901. Emergency Evacuation.

A. All facilities shall develop, by contact and consultation with their county emergency preparedness agency, a suitable written plan for actions to be taken in the event of a disaster and/or emergency evacuation. In the event of mass casualties, the facility shall provide resources as available. Additionally, in instances where there are applications for increases in licensed bed capacity, the emergency evacuation plan shall be updated to reflect the proposed new total licensed bed capacity. The plan shall be updated, as appropriate, annually, or as needed.

B. Each facility shall maintain a means of communication with their local emergency management agency that is capable of transmitting information and/or data during periods when normal communication systems are inoperable. The facility shall also maintain a back-up system. Both systems shall be exercised periodically.

C. Each facility shall operate under an incident command system that is in compliance with FEMA's National Incident Management System (NIMS), and the Hospital Incident Command System (HICS).

D. Annually, prior to June 1st of each year, each facility shall validate/provide the Department the information required by the Department's Critical Data Sheet (CDS) Information system. Hospital data provided to the CDS system will assist the Department, during times of disaster and emergencies, determine the appropriateness of evacuation or shelter-in-place. The disaster/emergency evacuation plan shall include, but not be limited to:

1. A sheltering plan to include:

a. Name, address and phone number of the sheltering facility(ies) to which the patients will be relocated during a disaster; and

b. A letter of agreement signed by an authorized representative of each sheltering facility which shall include: the number of relocated patients that can be accommodated; sleeping, feeding, and medication plans for the relocated patients; and provisions for accommodating relocated staff members. The letter shall be updated with the sheltering facility at least every three (3) years and whenever significant changes occur. For those facilities located in Beaufort, Charleston, Colleton, Horry, Jasper, and Georgetown counties, at least one (1) sheltering facility shall be located in a county other than these counties.

2. A transportation plan, to include agreements with entities for relocating patients, which addresses:

a. The relocation needs of the patients and staff contingent upon the type of disaster/emergency confronted;

b. Procedures for providing appropriate medical support, food, water and medications during relocation based on the needs and number of the patients;

c. Estimated time to accomplish the relocation during normal conditions; and

d. Primary and secondary routes to be taken to the sheltering facility.

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3. A staffing plan for the relocated patients, to include:

a. How care will be provided to the relocated patients, including facility staff members that will accompany patients who are relocated;

b. Prearranged transportation arrangements to ensure staff members are relocated to the sheltering facility; and

c. Co-signed statement by an authorized representative of the sheltering facility if staffing, bedding, or medical supplies are to be provided by the sheltering facility.

E. Each facility shall validate/provide the Department the information in Section 901.D. no less than annually.

902. Internal Medical Surge.

A. It is the responsibility of the facility to know what areas are within the licensed inpatient building(s). If a hospital needs to set up and utilize beds in an area outside of the licensed inpatient hospital building(s), it must follow Section 903 of this regulation.

B. A facility desiring to activate internal medical surge and temporarily admit patients in excess of licensed bed capacity due to an emergency should do the following:

1. Request that the Department concur that an emergency situation exists.

2. During the call to the Department, the facility should be prepared to:

a. Describe the emergency situation;

b. Outline the maximum number of patients to be temporarily admitted;

c. Provide an anticipated date for discharge of the temporary patients; and

d. Describe how and where the temporary patients will be housed.

3. Patients temporarily admitted during the emergency situation will not be required to undergo tuberculin screening or submit to an admission history and physical examination.

4. The facility must notify the Department when the patient census has returned to, or moves below, normal bed capacity by discharge or transfer to licensed beds.

C. If the event occurs after normal business hours, the Department must be contacted promptly during the next business day.

D. Other issues such as staffing for the care of the temporary patients, physicians' orders, additional food for the temporary patients and handling of medications should be resolved ahead of time by memorandum of agreements, internal policies and procedures, and emergency planning documents.

903. External Medical Surge.

A. Some emergency situations might overwhelm a hospital's plans for Internal Medical Surge or render the licensed inpatient hospital building(s) unusable. In such situations, a hospital may activate External Medical

Surge and operate an Alternate Care Site (ACS) under the authority of its license during an emergency situation such as a mass casualty event or facility evacuation.

B. If a hospital desires to be approved to operate an ACS, the hospital must contact the Department for current requirements and guidance in planning.

1. In order to facilitate activation of an ACS, hospitals are advised to conduct an assessment of the proposed ACS location utilizing the Department's Alternate Care Site Preliminary Assessment Form. The Department will not authorize activation of an ACS until the hospital has provided assessment information. Every ACS shall be planned, designed, and equipped to provide adequate accommodations for the care, safety, and treatment of each patients. Buildings selected for ACS should comply with the local building codes and ordinances applicable to the buildings' original intended use. It is the hospital's responsibility to use the assessment process to assure that an ACS building is in compliance with local codes and has the structural soundness and capacity to provide patient treatment contemplated by the hospital.

2. The Social Security Act contains a provision that allows an emergency waiver of the Emergency Medical Treatment and Active Labor Act (EMTALA) requirements that hospitals accept certain patients until stabilized. See 42 U.S.C. Section 1320b-5. In order for South Carolina hospitals with an ACS to qualify for these waiver provisions, hospitals should provide documentation from the DHEC Regional Public Health Preparedness Director that the ACS location can be identified as an alternative location for the direction or relocation of individuals to receive medical screenings under a State emergency and pandemic preparedness plans.

3. Once a location has been identified, the Department will meet with hospital staff to discuss the details of the ACS. When appropriate, the Department will send the requesting hospital a letter confirming that the location has been identified for future use as an ACS. The location will retain its status as an ACS unless modifications are made to the site. Modifications that might affect the use of an ACS include, but are not limited to, renovations, construction, demolition, or change of ownership. Any modifications to the site should be reported in writing to the Department. Because changes to a site could affect its use as an ACS, hospitals are encouraged to construe the term "modifications" broadly.

C. Alternate Care Sites can only be operated during emergency situations and activation must be coordinated with the Department. To activate an ACS, the hospital's census must be projected to surge beyond its Internal Medical Surge capacity or the hospital's main building, or a portion of the building, must be rendered unusable.

D. A facility desiring to activate External Medical Surge and activate an Alternate Care Site due to an emergency situation shall do the following:

1. Request that the Department concur that an emergency situation does exist.
2. As part of the activation process, the hospital shall be prepared to:
 - a. Describe the emergency situation;
 - b. Explain why activating Internal Medical Surge will not address the situation;
 - c. Identify the ACS;
 - d. Outline the maximum number of patients to be treated at the ACS; and
 - e. Provide an anticipated date for discontinuance of the ACS.

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E. Immediately following activation with the Department, the hospital shall notify the DHEC Regional Emergency Point of Contact for possible coordination of activities under State emergency, pandemic preparedness, or mass casualty response plans.

F. After the emergency situation is over, the hospital must notify the Department when the ACS is closed.

G. Other issues such as staffing, food service, equipment requirements, medication management, medical records, and physicians' orders should be resolved ahead of time by memorandum of agreements, internal policies and procedures, and emergency planning documents.

904. Emergency Call Data. (I)

Emergency call information shall be immediately available to personnel in charge on each unit when needed. Emergency call data shall include at least the following information:

A. Non emergency telephone numbers of fire and police departments;

B. Name, address, and telephone number of all personnel to be called in case of fire or emergency;

C. Name, address, and telephone number of physician on call;

D. Name, address, and telephone number of supervisory personnel when on call; and

E. Address and telephone number of a poison control center.

905. Security.

In order to assure the safety and well-being of all patients, staff, and visitors, the administration shall conduct an annual risk assessment to identify potential areas or situations that may cause harm or where an incident may occur. Based upon the findings of that assessment, the administration shall develop and implement a plan to provide for the appropriate level of security necessary.

SECTION 1000. ACCOMMODATIONS FOR PATIENTS (II)

1001. Maximum Number of Beds

A. No facility shall have set up or in use at any time more beds than the number stated on the face of the license except in cases of justified emergencies. The following categories of beds are not chargeable to the licensed number:

1. Labor room;

2. Newborn nursery;

3. Recovery room;

4. Emergency room treatment;

5. Classroom use only.

B. Neonatal special care beds will be shown on the face of the license in addition to the licensed bed capacity.

1002. Location of Beds.

A. In semi-private and multi-bed rooms there shall be curtains or other means of providing privacy that completely shield the patient.

B. Beds shall not be placed in corridors, solaria or other locations not designed as patient room areas except in cases of justified emergencies.

SECTION 1100. MEDICAL RECORDS (II)

1101. Physician's Responsibility.

It shall be the responsibility of each physician to complete and authenticate the medical record within a stipulated time after discharge, not to exceed 30 days after discharge.

1102. Organization.

The responsibility for supervision, filing, indexing, maintenance and storage of medical records shall be assigned to a responsible employee of the hospital who has had training in this field.

1103. Indexing.

Medical records shall be properly indexed, organized, filed and ready for access by members of the staff.

1104. Ownership.

Medical records of patients are the property of the organization and must not be released from the hospital's authority or control except by court order.

1105. Contents.

A. Each entry in the medical records must be legible, dated, timed and signed/authenticated by the clinician or designee that created the entry. A medical record must be created for all patients admitted to the hospital and newborns delivered in the hospital. Initials will be accepted provided such initials can be readily identified within the medical record. A minimum medical record shall include the following information:

1. An admission record must be prepared for each patient and must contain the following information, when obtainable: Name; address, including county; occupation; age; date of birth; sex; marital status; religion; county of birth; father's name; mother's maiden name; husband's or wife's name; dates of military service; health insurance number; provisional diagnosis; case number; days of care; social security number; the name of the person providing information; name, address and telephone number of person or persons to be notified in the event of emergency; name and address of referring physician; name and address and telephone number of attending physician; date and hour of admission;

2. History and physical within 48 hours after admission;

3. Provisional or working diagnosis;

4. Pre-operative diagnosis;

5. Plan of care;

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6. Complete surgical record, if any, including technique of operation and findings, statement of tissue and organs removed and post-operative diagnosis;

7. Report of anesthesia;

8. Nurses' notes;

9. Progress notes;

10. Gross pathological findings and microscopic, if applicable;

11. Vital signs and other measurements appropriate to patient;

12. Medication Administration Record or similar document for recording of medications, treatments and other pertinent data. This record shall be signed/authenticated after each medication administered or treatment is rendered;

13. Final diagnosis and discharge summary;

14. Date and time of discharge summary;

15. In case of death, cause and autopsy findings, if autopsy is performed, unless the death becomes subject to review by the coroner's office, and;

16. Special examinations, if any, e.g., consultations, clinical laboratory, x-ray and other examinations.

B. Contingent upon the availability of pertinent information in the perinatal records of the mother, newborn records should include the following:

1. History of hereditary conditions in mother's and/or father's family;

2. First day of the last menstrual period (L.M.P.) and estimated day of confinement (E.D.C.);

3. Mother's blood group and RH type - evidence of sensitization and/or immunization (such as, administration of anti-D hyperimmune globulin);

4. Serological test including dates performed for syphilis, HIV, Rubella, and Hepatitis B, results of any other tests performed during pregnancy (e.g., Group B Strep, Chlamydia, Gonorrhea, Herpes);

5. Number, duration and outcome of previous pregnancies, with dates;

6. Maternal disease (e.g., diabetes, hypertension, pre-eclampsia, infections);

7. Drugs taken during pregnancy, labor and delivery;

8. Results of measurements of fetal maturity and well-being (e.g., lung maturity and ultrasonography);

9. Duration of ruptured membranes and labor, including length of second stage;

10. Method of delivery, including indications for operative or instrumental interference;

11. Complications of labor and delivery (e.g., hemorrhage or evidence of fetal distress), including a representative strip of the fetal ECG if recorded;

12. Description of placenta at delivery, including number of umbilical vessels;

13. Estimated amount and description of amniotic fluid;

14. Apgar scores at one and five minutes of age. Description of resuscitations, if required, detailed description of abnormalities and problems occurring from birth until transfer to the special nursery or the referral facility;

15. Results and date specimen was collected for neonatal testing to detect inborn metabolic errors and hemoglobinopathies, including PKU, hypothyroidism and various other metabolic disorders. Exception: Parents may object because of religious grounds only, and in writing using a form promulgated by the Department; and

16. Results and dates of pulse oximetry screening and/or follow up of evaluation for critical congenital heart defects.

Exception: Parents may object only in writing to the screening for reason pertaining to religious beliefs.

C. When restraints are utilized, there must be an order to include length of time to be used and signed/authenticated by the legally authorized healthcare provider approving use of restraint or seclusion either at the time they are applied to a patient, or in case of emergency, within 24 hours after they have been applied. Each procedure manual shall contain information and instructions on the specific types of safety precautions that may or may not be used.

1106. Orders for Medication and Treatment.

All medical records shall contain the necessary consent forms for the treatment provided, along with orders for medication and treatment, signed/authenticated and dated by the prescriber or his designee. All orders, including verbal orders, shall be properly recorded in the medical record, dated and signed/authenticated by the prescriber within 30 days.

1107. Storage.

A. Provisions shall be made by the hospital for the storage of medical records in an environment which will prevent unauthorized access and deterioration. The records shall be treated as confidential and shall not be disposed of before 10 years. Records may be destroyed after 10 years provided that:

1. Records of minors must be retained until after the expiration of the period of election following achievement of majority as prescribed by statute; and

2. The hospital retains a register, either electronic or paper based.

B. Facilities that store records in a format other than paper, such as, but not limited to, microfilm, before 10 years have expired must include the entire record.

C. In the event of change of ownership, all medical records shall be transferred to the new owners.

D. Prior to the closing of a hospital for any reason, the facility shall arrange for preservation of records to ensure compliance with these regulations. The facility shall notify the Department, in writing, describing these arrangements.

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1108. Information to be Provided to Other Health Care Providers.

In order to contribute to the continuity of quality of care, procedures must be established and implemented to provide discharge summaries and/or other appropriate information to health care providers to whom patients are discharged, transferred or referred.

1109. Maintenance and Disposal.

Records shall be maintained and disposed of as specified in Section 1107.

1110. Access to Medical Records.

Only authorized personnel should have access to medical records and a hospital shall have policies and procedures to assure that a patient's protected health information is private. The patient shall have access to his/her clinical records within a reasonable timeframe and a hospital shall have a process in place to facilitate that access if requested.

SECTION 1200. PATIENT CARE AND SERVICES

1201. Medications. (I)

A. Drugs and biologicals must be prepared and administered in accordance with the orders of the legally authorized healthcare provider(s) responsible for the patient's care as specified under the hospital's governing body as it pertains to the care of the patient. All drugs and biologicals must be administered by, or under supervision of, nursing or other personnel in accordance with Federal and State laws and regulations, including applicable licensing requirements, and in accordance with approved medical staff policies and procedures.

B. Student nurses may only administer medications under the direct supervision of a registered nurse who is the student's instructor and/or preceptor. The medical record must be signed/authenticated by both parties.

C. Self-administration of medications by patients may be permitted only when specifically ordered by the legally authorized healthcare provider in writing and the medications have been reviewed by a Registered Pharmacist prior to administration.

D. Medication variances and adverse drug reactions shall be reported immediately to the prescriber, supervising nurse and pharmacist, and recorded in the patient's medical record.

1202. Laboratory. (II)

A. Organization:

1. The hospital must have laboratory services available, either on site or through a contractual agreement with a certified laboratory whose services are provided in accordance with Clinical Laboratory Improvement Amendments (CLIA) requirements and possess a current CLIA certificate.

2. The laboratory shall be under the supervision of a laboratory director with training in clinical laboratory procedures.

3. Laboratory personnel shall be qualified by education, training and experience for the type of services rendered.

B. The laboratory shall:

1. Have appropriate and sufficient equipment, instruments, reagents, materials and supplies for the type and volume of testing performed.
2. Ensure the quality of testing through monitoring of analytical performance, quality control, proficiency testing and quality improvement activities and as defined by CLIA regulations.
3. Include safety procedures, engineering controls and personal protective equipment readily available, maintained, inspected and utilized to ensure protection from physical, chemical, biochemical, and electrical hazards, and biohazardous materials.
4. Include records and materials maintained and stored under conditions that ensure proper preservation.
5. Include a procedure manual for the complete collections and handling instructions for all laboratory specimens, and there must be documentation of an annual review.
6. Perform proficiency testing and have written procedures sufficient for the extent and complexity of testing performed in the laboratory.
7. Have a clearly defined policy and procedure outlining ongoing monitoring of analytical performance, including:
 - a. Number and frequency of controls,
 - b. Tolerance limits and,
 - c. Corrective actions based on quality control data.
8. The following clinical laboratory services must be available twenty-four (24) hours a day:
 - a. Chromosome analysis;
 - b. Viral Culture; and
 - c. Emergency laboratory services must be available either on-site or via contractual agreement twenty-four (24) hours per day, seven (7) days a week.
- C. The laboratory must be constructed, arranged and maintained to ensure adequate and safe space, ventilation and utilities necessary for all phases of the testing and to minimize contamination.
- D. The governing body shall approve the pathologist or physician as physician-in-charge or Medical Director of blood bank and transfusion services.
- E. Hospitals which provide procurement, storage and transfusion of blood shall have acceptable facilities, including a refrigerator, for whole blood. The temperature shall be maintained at 2 to 6 degrees C. or 36 to 43 degrees F., and no foods may be kept in this refrigerator. Standards of the American Association of Blood Banks, as outlined in the most current edition of Standards for a Blood Transfusion Service, will be used as a guide for licensing purposes.
- F. Records shall be kept on file indicating the receipt and disposition of all blood handled. Care shall be taken to ascertain that blood administered has not exceeded its expiration date, and meets all criteria for safe administration.

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G. The facility shall make arrangements to secure on short notice all necessary supplies of blood, typed, and crossmatched as required, for emergencies.

1203. Radiology. (II)

A. Imaging services shall be under the supervision of a full-time radiologist, consulting radiologist, or a physician experienced in the particular imaging modality and the physician in charge must have the credentials required by facility policies.

B. Activities of the imaging service may include radio-therapy.

C. All imaging equipment shall be operated by personnel trained in the use of imaging equipment and knowledgeable of all applicable safety precautions required by the Department. Copies of additional regulations are available from the Department.

D. A written, signed/authenticated report on each x-ray or diagnostic image and therapy treatment shall be made a part of the patient's record; copies of the report shall be readily accessible in the imaging department. Each request for x-ray or diagnostic image examination shall include a concise statement of the reason for the examination.

E. The length of time that an x-ray image shall be kept on file shall be determined by the individual hospital. For its own protection, every hospital should consult with its legal counsel before selling or disposing of film.

F. Patients and employees shall be provided protection from radiation in accordance with current practices outlined by the Department.

G. Ultrasound and echocardiogram services shall be available within one hour on a twenty-four (24) hour basis.

1204. Pharmacy Services. (I)

A. The pharmaceutical service shall be directed by a registered pharmacist either on a full or part-time basis. The pharmacist directing the pharmaceutical services is responsible to the administration of the hospital for developing, supervising and coordinating all of the activities of the pharmacy department, which should include, but are not limited to, the following:

1. Dispensing medications in such form that will minimize additional preparation before administering to the patient.

2. Monitoring all medication orders to ensure that clinically significant chemical and therapeutic incompatibilities within the patient's drug regimens are reported to the prescribing physician.

3. Providing education programs for the facility's personnel and counseling patients regarding their medications, including their safe use.

4. Providing a method by which medications can be obtained during the absence of a pharmacist in the facility in such a manner that will minimize the potential for medication error and assure control and accountability of any drugs. A pharmacist shall be available on an on-call basis at all times.

5. Assisting in the formulation of professional policies regarding the evaluation, appraisal, selection, procurement, storage, distribution, use, and safety procedures relating to drugs in the facility.

6. Monthly review of drugs and drug records in all locations in which drugs are stored, including, but not limited to, nursing stations, emergency rooms, outpatient departments, operating suites, emergency kits, etc.

B. Each institutional pharmacy shall be directed by a pharmacist, herein after referred to as the pharmacist-in-charge, who is licensed to engage in the practice of pharmacy in this state.

C. The pharmacist-in-charge must be assisted by a sufficient number of licensed pharmacists and registered pharmacy technicians as may be required to competently and safely provide pharmacy services.

D. The pharmacist-in-charge shall maintain and file with the Board of Pharmacy on a form provided by the board, a current list of all pharmacy technicians assisting in the provision of pharmacy services.

1205. Drug Distribution and Control.

The pharmaceutical service shall have written policies and procedures for control and accountability, drug distribution, and assurance of quality of all drugs and biological products throughout the hospital. The pharmacist-in-charge shall provide the current license for the institutional pharmacy from the SC Board of Pharmacy, the individual's professional license, and the professional licenses of all personnel working within the pharmacy upon request of the Departments inspectors. The pharmacist-in-charge of an institutional pharmacy shall establish written policies and procedures to provide for access to drugs by the medical staff whenever a licensed pharmacist is not physically present in an institutional facility by use of night cabinets and/or by access to the pharmacy. A licensed pharmacist must be on call at all times.

A. A record of the stock and distribution of all controlled substances in Schedule II shall be maintained in such a manner that the disposition of any particular item may be readily traced. All such records shall be maintained in compliance with the requirements of the Federal and State Controlled Substances Acts.

B. Records for investigational drugs shall be maintained in the pharmacy in compliance with the Federal Food and Cosmetic Act Regulations.

1206. Physical Facilities and Storage.

A. Drug storage on the nursing units shall be reviewed monthly by the pharmacist or a properly trained individual designated by the pharmacist; a record of each review shall be maintained. All floor stocks shall be properly controlled. Medications requiring refrigeration shall be kept in a secured refrigerator used exclusively for medications, or in a secured manner in which medications are separated from other items kept in a refrigerator (e.g. Lock Box). Refrigerators shall be provided with a thermometer accurate to plus or minus 2 degrees F. Documentation of appropriate temperature control is required by manual or electronic means.

B. Pharmacy practice shall be governed by the SC Board of Pharmacy Practice Act as detailed in the S.C. Code of Laws. If services are provided at more than one location, each location must be permitted by the SC Board of Pharmacy.

C. Only personnel approved by the hospital administrator or his/her designees shall have access to the pharmacy.

D. Emergency boxes, kits or (crash) carts shall be sealed and, when not in actual use, stored either in a secured area or under visual control from the nurses' station. The contents of these containers shall be approved by the appropriate committee of the facility. An inventory list of the contents shall be maintained in or on the container.

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1207. Labeling of Medications. (I)

A. Any medication administered to inpatients shall be identified with its name and strength labeled on the container in which it is provided or on each single unit package. The labeling of medications administered to inpatients shall be in compliance with applicable Federal, State, and local laws and regulations. The labeling information may also be available through electronic means.

B. Labeling of drugs dispensed to outpatients shall be in compliance with applicable federal, state, and local laws and regulations .

C. Outdated or discontinued medications shall be returned to the pharmacy for proper disposition in accordance with good pharmaceutical practice and facility policy. Medications that have been subjected to contamination shall not be redispensed.

D. Unused medications may be turned over to the patient for whom prescribed on discharge only on the written order of the attending physician. Such medications must be returned to the pharmacy to be labeled in accordance with Section 1207.A before release.

E. Medical staff in conjunction with the pharmacist in charge shall establish policy and procedure when certain medications not specifically prescribed as to time or number of doses will be automatically stopped after a time limit set by the medical staff.

F. Multi-dose vials shall be labeled with the date and time when opened.

G. Up-to-date reference materials shall be readily available.

1208. Central Supply. (I)

A. The department head shall be qualified for the position by education, training and experience as determined by the hospital policies and procedures. (II)

B. The number of supervisory and other personnel shall be related to the scope of the services provided. (II)

C. There shall be written policies and procedures for the decontamination and sterilization activities performed in central supply and elsewhere in the hospital. These policies and procedures shall relate, but are not limited to the following:

1. The use of sterilization process monitors, including temperature and pressure recordings, and the use and frequency of appropriate chemical indicator and bacteriological spore tests for all sterilizers.

2. Designation of the shelf life for each hospital-wrapped and hospital-sterilized medical item and, to the maximum degree possible, for each commercially prepared item, by a specific expiration date that sets a limit on the number of days an item will be considered safe for use. When possible, load control numbers shall be used to designate the sterilization equipment used for each item, including the sterilization date and cycle.

D. A recognized method of checking sterilizer performance shall be used. A chemical indicator of some type should be included in the largest package of each load. Biological indicators (live bacterial spores) should be included in all steam and hot air sterilizers at least once per week or more often depending upon the degree of sterilizer usage. Gas sterilizers should employ such indicators on at least a weekly basis and preferably on a daily basis. Further, the gas sterilization of implants, prosthetic devices, etc., should be accompanied by a biological monitor in each load. Monthly checks shall be made to ensure the above, and a written report retained.

E. Adequate precautions shall be taken to ensure that sterile supplies and equipment are not mixed with unsterile material. Suitable space shall be provided for keeping equipment and supplies in a clean, convenient and orderly manner.

F. All packaged supplies and containers for solutions, drugs, medicated supplies, etc., shall be labeled so as to remain plainly legible before and after sterilization. Labels shall include at least the expiration date of the contents.

G. Outdated medical supplies, solutions, etc., shall be returned to central supply for resterilization or disposal.

1209. Surgery. (II)

A. The surgical service shall be under the supervision of a member of the active staff of physicians.

B. The operating rooms must be supervised by a registered nurse or a doctor of medicine or osteopathy.

C. Licensed practical nurses (LPNs) and surgical technologists (operating room technicians) may serve as "scrub nurses" under the supervision of a registered nurse.

D. Qualified registered nurses may perform circulating duties in the operating room. In accordance with applicable State laws and approved medical staff policies and procedures, LPNs and surgical technologists may assist in circulatory duties under the supervision of a qualified registered nurse.

E. Surgical privileges must be delineated for all practitioners performing surgery in accordance with the competencies of each practitioner. The surgical service must maintain a roster of practitioners specifying the surgical privileges of each practitioner.

F. Hospitals providing surgery should have available consulting physicians to address additional patient needs.

1210. Facilities.

The operating rooms shall be separated from non-sterile areas and shall be located so as not to be used as a passageway between, or subject to contamination from, other parts of the hospital.

1211. Equipment. (I)

A. Hospitals shall provide surgical equipment and instruments in good repair and free of potentially harmful microorganisms to assure safe and aseptic treatment. Any indication of contamination shall be immediately called to the attention of the nursing supervisor and the physician in charge of the service.

B. Life support and medical gas equipment shall be readily available and functional.

1212. Anesthesia. (I)

A. Anesthesia shall be administered according to the South Carolina Code of Laws and the South Carolina Code of State Regulations by:

1. A qualified anesthesiologist;
2. A doctor of medicine or osteopathy other than an anesthesiologist;

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3. A dentist, oral surgeon, or podiatrist who is qualified to administer anesthesia under State law;

4. A certified registered nurse anesthetist (CRNA), as defined in S.C. Code Ann. Section 40-33-20(20), is under the supervision of the operating practitioner or of an anesthesiologist who is immediately available if needed; or

5. An anesthesiologist's assistant, as defined in S.C. Code Ann. Section 40-47-1210(2), who is under the supervision of an anesthesiologist who is immediately available if needed.

B. The organization of anesthesia services must be appropriate to the scope of the services offered.

C. Operations under a general anesthetic shall not be performed nor a general anesthetic given until the patient has had a physical examination except in emergency situations. The results of these examinations shall be entered in the patient's record. The history and physical must be readily available in the patient medical record.

D. Anesthesia apparatus shall be equipped with a device to measure the oxygen concentration of the gas being inhaled by the patient. The device shall emit an audible and/or visual alarm should the proportion of oxygen fall below a safe level.

1213. Outpatient Services. (II)

A. If the hospital provides outpatient services, the services must meet the needs of the patients in accordance with acceptable standards of practice. Outpatient services must be appropriately organized and integrated with inpatient services. The hospital must assign one or more individuals to be responsible for outpatient services and have appropriate professional and nonprofessional personnel available.

B. If the hospital provides outpatient services, complete records shall be kept on all outpatients and shall be completed immediately after treatment is rendered. These records shall contain sufficient identification data, a description of what was done and/or prescribed for the patient and must be signed or authenticated by the attending physician. When a patient is admitted as an inpatient, all of his outpatient records shall be made a part of his permanent medical record. Records of patients are the property of the facility and must not be taken from the hospital property except by court order. These records shall be maintained and disposed of as specified in Section 1107.

C. Outpatient Services shall be in a location that is easily accessible for all patients and shall have easy access to all necessary hospital services.

1214. Emergency Services. (I)

A. No person, regardless of his ability to pay or county of residence, may be denied emergency care if a member of the admitting hospital's medical staff or, in the case of a transfer, a member of the accepting hospital's medical staff determines that the person is in need of emergency care.

1. If a patient presents in labor, she should be delivered in the hospital to which she has come if appropriate delivery facilities exist, If she is a "high risk" patient or an adverse outcome is expected for the baby if delivered there, e.g., less than 34 weeks gestation, she should be transported to a hospital with appropriate capabilities unless delivery is imminent or unless the hospital has such capabilities.

2. Hospitals that do not offer Obstetrical services shall have readily available in the emergency department a precipitous delivery kit, to include at a minimum: bulb suction syringe, cord clamp, scissors, sterile towels, and emergency telephone numbers for the appropriate Regional Perinatal Center.

3. If the care required for any patient is not available at the facility, arrangements must be made for transfer to a more appropriate facility. Prior to the transfer of a patient to another hospital, the receiving hospital shall be notified of the impending transfer.

4. In addition to or in lieu of any action taken by the Department affecting the license of any hospital, when it is established that any officer, employee, or member of the hospital medical staff has negligently violated the provisions of this section, the Department may require the hospital to pay a civil penalty of up to ten thousand dollars pursuant to S.C. Code Ann. Section 44-7-260(E) (1976, as amended).

B. Each hospital shall provide emergency services which include life-saving procedures when life is in jeopardy. Policies and procedures governing the acceptance and care of emergency patients shall be established. An appropriate record shall be maintained on each person who presents for emergency services.

1. Equipment and services shall be provided to render emergency resuscitative and life-support procedures pending transfer of the critically ill or injured to other hospitals. A minimum capacity shall be established and equipment provided to perform stabilization procedures.

2. Basic services, such as radiology or routine laboratory services shall be maintained and personnel available for call.

3. A licensed physician shall be available and on call at all times. A registered nurse and ancillary personnel trained in emergency procedures shall be on duty within the hospital who are available 24 hours a day subject to call to assist in providing emergency services.

C. A poison control chart shall be readily available in the emergency room with communications access to a Poison Control Center for consultation.

D. The emergency service entrance shall be separated from the main entrance, well marked and illuminated, easily accessible from the street and sufficiently covered or enclosed to protect ambulance patients from the elements during the unloading process.

E. Space for stretchers and wheelchairs should be accessible to the facility and the facility should have the appropriate equipment to transport patients. Stretchers should be sufficiently sturdy to serve as examining tables.

F. In those instances wherein a specific hospital has been designated to provide emergency services for a political or other subdivision through mutual planning efforts of all the hospitals located in this subdivision, or otherwise determined, such designation obviates the necessity for the remaining hospitals to provide general emergency services.

1215. Inpatient Dialysis Services. (I)

A. Written policies and procedures shall be developed and maintained by the service provider responsible for the service in consultation with other appropriate health professionals and the administration. Procedures shall be approved by the administration and medical staff where such is appropriate.

B. Renal Dialysis Service Equipment and Supplies

1. Equipment and supplies shall include at least:

a. A dialysis machine or equivalent (with appropriate monitoring equipment) for each bed or station.

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b. Dialysis equipment appropriate for pediatric patients, if treated.

2. Water used for dialysis purposes shall be analyzed for bacteriological quality at least monthly and chemical quality at least quarterly and treated as necessary to maintain a continuous water supply that is biologically and chemically compatible with acceptable dialysis techniques. Water used to prepare a dialysate shall not contain concentrations of elements or organisms in excess of those specified below:

ELEMENTS	LIMIT IN MILLIGRAMS PER LITER
Aluminum	.01
Arsenic	.005
Barium	.100
Cadmium	.001
Calcium	2.0
Chloramines (Tested Daily)	.001
Chlorine (Tested Daily)	.500
Chromium	.014
Copper	.100
Fluorides	.200
Lead	.005
Magnesium	4.0
Mercury	.0002
Nitrates (Nitrogen)	2.0
Potassium	8.0
Selenium	.090
Silver	.005
Sodium	70.0
Sulfates	100.0
Zinc	.100
Bacteria	200 colonies per milliliter

3. A written preventive maintenance program for all equipment used in dialysis and related procedures including, but not limited to, all patient monitoring equipment, isolated electrical systems, conductive flooring, patient ground systems, and medical gas systems shall be developed and implemented. This equipment shall be checked and/or tested at such intervals to ensure proper operation and a state of good repair. After repairs and/or alterations are made to any equipment or system, the equipment or system shall be thoroughly tested for proper operation before returning it to service. Records shall be maintained on each piece of equipment to indicate its history of testing and maintenance.

1216. Dental Surgery. (II)

In a hospital providing dental services, the services shall be performed by a qualified practitioner of dentistry who shall be a member of the medical staff.

1217. Physical Therapy. (II)

If offered as a service of the hospital, physical therapy shall be on orders of a physician and administered by or under supervision of a registered physical therapist. Adequate space and equipment shall be provided.

1218. Occupational Therapy. (II)

If offered as a service of the hospital, occupational therapy shall be on orders of a physician and administered by or under supervision of an occupational therapist. Adequate space and equipment shall be provided.

1219. Psychiatric Services. (II)

A. A physician, preferably a board-certified psychiatrist, should be designated as physician-in-charge (or chief) of the psychiatric service. A designated physician who is experienced in the practice of psychiatry should be on call at all times.

B. A registered nurse who has had at least two years training and/or experience in psychiatric nursing shall be responsible for the nursing care of psychiatric patients. At least one registered nurse shall be on duty in each nursing unit at all times.

1220. Chemical and Substance Abuse Treatment Services. (II)

A. A physician, who is experienced in the treatment of chemical and substance abuse, shall be designated as physician-in-charge of this service. Such a physician shall also be on call at all times.

B. A registered nurse who has had at least two years training and/or experience in chemical and substance abuse care shall be responsible for the nursing care of this service. At least one registered nurse shall be on duty in each nursing unit at all times who has demonstrable training in chemical and substance abuse treatment. Relevant content of this training shall include physical and psychological assessment, psychopharmacology, basic counseling and intervention techniques, and the role of self-help groups in the recovery process. The training may be received through on-the-job training, specialized workshops, or classroom experience.

1221. Pediatrics. (II)

A. Organization: Pediatric services, if provided, shall be under the supervision of a registered nurse.

B. Facilities: Pediatric services shall have separate facilities for the care of children. Facilities and procedures shall be provided for isolation of children having contagious infections or communicable diseases.

C. Pediatric Nursery: Pediatric nurseries shall provide at least 40 square feet per bassinet or 80 square feet per crib.

SECTION 1300. PERINATAL SERVICES**1301. Newborn Hearing Screening.**

A. A facility that averages greater than 100 deliveries a year must conduct a hearing screening on each newborn prior to discharge. In addition, the facility shall provide educational information about the screening procedure, the importance of the screening and the importance of having a complete audiobiological evaluation after discharge if the need is indicated.

B. If a facility averages fewer than 100 deliveries a year, a hearing screening is not required for each newborn, but the parents of each newborn must be given educational information concerning the hearing screening procedure and the importance of having the screening procedure after discharge.

C. Each facility required to conduct newborn hearing screening must regularly report the results of the screening to the Department in the required format.

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1302. Shaking infant video & infant CPR information for parents and caregivers of newborn infants and adoptive parents.

A. A facility shall provide to the parents of each newborn baby delivered in the facility a video presentation on the dangers associated with shaking infants and young children. The facility also must make available information on the importance of parents and caregivers learning infant CPR.

B. The facility must request that the maternity patient, the father, or the primary caregiver view the video. Those persons whom the facility requested to view the video shall sign a document prescribed by the Department of Health and Environmental Control stating that they have been offered an opportunity to view the video.

C. The director, or his designee, of the Department of Health and Environmental Control must approve the video to be utilized by a facility, pursuant to subsection (1). Upon the request of a facility, the Director of the Department of Health and Environmental Control, or his designee, shall review a facility's proposed video for possible approval if it is a video other than one provided by the Department of Health and Environmental Control. The Department of Health and Environmental Control may not require a hospital to use a video that would require the facility to pay royalties for use of the video, restrict viewing in order to comply with public viewing or other restrictions, or be subject to other costs or restrictions associated with copyrights.

1303. Providing a Safe Haven for Abandoned Babies.

Facilities and outpatient facilities must:

A. Accept temporary physical custody of an infant under thirty days of age who is voluntarily left by a person who does not express an intent to return for the infant and the circumstances create a reasonable belief that a person does not intend to return for the infant.

B. Be in full compliance with EMTALA rules and regulations and perform any act necessary to protect the physical health or safety of the infant.

C. Offer the person information concerning the legal effect of leaving the infant by delivering to the person the information brochure supplied by the state DSS. Ask the person to identify any parent other than the person leaving the infant. Attempt to obtain from the person information concerning the infant's background and medical history as specified in the forms provided by DSS and appropriate forms available from facility files.

D. Using the DSS form, an attempt must be made to get information concerning use of controlled substances by the infant's mother and other pertinent health information which might determine medical care required by the infant.

E. If the person does not wish to provide or is unable to provide the information to the facility, the person must be offered the DSS form with a prepaid envelope supplied to the facility by DSS.

F. No later than the close of the first business day, after the date on which the facility takes possession of the infant, the facility must notify DSS that it has taken temporary physical custody of the infant. DSS will have legal custody of the infant upon receipt of this notice and DSS will assume physical custody no later than 24 hours after receiving notice that the infant is ready for discharge.

1304. Paternity - In-Hospital Voluntary Paternity Acknowledgement Program.

A. In accordance with 45 CFR 303, a hospital that provides obstetrical services at a minimum must provide to both the mother and alleged father:

1. Written materials about paternity establishment.
 2. Forms as provided by the Department necessary to voluntarily acknowledge.
 3. Notice, both orally and in writing of the alternatives to the legal consequences of, and the rights and responsibilities of acknowledging paternity, and
 4. The opportunity to speak with staff, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment.
- B. Hospital must forward completed voluntary acknowledgement forms, or copies to the Department Division of Vital Records.

1305. Perinatal Organization.

A. Each hospital providing perinatal services shall be designated as a Level I, II, II Enhanced (IIE), III perinatal hospital, or regional perinatal center (RPC) by the Department, and shall request such designation by letter to the Department. The Department shall include such designation on the face of the license when the requesting hospital meets the requirements specified below. Such determination shall be made by the Department based upon a hospital's ability to meet regulatory requirements to be determined by a special inspection by the Department following the initial request for designation and as an integral part of subsequent license renewal procedures.

B. Each Level I, II, IIE, and III hospital shall maintain and document a relationship with its designated RPC for consultation, transport and continuing education. All patients shall be transferred to the appropriate RPC when medically appropriate, if beds are available. This agreement/relationship shall include the ability to share data, as appropriate, related to these functions.

C. Labor and delivery shall occur in a hospital capable of meeting the expected needs of both the mother and the neonate. Ongoing risk assessment shall occur to determine the appropriate level of care.

1306. Designation of Inpatient Perinatal Care Services.

A. Community Perinatal Center (Level I) provides services for uncomplicated deliveries and normal neonates. The hospital shall have the capability to manage normal pregnant women and uncomplicated labor and delivery of neonates who are at least 36 weeks of gestation with an anticipated birth weight of greater than 2000 grams. When it is anticipated or determined that these criteria will not be or have not been met, consultation and a plan of care shall be initiated and mutually agreed upon with the RPC and documented in the medical record, immediately after the patient is stabilized. Hospitals must be able to manage a perinatal patient with acute or potentially life-threatening problems while preparing for immediate transfer to a higher level hospital. Management shall include emergency resuscitation and/or stabilization for both maternal and neonatal patients in preparation for transfer/transport for more specialized services. Hospitals at this level shall not provide care or services which are designated only for higher level hospitals, except under unforeseen, emergent circumstances. In this situation, the Department shall be notified within 24 hours.

B. Specialty Perinatal Center (Level II). In addition to Level I requirements, provides services for both normal and selected high-risk obstetrical and neonatal patients. This level of neonatal care includes the management of neonates who are at least 32 weeks of gestation with an anticipated birth weight of at least 1500 grams. A board-eligible pediatrician shall be in the hospital or on site within 30 minutes, 24 hours a day. The hospital shall have at least a written consultative agreement with a board-eligible neonatologist. Neonates shall be without acute distress or complex management requirements and shall not be in need of ventilator support (including Nasal CPAP and High Flow Nasal Cannula) for more than six cumulative hours. Exception:

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Level II hospitals with a board certified or board eligible neonatologist, with responsibilities limited to a single center and in house or within 30 minutes of the unit at all times, may provide care for patients requiring mechanical ventilation for up to 24 hours. There shall be no limit on the duration of Nasopharyngeal Continuous Positive Airway Pressure (NCPAP) or Nasal Prong Continuous Positive Airway Pressure (NPCPAP) when cared for by a neonatologist. The provision of CPAP or mechanical ventilation beyond the immediate stabilization period requires the immediate availability of respiratory therapists with neonatal training (including intubation of premature infants), nursing support with training to identify and respond to complications of ventilation, and the immediate availability of personnel and equipment to evacuate a pneumothorax. Neonates requiring the initiation of mechanical ventilator support beyond 24 hours of age shall be referred to the RPC. Neonates shall not require high-frequency ventilation support. When it is anticipated or determined that these criteria will not be or have not been met, a plan of care will be developed in consultation with the RPC and documented in the patient's medical record, immediately after the patient is stabilized. These hospitals shall manage no less than an average of 500 deliveries annually, calculated over the previous three years based on the individual hospital statistics. This calculation shall include the number of maternal transfers made prior to delivery to higher level perinatal hospitals. A Level II hospital shall not admit outborn neonates into its nursery without prior concurrence with the RPC. Level II units shall not transport neonates between hospitals. Hospitals at this level shall not provide care or services which are designated only for higher level hospitals, except under unforeseen, emergent circumstances. In this situation, the Department shall be notified within 24 hours.

C. Enhanced Perinatal Center (Level IIE). In addition to Level II requirements, provides services for both normal and selected high-risk obstetrical and neonatal patients. Level IIE hospitals may be located only in areas of the state which are no closer than 60 miles from a S.C. Regional Perinatal Center. This level of neonatal care includes the management of neonates who are at least 30 weeks of gestation with an anticipated birth weight of at least 1250 grams, as determined by estimations based upon best professional judgment, ultrasound, and/or other available medical technology and instruments. A board-eligible neonatologist shall be in the hospital or on site within 30 minutes, 24 hours a day. Neonates shall not be in need of ventilator support for more than 24 cumulative hours. When it is anticipated or determined that any of the preceding criteria relating to gestation, weight, and length of ventilator support will not be or have not been met, the neonate may remain at the Level IIE facility, pursuant to a plan of care developed in consultation with, and in agreement with, the RPC. Such plan of care shall be documented in the patient's medical record, immediately after the patient is stabilized. Neonates shall not require high-frequency ventilation support. These hospitals shall manage no less than an average of 1200 deliveries annually, calculated over the previous three years based on the individual hospital statistics. This calculation shall include the number of maternal transfers made prior to delivery to higher level perinatal hospitals. A Level IIE hospital shall not admit outborn neonates into its nursery without prior concurrence with the RPC. Hospitals at this level shall not provide care or services which are designated only for higher level hospitals, except under unforeseen, emergent circumstances. In this situation, the Department shall be notified within 24 hours.

D. Subspecialty Perinatal Center (Level III). In addition to Level IIE requirements, provides all aspects of perinatal care, including intensive care and a range of continuously available subspecialty consultation as recommended in the most recent edition of the *Guidelines for Perinatal Care* (GPC) by the American Academy of Pediatrics (AAP) and The American College of Obstetricians and Gynecologists. A board-eligible neonatologist shall be in the hospital or on site within 30 minutes, 24 hours a day. A board-certified maternal-fetal medicine specialist (perinatologist) shall be available for supervision and consultation, 24 hours a day. Perinatal consultation requirements may be met via telemedicine arrangements with a RPC. In addition to the Level II and IIE capabilities, Level III hospitals shall have the staffing and technical capability to manage high-risk obstetric and complex neonatal patients, including neonates requiring prolonged ventilatory support, surgical intervention, or 24-hour availability of multispecialty management. Hospitals with Level III designation shall manage no less than an average of 1500 deliveries annually, calculated over the previous three years, based on individual hospital statistics or at least an average of 125 neonate admissions who weigh less than 1500 grams each, require ventilatory support, or require surgery. This calculation shall include the number of maternal transfers made prior to delivery to higher level perinatal hospitals. Hospitals at this level

shall not provide additional care or services designated only for RPC's , or perform neonatal transport, except under unforeseen, emergent circumstances. In this situation, the Department shall be notified within 24 hours.

E. Regional Perinatal Center (RPC). In addition to the Level III requirements for management of high-risk obstetric and complex neonatal conditions, the RPC shall provide consultative, outreach, and support services to Level I, II, IIE and III hospitals in the region. The RPC shall manage no less than an average of 2000 deliveries annually, calculated over the previous three years, or at least an average of 250 neonatal admissions who weigh less than 1500 grams each, require ventilatory support, and/or require surgery. Personnel qualified to manage obstetric or neonatal emergencies shall be in-house. A board-certified maternal-fetal medicine specialist (perinatologist) shall be in the hospital or on site within 30 minutes for supervision and consultation, 24 hours a day. The RPC shall participate in residency programs for obstetrics, pediatrics, and/or family practice. Continuing education and outreach education programs shall be available to all referring hospitals, and physician-to-physician consultation shall be available 24 hours a day. The RPC shall provide a perinatal transport system that operates 24 hours a day, seven days a week, and return transports neonates to lower level perinatal hospitals when the neonates' condition and care requirements are within the capability of those hospitals.

1307. Personnel.

A. Detailed components of support services and medical, nursing and ancillary staffing for each level shall meet the recommendations outlined in the most recent edition of the *Guidelines for Perinatal Care*.

B. The following medical specialists and subspecialists shall have medical staff credentials and/or written consultative agreements as follows:

1. Level I shall include:

a. Membership: Physician designated as physician-in-charge of obstetric services, physician designated for supervision of newborn care, anesthesia personnel with credentials to administer obstetric anesthesia available within 30 minutes, 24-hours a day, one person capable of initiating neonatal resuscitation available at every delivery.

b. Consultation: Obstetrician, pediatrician, general surgeon.

2. Level II, in addition to Level I requirements, shall include:

a. Membership: General surgeon, pathologist, radiologist, obstetrician, pediatrician, and anesthesiologist;

b. Consultation: Maternal-fetal medicine specialist, neonatologist, and pediatric surgeon.

3 Level IIE, in addition to Level II requirements, shall include:

a. Membership: Board-certified neonatologist designated as physician-in-charge of neonatal services, cardiologist, urologist, neurosurgeon, and hematologist.

b. Consultation: Cardiac surgeon, medical geneticist, pediatric cardiologist, pediatric radiologist, obstetrician or radiologist with special interest and competence in maternal disease and its complications, endocrinologist, pediatric neurologist, and pulmonologist.

4. Level III and RPC, in addition to Level IIE requirements, shall include:

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a. Membership: Maternal-fetal medicine specialist or effective consultation with Maternal-Fetal medicine specialist, (available 24 hours a day, 7 days a week) via telemedicine, obstetrician or radiologist with special interest and competence in maternal disease and its complications, pediatric radiologist, anesthesiologist with perinatal training and/or experience; pathologists with special competence in placental, fetal, and neonatal disease, and pediatric surgeon.

b. Consultation: Pediatric subspecialists in hematology, medical genetics, endocrinology, nephrology, gastroenterology, infectious diseases, pulmonology, immunology, and pharmacology. Pediatric surgical subspecialists, to include cardiovascular, neurosurgery, orthopedics, ophthalmology, urology and otolaryngology.

c. Telemedicine Consultation: The facility may submit a request for written transfer agreements with accompanying telemedicine-based surgery consultative agreements for high-level perinatal centers that are located in rural or distant parts of the state in lieu of on-site surgical services for acceptance at the Department's discretion.

1308. Neonatal Intensive Care Nurse Staffing.

Neonatal intensive care nurse staffing is required if any of the following conditions exist:

A. Any advanced support therapy, e.g., extracorporeal membrane oxygenation, nitric oxide, high frequency ventilation, peritoneal dialysis;

B. Acute pre- or post-operative surgical conditions, except for minor surgical procedures such as inguinal hernia repair;

C. Ventilator support (with the exception of do-not-resuscitate situations and chronic ventilator-dependent conditions);

D. Less than 32 weeks of gestation and less than 1500 grams on the first day of life;

E. Chest tubes required;

F. Cardio-pulmonary resuscitation required in the previous 24 hours;

G. Vital signs required every hour or more frequently;

H. Umbilical artery or vein catheterization or three or more intravenous sites required;

I. Pressor agent (excluding initial stabilization) or inotropic support required, e.g., dopamine (doses for renal perfusion maintenance excluded);

J. Complex diagnostic/assessment support required; or

K. Evidence of seizure activity/unstable neurologic status.

1309. General Facility and Care Requirements.

A. Environment, equipment, supplies, and procedures utilized in the care of perinatal patients shall meet the recommendations outlined in the most recent edition of the *Guidelines for Perinatal Care*. The environmental temperature in newborn care areas should be independently adjustable, as to maintain per the GPC.

B. Obstetrical Care: In each hospital providing obstetrical services, written policies and procedures shall be established and implemented through cooperative efforts of the medical and nursing staffs. These policies and procedures shall outline the process, providers, and methods of providing risk-appropriate care to the obstetrical patient, and shall include, but not be limited to:

1. Admission criteria and documentation;
2. Preterm labor;
3. Maternal transfer to another hospital;
4. Induction and augmentation;
5. Analgesia and anesthesia;
6. Labor process;
7. Capability to perform cesarean delivery within 30 minutes of the decision to do so;
8. Immediate neonatal care/resuscitation;
9. Recovery room care; and
10. Postpartum care.

1310. Neonatal Care.

Specific policies and procedures for the care of the neonate shall follow the recommendations outlined in the most recent edition of the GPC.

1311. Neonatal Resuscitation.

A. Personnel, equipment, supplies, and medications as recommended by the most recent edition of the American Heart Association and *AAP Textbook of Neonatal Resuscitation* shall be readily available in every hospital providing perinatal services.

B. In order to meet the potential need for resuscitation of every neonate, at least one person who has a current provider-designation, as defined by completion of the AAP Neonatal Resuscitation Program, shall be on site.

C. Personnel trained and qualified to perform neonatal resuscitation must be immediately available and not responding from an area removed from the delivery or nursery area.

D. Equipment, supplies, and medications for neonatal resuscitation must be immediately available to the delivery and nursery areas at all times.

1312. Inter-hospital Care of the Perinatal Patient (Transport).

A. Each hospital providing perinatal services shall establish and implement a written plan which outlines the process, providers, and methods of providing risk-appropriate stabilization and transport of any high-risk perinatal patient requiring specialized services. This plan shall be updated in conjunction with the designated RPC on an annual basis, and shall include, but not be limited to, procedures outlining:

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1. Communication between referring hospitals and the RPC, transport teams and medical control, and perinatal providers and families;

2. Indications for both acute phase and return transport between perinatal hospitals, to include essential contact persons and telephone numbers for referral and transport; and

3. A list of all medical record copies and additional materials to accompany each patient in transport.

B. Equipment, supplies, and procedures used in preparation and support of transport of maternal patients shall be based upon the most recent edition of the GPC. Equipment, supplies, and procedures used in the transport of a neonate shall be based upon the most recent edition of the *AAP Guidelines for Air and Ground Transport of Neonatal and Pediatric Patients*.

1313. Evaluation of Perinatal Care.

A. Review of maternal and neonate mortality and morbidity shall be conducted at least every three months by the medical staff or designated committee, regardless of the size or designation of the perinatal service. A perinatal mortality and morbidity review committee composed of representatives from the pediatric, obstetrical, and nursing staffs, with additional participation from other professionals, depending upon the cases to be reviewed, shall be established at Levels II, IIE, and III, and RPC's.

B. In all perinatal centers, selected case reviews shall include, but not be limited to:

1. Analysis of total perinatal mortality with identification of deaths attributable to various categories of complication;

2. Analysis of perinatal morbidity and related factors.

C. Each hospital providing perinatal services shall review all live births or fetal/neonatal deaths in which the neonate weighed at least 350 grams and less than 1500 grams, utilizing the Department's *Very Low Birthweight Self-monitoring Tool*. Each completed self-monitoring DHEC form shall be retained by the facility and a copy made available to the Department as specified in the self-monitoring tool.

D. Each event shall be evaluated for potential opportunities for intervention with the intervention and follow-up described, if applicable. Written minutes of committee meetings shall be maintained and made available to the Department for review.

E. Each Level I, II, IIE, and III perinatal center shall annually review and document the findings from these case reviews with its designated RPC. Minutes of these meetings shall be maintained and made available to the Department for review.

SECTION 1400. VITAL STATISTICS

1401. General.

Hospitals must comply fully with the Regulations of the Department relating to vital statistics.

1402. Birth Certificates.

A. For inpatient newborns a licensee shall be responsible for filing a birth certificate for all live births occurring in the licensed facility (see DHEC Regulation 61-19 for definition of live birth). The record should be filed as prescribed within five (5) days of delivery per DHEC Regulation 61-19.

B. A licensee shall be responsible for filing a birth certificate for outpatient newborns brought to the emergency room when a live birth was delivered either at home or en route to the hospital. If the live birth is delivered by a licensed midwife or other practitioner, the licensee shall not be responsible for filing a birth certificate.

1403. Death Certificates.

Filing of a death certificate shall be in accordance with DHEC Regulation 61-19 and the S.C. Code of Laws.

SECTION 1500. FOOD AND NUTRITION SERVICE (II)

1501. Approval.

All facilities that prepare food on-site shall be approved by the Department, and shall be regulated, inspected, and graded pursuant to DHEC Regulation 61-25.

1502. Services.

All facilities shall provide food and nutrition services to meet the daily nutritional and dietary needs of patients in accordance with written policies and procedures.

1503. Management.

The nutrition services shall be under the direction of a dietitian or qualified food and nutrition manager/director who has a written agreement for consultation services by a dietitian. These services shall be organized with established lines of accountability and clearly defined job assignments. A qualified food and nutrition manager/director shall be a person who:

- A. Is a graduate of a dietetic technician training program approved by the American Dietetic Association; or
- B. Is a graduate of a course of study meeting the requirements of the American Dietetic Association and approved by the Department; or
- C. Is certified by the Certifying Board for Dietary Managers of the Dietary Managers Association and maintains that credential; or
- D. Has at least three (3) years of training and experience in meal service supervision and management in military service equivalent in content to the programs described in paragraph A, B, or C above.

1504. Personnel.

A. Dietary services shall be organized with established lines of accountability and clearly defined job assignments for those engaged in food preparation and serving. There shall be trained staff members/volunteers to supervise the preparation and serving of the proper diet to the patients including having sufficient knowledge of food values in order to make appropriate substitutions when necessary.

B. The qualified food and nutrition manager/director shall be responsible for supervising food and nutrition service personnel, the preparation and serving of the food, and the maintenance of proper records. When the qualified food and nutrition service manager/director is not on duty, a responsible person shall be assigned to assume their job responsibilities.

C. Work assignments and duty schedules shall be posted and kept current.

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D. No person, infected with or a carrier of a communicable disease, or while having boils, open or infected skin lesions, or an acute respiratory infection, shall work in any area of food preparation and service.

E. Employees shall wear clean garments, maintain a high degree of cleanliness, and conform to hygienic practices while on duty. Individuals engaged in the preparation and service of food shall wear clean hair restraints, e.g., hair nets, hair wraps, hats, that will properly restrain all hair of the face and head and prevent contamination of food and food contact surfaces. They shall wash their hands thoroughly in an approved hand washing lavatory before starting work, after visiting the bathroom and as often as may be necessary to remove soil and contamination.

1505. Diets.

Diets shall be prepared in conformance with physicians' orders. A current diet manual shall be readily available to attending physicians, food and nutrition service and nursing personnel.

A. Diets shall be prescribed, dated and signed/authenticated by the physician.

B. Facilities with patients in need of special or therapeutic diets shall provide for such diets.

C. Notations shall be made in the medical record of diet served, counseling or instructions given, as identified by patient and/or nutritional assessment and patient's tolerance of the diet.

D. Diets shall be planned, written, prepared and served with consultation from a dietitian.

E. Persons responsible for diets shall have sufficient knowledge of food values in order to make substitutions when necessary. All substitutions made on the master menu shall be documented.

1506. Planning of Menus and Food Supplies.

A. Menus shall be planned and written at least two weeks in advance and dated as served. The current week's menus, including routine and special diets and any substitutions or changes made, shall be posted in one or more conspicuous places in the Food and Nutrition Services area.

B. Records of menus as served shall be filed and maintained for at least 30 days.

C. Food supplies shall be adequate to meet menu and emergency plan requirements.

D. Records of food and supplies purchased shall be kept on file.

1507. Preparation and Serving of Food.

A. Food shall be prepared by methods that conserve the nutritive value, flavor and appearance. The food shall be palatable, properly prepared, and sufficient in quantity and quality to meet the nutritional needs of the patients.

B. A file of tested recipes, adjusted to appropriate yield, shall correspond to items on the posted menus.

C. Food shall be served with special attention given to preparation and prompt serving in order to maintain correct food temperatures in accordance with DHEC Regulation 61-25 and to meet individual needs.

D. Food and Nutrition service personnel will have the responsibility of accompanying the food cart to the patient care area when necessary to complete tray assembly. Facilities with automated food distribution

systems in operation are not required to have dietary personnel accompanying the cart. Each facility shall designate who will be responsible for distribution of trays, feeding of patients, and collection of soiled trays.

1508. Dietary and Food Sanitation.

- A. Sanitary conditions shall be maintained in all aspects of the storage, preparation and distribution of food.
- B. The facility shall be in compliance with local health codes and DHEC Regulation 61-25.
- C. Written procedures for cleaning, disinfecting and sanitizing all equipment and work areas shall be developed and followed.
- D. Written reports of inspections by state and local health authorities shall be kept on file in the facility with notations made of actions taken by the facility to comply with recommendations.
- E. Drugs shall not be stored in the food and nutrition services area or any refrigerator or storage area utilized by the food and nutrition services area.
- F. All walk-in refrigerators and freezers must be equipped with opening devices which will permit opening of the door from the inside at all times.

1509. Meal Service.

A minimum of three nutritionally balanced meals in each 24-hour period shall be offered for each patient unless otherwise directed by the patient's physician. Not more than 14 hours shall elapse between the serving of the evening meal and breakfast. As an exception, there may be up to 16 hours between the scheduled serving of the evening meal and breakfast the following day if approved by the patient's attending physician and the patient, and if a nourishing snack is provided after the evening meal.

1510. Ice and Drinking Water.

Ice and water that meets the approval of the Department shall be available and precautions shall be taken to prevent contamination. Ice delivered to patient areas in bulk shall be in nonporous, easily cleanable covered containers. The ice scoop shall be stored in a sanitary manner with the handle at no time coming in contact with the ice. Clean, sanitary drinking water shall be available and accessible in adequate amounts at all times.

SECTION 1600. MAINTENANCE (II)

An institutional structure, its component parts, facilities, and all equipment shall be kept in good repair and operating condition.

SECTION 1700. HOUSEKEEPING AND REFUSE DISPOSAL (II)

1701. Housekeeping.

A. A facility shall be kept neat and clean. Accumulated waste material must be removed daily or more often if necessary. There must be frequent cleaning of floors, walls, ceilings, woodwork, windows and premises. There must be an effective rodent and insect control program for the facility to prevent infestation. Bath and toilet facilities must be maintained in a clean and sanitary condition at all times. Dry dusting and dry sweeping are prohibited.

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B. Upon discharge or transfer of a patient, all bedside equipment shall be cleansed and disinfected. Bed linen shall be removed and mattresses turned; if damaged, replaced. Beds shall be made with fresh linens to maintain them in a clean and sanitary condition for each patient.

C. Employee locker rooms shall be maintained in a clean and sanitary condition.

D. Janitor closets, floors, walls, sinks, mops, mop buckets, and all equipment shall be cleaned daily or more often as needed. A supervisory hospital employee shall make frequent inspections to assure compliance.

E. All storage spaces shall be kept clean, orderly and free of trash, papers, old cloths and empty boxes. In areas provided with a sprinkler system, a minimum vertical distance of 18 inches shall be maintained between the top of stored items and the sprinkler heads.

1702. Refuse Disposal.

A. All garbage and refuse storage shall be in accordance with DHEC Regulation 61-25.

B. All contaminated dressings, pathological, and/or similar waste shall be properly disposed of in accordance with DHEC Regulation 61-105.

C. All radioactive waste shall be disposed of by a method in accordance with DHEC Regulation 61-63.

D. All outside areas, grounds and/or adjacent buildings on the premises shall be maintained neat and clean.

SECTION 1800. INFECTION CONTROL (I)

1801. General.

A. The hospital shall provide a safe and healthy environment that minimizes infection exposure and risk to patients, employees, health care workers, volunteers and visitors. The hospital shall implement and maintain a written, effective, organized, active, hospital-wide program for the surveillance, prevention, control, and investigation of infections, infectious agents and communicable diseases, with the goal of implementing best practices and continuously reducing infections. The infection prevention and control program must be implemented in a manner that minimizes the risk of health care associated infections. The hospital must designate a qualified employee as the hospital's Infection Practitioner, whose function is to administer the infection prevention and control program. The Infection Practitioner must be provided with the resources and assistance necessary to carry out the activities of the infection prevention and control program. Each hospital must assess the time requirement needed for surveillance and infection prevention activities at each of its locations and provide sufficient staffing to meet the organization's assessed needs.

B. Hospital policies and procedures for infection prevention and control shall comply with Federal and State laws and regulations and shall reference guidelines, including but not limited to, the following:

1. Bloodborne Pathogens Standard of the Occupational Safety and Health Act (OSHA) of 1970; 29 CFR 1910 Occupational Safety and Health Standards with emphasis on compliance with 29 CFR 1910-1030 (Bloodborne Pathogens);

2. The Center for Disease Control and Prevention's (CDC) Immunization of Health-Care Workers: Recommendations of the Advisory Committee on Immunization Practices (ACIP) and the Hospital Infection Control Practices Advisory Committee (HICPIC);

3. CDC's Guideline for Hand Hygiene in Health-Care Settings;

4. CDC's Guidelines for Environmental Infection Control in Health-Care Facilities;
5. CDC's Guideline for Disinfection and Sterilization in Healthcare Facilities;
6. CDC's Guidelines for the Management of Multidrug-Resistant Organisms In Healthcare Settings;
7. DHEC Regulation 61-105;
8. CDC's Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings; and
9. CDC's Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005.

C. The hospital must comply with and demonstrate compliance with this regulation as well as their own policies and procedures.

1802. Infection Control Training.

A. The hospital shall require annual education regarding infection prevention and control for all employees, students, and volunteers who have contact with patients or who handle or potentially handle blood, body fluids, or tissue. If any of these persons work or perform tasks at more than one hospital, the hospital may accept infection prevention and control education received at another hospital or at an in-person or online seminar to meet this requirement, but only if the education is reported to and documented by the hospital.

B. Infection prevention and control education requirements may be met through in-person or online training, or completion of modules, videos or other training materials designed to convey such education.

C. In addition to general infection prevention education provided during initial orientation, each employee, student, and volunteer who has contact with patients or who handles or potentially handles blood, body fluids or tissue, shall receive infection prevention and control education specific to his/her job classification and work activities to inform him/her about the infection prevention and control policies and procedures of his/her position. Infection prevention and control training should be targeted to the functions of different categories of employees.

1803. Patient/Public Education and Disclosure.

Prior to or upon admission to the hospital as an inpatient or for outpatient surgery, the hospital must provide to patients materials designed to educate the patient and his/her responsible party about the prevention of healthcare associated infections and the public availability of healthcare associated infection reports through the Hospital Infections Disclosure Act, S.C. Code Ann. Section 44-7-2410, et. seq. The hospital must document provision of this information to the patient or responsible party. The hospital is not required to provide the information to the patient or responsible party if he or she is unable or unwilling to receive the information or if there is no responsible party.

1804. Live Animals.

Service animals, therapy animals, and personal pets may be permitted for strictly limited visitation pursuant to strict hospital policies; however, no non-human primates may be allowed in the hospital. Each hospital must have appropriate policies which require at a minimum that the animal is free of fleas, ticks, and intestinal parasites, has been screened by a veterinarian within the past twelve (12) months prior to entering the facility, has received all required inoculations, is clean and well-groomed, and presents no apparent threat to the health

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and safety of patients, visitors, employees or others. All animals must be supervised by persons who know the animal and its behavior and can control the animal.

1805. Laundry and Linens.

A. Linen includes surgical clothing. An adequate supply of clean, sanitary linen shall be available at all times.

B. The hospital shall have a clean linen storage area and a separate soiled linen storage area. These storage areas shall be used solely for their intended purposes. The soiled linen storage area shall have mechanical ventilation to the outside.

C. In order to prevent contamination of clean linen by dust or other airborne particles or organisms, linen shall be stored and transported in a sanitary manner, i.e., enclosed and covered. Clean linen shall be stored in a dedicated cart, closet, or cabinet which is covered and dedicated only for the use of clean linen. Non-linen items shall not be stored in the same cart as clean linen. Clean non-linen items may be stored in the same closet or cabinet as clean linen, but shall not be stored on the same shelf.

D. The hospital shall have policies addressing the storage, handling, distribution, collection, and reprocessing of linen for the hospital. If the hospital uses an off-site laundry, the hospital must ensure through contract that the linen is handled and cleaned properly to institutional standards. The hospital will assure that laundry services whether operated by the hospital or contracted will exercise necessary precautions to render all linen to be safe for reuse.

E. The hospital shall have policies for collecting, transporting, and storing all soiled linen. Soiled linen shall be kept in closed or covered containers while being collected, transported or stored and shall be stored separately from clean linen and patient areas. These containers shall be cleaned and disinfected weekly at a minimum and immediately if visibly soiled. Hospitals operating laundries within the buildings accommodating patients shall provide proper insulation to prevent transmission of noises to patient areas. The laundry shall be well ventilated and the general air movement shall be from the cleanest areas to the most contaminated areas.

F. All used linen must be handled as if it is infectious. Used linen shall be placed in durable bags which, by color or terminology, identify the contents as contaminated and must be transported in these closed bags to the soiled linen holding area or laundry. All linen from patients with infectious or communicable diseases shall be placed in durable bags identified "contaminated" and transported in these closed bags to the soiled linen holding area or laundry.

G. Soiled linen shall be neither sorted nor rinsed in patient rooms.

H. Laundry operations shall not be carried out in patient rooms or where food is prepared, served, or stored.

I. Soiled linen area floors shall be cleaned daily. The area shall be cleaned and disinfected weekly at a minimum and more frequently if necessary to control odors and bacteria.

J. If linen chutes are used, the linen shall be enclosed in durable bags, identified, by color or terminology, as contaminated, before placing in the chute. Chutes shall be cleaned monthly.

K. Personnel must wear appropriate protective attire in accordance with the hospitals policies and procedures. Personnel must wash their hands thoroughly after handling soiled linen.

1806. Waste Management.

A. The hospital shall be able to demonstrate that it has a comprehensive waste management program for identification, collection, handling, and management, of all medical waste, including nonhazardous and hazardous pharmaceutical waste.

B. The hospital shall provide for a regular review of its policies and procedures to assure compliance of its waste management practices in comparison with federal EPA and state regulatory requirements.

C. Accumulated waste, including all contaminated sharps, dressings, and/or similar infectious waste, shall be disposed of in compliance with the following standards: Bloodborne Pathogens Standard of the Occupational Safety and Health Act (OSHA) of 1970; related regulations at 29 CFR 1910; the Department's *Guidelines for Prevention and Control of Antibiotic Resistant Organisms in Health Care Settings*; DHEC Regulation 61-105, and other applicable federal, state and local laws and regulations.

D. The hospital shall inform personnel involved in the handling and disposal of potentially infectious waste of health and safety hazards, and ensure that they are trained in appropriate handling and disposal methods.

E. The hospital shall have policies for the use and disposal of sharps. The hospital shall use sharps containers capable of maintaining their impermeability after waste treatment to avoid subsequent physical injuries during final disposal. Disposable syringes with needles, including sterile sharps that are being discarded, scalpel blades, and other sharp items must be placed into puncture-resistant containers located as close as practical to the point of use.

F. Regulated medical wastes awaiting treatment shall be stored in a properly ventilated area inaccessible to vermin. Waste containers that prevent development of noxious odors must be used. If treatment options are not available at the site where the medical waste is generated, the hospital must ensure transport of the regulated medical wastes in closed, impervious containers to the on-site treatment location or to another facility for treatment as appropriate. Regulated medical wastes must be treated by using a method (e.g., steam sterilization, incineration, interment, or an alternative treatment technology) in accordance with local, state and federal laws and regulations.

1807. Water Requirements.

A. The hospital shall establish written policies and procedures to prevent waterborne microbial contamination within the water distribution system.

B. The hospital shall ensure the practice of hand hygiene to prevent the hand transfer of pathogens, and the use of barrier precautions (e.g. gloves) in accordance with established guidelines.

C. The hospital shall eliminate contaminated water or fluid from environmental reservoirs (e.g. in equipment or solutions) wherever possible.

D. The hospital shall not place decorative fountains and fish tanks in patient-care areas. If decorative fountains are used in separate public areas, the hospital shall ensure that they are disinfected in accordance with manufacturer's instructions and safely maintained.

E. The hospital plumbing fixtures which require hot water and which are accessible to patients shall be supplied with water which thermostatically controlled to a temperature of at least 100 degrees F. (37.8 degrees C) and not exceeding 125 degrees F. (51.7 degrees C.) at the fixture.

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F. The hospital shall have a written plan to respond to disruptions in water supply. The plan must include a contingency plan to estimate water demands for the entire facility in advance of significant water disruptions (i.e., those expected to result in extensive and heavy microbial or chemical contamination of the potable water), sewage intrusion, or flooding.

G. When a significant water disruption or an emergency occurs, the hospital shall:

1. Adhere to any advisory to boil water issued by the municipal water utility;
2. Alert patients, families, employees, volunteers, students and visitors not to consume water from drinking fountains, ice, or drinks made from municipal tap water, while the advisory is in effect, unless the water has been disinfected;
3. After the advisory is lifted, run faucets and drinking fountains at full flow for greater than 5 minutes, or use high-temperature water flushing or chlorination;
4. All ice and drinks that may have been contaminated must be disposed and storage containers cleaned; and
5. Decontaminate the hot water system as necessary after a disruption in service or a cross-connection with sewer lines has occurred.

H. The hospital shall adhere to Association for the Advancement of Medical Instrumentation (AAMI) standards for quality assurance performance of devices and equipment used to treat, store and distribute water in hemodialysis units and for the preparation of concentrates and dialysate.

I. The hospital shall follow appropriate recommendations to prevent cross connection and other sources of contamination of ice for human consumption, and to prevent contamination of hydrotherapy equipment and medical equipment connected to water systems (e.g. automated endoscope reprocessors).

J. The hospital shall maintain and implement policies and procedures addressing the management of failure of waste water systems.

SECTION 1900. DESIGN AND CONSTRUCTION

1901. General.

Every facility shall be planned, designed and equipped to provide adequate facilities for the care, safety, and treatment of each patient.

1902. Codes and Standards.

The design and construction specifications for hospitals shall conform to the most current nationally accepted standards for hospital design set forth in the International Building Code (IBC); International Fire Codes (IFC); International Plumbing Codes (IPC); International Mechanical Codes (IMC); National Fire Protection Association (NFPA) codes – NFPA 10 - Standard for Portable Fire Extinguishers, NFPA 11 - Standard for Low-, Medium-, and High-Expansion Foam, NFPA 12 - Standard on Carbon Dioxide Extinguishing Systems, NFPA 12A - Standard on Halon 1301 Fire Extinguishing Systems, NFPA 13 - Standard for the Installation of Sprinkler Systems, NFPA 13R - Standard for the Installation of Sprinkler Systems in Low-Rise Residential Occupancies, NFPA 14 - Standard for the Installation of Standpipe and Hose Systems, NFPA 15 - Standard for Water Spray Fixed Systems for Fire Protection, NFPA 16 - Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems, NFPA 17 - Standard for Dry Chemical Extinguishing Systems, NFPA 17A - Standard for Wet Chemical Extinguishing Systems, NFPA 18 - Standard on Wetting Agents,

NFPA 20 - Standard for the Installation of Stationary Pumps for Fire Protection, NFPA 22 - Standard for Water Tanks for Private Fire Protection, NFPA 24 - Standard for the Installation of Private Fire Service Mains and Their Appurtenances, NFPA 25 - Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, NFPA 30 - Flammable and Combustible Liquids Code, NFPA 30A - Code for Motor Fuel Dispensing Facilities and Repair Garages, NFPA 52 - Vehicular Gaseous Fuel Systems Code, NFPA 54 - National Fuel Gas Code, NFPA 58 - Liquefied Petroleum Gas Code, NFPA 59 - Utility LP-Gas Plant Code, NFPA 70 - National Electrical Code®, NFPA 72 - National Fire Alarm and Signaling Code, NFPA 96 - Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, NFPA 99 - Health Care Facilities Code, NFPA 101 - Life Safety Code®, and NFPA 110 - Standard for Emergency and Standby Power Systems; International Code Council (ICC) American National Standards I (ANSI) A117.1 – Accessibility Codes; the *Guidelines for Design and Construction of Health Care Facilities* as published by the Facility Guidelines Institute (FGI); and International Existing Building Code (IEBC).

1903. Submission of Plans.

A. When construction is contemplated either for new buildings, additions or major alterations or replacement to existing buildings, buildings being licensed for the first time, buildings changing license type, or facilities increasing occupant load/licensed capacity, plans and specifications shall be submitted to the Department for review. Final plans and specifications shall be prepared by an architect and/or engineer registered in South Carolina and shall bear their seals and signatures. Architectural plans shall also bear the seal of a South Carolina registered architectural corporation. These submissions shall be made in at least three stages: schematic, design development, and final. All plans shall be drawn to scale with the title, stage of submission and date shown thereon. Any construction changes from the approved documents shall be approved by the Department. Construction work shall not commence until a plan approval has been received from the Department. During construction the owner shall employ a registered architect and/or engineer for supervision and inspections. The Department shall conduct periodic inspections throughout each project.

B. When alterations are contemplated that are new construction, or projects with changes to the physical plant of a licensed facility which has an effect on: the function, use or accessibility of an area; structural integrity; active and passive fire safety systems (including kitchen equipment such as exhaust hoods or equipment required to be under the said hood); door, wall and ceiling system assemblies; exit corridors; Increase the occupant load/licensed capacity; and projects pertaining to any life safety systems, require preliminary drawings and specifications, accompanied by a narrative completely describing the proposed work, shall be submitted to the Department. Cosmetic changes utilizing paint, wall covering, floor covering, etc., that are required to have a flame-spread rating or other safety criteria shall be documented with copies of the documentation and certifications, kept on file at the facility and made available to the Department.

C. All subsequent addenda, change orders, field orders, and documents altering the Department review must be submitted. Any substantial deviation from the accepted documents shall require written notification, review and re-approval from the Department.

1904. Construction Inspections.

Construction work which violates codes or standards will be required to be brought into compliance. All projects shall obtain all required permits from the locality having jurisdiction. Construction without proper permitting shall not be inspected by Department.

1905. Patient Rooms.

A. Cubicle curtains with built-in curtain tracks shall be provided in all multiple bed rooms which will shield each patient completely. Curtains will be flameproof.

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B. Beds must be placed at least three feet apart.

C. At least one private room shall be provided in each nursing unit for purposes of medical isolation, incompatibility, personality conflicts, etc.

1906. Signal System.

A signal system shall be provided for each patient. The system shall consist of a call button for each bed, bath, toilet and treatment/examination room; a light at or over each patient room door visible from the corridor; a control panel in utility rooms, treatment/examination rooms, medication rooms, nurses’ lounges and floor kitchens. Indicators and control panels shall employ both an audible and visual signal.

1907. Nurses Station.

A nurses’ station shall serve not more than 44 beds, unless additional services and facilities are provided. In order for a nurses’ station to be permitted to serve more than 44 beds, justification must be furnished showing how the additional beds served will not adversely affect the health care provided to each patient.

1908. Utility Rooms.

A. Soiled Utility Room: At least one soiled utility room per nurses’ station shall be provided which contains a clinical sink, work counter, waste receptacle and soiled linen receptacle.

B. Clean Utility Room At least one clean utility room per nurses’ station shall be provided which contains a counter with handwashing sink and space for the storage and assembly of supplies for nursing procedures.

Exception: Item B above does not apply to facilities licensed prior to May 1968.

1909. Temperature and Humidity. (II)

A. Minimum design temperature of 75 degrees F. (23.9 degrees C.) at winter design conditions and 81 degrees F. maximum summer design conditions shall be provided for all occupied areas not listed below. The systems shall be designed to provide the following temperatures and humidities in the areas noted:

Area	Temperature		Relative Humidity	
	F	C	Minimum	Maximum
Operating Room	68-75	20.0-24.0	20	60
Recovery Rooms	75	23.9	30	60
Intensive Care Units	75-80	23.9-26.7	30	60

B. Perinatal design temperature and humidity shall follow the current edition of *Guidelines for Perinatal Care*.

SECTION 2000. FIRE PROTECTION, PREVENTION AND LIFE SAFETY (I)

2001. Alarms.

A. A partial, manual, automatic, supervised fire alarm system shall be provided. The system shall be arranged to transmit an alarm automatically to a third party by an approved method. The alarm system shall notify by audible and visual alarm all areas and floors of the building. The alarm system shall shut down central recirculating systems and outside air units that serve the area(s) of alarm origination as a minimum.

B. There must be a fire alarm pull station in or near each nurses station.

C. All fire, smoke, heat, sprinkler flow, or manual fire alarming devices or systems must be connected to the main fire alarm system and trigger the system when they are activated.

2002. Emergency Generator Service.

A. Facilities shall provide certification that construction and installation of emergency generator service complies with requirements of all adopted State, Federal, or local codes, ordinances, and regulations.

B. An emergency generator shall be provided to deliver emergency electrical service during interruption of the normal electrical service and shall be provided to the distribution system as follows:

1. Exit lights and exit directional signs;
2. Exit access corridor lighting;
3. Lighting of means of egress and staff work areas;
4. Fire detection and alarm systems;
5. In patient care areas;
6. Signal system;
7. Equipment necessary for maintaining telephone service;
8. Elevator service that will reach every patient floor when rooms are located on other than the ground floor;
9. Fire pump;
10. Equipment for heating patient rooms;
11. Public restrooms;
12. Essential mechanical equipment rooms;
13. Battery-operated lighting and a receptacle in the vicinity of the emergency generator;
14. Alarm systems, water flow alarm devices, and alarms required for medical gas systems;
15. Patient records when solely electronically based.

SECTION 2100. PREVENTIVE MAINTENANCE OF LIFE SUPPORT EQUIPMENT

A written preventive maintenance program for all life support equipment including, but not limited to, all patient monitoring equipment, isolated electrical systems, conductive flooring, patient grounding systems, and medical gas systems shall be developed and implemented. This equipment shall be checked and/or tested at such intervals to insure proper operation and a state of good repair. After repairs and/or alterations are made to any equipment or system, the equipment or system shall be thoroughly tested for proper operation before

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returning it to service. Records shall be maintained on each piece of life support equipment to indicate its history of testing and maintenance.

SECTION 2200. GENERAL

Conditions which have not been covered in these regulations shall be handled in accordance with the best practices as interpreted by the Department.

Fiscal Impact Statement:

The regulation will have no substantial fiscal or economic impact on the state or its political subdivisions. Implementation of this regulation will not require additional resources beyond those allowed. The cost of any DHEC Bureau of Health Facilities Licensing inspections or investigations for compliance will be absorbed by current operating staff and budget. Additional costs to State government are not anticipated.

Statement of Need and Reasonableness:

The Department's Bureau of Health Facilities Licensing formulated this statement determined by analysis pursuant to S.C. Code Ann Section 1-23-115 C(1)-(3) and (9)-(11) (2005).

DESCRIPTION OF REGULATION: R.61-16, Minimum Standards for Licensing Hospitals and Institutional General Infirmaries.

Purpose: This amendment will substantially revise/update sections of the regulation in its entirety.

Legal Authority: 1976 Code Sections 44-7-110 through 44-7-394 and 44-41-10(d).

Plan for Implementation: Upon approval from the S.C. General Assembly and publication as a final regulation in the South Carolina State Register, copies of the regulation will be available electronically on the South Carolina Legislature Online website and the Department regulation development website (<http://www.scdhec.gov/regulatory.htm>). Printed copies will be available for a fee from the Department's Freedom of Information Office. Staff will educate the regulated community on the provisions of the Act and the requirements of the regulation.

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

The Department last amended Regulation 61-16 in April 2002 for perinatal services. The regulation was substantially amended in April 1992. S.C. Code Section 1-23-120(J) (Supp. 2012) requires state agencies to perform a review of its regulations every five years and update them if necessary.

Statutory mandates, issues found in the review, and necessity for overall updates render the proposed amendment needed and reasonable. The amendment updates the regulation to conform with current practices.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of this regulation will not require additional resources beyond those allowed. There is no anticipated additional cost by the Department or State government due to any inherent requirements of this regulation.

External Costs: There are no external costs anticipated.

External Benefits: The amendments update standards for licensure, maintenance, and operation of hospitals and institutional general infirmaries in the interest of patient health and safety.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment.

The regulation will provide minimum standards to reasonably simplify the regulation while maintaining high quality of care in hospitals and institutional general infirmaries.

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

There would not be a detrimental effect on the environment.

If the revision is not implemented, standards within the hospital community will be less consistent with current national standards resulting in continued difficulties related to compliance.

Statement of Rationale:

The Department revised this regulation pursuant to the S.C. Code Ann. Section 1-23-120(J) (Supp. 2012) requirement that state agencies perform a review of its regulations every five years and update them if necessary.

Document No. 4431

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

Statutory Authority: 1976 Code Sections 44-1-60, 44-1-140(7), and 44-55-2310 et seq.

61-51. Public Swimming Pools

Synopsis:

R.61-51 was enacted to protect public health and safety when recreating in public swimming pools. The Department has amended R.61-51 pursuant to the five (5) year review required by the Administrative Procedures Act, SC Code 1-23-270(F)(1) to address new lifeguard standards found in S.C. Code 44-55-2390, enacted in 2012. The amendments are necessary to conform with statutory authority and allow for safe and healthy recreation for citizens and visitors when they choose to swim in public pools throughout the State. See Discussion of Section-by-Section Discussion and Statements of Need and Reasonableness and Rationale herein.

A Notice of Drafting for the amendments was published in the *State Register* on September 27, 2013.

Regulation Withdrawn and Resubmitted by
the Department of Health and Environmental Control
March 4, 2014, to correct a nonsubstantive error:

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R.61-51.B.6

The change is to make a nonsubstantive correction of a reference at R.61-51.B.6 in Document 4431, R.61-51, Public Swimming Pools, by correcting the reference of R.61-51.C.25(d) to R.61-51.C.24(d).

Section-by-Section Discussion as submitted to the General Assembly by the
Department of Health and Environmental Health January 16, 2014:

R.61-51.A.45

Revised language to delete language regarding impounding water;
Revisions reconcile regulation definition with the SC Code Section 44-55-2310.

R.61-51.A.45(c)

Added language to exempt spray decks, splash pads, and wet decks that use once-through water from an approved public water system from R.61-51.

R.61-51.A.45(d)

Deleted language to clarify the definition to mean spa pools and hot tubs.

R.61-51.B.4.(b)

Revised to spell out measurement units in text for compatibility with electronic format publications; no change in legal meaning.

R.61-51.B.4.(c)

Revised to spell out measurement units in text for compatibility with electronic format publications; no change in legal meaning.

R.61-51.B.6

Revised to clarify regulatory reference.

R.61-51.C.5(b)

Revised to spell out measurement units in text for compatibility with electronic format publications; no change in legal meaning.

R.61-51.C.6.(a)(ii)

Revised to spell out measurement units in text for compatibility with electronic format publications; no change in legal meaning.

R.61-51.C.6.(a)(iv)

Revised to spell out measurement units in text for compatibility with electronic format publications; no change in legal meaning.

R.61-51.C.7

Revised to reorganize paragraph for better readability and clarity.
Divided into introductory paragraph and reorganize section into (a) through (n);
No substantive changes were made.

R.61-51.C.12

Added new language clarifying which type of emergency notification devices are acceptable to the Department. Added language requiring the pool address be posted by the emergency notification device.

R.61-51.C.35

Revised to reorganize paragraph for better readability and clarity.
Divided into introductory paragraph and reorganize section into (a) through (d);

No substantive changes were made.

R.61-51.E.2

Revised to reorganize paragraph for better readability and clarity.
Divided into introductory paragraph and reorganize section into (a) through (f);
No substantive changes were made.

R.61-51.F.2

Revised to reorganize paragraph for better readability and clarity.
Divided into introductory paragraph and reorganize section into (a) through (h);
No substantive changes were made.

R.61-51.G.3(d)(i)

Revised to delete outdated reference and add correct reference standard.

R.61-51.G.3(d)(ii)

Revised to delete outdated reference and add correct reference standard.

R.61-51.G.3(f)

Revised to delete outdated reference and add correct reference standard.

R.61-51.G.8

Revised to correct regulation citation.

R.61-51.H.5

Revised to correct regulation citation.

R.61-51.I.5

Revised to correct regulation citation;

R.61-51.I.7

Revised to correct regulation citation.

R.61-51.J.11(a)

Revised language to delete requirements for lifeguards that were based on pool surface area. The requirements were not in accordance with SC Code Section 44-55-2310;
Added language to R.61-51 to include language from SC Code Section 44-55-2310.

R.61-51.J.11(b)

Added language clarifying that the pool is to be locked when the pool area is not open.

R.61-51.J.11(g)

Deleted existing requirements regarding emergency notification device;
Add requirements for emergency notification device to match R.61-51.C.12;
Added requirement to post physical pool address near the emergency notification device.

R.61-51.K.1(a)(i)

Revised to delete requirement for displaying the annual operating permit.

R.61-51.K.1(d)

Deleted subsection (d), requirements for technical assistance visit.

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R.61-51.L

Deleted subsection L, appeals language.

Instructions: Amend R.61-51 pursuant to each individual instruction provided with the text of the amendments below.

Text:

61-51. Public Swimming Pools.

Replace Section R.61-51.A.45 to read:

45. "Public Swimming Pool or pool" means an artificial structure either above or below the ground surface to provide for such recreational uses as bathing, swimming, diving, wading, spraying, sliding, floating, rafting, or other similar usage which is not built in connection with a single family residence, or duplex (two living units within a single structure) and the use of which is not confined to the family of the residence and their private guests, or which is not owned, constructed, operated, or maintained by a church, synagogue, or religious organization, or facility exempted under Title 45, Chapter 4, of the South Carolina Bed and Breakfast Act. Public swimming pools are listed in the following categories based upon specific characteristics of size, usage, and other factors:

(a) Type "A" means any pool open to the general public, except for Type "E" pools, which does not require a membership or that a person be a guest of a member to gain entrance to the pool, or is not operated solely for and in conjunction with a residential development or a place of lodging.

(b) Type "B" means swimming pools at hotels, motels, apartments, mobile home parks, condominium developments, country clubs, schools, swim clubs, health clubs, campgrounds, subdivisions and other pools of similar usage. Lazy rivers constructed at the above facilities shall be considered Type "B" pools.

(c) Type "C" means wading pools, kiddie pools, spray pools, spray decks, or wet decks. Spray decks, splash pads, or wet decks that use water from a public water system, as defined by R.61-58 State Primary Drinking Water Regulations, and do not recirculate the water are exempt from these regulations.

(d) Type "D" means spa pools and hot tubs. Rehabilitation or therapy pools located at hospitals, sports therapy clinics, doctors offices, or other medical facilities which will be used solely for therapy and rehabilitation purposes and under the supervision of a physical therapist or other qualified medical personnel are excluded from this regulation.

(e) Type "E" means those pools at water parks such as water flumes, water slides, lazy rivers, wave parks, inner tube rides, kiddie play parks, etc. Type "E" also means pools at subdivisions that have a slide that is in use, or not able to be secured to prevent access when not in use. If the slide can be secured to prevent access when not in use, the pool may be open as a type "B" pool when the slide is not in operation and secured.

(f) Type "F" means special purpose pools used exclusively for limited activities such as scuba diving lessons, helmet diving lessons, underwater work training, or similar, limited uses.

(g) Type "G" means hybrid pool.

Replace R.61-51.B.4(b) to read:

(b) Plans shall be submitted on sheets no larger than thirty-six (36) inches by forty-two (42) inches and no smaller than eighteen (18) inches by twenty-four (24) inches.

Replace R.61-51.B.4(c) to read:

(c) Typed or legible specifications shall be submitted on sheets eight and one half (8 1/2) inches by eleven (11) inches or printed on the plans.

Replace R.61-51.B.6 to read:

6. Piping Inspection. During actual construction of the public swimming pool, after all piping has been installed and before it is covered, the contractor, design engineer, or architect, must notify the Department in writing so that an inspection of all piping, fittings, and other applicable equipment can be conducted to verify their sizes and locations. Pressure testing of the piping must be conducted in accordance with R.61-51.C.24(d). If there are any variations from the approved plans and specifications, such variations must be corrected by the contractor, or plans and specifications detailing the changes must be re-submitted for a construction permit revision prior to continuance of construction.

Replace R.61-51.C.5(b) to read:

(b) A moderately smooth, non-slip white or light colored water proof finish, which will withstand repeated brushing, scrubbing and cleaning procedures, must line the pool. Paint, fiberglass, or epoxy coated finishes shall be non-toxic, water-resistant, of one single very light color, and must continually and permanently bond so as not to separate at any time. Colors must have reflectance of fifty-five percent or greater except for logos. All corners and edges shall be rounded and smooth to prevent cuts or abrasions to swimmers. All corners and all junctions of walls and floor must be rounded with a minimum six (6) inch radius. Any variation of this required six (6) inch radius must be approved on an individual basis.

Replace R.61-51.C.6(a)(ii) to read:

(ii) Type "B" four (4) feet; Type "B" pools over 1600 square feet, six (6) feet.

Replace R.61-51.C.6(a)(iv) to read:

(iv) Type "D" (less than 700 square feet) at least two (2) feet around one hundred percent or four (4) feet around at least fifty percent of the facility. Type "D" (700 square feet to 1600 square feet) at least four (4) feet. Type "D" (greater than 1600 square feet) at least six (6) feet.

Replace R.61-51.C.7 to read:

7. Depth Markers. Permanent depth markers must be plainly marked at or above the water surface on the vertical pool wall and on the edge of the coping or deck next to the pool, at a maximum and minimum point and at not more than two (2) foot intermediate increments of depth. Depth markers must also meet the following requirements:

(a) Depth markers must be spaced at not more than twenty five (25) foot intervals on center, as measured around the perimeter of the pool.

(b) A minimum of three (3) sets of evenly spaced depth markers are required for Type "C" and "D" pools.

(c) One set of markers must be located adjacent to the steps or handrail.

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(d) Depth markers must be in numerals and letters of four (4) inch minimum height and of a light-colored background (that is, having a reflectance of fifty-five (55) percent or greater) with dark, contrasting lettering. Alternative designs, having sufficient contrast, will be considered on case-by-case basis.

(e) Depth markers must be accurate to within three (3) inches at normal operating level

(f) The abbreviation "ft." or word "feet" must be included.

(g) A total of twelve (12) inches of white background tile must be included as part of each depth marker(s).

(h) Depth markers are required for all pools, kiddie pools, spas, hot tubs, special water park pools, etc. Kiddie spray decks do not require depth markers.

(i) Depth markers on the deck must be non-slip and must start within fifteen (15) inches of the pool edge.

(j) In pools requiring "No Diving" signs, a single six inch by six inch universal no diving tile must be co-located with each set of deck depth marker tiles.

(k) Metric depth markers may be installed at any facility in addition to the standard markers required above.

(l) Depth markers for pools with multiple slopes (bowl shaped and diving wells) must accurately reflect the minimum depth at the edge of the pool and the maximum depth at the center of the pool and separated by a hyphen. For example, a pool sloping from all sides to the center would require the installation of the following depth markers, "3 FT - 5 FT".

(m) Alternative types of depth markers will be considered on a case by case basis for pools using stainless steel gutters or fiberglass shells.

(n) Depth markers shall be verified by measuring the depth at a distance of two (2) feet from the edge of the pool.

Replace R.61-51.C.12 to read:

12. Emergency Notification Device. A toll free emergency notification device to notify emergency personnel must be provided within a two hundred (200) foot walking distance of the pool and in a location that it is easily accessible during the hours that the pool is in operation. Only permanently-mounted notification devices are acceptable to the Department. Mobile, voice over internet, or cordless telephones are not an acceptable alternative to permanently-mounted emergency notification devices. The physical address of the pool must be displayed at the emergency notification phone or device in a manner that is permanent and weather resistant.

Replace R.61-51.C.35 to read:

35. Steps and Ladders. At least one (1) ladder/steps must be provided for each seventy-five (75) feet of pool perimeter. Two (2) or more ladders/steps must be provided for all Type "A" and "B" pools.

(a) Ladders - All ladders must have a minimum of three (3) tread design and must include treads of non-slip construction. All ladders must be commercially-rated and designed so as to be secured tightly in place when the pool is in operation unless they are removed for certain aquatic events. Grab rail recess step type ladders can be used in lieu of the standard three (3) tread ladder.

(b) Steps - Steps shall have a minimum tread width of twelve (12) inches, a maximum rise of eleven (11) inches and a minimum length of thirty (30) inches. All step risers must be of uniform height (within one half (1/2) inch of each other) with the exception of the bottom riser. All step treads must be level with a tolerance for step slope of one half (1/2) inch. When radial steps are to be constructed, the minimum standards are shown in Figures 1, 2 and 3 as follows. All steps shall be non-slip and constructed in the shallow end of the pool only. Permanent black or dark colored edge stripes such as tile must mark steps. The edge stripe must be a minimum of two (2) inches wide, must be provided the entire length of each step, must be non-slip in texture, and must be installed on the run of each step so as to be clearly visible by patrons upon entering the pool. The step edge stripe must start within one (1) inch from the edge of the step.

RADIAL POOL STEPS

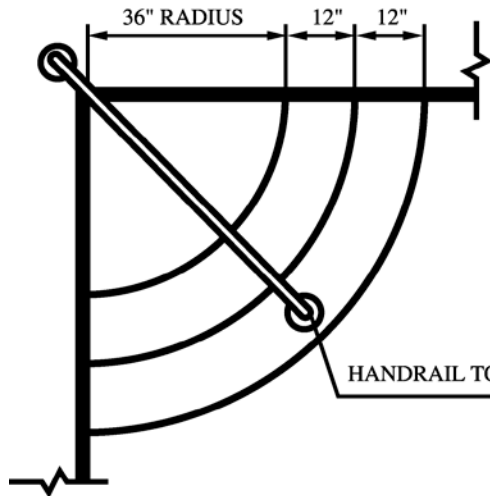


Figure - 1

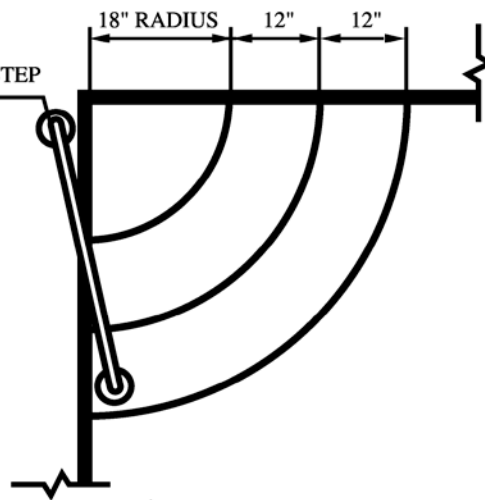


Figure - 2

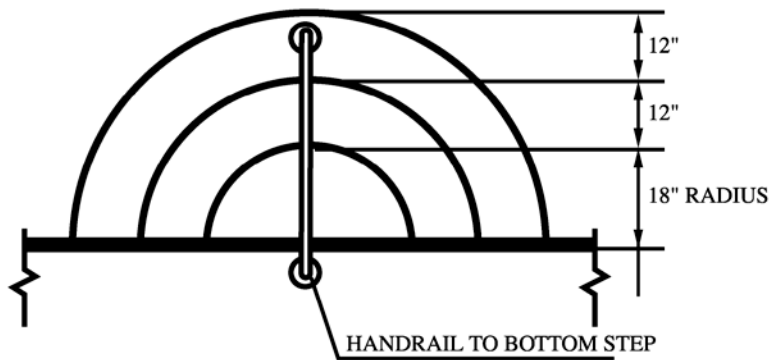


Figure - 3

(c) Handrails - Where steps are used, a minimum of one (1) handrail must be installed. All handrails must be securely anchored, extend over and anchor into the bottom step, and be easily accessible for exiting the pool. No portion of the handrail shall be closer than three (3) feet from any other handrail, unless Americans with Disabilities Act (ADA) requirements apply. No figure four type handrails may be installed except on fiberglass pools and Type "C" pools. Where the average step length, as measured from the front edge of the middle step, is over ten (10) feet in width there shall be one (1) additional handrail for every

average ten (10) feet of step width or major fraction thereof and they shall be evenly spaced. Handrails must be of the removable type. Handrails shall be designed so as to be secured tightly in place when the pool is in operation unless they are removed for certain aquatic events.

(d) Tanning Ledges - When tanning ledges are provided, the maximum water depth shall be twelve (12) inches. If the distance from the tanning ledge to the coping exceeds eleven (11) inches, then a single step and handrail must be provided.

Replace R.61-51.E.2 to read:

2. Type "C" Pools. In addition to meeting all other applicable requirements of these regulations as found in Section C, Type "C" pools must also meet the following:

(a) There must be a minimum of two (2) inlets and two (2) main drains and at least one (1) surface skimmer positioned and operated in accordance with R.61-51.C.26(b).

(b) When only one (1) skimmer is provided and the equalizer outlet is installed on the pool floor, it must be equipped with a minimum of two (2) interconnected suction fittings spaced at least twelve (12) inches apart. The interconnecting line must be sized to accommodate one hundred (100) percent of the recirculation flow.

(c) Main drains shall be located on the pool bottom floor.

(d) Inlets and outlets must be provided and arranged to produce complete recirculation of pool water and the maintenance of a uniform and adequate level of disinfecting medium at all times.

(e) A means of completely draining the contents of the pool to waste must be provided without passing through the filter. This may be done by a gravity waste line directly from the pool or by pumping and by-passing the filter.

(f) The maximum depth for a wading pool shall be eighteen (18) inches at the center. The bottom must have a maximum slope of no greater than five-eighths (5/8) inches per foot toward waste outlets or main drains. The depth at the perimeter may be zero (0) feet.

Replace R.61-51.F.2 to read:

2. Type "D" Pools. In addition to meeting all other applicable requirements of these regulations as found in Section C, including steps and handrails, except where fiberglass spas are used, figure four handrails may be acceptable provided they extend over the last step. Type "D" pools must also meet the following:

(a) There must be a minimum of two (2) inlets, two (2) main drains to be located on the pool bottom floor and at least one (1) surface skimmer or gutter system positioned and operated in accordance with R.6-51.C.26.

(b) All drains providing water to the booster system must be located on the pool bottom floor.

(c) Inlets and outlets must be provided and arranged to produce complete recirculation of pool water and the maintenance of a uniform and adequate level of disinfecting medium at all times.

(d) The maximum depths for Type "D" pools shall be four (4) feet. Type "D" pools must be provided with a means of completely draining the contents of the pool to waste without passing through the filter. This may be done by a gravity waste line directly from the pool or by pumping and by-passing the filter.

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(e) All Type "D" pools must have a single timer set for a maximum of 15 minutes which must turn on and off the hydro pump and blower if provided. This timer switch must be inaccessible to persons while in the spa.

(f) An emergency cut-off switch must be provided in the pool area which, when triggered, will simultaneously shut off the spa booster and recirculation pumps. This switch must be clearly visible, labeled, easily accessible at all times, and no greater than a twenty five (25) foot distance from the entrance steps of the spa.

(g) The top front edge of seats must be marked with a black or dark colored stripe in accordance with R.61-51.D.2(h).

(h) No sliding boards are allowed in Type "D" pools.

Replace R.61-51.G.3(d)(i) to read:

(i) The overall average slope of a flume shall conform to the design criteria of the recommendations of the ASTM F 2376, "Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems."

Replace R.61-51.G.3(d)(ii) to read:

(ii) The slope of each flume section shall conform to the design criteria of the recommendations of the ASTM F 2376, "Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems."

Replace R.61-51.G.3(f) to read:

(f) All items not covered above with regard to Type "E" Pools shall use the current edition of the ASTM F 2376, "Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems" as guidelines.

Replace R.61-51.G.8 to read:

8. Pool Deck. The pool deck must be constructed in accordance with R.61-51.C.6.

Replace R.61-51.H.5 to read:

5. Pool Deck. The pool deck must be constructed in accordance with R.61-51.C.6.

Replace R.61-51.I.5 to read:

5. Deck Changes. A change order request must be submitted detailing the proposed work. If replacing existing decking, painting or resurfacing, the new decking must comply with applicable portions of R.61-51.C.6 and R.61-51.C.7. Temporary pool enclosures may be installed with prior Department approval provided that they do not hinder or limit access by emergency personnel and minimum deck widths are maintained. Adequate lighting must be provided if the facility will be used for night swimming.

Replace R.61-51.I.7 to read:

7. Piping Changes. A change order is required for piping changes beyond routine repair. In addition to a change order request, plans and specifications detailing any proposed alteration requiring piping changes that affect the location or pipe size of the overall recirculation system or a major fraction of the system of a public

swimming pool must be submitted following the requirements of Section B of this regulation, including submission of the appropriate fee. When replacing pipe, a reasonable effort must be made to comply with applicable portions of R.61-51.C.24.

Replace R.61-51.J.11 to read:

11. Safety Precautions.

(a) One or more lifeguards shall be on duty during operation hours at Type "A" and "E" pools. The minimum lifeguard requirements are listed in paragraph R.61-51.J.11(a)(i). Lifeguards must have their current certifications available for inspection while on duty. Lifeguards, when on duty, shall have no other duty but to supervise the swimmers.

(i) As a condition of obtaining and maintaining an operating permit, all Type "A" public swimming pools shall provide lifeguards in accordance with the following:

(A) A public swimming pool of three thousand (3,000) square feet or fewer must have:

- (1) One (1) lifeguard for one (1) through twenty-five (25) patrons;
- (2) Two (2) lifeguards for twenty-six (26) through fifty (50) patrons;
- (3) Three (3) lifeguards for fifty-one (51) through one hundred-fifty (150) patrons;
- (4) Four (4) lifeguards for one hundred fifty-one (151) through two hundred-fifty (250) patrons;
- (5) One (1) additional lifeguard for each one hundred patrons greater than two hundred-fifty (250) patrons

(B) A public swimming pool of three thousand one (3,001) square feet through six thousand (6,000) square feet must have:

- (1) Two (2) lifeguards for one (1) through twenty-five (25) patrons;
- (2) Three (3) lifeguards for twenty-six (26) through fifty (50) patrons;
- (3) Four (4) lifeguards for fifty-one (51) through one hundred-fifty (150) patrons;
- (4) Five (5) lifeguards for one hundred fifty-one (151) through two hundred-fifty (250) patrons;
- (5) One (1) additional lifeguard for each one hundred patrons greater than two hundred-fifty (250) patrons

(C) A public swimming pool of six thousand one (6,001) square feet through nine thousand (9,000) square feet must have:

- (1) Two (2) lifeguards for one (1) through twenty-five (25) patrons;
- (2) Three (3) lifeguards for twenty-six (26) through fifty (50) patrons;
- (3) Five (5) lifeguards for fifty-one (51) through one hundred-fifty (150) patrons;

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- (4) Six (6) lifeguards for one hundred fifty-one (151) through two hundred-fifty (250) patrons;
- (5) One (1) additional lifeguard for each one hundred patrons greater than two hundred-fifty (250) patrons

(D) A public swimming pool of greater than nine thousand (9,000) square feet must have:

- (1) Three (3) lifeguards for one (1) through twenty-five (25) patrons;
- (2) Four (4) lifeguards for twenty-six (26) through fifty (50) patrons;
- (3) Six (6) lifeguards for fifty-one (51) through one hundred-fifty (150) patrons;
- (4) Seven (7) lifeguards for one hundred fifty-one (151) through two hundred-fifty (250) patrons;
- (5) One (1) additional lifeguard for each one hundred patrons greater than two hundred-fifty (250) patrons

(ii) A public swimming pool that is required to have only one lifeguard shall, at all times, have at least one additional pool staff employee present and available to make an emergency call if necessary.

(iii) Any request for a variance from the lifeguard requirements listed in R.61-51.J.11(a)(i) must be made in writing and must include a site-specific evaluation that demonstrates proof of equivalency with the provisions in R.61-51.J.11(a)(i). The Department will consider the variance request and will provide written notice of its decision.

(iv) Lifeguard requirements for Type "E" public swimming pools.

(A) Type "E" pools shall submit to the Department a lifeguard coverage plan. The lifeguard coverage plan must contain notification that the pool chooses to follow the lifeguard requirements enumerated in R.61-51.J.11(a) for Type "A" pools or, in the alternative, provide the following information:

- (1) A pool schematic or diagram that shows lifeguard positions or stations along with sightlines;
- (2) The number of lifeguards used during all expected conditions of facility operations. The pool surface area and user loading must be taken into account;
- (3) The plan must include references, standards, and information from pool safety consultants and or other experts in pool safety and lifeguard coverage.

(B) Upon Department approval, Type "E" public swimming pools shall provide lifeguards in accordance with their approved plan. Until approval is received, Type "E" pools must follow the lifeguard requirements enumerated in R.61-51.J.11(a) for Type "A" pools.

(b) Type "A" and "E" pools must be locked when not under lifeguard supervision. All pools must be locked when the pool area is not open for patrons.

(c) Each Type "E" facility must provide attendants during operation of the facility to control the spacing and number of patrons utilizing each ride and to ensure and maintain the safe egress of all sliders out of the landing pool.

(d) At least one unit of life saving equipment must be inside the fence and be within two hundred (200) feet walking distance from any point on the pool perimeter and must be readily accessible and functional

during posted pool hours. Life saving equipment is not required for Type "C" and "D" pools. Shepard's crook and life ring are not required for Type "A" and "E" pools if rescue tubes are provided.

(e) For all Type "A" and "E" pools one unit of emergency equipment must be readily accessible and functional during posted pool operating hours.

(f) All Type A and E pools must have a first aid kit. This kit must be readily accessible during posted pool hours.

(g) A toll free emergency notification device to notify emergency personnel must be provided within a two hundred (200) foot walking distance of the pool and in a location that it is easily accessible during the hours that the pool is in operation. Only permanently-mounted notification devices are acceptable to the Department. Mobile, voice over internet, or cordless telephones are not an acceptable alternative to permanently-mounted emergency notification devices. The physical address of the pool must be displayed at the emergency notification phone or device in a manner that is permanent and weather resistant.

(h) Signs in accordance with R.61-51.C.28 must be posted in a conspicuous place in the pool area for all pools. A single sign, if used for multiple pools must be clearly visible from each body of water.

(i) All diving boards and handrails must be maintained in a safe condition. Handrails and ladders must be rigidly secured while the pool is in operation and must comply with R.61-51.C.35.

(j) The lifeline must be maintained in good condition and kept in place except when lap swimming or routine maintenance is conducted. The lifeline must conform to the requirements listed in R.61-51.D.2(b).

(k) All removable diving stands must be removed when not in use.

(l) Any automatic vacuum systems must be removed from the pool during the hours the pool is open to the general public. In-floor cleaning systems must not be in operation during hours that the pool is open.

Replace R.61-51.K.1(a)(i) to read:

(i) When a public pool has not been issued a valid annual operating permit from the Department.

Delete R.61-51.K.1(d).

Delete R.61-51.L.

Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Ann. Sections 44-1-140(7), 44-55-2310 et seq., 44-1-60.

DESCRIPTION OF REGULATION: Amendment of Regulation 61-51, *Public Swimming Pools* (R.61-51).

Purpose: The Department is revising R.61-51 to address specific issues related to changes to the lifeguard staffing requirements in S.C. Code Section 44-55-2390, clarification of the Public Swimming Pool definition,

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and grammatical and citation changes. The amendments are necessary to conform with statutory authority and allow for safe and healthy recreation for citizens and visitors when they choose to swim in public pools throughout the State.

Legal Authority: R.61-51 is authorized by 1976 Code Sections 44-1-140(7), 44-55-2310 et seq.,44-1-60.

Plan for Implementation: The amendments will be incorporated within R.61-51 upon approval and publication in the *State Register* as a final regulation. The amendments will be implemented in the same manner in which the current regulation is implemented.

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

The adoption of these amendments seek to enhance safety at public swimming pools by incorporating the lifeguard requirement changes that were adopted into the Recreational Waters Act, SC Code 44-55-2390 as amended June 2012. In addition, the adoption of these amendments will enhance clarity by incorporating the definition change and the changes to grammar and citation references.

DETERMINATION OF COSTS AND BENEFITS:

There should be no cost increases to the public and regulated community for the lifeguard changes. The lifeguard changes seek to positively impact pool safety and emergency response.

UNCERTAINTIES OF ESTIMATES:

Moderate.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There are no anticipated effects on the environment. The amendments seek to protect public health through better bather safety.

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

While there are no anticipated detrimental effects on the environment if the amendments are not implemented, there is potential for adverse public health impacts as noted above.

Statement of Rationale:

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

The Department is required to review R.61-51, Public Swimming Pools every 5 years by SC Code 1-23-270(F)(1). A change in the statute, S.C. Code Section 44-55-2390, went into effect in 2012. This statutory change made the regulation incompatible with the statute. Therefore, the Department is amending this regulation to realign the regulation with the statute.

The R.61-51 amendments seek to better protect the health of public swimming pool users and decrease the potential for accidents and injuries through better lifeguard coverage. Anticipated beneficiaries of the safety measures include the public and those working in and around public swimming pools. See Statement of Need and Reasonableness.

Document No. 4424

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

Statutory Authority: 1976 Code Sections 44-1-140 and 44-1-150

61-25. Retail Food Establishments

Synopsis:

The intent of R.61-25, *Retail Food Establishments*, is to safeguard public health and provide to consumers' safe, unadulterated food and food products at the retail level. This regulation governs restaurants, grocery stores, school cafeterias and other establishments where food is prepared and served to the public. R.61-25, *Retail Food Establishments*, was last amended in 1995.

Since that amendment, there have been numerous changes in the retail food industry, including food handling practices, food equipment technology, and food preparation processes, making R.61-25 in its current form outdated. These amendments will allow the Department, through regulation, to meet current standards of the most recent edition of the United States Food and Drug Administration (FDA) Food Code. The FDA Food Code is the national standard for state, local, and tribal food protection programs.

The FDA Food Code offers practical, science-based guidance that addresses the risk factors known to cause foodborne illness outbreaks in retail food establishment settings. It is updated and published every four years and is amended every two years via the Conference for Food Protection, a national conference of food safety regulators, food scientists, industry representatives, and members of academia.

The text of R.61-25 was stricken in total and has been amended in its entirety to meet current standards of the most recent edition of the FDA Food Code. The Department also intends to incorporate into R.61-25 statutory changes in the administrative appeals process pursuant to S.C. Code Ann. Section 44-1-60 (Supp. 2012).

A Notice of Drafting was published in the *State Register* on July 26, 2013. See the Section-by-Section Discussion below of these amendments and the Statement of Need and Reasonableness and Rationale herein.

Section-by-Section Discussion of Amendments:

61-25. Retail Food Establishments

Statutory Authority: 1976 SC Code Sections 44-1-140 and 44-1-150

The Department of Health and Environmental Control, as authorized by statute, may make, adopt, promulgate and enforce reasonable rules and regulations from time to time.

The amendment of R.61-25 strikes the text of the existing regulation in total, and amends the regulation in its entirety to meet the current standards of the most recent edition of the FDA Food Code, with the exception of some modifications incorporated through amendments, additions, and deletions for South Carolina specific requirements. This summary discussion provides details of these exceptions by chapter and section as these proposed changes apply. These modifications were necessary to meet regulatory inspection, compliance and enforcement protocols and any other related regulations or laws for South Carolina.

Chapters 1 through 9 of the proposed R.61-25 have words and phrases that are repeated often and require modifications to differentiate FDA Food Code language from South Carolina specific statutory and regulatory language. For brevity and space, these modifications are listed first.

Deleted the word "code" and added the word "regulation."

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Added the word "retail" before "food establishment" consistent with the current R.61-25.

Deleted the words "regulatory authority" and added the word "Department."

In the following subsections, "may not" has been changed to "shall not":

2-401.12 Discharges from the Eyes, Nose, and Mouth.

3-201.11(B) Compliance with Food Law.

3-202.13 Eggs.

4-102.11 Single-service and single-use.

5-205.11(B) Using a handwashing sink

In Chapter 1, Purpose and Definition, the following changes apply:

Section 1-1:

Subsection 1-101.10

Amended: Title: Regulation 61-25. Amend from the term Food Code.

Amended: These provisions shall be known as R.61-25, hereinafter referred to as "this regulation." Amend to change from "this code" to "this regulation."

Section 1-2:

Subsection 1-201.10 (B) Terms Defined

Those definitions referenced below were added, deleted, or amended to address specific operations or terms not addressed by the definition in the FDA Food Code.

Deleted: 1-201.10(B)(5), (21), (29) and (31) were deleted from the definitions since these words are not used in the body of the regulation.

Deleted: 1-201.10(B)(40). "Enterohemorrhagic *Escherichia coli*" (EHEC) was deleted from the current 2013 FDA Food Code and replaced with a definition for "Shiga toxin-producing *Escherichia coli*" (STEC).

Amended: 1-201.10(B) was renumbered for sequential purposes with the deletion of definitions.

Amended: 1-201.10(B)(26). "Cut leafy greens" was amended to clarify that the meaning does not include harvested intact leaves from a plant. The amendment does not change the intent of the regulation.

Amended: 1-201.10(B)(74)(a). "Packaged" to delete the word "securely" before both bagged and wrapped to match the wording in the 2013 FDA Food Code.

Amended: 1-201.10(B)(74)(b). "Packaged" to match the wording in the 2013 Food Code.

Deleted: 1-201.10(B)(98)(c). "Reduced oxygen packaging" does not include...from definition. This information has been relocated to Chapter 3, 3-502.12(F) in the 2013 FDA Food Code.

Amended: 1-201.10(B)(117). "Shiga toxin-producing *Escherichia coli*" (STEC) was added to match the wording in the 2013 FDA Food Code.

Amended: 1-201.10(B)(127)(b). "Time/temperature control for safety food" Table B was amended to match the content of the current 2013 FDA Food Code.

Amended: "Adulterated" to provide a complete definition of the word instead of referring to the Federal Food, Drug and Cosmetic Act Section 402 as written in the FDA Food Code.

Added: "Boarding house"

Added: "Commissary"

Added: "Community-based farmers market"

Added: "Community festivals"

Amended: "Core Item." See subsection (132) "Violations." Moved to (132) to better define as a group, all terms related to violations of the regulation. Also amended from "Core item" to "Core violation" for consistency.

Added: "Department"

Amended: "Food" definition. Amended to remove the words "or chewing gum" a product not regulated under R.61-25 as chewing gum is a manufactured food. Chewing gum is not manufactured at the retail level.

Deleted: "Food Establishment" definition. A new definition is added under (106) "Retail Food Establishments" to provide clarity as South Carolina regulates "retail food establishments."

Amended: "Grade A standards" to add the requirements of the Department's R.61-34, *Raw Milk for Human Consumption*, which allows the sale of Grade A raw milk by regulation in South Carolina.

Added: "Grade decal." The Department uses a grade decal to show the consumer the sanitation standard at the most recent inspection of a retail food establishment.

Added: "Low risk food processes" to account for food items that require minimal processing. An example would be roasted corn, which is a cook and serve food item with minimal preparation.

Added: "Mobile food establishments" to further define a retail food establishment that consists of a commissary and mobile food unit(s) or mobile pushcart(s) or both.

Added: "Mobile food unit" to define this type of unit.

Added: "Mobile push cart" to define this type of unit.

Added: "Nuisance"

Added: "Pre-operational inspections"

Amended: "Priority item" definition. See subsection (132) "Violations." Moved to (132) to better define under as a group, all terms related to violations of the regulation. Also amended "Priority item" to "Priority violation" for consistency.

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Amended: "Priority foundation item" definition. See subsection (132) "Violations." Moved to (132) to better define under as a group, all terms related to violations of the regulation. Also amended "Priority foundation item" to "Priority foundation violation" for consistency.

Added: "Private residence"

Added: "Process authority"

Added: "Product assessment"

Added: "Raw milk" to establish a definition also referenced under "Grade A standards" in R.61-34, *Raw Milk for Human Consumption*, for milk that has not been pasteurized and that has been approved for sale and human consumption in South Carolina.

Added: "Regulation" that refers to R.61-25, *Retail Food Establishments*.

Deleted: "Regulatory authority" and added "Department."

Added: "Retail food establishment" to clarify and shorten the definition and consolidate terms defined from the deleted FDA Food Code definition, "Food establishments," to better define the meaning of retail food establishments regulated in South Carolina by the Department under R.61-25.

Added: "Seasonal series"

Amended: "Service animal" to add reference to the *Americans for Disabilities Act*.

Added: "Standard operating procedures (SOPs)"

Amended: "Temporary food establishment" to reflect standard operating procedures long established for South Carolina. The amended definition also details the types of events associated with temporary food establishments.

Deleted: "Vending machine location" definition. While "vending machine" has been defined in the proposed regulation for reference purposes where mentioned in the regulation, the vending machine location is not a necessary definition. Vending machines are not regulated by the Department.

Added: "Violations" to satisfy the statutory and regulatory authority given the Department. The terms "Priority violation," "Priority foundation violation," and "Core violation" are defined under (132) "Violations" to consolidate items associated with the compliance and enforcement provisions of the regulation in one definition. Also included is the term related to inspection protocols by the defining of "Consecutive violation."

In Chapter 2, Management and Personnel, the following changes apply:

Amended: 2-101.11(B). The wording "person in charge" was amended to clarify that a single person is acceptable to be present in facilities that hold multiple permits, such as large grocery chains with multiple departments (deli/bakery/produce/meat).

Amended: 2-201.12. The words "for employees" were deleted from the title to match the current 2013 FDA Food Code.

Amended: 2-201.121. The subsection number was changed to 2-201.120 for consistency with the FDA Food Code numbering system.

Amended: 2-301.14(H). This subsection was updated to match final 2013 FDA Food Code language.

Amended: 2-301.16(A)(2)(b) through (e). These subsections were updated to match final 2013 FDA Food Code language.

Deleted: 2-102.11(C) (9) and (10) and (12) through (17) that address Demonstration of Knowledge questions in this subsection of the FDA Food Code. The deleted questions are not applicable to the majority of South Carolina's retail food service establishments and/or do not have uniform answers. Those without uniform answers would lead to a lack of uniformity in the interpretation and enforcement of the regulation.

Deleted: 2-103.11(M). The Department is not adopting the FDA Food Code section on Major Food Allergens at this time.

Amended: 2-103.11(N). Deleted references to "conditional employees," "verifiable manner," and "in accordance with law" as these did not apply to the Department's revisions of subsequent sections.

Amended: 2-201 (2-201.11, 2-201.12, 2-201.13) as this entire section was replaced with a new section that is aligned with S.C. Code Ann. Section 44-1-140 (10) and (13) (Revised 2002) and subsequent R.61-20, *Communicable Diseases*, pertaining to reporting illness and restrictions and exclusions of ill workers from the workplace.

Amended: 2-302.11(A) to specifically address nail length.

Added: 2-303.11 (B) to allow medical or religious jewelry to be covered by a glove instead of requiring removal.

In Chapter 3, Food, the following changes apply:

Deleted: 3-302.11(A)(3). This subsection was deleted from the 2013 FDA Food Code as redundant. The remaining subsections were renumbered to match the 2013 FDA Food Code.

Amended: 3-304.11(C). The subsection was updated to match final 2013 FDA Food Code language.

Amended: 3-304.13(A) and (B). (A) and (B) were deleted/combined and reworded to match final 2013 Food Code language.

Amended: 3-304.17. This subsection was completed reworded to match final 2013 FDA Food Code language on refilling re-useable takeout containers.

Added: 3-402.11(B). A new subparagraph (2) was added and the remaining subsections were renumbered to match final 2013 Food Code language.

Amended: 3-403.11(C). This subsection was updated to match final 2013 FDA Food Code language.

Amended: 3-501.13(E). This subsection was updated to match final 2013 FDA Food Code language.

Amended: 3-501.17(F) and (G). These subsections have been modified to match final 2013 FDA Food Code language.

Added: 3-502.11(D). The wording "time/temperature for safety food" was added to match language in 2013 FDA Food Code.

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Amended: 3-502.12. Re-worded selected sections to match final 2013 FDA Food Code language on reduced oxygen packaging without a variance.

Added: 3-202.14(E) to allow the sale of packaged Grade A Raw Milk produced in South Carolina under R.61-34, *Raw Milk for Human Consumption*, in retail food establishments.

Added: 3-202.18(E) with the addition of “Keep Refrigerated” to align with R.61-47, *Shellfish*.

Deleted: 3-301.11(D) alternate handwashing procedures, as this is guidance for a variance procedure the Department is not adopting.

Added: 3-304.13(B). This addition of (B) allows for a common industry practice not specified in FDA Food Code.

Deleted: 3-305.13 and 3-306.12(B) as vending is not regulated by the Department.

Amended: Combined 3-404.11(B)(1) and (2) into one section.

Deleted: 3-502.11 (E) to align with R.61-47, *Shellfish*.

Amended: 3-601.11. Deleted CFR reference in (A) and deleted all of (B) as unnecessary, the single reference to "labeled as specified in law" is adequate for enforcement of this section.

Added: 3-603.11(D) for sale of packaged raw milk.

In Chapter 4, Equipment, Utensils, and Linens, the following changes apply:

Amended: 4-205.10. Food Equipment, Certification and Classification. The subsection was divided into two paragraphs to allow for exemption clarification of small wares.

Deleted: 4-603.17. This subsection was removed to match 2013 FDA Food Code, which deleted this subsection. The text was incorporated from these requirements were moved into the revised subsection 3-304.17.

Deleted: 4-802.11 (C). The words "and napkins" were deleted to match final 2013 FDA Food Code language.

Amended: 4-803.12(A). The subsection on "laundering linens" was modified to clarify that non-food contact gloves are included in the exception.

Added: 4-101.17(B)(3). "Bagel boards, including a laminated hardwood may be acceptable if the food-contact surface is smooth and in good repair." Also added was 4-101.17(C), "Wicker may be used only when suitably lined." These are standard industry practices with no sanitation issues or negative impact on food safety; materials are disposable and easily replaced.

Deleted: 4-204.14, 4-204.19 and 4-204.111. Vending is not regulated by the Department.

Deleted: 4-204.110(B). This operation is addressed by R.61-47, *Shellfish*.

Amended: 4-204.117. The phrase “that is installed after adoption of this code by the regulatory authority” language is not applicable to this regulation. R.61-25, 8-101.10 addresses retail food establishments in operation prior to the effective date of this regulation and allows for their continued operation.

Deleted: 4-204.121 and 4-204.123. Vending is not regulated by the Department.

Amended: 4-205.10, Food Equipment, Certification and Classification, to provide detailed and specific explanation of the requirements of 4-205.10 for certified or classified sanitation on food equipment beyond the general FDA Food Code language. The amendment also addresses specific residential counter-top appliance use that the FDA Food Code did not address.

Deleted: 4-501.13. DHEC does not regulate safety standards for equipment.

Amended: 4-501.114. The original language in this section was deleted and new language was added to provide an industry/layman friendly version that removed references to water hardness.

Deleted: 4-602.11(A) "clean to sight and touch", (D)(4) and (D)(6) to provide more clarity and consistency to requirements.

Deleted: 4-903.11(D). This is current or common practice acceptable for all retail food establishments and is addressed in other sections of the regulation.

In Chapter 5, Water, Plumbing, and Waste, the following changes apply:

Amended: 5-301.11. This subsection was modified to ensure compliance with new Federal low-lead requirements in drinking water supplied by mobile water storage tank.

Amended: 5-101 and 5-102 with language specific to approval of public water systems in South Carolina.

Amended: 5-103.11(B). To ensure that retail food establishments that are part of a larger, non food service operation receive adequate hot water supply at all times on demand, added the requirement for the hot water system to be a dedicated system.

Amended: 5-104.11(B) & 5-202.14 with language specific to approval of public water systems in South Carolina.

Deleted: 5-203.11(C) reference to vending location handwashing sinks. Vending is not regulated by the Department.

Amended: 5-301.11 to be consistent with the requirement in 4-205.10 that food service equipment be ANSI/NSF certified.

Amended: 5-402.12 to read 5-402.12, Grease Traps and Grease Interceptors. Also, the section content was expanded to address location and installation of grease traps and grease interceptors. When required by the sewer purveyor, the amended section addresses the required parameters for proper installation and location of grease trap and grease interceptor installation if located inside the building.

Deleted: 5-501.14. Vending is not regulated by the Department.

In Chapter 6, Physical Facilities, the following changes apply:

Amended: 6-301.10. The language in this subsection corrected the use of the word "in" to "under" to provide consistency of meaning to match final 2013 FDA Food Code language.

Amended: 6-302.10. The language in this subsection corrected the use of the word "in" to "under" to provide consistency of meaning to match final 2013 FDA Food Code language.

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Deleted: 6-101.11(B). The section conflicted with 9-9 requirements.

Deleted: 6-602.17. Vending is not regulated by the Department.

Amended: 6-501.115(B)(3) to add reference to the *Americans with Disabilities Act*.

In Chapter 7, Poisonous or Toxic Materials, the following changes apply:

Amended: 7-204.12(A) and (B). The subsections were updated to match final 2013 FDA Food Code language.

Deleted: 7-202.12(A)(3) and (4). Unnecessary requirements.

In Chapter 8, Compliance and Enforcement, the following changes apply:

Amended: 8-201.13(B). The subsection was updated to match final 2013 FDA Food Code language.

Amended: 8-101.10. Deleted (A) and amended (B) with language that provides more clarity on equipment that may remain in service that does not meet current regulations but is safe and serviceable.

Added: 8-103(B) equipment and construction variance request procedures.

Deleted: 8-201.11 and 8-201.12 requiring the submission of construction plans.

Deleted: 8-202.10 reference to inspection reports as protected documents. In South Carolina inspection reports are subject to South Carolina's Freedom of Information Act.

Amended: 8-203.10 to remove reference to approved plans and to add a fourteen day notification criteria.

Added: 8-301.11 (B) and (C) to require posting of permit and that requirements of the regulation must be met prior to receiving a permit.

Added: 8-301.12 to allow for historically exempted operations to continue to be exempted from permit requirements based on either state statutory exemptions, food prepared for private settings (boarding houses in private residences, hunting lodges in private residences or where the hunter has shot and prepared, etc.), the nature of the food sold (extremely low, low or no risk to the public), food that is not prepared for profit or gain, and food that is regulated by other regulatory authorities.

Amended: 8-302.14 to require for a permit application only the information and documentation relevant to the issuance of the permit.

Amended: 8-303.20 to establish a more consistent approval method and timeframes for changes in ownership.

Deleted: 8-303.30 (C) as general appeals are covered in 8-602.10.

Amended: 8-304.11. Replaced entire subsection with new language, reworded.

Amended: 8-304.20. Reworded to align with change of ownership section.

Deleted: 8-401.10 & 8-401.20. Addressed in Standard Operating Procedures.

Amended: 8-402.11 to 8-402.40. Reworded to reflect South Carolina laws regarding access to regulated facilities.

Amended: 8-403.10. Reworded to allow for current South Carolina retail food establishment grading system.

Amended: 8-403.30 to 8-403.50. Reworded to allow for current South Carolina retail food establishment reporting methods and to allow for electronic reporting.

Amended: 8-404. Reworded and combined to include all sections on imminent health hazards.

Amended: 8-405.11, 8-405.20 and 8-406.11. These subsections were combined along with similar subsections in other places in Chapter 8 to provide one concise subsection on timely compliance and corrections of violations in a manner that industry could easily reference and understand under section 8-405.

Amended: 8-6 through 8-905 to address South Carolina legal, statutory and regulatory authorities and processes for enforcement, penalties, appeals, etc.

Added: Chapter 9, Standards for Additional Retail Food Establishment Operations

Chapter 9 provides criteria for those special food categories and events such as food vendors at community festivals, mobile food, wild mushroom foraging, immediate outdoor cooking, South Carolina farmers markets and seasonal series or for construction and operation of a barbecue pit and pit-cooking room in South Carolina.

Deleted: Section 9-3 Demonstration of Food. The Department reviewed 9-3 after comments were received and agrees that the processes written in 9-3 are adequately covered in other sections of the regulation. Chapter 9 was also renumbered with the deletion of 9-3 to keep sections sequential (9-3 through 9-11).

Amended: 9-2 (C) (5). The word "unpackaged" was added to clarify the section.

Amended: 9-8 (J)(2). The numbering of the subsection referring to 8-301.12 (19) and (20) was corrected for consistency and also added 2 additional relevant subsections 8-301.12 (11) and (12) to the exemptions.

Amended: 9-9 (I)(2). The numbering of the subsection referring to 8-301.12 (19) and (20) was corrected for consistency and also added 2 additional relevant subsections 8-301.12 (11) and (12) to the exemptions.

Amended: 9-10 (I)(2). The numbering of the subsection referring to 8-301.12 (19) and (20) was corrected for consistency and also added 2 additional relevant subsections 8-301.12 (11) and (12) to the exemptions.

Amended: 9-11(I) through exchange of (1) and (2) for consistency with other sections in Chapter 9.

Amended: 9-11 (I)(2). The numbering of the subsection referring to 8-301.12 (19) and (20) was corrected for consistency and also added 2 additional relevant subsections 8-301.12 (11) and (12) to the exemptions.

Instructions: Replace R.61-25 in its entirety with this amendment.

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Text:

61-25. Retail Food Establishments.

Statutory Authority: 1976 S.C. Code Section 44-1-140 and 44-1-150

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Chapter 1 Purpose and Definitions

1-1 TITLE, INTENT, SCOPE

1-101 Title

1-101.10 Regulation 61-25.

These provisions shall be known as Regulation 61-25, hereinafter referred to as "this regulation."

1-102 Intent

1-102.10 Food Safety, Illness Prevention, and Honest Presentation.

The purpose of this regulation is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented.

1-103 Scope

1-103.10 Statement.

This regulation establishes definitions; sets standards for management and personnel, food operations, equipment and facilities; and provides for retail food establishment permit issuance, inspection, employment restriction, permit suspension and revocation.

1-2 DEFINITIONS

1-201 Applicability and Terms Defined.

1-201.10 Statement of Application and Listing of Terms.

(A) The following definitions shall apply in the interpretation and application of this regulation.

(B) Terms Defined. As used in this regulation, each of the terms listed in 1-201.10(B) shall have the meanings stated below.

(1) **Accredited Program.**

(a) "**Accredited program**" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.

(b) "**Accredited program**" refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; and test development and administration.

(c) "**Accredited program**" does not refer to training functions or educational programs.

(2) **Additives.**

(a) "**Food additive**" has the meaning stated in the *Federal Food, Drug, and Cosmetic Act*, Section 201(s) and 21 CFR 170.3(e)(1).

(b) "**Color additive**" has the meaning stated in the *Federal Food, Drug, and Cosmetic Act*, Section 201(t) and 21 CFR 70.3(f).

(3) "**Adulterated**" means to make food unsafe for human consumption by any means, including, but not limited to, the addition of a foreign or inferior substance or food that has violated a critical limit.

(4) "**Approved**" means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

(5) "**Aw**" means a symbol for water activity, which measures the free moisture in a food, is the quotient of water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

(6) "**Balut**" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

(7) "**Beverage**" means a liquid for drinking, including water.

(8) "**Boarding house**" means a private residence in which lodgers rent one or more rooms for extended periods of time, usually weeks, months or years. The common parts of the house are maintained, and some services, such as laundry and cleaning, may be supplied. They normally provide "bed and board" which will include some meals as well as accommodation.

(9) "**Bottled drinking water**" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

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(10) **"Casing"** means a tubular container for sausage products made of either natural or artificial (synthetic) material.

(11) **"Certification number"** means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

(12) **"CFR"** means Code of Federal Regulations. Citations in this regulation to the CFR refer sequentially to the Title, Part, and Section numbers such as 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

(13) **CIP.**

(a) **"CIP"** means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

(b) **"CIP"** does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

(14) **"Commingle"** means:

(a) To combine shellstock harvested on different days or from different growing areas as identified on the tag or label, or

(b) To combine shucked shellfish from containers with different container codes or different shucking dates.

(15) **Comminuted.**

(a) **"Comminuted"** means reduced in size by methods including chopping, flaking, grinding, or mincing.

(b) **"Comminuted"** includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage, and a mixture of 2 or more types of meat that have been reduced in size and combined.

(16) **"Commissary"** means a permitted retail food establishment that is authorized by the Department to provide a servicing area for mobile food unit or mobile food pushcarts for the purposes of storage of food, supplies and single-service articles. The commissary supports the following operations:

(a) Food preparation.

(b) Equipment and utensil washing.

(c) Disposal of sewage and solid waste.

(d) Obtainment of potable water.

(e) Provides a mobile food unit or mobile food pushcarts servicing and storage area.

(17) **“Community-based farmers market”** means a market sponsored by a community or governmental organization either having been certified by the South Carolina Department of Agriculture as a SC Certified Farmer’s Market or a farmers market that meets the definition of the Farmers Market Coalition which states, “A farmers market operates multiple times per year and is organized for the purpose of facilitating personal connections that create mutual benefits for local farmers, shoppers and communities and implements rule or guidelines of operation that ensure that the farmers market consists principally of farms selling directly to the public products that the farms have produced.”

(18) **“Community festivals”** means events sponsored by a community group, city/county/state organization, as a community celebration, that are generally theme related, and have multiple food vendors recruited to provide food to the public for a time period not to exceed three (3) consecutive days or no more than seventy-two (72) continuous hours. Each community festival is unique and will not be held more frequently than annually, although a sponsoring organization or group might have multiple but differently themed community festivals in a year.

(19) **“Conditional employee”** means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title 1 of the *Americans with Disabilities Act of 1990*.

(20) **“Consumer”** means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a retail food establishment or food processing plant, and does not offer the food for resale.

(21) **“Core violation”** See (132) “Violations.”

(22) **“Corrosion resistant materials”** means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

(23) **“Counter-mounted equipment”** means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

(24) **“Critical control points”** means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

(25) **“Critical limit”** means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

(26) **“Cut leafy greens”** means fresh leafy greens whose leaves have been further cut, shredded, sliced, chopped, or torn, beyond any cut made to harvest intact leaves from a plant. The term “cut leafy greens” does not apply to leaves harvested intact from a plant. The term “leafy greens” includes iceberg lettuce, romaine lettuce, leafy lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term “leafy greens” does not include herbs such as cilantro or parsley.

(27) **“Dealer”** means a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.

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(28) **"Department"** means the South Carolina Department of Health and Environmental Control or agents thereof having responsibility for enforcing these regulations.

(29) **"Disclosure"** means a written statement that clearly identifies the animal-derived foods which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

(30) **Drinking Water.**

(a) **"Drinking water"** means water that meets criteria as specified in 40 CFR 141, *National Primary Drinking Water Regulations* and R.61-58, *State Primary Drinking Water Regulation*.

(b) **"Drinking water"** is traditionally known as "potable water."

(c) **"Drinking water"** includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.

(31) **"Dry storage area"** means a room or area designated for the storage of packaged or containerized bulk food that is not time/temperature control for safety food and dry goods such as single-service items.

(32) **Easily cleanable.**

(a) **"Easily cleanable"** means a characteristic of a surface that:

(i) Allows effective removal of soil by normal cleaning methods;

(ii) Is dependent on the material, design, construction, and installation of the surface; and

(iii) Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

(b) **"Easily cleanable"** includes a tiered application of the criteria that qualify the surface as easily cleanable as specified in (a) of this definition to different situations in which varying degrees of cleanability are required such as:

(i) The appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining; or

(ii) The need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

(33) **"Easily movable"** means:

(a) Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and

(b) Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

(34) **Egg.**

(a) **“Egg”** means the shell of an avian species such as chickens, ducks, geese, guineas, quail, ratites or turkeys.

(b) **“Egg”** does not include:

(i) A Balut;

(ii) The egg of reptile species such as alligator; or

(iii) An egg product.

(35) **Egg product.**

(a) **"Egg Product"** means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs.

(b) **"Egg Product"** does not include food which contains eggs only in a relatively small proportion such as cake mixes.

(36) **“Employee”** means the permit holder, person in charge, food employee, person having supervisory or managerial duties, person on the payroll, family member, volunteer, person performing contractual agreement, or any other person working in a retail food establishment.

(37) **“EPA”** means the U.S. Environmental Protection Agency.

(38) **Equipment.**

(a) **“Equipment”** means an article that is used in the operation of a retail food establishment such as a freezer, grinders, hood, ice makers, meat block, mixer, oven, reach-in refrigerators, scale, sinks, slicer, stove, table temperature measuring device for ambient air or warewashing machine.

(b) **"Equipment"** does not include apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

(39) **“Exclude”** means to prevent a person from working as an employee in a retail food establishment or entering a retail food establishment as an employee.

(40) **“FDA”** means the U. S. Food and Drug Administration.

(41) **Fish.**

(a) **"Fish"** means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption.

(b) **"Fish"** includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

(42) **“Food”** means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

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(43) "**Foodborne disease outbreak**" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

(44) "**Food-contact surface**" means:

- (a) A surface of equipment or a utensil with which food normally comes into contact; or
- (b) A surface of equipment or a utensil from which food may drain, drip, or splash
 - (i) Into a food, or
 - (ii) Onto a surface normally in contact with food.

(45) "**Food employee**" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(46) **Food processing plant.**

(a) "Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption, and provides food for sale or distribution to other business entities such as food processing plants or retail food establishments.

(b) "Food processing plant" does not include a retail food establishment.

(47) **Game animal.**

(a) "**Game animal**" means an animal, the products of which are food, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2, *Definitions*, or as poultry or fish.

(b) "**Game animal**" includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.

(c) "**Game animal**" does not include ratites.

(48) "**General use pesticide**" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175, *Pesticides Classified For Restricted Use*.

(49) "**Grade A standards**" refers to milk that meets the requirements of the United States Public Health Service/FDA *Grade A Pasteurized Milk Ordinance* with which certain fluid and dry milk and milk products comply or the requirements of the Department's R.61-34, *Raw Milk for Human Consumption*.

(50) "**Grade decal**" means an official decal issued by the Department that is posted by the Department in a retail food establishment or on a mobile food unit or mobile food pushcart that is representative of the most recent inspection.

(51) "**HACCP (Hazard Analysis And Critical Control Point) plan**" means a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

(52) **Handwashing sink.**

(a) "**Handwashing sink**" means a lavatory, a basin for handwashing, or a plumbing fixture specifically placed for use in personal hygiene and designed for the washing of the hands.

(b) "**Handwashing sink**" includes an automatic handwashing facility.

(53) "**Hazard**" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

(54) "**Health practitioner**" means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

(55) "**Hermetically sealed container**" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned food, to maintain the sterility of its contents after processing.

(56) "**Highly susceptible population**" means persons who are more likely than other people in the general population to experience foodborne disease because they are:

(a) Immunocompromised; preschool age children, or older adults; and

(b) Obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

(57) "**Imminent health hazard**" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries, and

(b) The nature, severity, and duration of the anticipated illness or injury.

(58) "**Injected**" means manipulating meat to which a solution has been introduced into its interior by processes that are referred to as "injecting," "pump marinating," or "stitch pumping."

(59) **Juice.**

(a) "**Juice**" means the aqueous liquid expressed or extracted from one or more fruits, or vegetables, purees of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée.

(b) "**Juice**" does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

(60) "**Kitchenware**" means food preparation and storage utensils.

(61) "**Law**" means applicable local, state, and federal statutes, regulations, and ordinances.

(62) "**Linens**" means fabric items such as cloth hampers, cloth napkins, tablecloths, wiping cloths, and work garments including cloth gloves.

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(63) **“Low risk food processes”** means food processes that have been determined and approved by the Department to be low risk. The Department will evaluate low risk food processes based on food items, food handling and preparation, and foodborne illness.

(64) **Major Food Allergen.**

(a) **"Major food allergen"** means:

(i) Milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(ii) A food ingredient that contains protein derived from a food, as specified in (1)(a) of this definition.

(b) **"Major food allergen"** does not include:

(i) Any highly refined oil derived from a food specified in (a)(i) of this definition and any ingredient derived from such highly refined oil; or

(ii) Any ingredient that is exempt under the petition or notification process specified in the *Food Allergen Labeling and Consumer Protection Act of 2004* (Public Law 108-282).

(65) **“Meat”** means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, goats, or other edible animals, except fish, poultry, and game animals as specified under 3-201.17(A)(3) and (4).

(66) **Mechanically tenderized.**

(a) **"Mechanically tenderized"** means manipulating meat with deep penetration by processes which may be referred to as “blade tenderizing,” “jaccarding,” “pinning,” “needling,” or using blades, pins, needles or any mechanical device.

(b) **"Mechanically tenderized"** does not include processes by which solutions are injected into meat.

(67) **"mg/L"** means milligrams per liter, which is the metric equivalent of parts per million (ppm).

(68) **“Mobile food establishment”** means a retail food establishment that consists of a commissary and mobile food units or mobile food pushcarts.

(69) **“Mobile food unit”** means fully enclosed mobile kitchens that prepare, cook or serve time/temperature control for safety food as an extension of a commissary.

(70) **“Mobile food pushcart”** means limited food service units that operate as an extension of a commissary.

(71) **“Molluscan shellfish”** means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

(72) **Non-continuous cooking.**

(a) **“Non-continuous cooking”** means the cooking of food in a retail food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service.

(b) **“Non-continuous cooking”** does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

(73) **“Nuisance”** for the purpose of this regulation is a public health nuisance and means whatever is dangerous to human life or detrimental to health; whatever structure or premises is not sufficiently ventilated, sewerred, drained, cleaned, or lighted with respect to its intended occupancy.

(74) **Packaged.**

(a) **"Packaged"** means bottled, canned, cartoned, bagged, or wrapped, whether packaged in a retail food establishment or a food processing plant.

(b) **"Packaged"** does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer by a food employee, upon consumer request.

(75) **“Permit”** means the document issued by the Department that authorizes a person or entity to operate a retail food establishment.

(76) **“Permit holder”** means the entity that:

(a) Is legally responsible for the operation of the retail food establishment such as the owner, the owner’s agent, or other person; and

(b) Possesses a valid permit to operate a retail food establishment.

(77) **"Person”** means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

(78) **“Person in charge”** means the individual present at a retail food establishment who is responsible for the operation at the time of inspection.

(79) **Personal care items.**

(a) **“Personal care items”** means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person’s health, hygiene, or appearance.

(b) **“Personal care items”** include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

(80) **“pH”** means the symbol for the negative logarithm of the hydrogen ion concentration, which it is a measure of the degree of the acidity or alkalinity of a solution. Values between zero (0) and seven (7.0) indicate acidity and values between seven (7.0) and fourteen (14.0) indicate alkalinity. The value for pure distilled water is seven (7.0), which is considered neutral.

(81) **"Physical facilities"** means the structure and interior surfaces of a retail food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

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(82) "**Plumbing fixture**" means a receptacle or device that:

(a) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or

(b) Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

(83) "**Plumbing system**" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

(84) "**Poisonous or toxic materials**" means substances that are not intended for ingestion and are included in 4 categories:

(a) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(b) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;

(c) Substances necessary for the operation and maintenance of the retail food establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(d) Substances that are not necessary for the operation and maintenance of the retail food establishment and are on the premises for retail sale, such as petroleum products and paints.

(85) "**Poultry**" means:

(a) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR 381.1, *Poultry Products Inspection Regulations Definitions, Poultry*; and

(b) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR 362.1, *Voluntary Poultry Inspection Regulations, Definitions*.

(86) "**Premises**" means:

(a) The physical facility, its contents, its land, and any adjacent or bordering contiguous land or property under the control of the permit holder; or

(b) The physical facility, its contents, and land or property not described in (a) of this definition if its facilities, contents or land that are under the control of the permit holder and may impact the retail food establishment personnel, facilities, or operations, and the retail food establishment is only one component of a larger operation such as a healthcare facility, hotel, motel, school, recreational camp, or prison.

(87) "**Pre-operational inspection**" means an inspection conducted by the Department, to determine compliance with the regulation **for the purpose of** obtaining a permit.

(88) "**Primal cut**" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

(89) **Priority violation** See (132) "Violations."

(90) **Priority foundation violation** See (132) "Violations."

(91) **“Private residence”** means a domestic home or dwelling in which food is prepared or served for individual and family consumption. A private residence is exempt from compliance with this regulation.

(92) **“Process authority”** means a qualified person(s) approved by the Department having expert knowledge and adequate facilities to assess and determine safe food handling and processing requirements, including but not limited to thermal processing requirements in hermetically sealed containers, reduced oxygen packaging, shelf stable non-time/temperature control for safety foods and cooking processes.

(93) **“Product assessment”** means a process by which a retail food establishment submits food to be tested at a lab approved by Department to determine if the food is time/temperature control for safety or non-time/temperature control for safety. A product assessment shall test intrinsic and extrinsic factors necessary to determine if the food is capable of supporting the growth or toxic formation of pathogenic microorganisms.

(94) **“Public water system”** has the meaning stated in 40 CFR 141, *National Primary Drinking Water Regulations* and R.61-58, *State Primary Drinking Water Regulation*.

(95) **“Ratite”** means a flightless bird such as an emu, ostrich, or rhea.

(96) **“Raw milk”** refers to milk that has not been pasteurized and that is approved for sale and human consumption in South Carolina under the Department’s R.61-34, *Raw Milk for Human Consumption*.

(97) **Ready-to-Eat Food.**

(a) **“Ready-to-eat food”** means food that:

(i) Is in a form that is edible without additional preparation to achieve food safety, as specified under one of the following: 3-401.11(A) or (B), 3-401.12, or 3-402.11, or as specified in 3-401.11(C); or

(ii) Is a raw or partially cooked animal food and the consumer is advised as specified in 3-401.11(D)(1) and (3); or

(iii) Is prepared in accordance with a variance that is granted as specified in 3-401.11(D) (4); and

(iv) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

(b) **“Ready-to-eat food”** includes:

(i) Raw animal food that is cooked as specified under 3-401.11 or 3-401.12, or frozen as specified under 3-402.11;

(ii) Raw fruits and vegetables that are washed as specified under 3-302.15;

(iii) Fruits and vegetables that are cooked for hot holding, as specified under 3-401.13;

(iv) All time/temperature control for safety food that is cooked to the temperature and time required for the specific food under 3-401 and cooled as specified under 3-501.14;

(v) Plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present are removed;

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(vi) Substances derived from plants such as spices, seasonings, and sugar;

(vii) A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;

(viii) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks; and

(ix) Foods manufactured as specified in 21 CFR Part 113, *Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers*.

(98) **Reduced Oxygen Packaging.**

(a) **“Reduced oxygen packaging”** means:

(i) The reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately twenty one (21) percent at sea level); and

(ii) A process as specified in (a)(i) of this definition that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.

(b) **“Reduced oxygen packaging”** includes:

(i) Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package;

(ii) Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;

(iii) Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material;

(iv) Cook chill packaging, in which cooked food is hot filled into impermeable bags which have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens; or

(v) Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

(99) **“Refuse”** means solid waste not carried by water through the sewage system.

(100) **“Regulation”** refers to Regulation 61-25.

(101) "**Reminder**" means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

(102) "**Re-service**" means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.

(103) "**Restrict**" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

(104) "**Restricted egg**" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR 590.

(105) "**Restricted use pesticide**" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175, *Pesticides Classified For Restricted Use*, and that is limited to use by or under the direct supervision of a certified applicator.

(106) "**Retail food establishment**" means any operation that prepares, processes, packages, serves or otherwise provides food for human consumption, either on or off the premises, regardless of whether there is a charge for the food. These establishments include, but are not limited to, restaurants, delicatessens, snack bars, catering operations, ice cream parlors, school cafeterias, independent living food service operations, licensed healthcare facilities, temporary food establishments, grocery stores, retail meat markets, fish/seafood markets, retail ice merchants, shared use operations, mobile food establishments (to include the associated commissary and mobile units).

(107) "**Risk**" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

(108) "**Safe material**" means:

(a) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.

(b) An additive that is used as specified in 409 of the *Federal Food, Drug, and Cosmetic Act*; or

(c) Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

(109) "**Sanitization**" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999 percent reduction, of representative disease microorganisms of public health importance.

(110) "**Sealed**" means free of cracks or other openings, that allow the entry or passage of moisture.

(111) "**Seasonal series**" means a regularly occurring event sponsored by a community or governmental organization for promoting local business, culture or other local specialties.

(112) "**Service animal**" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability as per the *Americans for Disabilities Act*.

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(113) **"Servicing area"** means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(114) **"Sewage"** means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(115) **"Shellfish control authority"** means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

(116) **"Shellstock"** means raw in-shell molluscan shellfish.

(117) **"Shiga toxin-producing *Escherichia coli*"** (STEC) means any *E. coli* capable of producing Shiga toxins (also called verocytotoxins). STEC infections can be asymptomatic or may result in a spectrum of illness ranging from mild non-bloody diarrhea, to hemorrhagic colitis (i.e., bloody diarrhea), to hemolytic uremic syndrome (HUS - a type of kidney failure). Examples of serotypes of STEC include: *E.coli O157:H7*; *NM E.coli O26:H11*; *E.coli O145:NM*; *E.coli O103:H2* and *E. coli O111:NM*. STEC are sometimes referred to as VTEC (*verocytotoxigenic E.coli*) or as EHEC (*Enterohemorrhagic E. coli*). EHEC are a subset of STEC which can cause hemorrhagic colitis or HUS.

(118) **"Shucked shellfish"** means molluscan shellfish that have one of both shells removed.

(119) **"Single-service articles"** means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

(120) **Single-use articles.**

(a) **"Single-use articles"** means utensils and bulk food containers designed and constructed to be used once and discarded.

(b) **"Single-use articles"** means food packaging and other items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 (ten) cans which do not meet the materials, durability, strength, and cleanability specifications under 4-101.11, 4-201.11, and 4-202.11 for multiuse utensils.

(121) **"Slacking"** means the process of moderating the temperature of a food such as, allowing a food to gradually increase from a temperature of -10 degrees F (-23 degrees C) to 25 degrees F (-4 degrees C) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking process of previously block-frozen food such as shrimp.

(122) **"Smooth"** means:

(a) A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of one hundred (100) grit number 3 (three) stainless steel;

(b) A non food-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and

(c) A floor, wall, or ceiling having an even or level surface with no roughness or projections that renders it difficult to clean.

(123) **“Standard Operating Procedures (SOPs)”** means established or prescribed methods to be followed for the performance of designated operations or in designated situations as determined by the Department.

(124) **“Tableware”** means eating, drinking, and serving utensils for table use such as flatware including forks, knives, spoons; hollowware including bowls, cups, serving dishes, tumblers and plates.

(125) **“Temperature measuring device”** means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

(126) **“Temporary food establishment”** means an establishment that may be authorized by the Department to operate at a fixed location for a period of time not to exceed fourteen (14) consecutive days in connection with a fair, carnival, circus, trade show, golf or other national sporting events and other transitory gatherings organized by the community.

(127) **Time/temperature control for safety food.**

(a) **“Time/temperature control for safety food”** means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(b) **“Time/temperature control for safety food”** includes:

(i) An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and

(ii) Except as specified in (c)(iv) of this definition, a food that because of the interaction of its Aw and pH values is designated as Product Assessment Required (PA) in Table (A) or (B) of this definition:

Table A. Interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged			
Aw values	pH values		
	4.6 or less	Greater than 4.6 - 5.6	Greater than 5.6
Less than or equal to 0.92	non-TCS Food*	non-TCS Food	non-TCS Food
Greater than 0.92-.95	non-TCS Food	non-TCS Food	TCS Food**
Greater than 0.95	non-TCS Food	TCS Food	TCS Food

* TCS Food means Time/Temperature Control For Safety Food
 ** Foods at these interaction values are considered TCS unless a Product Assessment, pursuant to 3-502 documents that foods are shelf stable and non-TCS.

Table B. Interaction of pH and Aw for control of vegetative cells and spores in food not heat-treated or heat treated but not packaged

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Aw values	pH values			
	Less than 4.2	4.2 - 4.6	Greater than 4.6 - 5.0	Greater than 5.0
Less than 0.88	non-TCS Food*	non-TCS Food	non-TCS Food	non-TCS
0.88 - 0.90	non-TCS	non-TCS	non-TCS Food	TCS Food**
Greater than 0.90 - 0.92	non-TCS	non-TCS	TCS Food	TCS Food
Greater than 0.92	non-TCS	TCS Food	TCS Food	TCS Food

* TCS Food means Time/Temperature Control For Safety Food
 ** Foods at these interaction values are considered TCS unless a Product Assessment, pursuant to 3-502 documents that foods are shelf stable and non-TCS.

(c) **"Time/temperature control for safety food"** does not include:

(i) An air-cooled hard-boiled egg with shell intact, or an egg with shell that is not hard-boiled, but has been pasteurized to destroy all viable *Salmonellae*;

(ii) A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;

(iii) A food that because of its pH or Aw value, or interaction of Aw and pH values, is designated as a non-TCS food in Table A or B of this definition;

(iv) A food that is designated TCS* and a product assessment (PA) required in Table A or B of this definition and has undergone a product assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:

(aa) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,

(bb) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmospheric such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use, or

(cc) A combination of intrinsic and extrinsic factors; or

(v) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the (c)(i) through (c)(iv) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

(128) **"USDA"** means the U.S. Department of Agriculture.

(129) **"Utensil"** means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

(130) **“Variance”** means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this regulation if, in the opinion of the Department, a health hazard or nuisance will not result from the modification or waiver.

(131) **“Vending machine”** means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

(132) **Violations.**

(a) **Priority violation.**

(i) **“Priority violation”** means a provision in this regulation whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard.

(ii) **“Priority violation”** includes violations with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing.

(b) **Priority Foundation violation.**

(i) **“Priority foundation violation”** means a provision in this regulation whose application supports, facilitates or enables one or more priority violations.

(ii) **“Priority foundation violation”** includes an violation that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling.

(c) **Core violation.**

(i) **“Core violation”** means a provision in this regulation that is not designated as a priority item or a priority foundation violation.

(ii) **“Core violation”** includes a violation that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

(d) **“Consecutive violation”** means a priority or priority foundation or core violation that was recorded on routine or complaint inspection(s), and is recorded on consecutive routine or complaint inspection(s). Consecutive violations are the same violation citation and similar in nature.

(133) **“Warewashing”** means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

(134) **“Whole-muscle intact beef”** means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

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Chapter 2 Management and Personnel

2-1 SUPERVISION

2-101 Responsibility

2-101.11 Assignment.

(A) Except as specified in (B) of this section, the permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the retail food establishment during all hours of operation.

(B) In a retail food establishment with two or more separately permitted departments that are the legal responsibility of the same permit holder and that are located on the same premises, the permit holder may designate a single person in charge who is present on the premises during all hours of food preparation, production, and service, and who is responsible for each separately permitted retail food establishment on the premises.

2-102 Knowledge

2-102.11 Demonstration.

Based on the risks inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the Department knowledge of foodborne disease prevention, application of the Hazard Analysis and Critical Control Point principles, and the requirements of this regulation. The person in charge shall demonstrate this knowledge by:

(A) Complying with this regulation by having no priority violations during the current inspection;

(B) Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program; or

(C) Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:

(1) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;

(2) Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;

(3) Describing the symptoms associated with the diseases that are transmissible through food;

(4) Explaining the significance of the relationship between maintaining the time and temperature of time/temperature control for safety food and the prevention of foodborne illness;

(5) Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;

(6) Stating the required food temperatures and times for safe cooking of time/temperature control for safety food including meat, poultry, eggs, and fish;

(7) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of time/temperature control for safety food;

(8) Describing the relationship between the prevention of foodborne illness and the management and control of the following:

- (a) Cross contamination,
- (b) Hand contact with ready-to-eat foods,
- (c) Handwashing, and
- (d) Maintaining the retail food establishment in a clean condition and in good repair;

(9) Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;

(10) Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, this regulation, or an agreement between the Department and the retail food establishment.

2-102.12 Certified Food Protection Manager.

(A) At least one employee that has supervisory and management responsibility and the authority to direct and control food preparation and service shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program.

(B) This section does not apply to certain types of retail food establishments deemed by the Department to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and the extent of food preparation.

2-102.20 Food Protection Manager Certification.

(A) A person in charge who demonstrates knowledge by being a food protection manager that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection *Standards for Accreditation of Food Protection Manager Certification Programs* is deemed to comply with 2-102.11(B).

(B) A retail food establishment that has an employee that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection recognized accrediting agency as conforming to the Conference for Food Protection *Standards for Accreditation of Food Protection Manager Certification Programs* is deemed to comply with 2-102.12.

2-103 Duties

2-103.11 Person in Charge.

The person in charge shall ensure that:

(A) Retail food establishment operations are not conducted in a private residence or in a room used as living or sleeping quarters;

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(B) Persons unnecessary to the retail food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that food, clean equipment, utensils, linens and unwrapped single-service and single-use articles are protected from contamination;

(C) Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this regulation;

(D) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;

(E) Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;

(F) Employees are verifying that foods delivered to the retail food establishment during non-operating hours are from approved sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unadulterated, and accurately presented;

(G) Employees are properly cooking time/temperature control for safety foods, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated;

(H) Employees are using proper methods to rapidly cool time/temperature control for safety foods, through daily oversight of the employees' routine monitoring of food temperatures during cooling;

(I) Consumers who order raw; or partially cooked ready-to-eat foods of animal origin are informed by consumer advisory that the food is not cooked sufficiently to ensure its safety;

(J) Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;

(K) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets;

(L) Employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;

(M) Employees are properly trained in food safety, as it relates to their assigned duties;

(N) Food employees are informed of their responsibility to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food;

(O) That the retail food establishment has a written plan for the restriction, exclusion and re-instatement of food employees when they are restricted or excluded for conditions as specified in 2-201.12; and

(P) Written procedures and plans, where specified by this regulation and as developed by the retail food establishment, are maintained and implemented as required.

2-2 EMPLOYEE HEALTH**2-201 Responsibilities of Person in Charge and Food Employees**

2-201.11 Responsibility and Reporting Symptoms and Diagnosis.

(A) The person in charge shall require food employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food.

(B) If the person in charge knows that a food employee has been diagnosed with an enteric foodborne disease, including but not limited to the following, Norovirus, Hepatitis A virus, Shigella, Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*, or *Salmonella*, the person in charge shall report the disease to the Department.

(C) The food employee shall report to the person in charge if the food employee has any of the following symptoms:

- (1) Vomiting,
- (2) Diarrhea,
- (3) Jaundice,
- (4) Sore throat with fever, or

(D) The food employee shall report to the person in charge if the food employee has a lesion containing pus such as a boil or infected wound or burn that is open or draining.

2-201.12 Exclusions and Restrictions.

(A) The person in charge shall exclude or restrict work duties of a food employee known to be infected with a disease in a communicable form that can be transmitted by food or who is a carrier of organisms that cause such a disease.

(B) The person in charge shall exclude or restrict the work duties of a food employee if the food employee has a lesion containing pus such as a boil or infected wound or burn that is open or draining and is:

- (1) On the hands or wrists, unless an impermeable cover such as a finger cot protects the lesion and a single-use glove is worn over the impermeable cover;
- (2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover, or
- (3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

2-201.120 Departmental Action - Disease Transmission Known or Suspected.

(A) When the Department knows or has reasonable cause to suspect transmission of an enteric foodborne disease by a food employee of a facility, the Department may secure a medical history of the suspected food employee or make any other investigation necessary.

(B) The Department may require any or all of the following measures:

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- (1) The immediate exclusion of the food employee from employment in retail food establishments;
- (2) The Department can declare an imminent health hazard requiring the immediate closure of the retail food establishment, or any section thereof until no further danger of disease transmission exists;
- (3) Restriction of the food employee's services to some other activity in the retail food establishment where there would be no danger of transmitting disease;
- (4) Medical and laboratory examination of the food employee;
- (5) Laboratory examination of food samples and environmental swabs from the retail food establishment.

2-3 PERSONAL CLEANLINESS

2-301 Hands and Arms

2-301.11 Clean Condition.

Food employees shall keep their hands and exposed portions of their arms clean.

2-301.12 Cleaning Procedure.

(A) Except as specified in (D) of this section, food employees shall clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands or arms for at least twenty (20) seconds, using a cleaning compound in a handwashing sink that is equipped as specified under 5-202.12 and 6-301.

(B) Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:

- (1) Rinse under clean, running warm water;
- (2) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer;
- (3) Rub together vigorously for at least ten (10) to fifteen (15) seconds while:
 - (a) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure, and
 - (b) Creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger-tips, and areas between the fingers;
- (4) Thoroughly rinse under clean, running warm water; and
- (5) Immediately follow the cleaning procedure with thorough drying using a method as specified under 6-301.12.

(C) To avoid recontaminating their hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door.

(D) If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands or surrogate prosthetic devices.

2-301.14 When to Wash.

Food employees shall clean their hands and exposed portions of their arms as specified under 2-301.12 immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles; and:

- (A) After touching bare human body parts other than clean hands and clean, exposed portions of arms;
- (B) After using the toilet room;
- (C) After caring for or handling service animals, pets or aquatic animals as specified in 2-403.11(B);
- (D) Except as specified in 2-401.11(B) after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;
- (E) After handling soiled equipment or utensils;
- (F) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
- (G) When switching between working with raw food and working with ready-to-eat food;
- (H) Before donning gloves to initiate a task that involves working with food; and
- (I) After engaging in other activities that contaminate the hands.

2-301.15 Where to Wash.

Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation or warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

2-301.16 Hand Antiseptics.

(A) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

- (1) Comply with one of the following:
 - (a) Be an approved drug that is listed in the FDA publication *Approved Drug Products with Therapeutic Equivalence Evaluations* as an approved drug based on safety and effectiveness; or
 - (b) Have active antimicrobial ingredients that are listed in the FDA monograph for *OTC Health-Care Antiseptic Drug Products* as an antiseptic handwash, and
- (2) Consist only of components which the intended use of each complies with one of the following:

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(a) A threshold of regulation exemption under 21 CFR 170.39, *Threshold Of Regulation For Substances Used In Food-Contact Articles*; or

(b) 21 CFR 178, *Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers* as regulated for use as a food additive with conditions of safe use, or

(c) A determination of generally recognized as safe (GRAS). Partial listings of substances with food uses that are GRAS may be found in 21 CFR 182, *Substances Generally Recognized as Safe*, 21 CFR 184, *Direct Food Substances Affirmed as Generally Recognized as Safe*, or 21 CFR 186, *Indirect Food Substances Affirmed As Generally Recognized As Safe For Use In Contact With Food*, and in FDA's *Inventory of GRAS Notices*, or

(d) A prior sanction listed under 21 CFR 181 *Prior Sanctioned Food Ingredients*, or

(e) a *Food Contact Notification* that is effective, and

(3) Be applied only to hands that are cleaned as specified under 2-301.12.

(B) If a hand antiseptic does not meet the criteria specified under (A)(2) of this section, use shall be:

(1) Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or

(2) Limited to situations that involve no direct contact with food by the bare hands.

(C) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 MG/L chlorine.

2-302 Fingernails

2-302.11 Maintenance.

(A) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough. Nail length shall not extend beyond the fingertips.

(B) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

2-303 Jewelry

2-303.11 Prohibition.

(A) Except for a plain ring such as a wedding band, while preparing food, food employees shall not wear jewelry on their arms and hands including medical information jewelry on their arms or hands.

(B) If jewelry cannot be removed for medical or religious reasons, it must be covered with a clean intact single-use glove when working with food.

2-304 Outer Clothing

2-304.11 Clean Condition.

Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

2-4 HYGIENIC PRACTICES

2-401 Food Contamination Prevention

2-401.11 Eating, Drinking, or Using Tobacco.

(A) Except as specified in (B) of this section, an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection cannot result.

(B) A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:

- (1) The food employee's hands;
- (2) The container; and
- (3) Exposed food, clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

2-401.12 Discharges from the Eyes, Nose, and Mouth.

Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth shall not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

2-402 Hair Restraints

2-402.11 Effectiveness.

(A) Except as provided in (B) of this section, food employees shall wear hair restraints such as hats, hair covering and nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service or single-use articles.

(B) This section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged food, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service or single-use articles.

2-403 Animals

2-403.11 Handling Prohibition.

(A) Except as specified in (B) of this section, food employees may not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed as specified in 6-501.115 (B)(2) through (5).

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(B) Food employees with service animals may handle or care for their service animals, and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacean in display tanks, if they wash their hands as specified in 2-301.12 and 2-301.14(C).

2-5 RESPONDING TO CONTAMINATION EVENTS

2-501 Procedures for Responding

2-501.11 Clean-up of Vomiting and Diarrheal Events.

A retail food establishment shall have procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the retail food establishment. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.

Chapter 3 Food

3-1 CHARACTERISTICS

3-101 Condition

3-101.11 Safe and Unadulterated.

Food shall be safe, unadulterated, and, as specified under 3-601.12, honestly presented.

3-2 SOURCES, SPECIFICATIONS, AND ORIGINAL CONTAINERS AND RECORDS

3-201 Sources

3-201.11 Compliance with Food Law.

(A) Food shall be obtained from sources that comply with law.

(B) Food prepared in a private home shall not be used or offered for human consumption in a retail food establishment.

(C) Packaged food shall be labeled as specified in law, including 21 CFR 101, *Food Labeling*, 9 CFR 317, *Labeling, Marking Devices, and Containers*, and 9 CFR 381 Subpart N, *Labeling and Containers*, and as specified under 3-202.17 and 3-202.18.

(D) Fish, other than those specified in 3-402.11(B), that are intended for consumption in raw or undercooked form and allowed as specified in 3-401.11(D), may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified under 3-402.11; or if they are frozen on the premises as specified under 3-402.11 and records are retained as specified under 3-402.12.

(E) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in 3-401.11(C) shall be:

(1) Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them, to indicate that the steaks meet the definition of whole-muscle, intact beef, or

(2) Deemed acceptable by the Department based on other evidence, such as written buyer specifications or invoices, that indicates that the steaks meet the definition of whole-muscle, intact beef, and

(3) If individually cut in a retail food establishment:

(a) Cut from whole-muscle intact beef that is labeled by a food processing plant as specified in (E)(1) of this section or identified as specified in (E)(2) of this section,

(b) Prepared so they remain intact, and

(c) If packaged for undercooking in a retail food establishment, labeled as specified in (E)(1) of this section or identified as specified in (E)(2) of this section.

(F) Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption shall be labeled to include safe handling instructions as specified in law, including 9 CFR 317.2(l) and 9 CFR 381.125(b).

(G) Eggs that have not been specifically treated to destroy all viable *Salmonellae* shall be labeled to include safe handling instructions as specified in law, including 21 CFR 101.17(h).

3-201.12 Food in a Hermetically Sealed Container.

Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

3-201.13 Fluid Milk, Dry Milk, and Milk Products.

Fluid milk, dry milk and milk products shall be obtained from sources that comply with Grade A standards as specified in law.

3-201.14 Fish.

(A) Fish that are received for sale or service shall be:

(1) Commercially and legally caught or harvested; or

(2) Approved for sale or service.

(B) Molluscan shellfish that are recreationally caught may not be received for sale or service.

3-201.15 Molluscan Shellfish.

(A) Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, *National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish*.

(B) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the *Interstate Certified Shellfish Shippers List*.

3-201.16 Wild Mushrooms.

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(A) Except as specified in (B) of this section, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert as specified in 9-5, *Wild Mushroom Foraging*.

(B) This section does not apply to:

(1) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or

(2) Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

3-201.17 Game Animals.

(A) If game animals are received for sale or service they shall be:

(1) Commercially raised for food and:

(a) Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction, or

(b) Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction, and

(c) Raised, slaughtered, and processed according to:

(i) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and

(ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee;

(2) Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR 352, *Exotic Animals*; voluntary inspection or rabbits that are "inspected and certified" in accordance with 9 CFR 354, *Voluntary Inspection Of Rabbits And Edible Products Thereof*;

(3) As allowed by law, for wild game animals that are live-caught:

(a) Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction, and

(b) Slaughtered and processed according to:

(i) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and

(ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; or

(4) As allowed by law, for field-dressed wild game animals under a routine inspection program that ensures the animals:

- (a) Receive a postmortem examination by an approved veterinarian or veterinarian's designee, or
- (b) Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and
- (c) Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program.

(B) A game animal may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR 17, *Endangered And Threatened Wildlife And Plants*.

3-202 Specifications for Receiving

3-202.11 Temperature.

(A) Except as specified in (B) of this section, refrigerated, time/temperature control for safety food shall be at a temperature of 41 degree F (5 degree C) or below when received.

(B) If a temperature other than 41 degree F (5 degree C) for a time/temperature control for safety food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the specified temperature.

(C) Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 45 degrees F (7 degrees C) or less.

(D) Time/temperature control for safety food that is cooked to a temperature and for a time specified under 3-401.11 through 3-401.13 and received hot shall be at a temperature of 135 degrees F (57 degrees C) or above.

(E) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.

(F) Upon receipt, time/temperature control for safety food shall be free of evidence of previous temperature abuse.

3-202.12 Additives.

Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR 170-180 relating to *Food Additives, Generally Recognized As Safe* or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186, substances that exceed amounts specified in 9 CFR Subpart C Section 424.21(b), *Food Ingredients And Sources Of Radiation, Or Pesticide Residues* that exceed provisions specified in 40 CFR 180, *Tolerances For Pesticides Chemicals In Food, And Exceptions*.

3-202.13 Eggs.

Eggs shall be received clean and sound and shall not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in *United States Standards, Grades, and Weight Classes for Shell Eggs*, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA.

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3-202.14 Egg and Milk Products, Pasteurized.

(A) Egg products shall be obtained pasteurized.

(B) Fluid and dry milk and milk products used and served shall, except as specified in (E) of this section:

(1) Be obtained pasteurized; and

(2) Comply with Grade A standards as specified in law.

(C) Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 CFR 135, *Frozen desserts*.

(D) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in the CFR, such as 21 CFR 133, *Cheeses and Related Cheese Products, for curing certain cheese varieties*.

(E) Packaged raw milk may be obtained for re-sale, provided it meets the requirements of R.61-34, *Raw Milk for Human Consumption*.

3-202.15 Package Integrity.

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

3-202.16 Ice.

Ice for use as a food or cooling medium shall be made from drinking water.

3-202.17 Shucked Shellfish, Packing and Identification.

(A) Raw shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the:

(1) Name, address, and certification number of the shucker, packer or repacker of the molluscan shellfish; and

(2) The "sell by" or "best if used by" date for packages with a capacity of less than 1.89 L (one-half gallon) or the date shucked for packages with a capacity of 1.89 L (one-half gallon) or more.

(B) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under (A) of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D, *Specific Administrative Decisions Regarding Interstate Shipments*, Section 1240.60(d), *Molluscan Shellfish*.

3-202.18 Shellstock Identification.

(A) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or dealer that depurates, ships, or reships the shellstock, as specified in the *National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish*, and that list:

(1) Except as specified under (C) of this section, on the harvester's tag or label, the following information in the following order:

- (a) The harvester's identification number that is assigned by the shellfish control authority,
- (b) The date of harvesting,

(c) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested,

- (d) The type and quantity of shellfish, and

(e) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for ninety (90) days"; and

(2) Except as specified in (D) of this section, on each dealer's tag or label, the following information in the following order:

(a) The dealer's name and address, and the certification number assigned by the shellfish control authority,

(b) The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested,

(c) The same information as specified for a harvester's tag under (A)(1)(b) through (d) of this section, and

(d) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for ninety (90) days."

(B) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under (A) of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D, *Specific Administrative Decisions Regarding Interstate Shipments*, Section 1240.60(d), *Molluscan Shellfish*.

(C) If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.

(D) If the harvester's tag or label is designed to accommodate each dealer's identification as specified under (A)(2)(a) and (b) of this section, individual dealer tags or labels need not be provided.

(E) The statement "Keep Refrigerated" or an equivalent statement must be included on the tag.

3-202.19 Shellstock Condition.

When received by a retail food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

3-202.110 Juice Treated.

Pre-packaged juice shall:

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(A) Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120, *Hazard Analysis and Critical Control (HACCP) Systems*; and

(B) Be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR Part 120.24, *Process Controls*.

3-203 Original Containers and Records

3-203.11 Molluscan Shellfish, Original Container.

(A) Except as specified in (B) through (D) of this section, molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service.

(B) For display purposes, shellstock may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

(1) The source of the shellstock on display is identified as specified under 3-202.18 and recorded as specified under 3-203.12; and

(2) The shellstock are protected from contamination.

(C) Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

(1) The labeling information for the shellfish on display as specified under 3-202.17 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

(2) The shellfish are protected from contamination.

(D) Shucked shellfish may be removed from the container in which they were received and repacked in consumer self service containers where allowed by law if:

(1) The labeling information for the shellfish is on each consumer self service container as specified under 3-202.17 and 3-602.11(A) and (B)(1) through (5);

(2) The labeling information as specified under 3-202.17 is retained and correlated with the date when, or dates during which, the shellfish are sold or served;

(3) The labeling information and dates specified under (D)(2) of this section are maintained for ninety (90) days; and

(4) The shellfish are protected from contamination.

3-203.12 Shellstock, Maintaining Identification.

(A) Except as specified under (C)(2) of this section, shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty.

(B) The date when the last shellstock from the container is sold or served shall be recorded on the tag or label.

(C) The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for ninety (90) calendar days from the date that is recorded on the tag or label, as specified under (B) of this section, by:

(1) Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under (B) of this section; and

(2) If shellstock are removed from its tagged or labeled container:

(a) Preserving source identification by using a record keeping system as specified under (C)(1) of this section, and

(b) Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers; different harvest dates; or different growing areas as identified on the tag or label before being ordered by the consumer.

3-3 PROTECTION FROM CONTAMINATION AFTER RECEIVING

3-301 Preventing Contamination by Employees

3-301.11 Preventing Contamination from Hands.

(A) Food employees shall wash their hands as specified under 2-301.12.

(B) Except when washing fruits and vegetables as specified under 3-302.15 or as specified in (D) and (E) of this section, food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.

(C) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

(D) Paragraph (B) of this section does not apply to a food employee who contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that:

(1) Contains a raw animal food and is to be cooked in the retail food establishment to heat all parts of the food to the minimum temperatures specified in 3-401.11(A) and (B) or 3-401.12; or

(2) Does not contain a raw animal food but is to be cooked in the retail food establishment to heat all parts of the food to a temperature of at least 145 degree F (63 degree C).

3-301.12 Preventing Contamination When Tasting.

A food employee may not use a utensil more than once to taste food that is to be sold or served.

3-302 Preventing Food and Ingredient Contamination

3-302.11 Packaged and Unpackaged Food - Separation, Packaging, and Segregation.

(A) Food shall be protected from cross contamination by:

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(1) Except as specified in (1)(c) below, separating raw animal foods during storage, preparation, holding, and display from:

(a) Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables, and

(b) Cooked ready-to-eat food;

(c) Frozen, commercially processed and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food.

(2) Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:

(a) Using separate equipment for each type, or

(b) Arranging each type of food in equipment so that cross contamination of one type with another is prevented, and

(c) Preparing each type of food at different times or in separate areas;

(3) Cleaning equipment and utensils as specified under 4-602.11(A) and sanitizing as specified under 4-703.11;

(4) Except as specified under 3-501.15(B)(2) and in (B) of this section, storing the food in packages, covered containers, or wrappings;

(5) Cleaning hermetically sealed containers of food of visible soil before opening;

(6) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

(7) Storing damaged, spoiled, or recalled food being held in the retail food establishment as specified under 6-404.11; and

(8) Separating fruits and vegetables, before they are washed as specified under 3-302.15 from ready-to-eat food.

(B) Subparagraph (A)(4) of this section does not apply to:

(1) Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;

(2) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;

(3) Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;

(4) Food being cooled as specified under 3-501.15(B)(2); or

(5) Shellstock.

3-302.12 Food Storage Containers, Identified with Common Name of Food.

Except for containers holding food that can be readily and unmistakably recognized such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food.

3-302.13 Pasteurized Eggs, Substitute for Raw Eggs for Certain Recipes.

Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not:

- (A) Cooked as specified under 3-401.11(A)(1) or (2); or
- (B) Included in 3-401.11(D).

3-302.14 Protection from Unapproved Additives.

(A) Food shall be protected from contamination that may result from the addition of, as specified in 3-202.12:

- (1) Unsafe or unapproved food or color additives; and
- (2) Unsafe or unapproved levels of approved food and color additives.

(B) A food employee may not:

(1) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1; or

(2) Except for grapes, serve or sell food specified under (B)(1) of this section that is treated with sulfiting agents before receipt by the retail food establishment.

3-302.15 Washing Fruits and Vegetables.

(A) Except as specified in (B) of this section and except for whole, raw fruits and vegetables that are intended for washing by the consumer before consumption, raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form.

(B) Fruits and vegetables may be washed by using chemicals as specified under 7-204.12.

(C) Devices used for on-site generation of chemicals meeting the requirements specified in 21 CFR 173.315, *Chemicals*, used in the washing or to assist in the peeling of fruits and vegetables, for the washing of raw, whole fruits and vegetables shall be used in accordance with the manufacturer's instructions.

3-303 Preventing Contamination from Ice Used as a Coolant

3-303.11 Ice Used as Exterior Coolant, Prohibited as Ingredient.

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After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice may not be used as food.

3-303.12 Storage or Display of Food in Contact with Water or Ice.

(A) Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water.

(B) Except as specified in (C) and (D) of this section, unpackaged food may not be stored in direct contact with undrained ice.

(C) Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water.

(D) Raw poultry and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

3-304 Preventing Contamination from Equipment, Utensils, and Linens

3-304.11 Food Contact with Equipment and Utensils.

Food shall only contact surfaces of:

(A) Equipment and utensils that are cleaned as specified under 4-6 of this regulation and sanitized as specified under 4-7 of this regulation;

(B) Single-service and single-use articles; or

(C) Linens, such as cloth napkins, as specified in 3-304.13 that are laundered as specified under 4-8 of this regulation.

3-304.12 In-Use, Between-Use Storage.

During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

(A) Except as specified under (B) of this section, in the food with their handles above the top of the food and the container;

(B) In food that is not a time/temperature control for safety food with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;

(C) On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under 4-602.11 and 4-702.11;

(D) In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;

(E) In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not time/temperature control for safety food; or

(F) In a container of water if the water is maintained at a temperature of at least 135 degree F (57 degree C) and the container is cleaned at a frequency specified under 4-602.11(D)(7).

3-304.13 Linens and Napkins, Use Limitation.

Linens, such as cloth napkins, shall not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

3-304.14 Wiping Cloths; Use Limitation.

(A) Cloths in-use for wiping food spills from tableware and carry-out containers that occur as food is being served shall be:

- (1) Maintained dry; and
- (2) Used for no other purpose.

(B) Cloths in-use for wiping counters and other equipment surfaces shall be:

(1) Held between uses in a chemical sanitizer solution at a concentration specified under 4-501.114; and

- (2) Laundered daily as specified under 4-802.11(D).

(C) Cloths in-use for wiping surfaces in contact with raw animal foods shall be kept separate from cloths used for other purposes.

(D) Dry wiping cloths and the chemical sanitizing solutions specified in (B)(1) of this section in which wet wiping cloths are held between uses shall be free of food debris and visible soil.

(E) Containers of chemical sanitizing solutions specified in (B)(1) of this section in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, single-service, or single-use articles.

(F) Single-use disposable sanitizer wipes shall be used in accordance with EPA-approved manufacturer's label use instructions.

3-304.15 Gloves, Use Limitation.

(A) If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

(B) Except as specified in (C) of this section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under 3-4 such as frozen food or a primal cut of meat.

(C) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

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(D) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under 3-4 such as frozen food or a primal cut of meat.

3-304.16 Using Clean Tableware for Second Portions and Refills.

(A) Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer, to provide second portions or refills.

(B) Except as specified in (C) of this section, self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment.

(C) Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as specified under 4-204.13(A), (B), and (D).

3-304.17 Refilling Returnables.

(A) Except as specified in (B) through (E) of this section, empty containers returned to a retail food establishment for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant.

(B) A take-home food container returned to a retail food establishment may be refilled at a retail food establishment with food if the food container is:

(1) Designed and constructed for reuse and in accordance with the requirements specified under 4-1 and 4-2;

(2) One that was initially provided by the retail food establishment to the consumer, either empty or filled with food by the retail food establishment, for the purpose of being returned for reuse;

(3) Returned to the retail food establishment by the consumer after use;

(4) Subject to the following steps before being refilled with food:

(a) Cleaned as specified under 4-6 of this regulation;

(b) Sanitized as specified under 4-7 of this regulation;

(c) Visually inspected by a food employee to verify that the container, as returned, meets the requirements specified under 4-1 and 4-2; and

(C) A take-home food container returned to a retail food establishment may be refilled at a retail food establishment with beverage if:

(1) The beverage is not a time/temperature control for safety food;

(2) The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the retail food establishment;

(3) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;

(4) The consumer-owned container returned to the retail food establishment for refilling is refilled for sale or service only to the same consumer; and

(5) The container is refilled by:

(a) An employee of the retail food establishment, or

(b) The owner of the container if the beverage system includes a contamination-free transfer process as specified under 4-204.13(A), (B), and (D), that cannot be bypassed by the container owner.

(D) Consumer-owned, personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under 4-204.13(A), (B), and (D).

(E) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

3-305 Preventing Contamination from the Premises

3-305.11 Food Storage.

(A) Except as specified in (B) and (C) of this section, food shall be protected from contamination by storing the food:

(1) In a clean, dry location;

(2) Where it is not exposed to splash, dust, or other contamination; and

(3) At least 15 cm (6 inches) above the floor.

(B) Food in packages and working containers may be stored less than (6) inches (15 cm) above the floor on case lot handling equipment as specified under 4-204.122.

(C) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

3-305.12 Food Storage, Prohibited Areas.

Food shall not be stored:

(A) In locker rooms;

(B) In toilet rooms;

(C) In dressing rooms;

(D) In garbage rooms;

(E) In mechanical rooms;

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(F) Under drain or sewer lines that are not shielded to intercept potential drips;

(G) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;

(H) Under open stairwells; or

(I) Under other sources of contamination.

3-305.14 Food Preparation.

During preparation, unpackaged food shall be protected from environmental sources of contamination.

3-306 Preventing Contamination by Consumers

3-306.11 Food Display.

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means.

3-306.12 Condiments, Protection.

Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

3-306.13 Consumer Self-Service Operations.

(A) Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. This paragraph does not apply to:

(1) Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;

(2) Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; or

(3) Raw, frozen, shell-on shrimp, or lobster.

(B) Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination.

(C) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.

3-306.14 Returned Food and Re-Service of Food.

(A) Except as specified in (B) of this section, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption.

(B) Except as specified under 3-801.11(G), a container of food that is not a time/temperature control for safety food may be re-served from one consumer to another if:

(1) The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine; or

(2) The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

3-307 Preventing Contamination from Other Sources

3-307.11 Miscellaneous Sources of Contamination.

Food shall be protected from contamination that may result from a factor or source not specified under 3-301 through 3-306.

3-4 DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN

3-401 Cooking

3-401.11 Raw Animal Foods.

(A) Except as specified under (B) and in (C) and (D) of this section, raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

(1) 145 degrees F (63 degrees C) or above for fifteen (15) seconds for:

(a) Raw eggs that are broken and prepared in response to a consumer’s order and for immediate service, and

(b) Except as specified under (A)(2) and (A)(3) and (B), and in (C) of this section, fish and meat including game animals commercially raised for food as specified under 3-201.17(A)(1) and game animals under a voluntary inspection program as specified under 3-201.17(A)(2);

(2) 155 degree F (68 degree C) for fifteen (15) seconds or the temperature specified in the following chart that corresponds to the holding time for ratites, mechanically tenderized, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified under 3-201.17(A)(1), and game animals under a voluntary inspection program as specified under 3-201.17(A)(2); and raw eggs that are not prepared as specified under (A)(1)(a) of this section, that corresponds to that temperature in Table 3.1:

Table 3.1 Minimum	
Temperature Degree F (degree C)	Time
145 (63)	3 minutes
150 (66)	1 minute
158 (70)	Less than 1 second (instantaneous)

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; or

(3) 165 degrees F (74 degrees C) or above for fifteen (15) seconds for poultry, baluts, wild game animals as specified under 3-201.17(A)(3) and (4), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites.

(B) Whole meat roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham shall be cooked:

(1) In an oven that is preheated to the temperature specified for the roast’s weight in the following chart and that is held at that temperature, and that corresponds to that temperature in the Table 3.2:

Table 3.2		
Oven Type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs (4.5 kg)	10 lbs (4.5 kg) or more
Still Dry	350 degrees F (177 degrees C) or more	250 degrees F (121 degrees C) or more
Convection	325 degrees F (163 degrees C) or more	250 degrees F (121 degrees C) or more
High Humidity¹	250 degrees F (121 degrees C) or less	250 degrees F (121 degrees C) or less

¹Relative humidity greater than 90 percent for at least 1 hour as measured in the cooking chamber or exit of the oven, or in a moisture-impermeable bag that provides 100 percent humidity.

; and

(2) As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature and for the holding time that corresponds to that temperature in the Table 3.3:

Table 3.3			
Temperature Degree F (C)	Time¹ in Minutes	Temperature Degree F (C)	Time¹ in Seconds
130 (54.4)	112	147 (63.9)	134
131 (55.0)	89	149 (65.0)	85
133 (56.1)	56	151 (66.1)	54
135 (57.2)	36	153 (67.2)	34
136 (57.8)	28	155 (68.3)	22
138 (58.9)	18	157 (69.4)	14
140 (60.0)	12	158 (70.0)	0
142 (61.1)	8		
144 (62.2)	5		
145 (62.8)	4		

¹Holding time may include post-oven heat rise.

(C) undercooked

A raw or

whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

(1) The food establishment serves a population that is not a highly susceptible population,

(2) The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified under 3-201.11(E), and

(3) The steak is cooked on both the top and bottom to a surface temperature of 145 degree F (63 degree C) or above and a cooked color change is achieved on all external surfaces.

(D) A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare; or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in (C) of this section, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

(1) As specified under 3-801.11(C)(1) and (2), the retail food establishment serves a population that is not a highly susceptible population;

(2) The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat; and

(3) The consumer is informed as specified under 3-603.11 that to ensure its safety, the food should be cooked as specified under (A) or (B) of this section; or

(4) The Department grants a variance from (A) or (B) of this section as specified in 8-103.10 based on a HACCP plan that:

(a) Is submitted by the permit holder and approved as specified under 8-103.11,

(b) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food, and

(c) Verifies that equipment and procedures for food preparation and training of food employees at the retail food establishment meet the conditions of the variance.

3-401.12 Microwave Cooking.

Raw animal foods cooked in a microwave oven shall be:

(A) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(B) Covered to retain surface moisture;

(C) Heated to a temperature of at least 165 degrees F (74 degrees C) in all parts of the food; and

(D) Allowed to stand covered for two (2) minutes after cooking to obtain temperature equilibrium.

3-401.13 Plant Food for Cooking for Hot Holding.

Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 135 degrees F (57 degrees C).

3-401.14 Non-Continuous Cooking of Raw Animal Foods.

Raw animal foods that are cooked using a non-continuous cooking process shall be:

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(A) Subject to an initial heating process that is no longer than sixty (60) minutes in duration;

(B) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked time /temperature control for safety food under 3-501.14(A);

(C) After cooling, held frozen or cold, as specified for time/temperature control for safety food under 3-501.16(A)(2);

(D) Prior to sale or service, cooked using a process that heats all parts of the food to a temperature for fifteen (15) seconds for full lethality based on the specific product requirements in section 3-401.11 (A) through (C) of the regulation;

(E) Cooled according to the time and temperature parameters specified for cooked time /temperature control for safety food under 3-501.14(A) if not either hot held as specified under 3-501.16(A), served immediately, or held using time as a public health control as specified under 3-501.19 after complete cooking; and

(F) Prepared and stored according to written procedures that:

(1) Have obtained prior approval from the Department;

(2) Are maintained in the retail food establishment and are available to the Department upon request;

(3) Describe how the requirements specified under (A) through (E) of this section are to be monitored and documented by the permit holder and the corrective actions to be taken if the requirements are not met;

(4) Describe how the foods, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as foods that must be cooked as specified under (D) of this section prior to being offered for sale or service; and

(5) Describe how the foods, after initial heating but prior to cooking as specified under (D) of this section, are to be separated from ready-to-eat foods as specified under 3-302.11 (A).

3-402 Freezing

3-402.11 Parasite Destruction.

(A) Except as specified in (B) of this section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be:

(1) Frozen and stored at a temperature of -4 degrees F (-20 degrees C) or below for a minimum of one hundred sixty eight (168) hours (seven (7) days) in a freezer;

(2) Frozen at -31 degrees F (-35 degrees C) or below until solid and stored at -31 degrees F (-35 degrees C) or below for a minimum of fifteen (15) hours; or

(3) Frozen -31 degrees F (-35 degrees C) or below until solid and stored at -4 degrees F (-20 degrees C) or below for a minimum of twenty-four (24) hours.

(B) Paragraph (A) of this section does not apply to:

- (1) Molluscan shellfish;
- (2) A scallop product consisting only of the shucked adductor muscle;
- (3) Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern); or
- (4) Aquacultured fish, such as salmon, that:
 - (a) If raised in open water, are raised in net-pens, or
 - (b) Are raised in land-based operations such as ponds or tanks, and
 - (c) Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish.
- (5) Fish eggs that have been removed from the skein and rinsed.

3-402.12 Records, Creation and Retention.

(A) Except as specified in 3-402.11(B) and (B) of this section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records of the food establishment for ninety (90) calendar days beyond the time of service or sale of the fish.

(B) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under 3-402.11 may substitute for the records specified under (A) of this section.

(C) If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in 3-402.11(B)(3), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in 3-402.11(B)(3) shall be obtained by the person in charge and retained in the records of the food establishment for ninety (90) calendar days beyond the time of service or sale of the fish.

3-403 Reheating

3-403.10 Preparation for Immediate Service.

Cooked and refrigerated food that is fully prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

3-403.11 Reheating for Hot Holding.

(A) Except as specified under (B) and (C) and in (E) of this section, time/temperature control for safety food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165 degrees F (74 degrees C) for fifteen (15) seconds.

(B) Except as specified under (C) of this section, time/temperature control for safety food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least

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165 degrees F (74 degrees C) and the food is rotated or stirred, covered, and allowed to stand covered for two (2) minutes after reheating.

(C) Ready-to-eat time/temperature control for safety food that has been commercially processed and packaged in a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 135 degrees F (57 degrees C) for hot holding.

(D) Reheating for hot holding as specified under (A) through (C) of this section shall be done rapidly and the time the food is between 41 degrees F (5 degrees C) and the temperatures specified under (A) through (C) of this section may not exceed two (2) hours.

(E) Remaining unsliced portions of meat roasts that are cooked as specified under 3-401.11(B) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under 3-401.11(B).

3-404 Other Methods

3-404.11 Treating Juice.

Juice packaged in a retail food establishment shall be:

(A) Treated under a HACCP plan as specified in 8-201.14(B) through (E) to attain a 5-log reduction, which is equal to a 99.999 percent reduction, of the most resistant microorganism of public health significance; or

(B) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance, as specified in 21 CFR 101.17(g), *Food Labeling, Warning, Notice, And Safe Handling Statements*, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with the following, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems."

3-5 LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN

3-501 Temperature and Time Control

3-501.11 Frozen Food.

Stored frozen foods shall be maintained frozen.

3-501.12 Time/Temperature Control for Safety, Slacking.

Frozen time/temperature control for safety food that is slacked to moderate the temperature shall be held:

(A) Under refrigeration that maintains the food temperature at 41 degrees F (5 degrees C) or less; or

(B) At any temperature if the food remains frozen.

3-501.13 Thawing.

Except as specified in (D) of this section, time/temperature control for safety food shall be thawed:

- (A) Under refrigeration that maintains the food temperature at 41 degrees F (5 degrees C) or less; or
- (B) Completely submerged under cold running water,
 - (1) At a water temperature of 70 degrees F (21degrees C) or below,
 - (2) With sufficient water velocity to agitate and float off loose particles in an overflow, and
 - (3) For a period of time that does not allow thawed portions of ready-to-eat food to rise above 41 degrees F (5 degrees C), or
 - (4) For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified under 3-401.11(A) or (B) to be above 41 degrees F (5 degrees C), for more than four (4) hours including:
 - (a) The time the food is exposed to the running water and the time needed for preparation for cooking, or
 - (b) The time it takes under refrigeration to lower the food temperature to 41 degrees F (5 degrees C);
- (C) As part of a cooking process if the food that is frozen is:
 - (1) Cooked as specified under 3-401.11(A) or (B) or 3-401.12, or
 - (2) Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or
- (D) Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.
- (E) Reduced oxygen packaged fish that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment:
 - (1) Prior to its thawing under refrigeration as specified in (A) of this section; or
 - (2) Prior to, or immediately upon completion of, its thawing using procedures specified in (B) of this section.

3-501.14 Cooling.

- (A) Cooked time/temperature control for safety food shall be cooled:
 - (1) Within two (2) hours from 135 degrees F (57 degrees C) to 70 degrees F (21 degrees C); and
 - (2) Within a total of six (6) hours from 135 degrees F (57 degrees C) to 41 degrees F (5 degrees C) or less.
- (B) Time/temperature control for safety food shall be cooled within four (4) hours to 41 degrees F (5 degrees C) or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

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(C) Except as specified under (D) of this section, a time/temperature control for safety food received in compliance with laws allowing a temperature above 41 degrees F (5 degrees C) during shipment from the supplier as specified in 3-202.11(B), shall be cooled within 4 hours to 41 degrees F (5 degrees C) or less;

(D) Raw eggs shall be received as specified under 3-202.11(C) and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45 degrees F (7 degrees C) or less.

3-501.15 Cooling Methods.

(A) Cooling shall be accomplished in accordance with the time and temperature criteria specified under 3-501.14 by using one or more of the following methods based on the type of food being cooled:

- (1) Placing the food in shallow pans;
- (2) Separating the food into smaller or thinner portions;
- (3) Using rapid cooling equipment;
- (4) Stirring the food in a container placed in an ice water bath;
- (5) Using containers that facilitate heat transfer;
- (6) Adding ice as an ingredient; or
- (7) Other effective methods.

(B) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

- (1) Arranged in the equipment to provide maximum heat transfer through the container walls; and
- (2) Loosely covered, or uncovered if protected from overhead contamination as specified in 3-305.11(A)(2), during the cooling period to facilitate heat transfer from the surface of the food.

3-501.16 Time/Temperature Control for Safety Food, Hot and Cold Holding.

(A) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under 3-501.19, and except as specified under (B) and in (C) of this section, time/temperature control for safety food shall be maintained:

- (1) At 135 degrees F (57 degrees C) or above, except that roasts cooked to a temperature and for a time specified in 3-401.11(B) or reheated as specified in 3-403.11(E) may be held at a temperature of 135 degrees F (57 degrees C) or above; or
- (2) At 41 degrees F (5 degrees C) or less.

(B) Eggs that have not been treated to destroy all viable *Salmonellae* shall be stored in refrigerated equipment that maintains an ambient air temperature of 45 degrees F (7 degrees C) or less.

(C) Time/temperature control for safety food in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under (A) of this section, while contained within specially designed equipment that complies with the design and construction requirements as specified under 4-204.13(E).

3-501.17 Ready to Eat, Time/Temperature Control for Safety Food, Date Marking.

(A) Except when packaging food using a reduced oxygen packaging method as specified under 3-502.12, and except as specified in (D) and (E) of this section, refrigerated, ready-to-eat, time/temperature control for safety food prepared and held in a food establishment for more than twenty four (24) hours shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded when held at a temperature of 41 degrees F (5 degrees C) or less for a maximum of seven (7) days. The day of preparation shall be counted as Day One (1).

(B) Except as specified in (D) through (F) of this section, refrigerated, ready-to-eat, time/temperature control for safety food prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food establishment and if the food is held for more than twenty four (24) hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in (A) of this section and:

(1) The day the original container is opened in the retail food establishment shall be counted as Day One (1); and

(2) The day or date marked by the retail food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

(C) A refrigerated, ready-to-eat, time/temperature control for safety food ingredient or a portion of a refrigerated, ready-to-eat, time/temperature control for safety food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

(D) A date marking system that meets the criteria stated in (A) and (B) of this section may include:

(1) Using a method approved by the Department for refrigerated, ready-to-eat time/temperature control for safety food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;

(2) Marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified under (A) of this section;

(3) Marking the date or day the original container is opened in a retail food establishment, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified under (B) of this section; or

(4) Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the Department upon request.

(E) Paragraphs (A) and (B) of this section do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

(F) Paragraphs (A) and (B) of this section do not apply to shellstock.

(G) Paragraph (B) of this section does not apply to the following foods prepared and packaged by a food processing plant inspected by the appropriate regulatory authority:

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(1) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR 110, *Current Good Manufacturing Practice In Manufacturing, Packing, Or Holding Human Food*;

(2) Hard cheeses containing not more than thirty- nine (39) percent moisture as defined in 21 CFR 133, *Cheeses And Related Cheese Products*, such as cheddar, gruyere, parmesan and reggiano, and romano;

(3) Semi-soft cheeses containing more than thirty- nine (39) percent moisture, but not more than fifty (50) percent moisture, as defined in 21 CFR 133, *Cheeses And Related Cheese Products*, such as blue, edam, gorgonzola, gouda, and monterey jack;

(4) Cultured dairy products as defined in 21 CFR 131, *Milk And Cream*, such as yogurt, sour cream, and buttermilk;

(5) Preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products defined in 21 CFR 114, *Acidified Foods*;

(6) Shelf stable, dry fermented sausages, such as pepperoni and Genoa; and

(7) Shelf stable salt-cured products such as prosciutto and Parma (ham).

3-501.18 Ready-to-Eat, Time/Temperature Control for Safety Food, Disposition.

A food specified in 3-501.17(A) or (B) shall be discarded if it:

(A) Exceeds the temperature and time combination specified in 3-501.17(A), except time that the product is frozen;

(B) Is in a container or package that does not bear a date or day; or

(C) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in 3-501.17(A).

3-501.19 Time as a Public Health Control Measure.

(A) Except as specified under (D) of this section, if time without temperature control is used as the public health control for a working supply of time/temperature control for safety food before cooking, or for ready-to-eat time/temperature control for safety food that is displayed or held for sale or service:

(1) Written procedures shall be prepared in advance, maintained in the food establishment and made available to the Department upon request that specify:

(a) Methods of compliance with (B)(1) (3) or (C)(1)(5) of this section; and

(b) Methods of compliance with 3-501.14 for food that is prepared, cooked, and refrigerated before time is used as a public health control.

(B) If time without temperature control is used as the public health control up to a maximum of four (4) hours:

(1) The food shall have an initial temperature of 41 degrees F (5 degrees C) or less when removed from cold holding temperature control, or 135 degrees F (57 degrees C) or greater when removed from hot holding temperature control;

(2) The food shall be marked or otherwise identified to indicate the time that is four (4) hours past the point in time when the food is removed from temperature control;

(3) The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within four (4) hours from the point in time when the food is removed from temperature control; and

(4) The food in unmarked containers or packages, or marked to exceed a four (4) hour limit shall be discarded.

(C) If time without temperature control is used as the public health control up to a maximum of six (6) hours:

(1) The food shall have an initial temperature of 41 degrees F (5 degrees C) or less when removed from temperature control and the food temperature may not exceed 70 degrees F (21 degrees C) within a maximum time period of six (6) hours;

(2) The food shall be monitored to ensure the warmest portion of the food does not exceed 70 degrees F (21 degrees C) during the six (6) hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 70 degrees F (21 degrees C) during the six (6) hour holding period;

(3) The food shall be marked or otherwise identified to indicate:

(a) The time when the food is removed from 41 degrees F (5 degrees C) or less cold holding temperature control, and

(b) The time that is six (6) hours past the point in time when the food is removed from cold holding temperature control;

(4) The food shall be:

(a) Discarded if the temperature of the food exceeds 70 degrees F (21 degrees C), or

(b) Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six (6) hours from the point in time when the food is removed from 41 degrees F (5 degrees C) or less cold holding temperature control; and

(5) The food in unmarked containers or packages, or marked with a time that exceeds the six (6) hour limit shall be discarded.

(D) A retail food establishment that serves a highly susceptible population may not use time as specified under (A) (B) or (C) of this section as the public health control for raw eggs.

3-502 Specialized Processing Methods

3-502.11 Special Processes Requiring a Variance.

A retail food establishment shall obtain a variance from the Department as specified in 8-103.10 and under 8-103.11 before:

(A) Smoking food as a method of food preservation rather than as a method of flavor enhancement;

(B) Curing food;

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(C) Using food additives or adding components such as vinegar:

- (1) As a method of food preservation rather than as a method of flavor enhancement, or
- (2) To render a food so that it is not a time/temperature control of safety food;

(D) Packaging time/temperature control for safety food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified under 3-502.12;

(E) Custom processing animals that are for personal use as food and not for sale or service in a food establishment;

(F) Preparing food by another method that is determined by the Department to require a variance; or

(G) Sprouting seeds or beans.

3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria.

(A) Except for a retail food establishment that obtains a variance as specified under 3-502.11, a retail food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.

(B) Except as specified under (F) of this section, a retail food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method shall implement a HACCP plan that contains the information specified under 8-201.14(B) and (D) and that:

(1) Identifies the food to be packaged;

(2) Except as specified under (C) through (E) of this section, requires that the packaged food shall be maintained at 41 degrees F (5 degrees C) or less and meet at least one of the following criteria:

(a) Has an Aw of 0.91 or less,

(b) Has a pH of 4.6 or less,

(c) Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21, *Use Of Food Ingredients And Sources Of Radiation*, and is received in an intact package, or

(d) Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables;

(3) Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

(a) Maintain the food at 41 degrees F (5 degrees C) or below, and

(b) Discard the food if within thirty (30) calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

(4) Limits the refrigerated shelf life to no more than thirty (30) calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;

(5) Includes operational procedures that:

(a) Prohibit contacting ready-to-eat food with bare hands as specified under 3-301.11(B),

(b) Identify a designated work area and the method by which:

(i) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, and

(ii) Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation, and

(c) Delineate cleaning and sanitization procedures for food-contact surfaces; and

(6) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:

(a) Concepts required for a safe operation,

(b) Equipment and facilities, and

(c) Procedures specified under (B)(5) of this section and 8-201.14 (B) and (D).

(7) Is provided to the Department prior to implementation as specified under 8-201.13 (B).

(C) Except for fish that is frozen before, during, and after packaging, a retail food establishment may not package fish using a reduced oxygen packaging method.

(D) Except as specified under (C) and (F) of this section, a retail food establishment that packages time/temperature control for safety food using a cook-chill or sous vide process shall:

(1) Provide to the Department prior to implementation a HACCP plan that contains the information as specified under 8-201.14 (B) and (D);

(2) Ensure the food is:

(a) Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer,

(b) Cooked to heat all parts of the food to a temperature and for a time as specified under 3-401.11 (A),(B) and (C),

(c) Protected from contamination before and after cooking as specified under 3-3 and 3-4,

(d) Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below 135 degrees F (57 degrees C),

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(e) Cooled to 41 degrees F (5 degrees C) in the sealed package or bag as specified under 3-501.14 and:

(i) Cooled to 34 degrees F (1 degrees C) within forty-eight (48) hours of reaching 41 degrees F (5 degrees C) and held at that temperature until consumed or discarded within thirty (30) days after the date of packaging;

(ii) Held at 41 degrees F (5 degrees C) or less for no more than seven (7) days, at which time the food must be consumed or discarded; or

(iii) Held frozen with no shelf life restriction while frozen until consumed or used.

(f) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily,

(g) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation, and

(h) Labeled with the product name and the date packaged; and

(3) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan and:

(a) Make such records available to the Department upon request, and

(b) Hold such records for at least six (6) months; and

(4) Implement written operational procedures as specified under (B)(5) of this section and a training program as specified under (B)(6) of this section.

(E) Except as specified under (F) of this section, a retail food establishment that packages cheese using a reduced oxygen packaging method shall:

(1) Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the retail food establishment and that meet the Standards of Identity as specified in 21 CFR 133.150, *Hard Cheeses*, 21 CFR 133.169, *Pasteurized Process Cheese* or 21 CFR 133.187, *Semisoft Cheeses*;

(2) Have a HACCP plan that contains the information specified under 8-201.14 (B) and (D) and as specified under (B)(1), (B)(3)(a), (B)(5) and (B)(6) of this section;

(3) Labels the package on the principal display panel with a "use by" date that does not exceed thirty (30) days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first; and

(4) Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging.

(F) A HACCP plan is not required when a retail food establishment uses a reduced oxygen packaging method to package time/temperature control for safety food that is always:

(1) Labeled with the production time and date,

(2) Held at 41 degrees F (5 degrees C) or less during refrigerated storage, and

(3) Removed from its package in the retail food establishment within forty-eight (48) hours after packaging.

3-6 FOOD IDENTITY, PRESENTATION, AND CONSUMER ADVISORY

3-601 Accurate Representation

3-601.11 Standards of Identity.

Packaged food shall comply with standard of identity requirements in 21 CFR 131-169 and 9 CFR 319, *Definitions and Standards of Identity or Composition*, and the general requirements in 21 CFR 130, *Food Standards: General* and 9 CFR 319 Subpart A, *General*.

3-601.12 Honestly Presented.

(A) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.

(B) Food or color additives, colored overwraps, or lights shall not be used to misrepresent the true appearance, color, or quality of a food.

3-602 Labeling

3-602.11 Food Labels.

Food packaged in a retail food establishment, shall be labeled as specified in law.

3-603 Consumer Advisory

3-603.11 Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens.

(A) Except as specified in 3-401.11.(C), and 3-401.11(D)(4) and under 3-801.11(C), if an animal food such as beef, eggs, fish, lamb, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in (B) and (C) of this section using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

(B) Disclosure shall include:

(1) A description of the animal-derived foods, such as "oysters on the half shell (raw oysters)," "raw-egg Caesar salad," and "hamburgers (can be cooked to order)"; or

(2) Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

(C) Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:

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(1) Regarding the safety of these items, written information is available upon request;

(2) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness; or

(3) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.

(D) Packaged raw milk may be sold in packaged form provided it is bottled pursuant to the requirements of R.61-34, *Raw Milk for Human Consumption*, and provided a disclosure and reminder placard that is located at the point of sale.

3-7 CONTAMINATED FOOD

3-701 Disposition

3-701.11 Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.

(A) A food that is unsafe, adulterated, or not honestly presented as specified under 3-101.11 shall be discarded or reconditioned according to an approved procedure.

(B) Food that is not from an approved source as specified under 3-201.11 through 17 shall be discarded.

(C) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under 2-201.12 shall be discarded.

(D) Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.

3-8 SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS

3-801 Additional Safeguards

3-801.11 Pasteurized Foods, Prohibited Re-Service, and Prohibited Food.

In a retail food establishment that serves a highly susceptible population:

(A) The following criteria shall apply to juice:

(1) For the purposes of this paragraph only, children who are age nine (9) or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;

(2) Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR, 101.17(g) *Food Labeling, Warning, Notice, And Safe Handling Statements*, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens, or a packaged juice or beverage containing juice, that bears a warning label as specified under 3-404.11(B) may not be served or offered for sale; and

(3) Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified under 8-201.14(B) through (E)

and as specified in 21 CFR Part 120, *Hazard Analysis and Critical Control Point (HACCP) Systems*, Subpart B, *Pathogen Reduction*, 120.24, *Process Controls*.

(B) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of:

(1) Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages, and

(2) Except as specified in (F) of this section, recipes in which more than one egg is broken and the eggs are combined;

(C) The following foods may not be served or offered for sale in a ready-to-eat form:

(1) Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare,

(2) A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue; and

(3) Raw seed sprouts.

(D) Food employees may not contact ready-to-eat food as specified under 3-301.11(B) and (E).

(E) Time only, as the public health control as specified under 3-501.19(D), may not be used for raw eggs.

(F) Subparagraph (B)(2) of this section does not apply if:

(1) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under 3-401.11(A)(1), and served immediately, such as an omelet, soufflé, or scrambled eggs;

(2) The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or

(3) The preparation of the food is conducted under a HACCP plan that:

(a) Identifies the food to be prepared,

(b) Prohibits contacting ready-to-eat food with bare hands,

(c) Includes specifications and practices that ensure

(i) *Salmonella* Enteritidis growth is controlled before and after cooking, and

(ii) *Salmonella* Enteritidis is destroyed by cooking the eggs according to the temperature and time specified in 3-401.11(A)(2),

(d) Contains the information specified under 8-201.14(D) including procedures that:

(i) Control cross contamination of ready-to-eat food with raw eggs, and

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(ii) Delineate cleaning and sanitization procedures for food-contact surfaces, and

(e) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

(G) Except as specified in (H) of this section, food may be re-served as specified under 3-306.14(B)(1) and (2).

(H) Food may not be re-served under the following conditions:

(1) Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside.

(2) Packages of food from any patients, clients, or other consumers should not be re-served to persons in protective environment isolation.

Chapter 4 Equipment, Utensils, and Linens

4-1 MATERIALS FOR CONSTRUCTION AND REPAIR

4-101 Multiuse

4-101.11 Characteristics.

Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions, utensils and food-contact surfaces shall be:

- (A) Safe;
- (B) Durable, corrosion-resistant, and nonabsorbent;
- (C) Sufficient in weight and thickness to withstand repeated warewashing;
- (D) Finished to have a smooth, easily cleanable surface; and
- (E) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

4-101.12 Cast Iron, Use Limitation.

(A) Except as specified in (B) and (C) of this section, cast iron may not be used for utensils or food-contact surfaces of equipment.

(B) Cast iron may be used as a surface for cooking

(C) Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

4-101.13 Lead, Use Limitation.

(A) Ceramic, china, and crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding acceptable limits of the following utensil categories:

Utensil Category	Ceramic Article Description	Maximum Lead mg/L
Beverage Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls greater than or equal to 1.1 Liter (1.16 Quart)	1.0
Small Hollowware (excluding cups & mugs)	Bowls less than 1.1 Liter (1.16 Quart)	2.0
Flat Tableware	Plates, Saucers	3.0

(B) Pewter alloys containing lead in excess of 0.05 percent shall not be used as a food-contact surface.

(C) Solder and flux containing lead in excess of 0.2 percent shall not be used as a food-contact surface.

4-101.14 Copper, Use Limitation.

(A) Except as specified in (B) of this section, copper and copper alloys such as brass may not be used in contact with a food that has a pH below six (6.0) such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.

(B) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below six (6.0) in the pre-fermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

4-101.15 Galvanized Metal, Use Limitation.

Galvanized metal shall not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.

4-101.16 Sponges, Use Limitation.

Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

4-101.17 Wood, Use Limitations.

(A) Except as specified in (B), (C), and (D) of this section, wood and wood wicker may not be used as a food-contact surface.

(B) Hard maple or an equivalently hard, close-grained wood may be used for:

(1) Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

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(2) Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 110 degrees C (230 degrees F) or above.

(3) Bagel boards including a laminated hardwood may be acceptable if the food-contact surface is smooth and in good repair; and

(C) Wicker may be used only when suitably lined.

(D) Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

(E) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

(1) Untreated wood containers; or

(2) Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800, *Preservatives For Wood*.

4-101.18 Nonstick Coating, Use Limitation

Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

4-101.19 Nonfood-contact Surfaces.

Nonfood-contact surfaces of equipment that are exposed to splash, spillage or other food soiling or that require frequent cleaning, shall be constructed of a corrosion-resistant, nonabsorbent, smooth material.

4-102 Single-Service and Single-Use

4-102.11 Characteristics.

Materials that are used to make single-service and single-use articles

(A) Shall not:

(1) Allow the migration of deleterious substances, or

(2) Impart colors, odors, or tastes to food; and

(B) Shall be:

(1) Safe, and

(2) Clean.

4-2 DESIGN AND CONSTRUCTION

4-201 Durability and Strength

4.201.11 Equipment and Utensils.

Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

4-201.12 Food Temperature Measuring Devices.

Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

4-202 Cleanability

4-202.11 Food-Contact Surfaces.

(A) Multiuse food-contact surfaces shall be:

- (1) Smooth;
- (2) Free of breaks; open seams; cracks, chips, inclusions, pits, and similar imperfections;
- (3) Free of sharp internal angles; corners, and crevices;
- (4) Finished to have smooth welds and joints; and

(5) Except as specified in (B) of this section, accessible for cleaning and inspection by one of the following methods:

- (a) Without being disassembled, or
- (b) By disassembling without the use of tools, or

(c) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches.

(B) Subparagraph (A)(5) of this section does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

4-202.12 CIP Equipment.

(A) CIP equipment shall meet the characteristics specified under 4-202.11 and shall be designed and constructed so that:

(1) Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces, and

(2) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and

(B) CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

4-202.13 "V" Threads, Use Limitation.

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Except for hot oil cooking or filtering equipment, "V" type threads may not be used on food-contact surfaces.

4-202.14 Hot Oil Filtering Equipment.

Hot oil filtering equipment shall meet the characteristics specified under 4-202.11 or 4-202.12 and shall be readily accessible for filter replacement and cleaning of the filter.

4-202.15 Can Openers.

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

4-202.16 Nonfood-Contact Surfaces.

Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

4-202.17 Kick Plates, Removable.

Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning.

(A) Removable by one of the methods specified under 4-202.11(A)(5) or capable of being rotated open; and

(B) Removable or capable of being rotated open without unlocking equipment doors.

4-202.18 Ventilation Hood Systems, Filters.

Filters and other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

4-203 Accuracy

4-203.11 Temperature Measuring Devices, Food.

(A) Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to plus or minus one (1) degrees C in the intended range of use.

(B) Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus two (2) degrees F in the intended range of use.

4-203.12 Temperature Measuring Devices, Ambient Air and Water.

(A) Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to plus or minus one point five (1.5) degrees C in the intended range of use.

(B) Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus three (3) degrees F in the intended range of use.

4-203.13 Pressure Measuring Devices, Mechanical Warewashing Equipment.

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of one (1) pound per square inch (7 kilopascals) or smaller and shall be accurate to plus or minus two (2) pounds per square inch (plus or minus 14 kilopascals) in the range indicated on the manufacturer's data plate.

4-204 Functionality

4-204.11 Ventilation Hood Systems, Drip Prevention.

Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, filters, and ducting shall be of commercial type and designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

4-204.12 Equipment Openings, Closures and Deflectors.

(A) A cover or lid for equipment shall overlap the opening and be sloped to drain.

(B) An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least five (5) millimeters (two-tenths of an inch).

(C) Except as specified under (D) of this section, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment.

(D) If a watertight joint is not provided:

(1) The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and

(2) The opening shall be flanged as specified under (B) of this section.

4-204.13 Dispensing Equipment, Protection of Equipment and Food.

In equipment that dispenses or vends liquid food or ice in unpackaged form

(A) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;

(B) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

(C) The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

(1) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or

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(2) Available for self-service during hours when it is not under the full-time supervision of a food employee; and

(D) The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

(E) Dispensing equipment in which time/temperature control for safety food in a homogenous liquid form is maintained outside of the temperature control requirements as specified under 3-501.16(A) shall:

(1) Be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment; and

(2) Conform to the requirements for this equipment as specified in NSF/ANSI 18-2006, *Manual Food and Beverage Dispensing Equipment*.

4-204.15 Bearings and Gear Boxes, Leakproof.

Equipment containing bearing and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.

4-204.16 Beverage Tubing, Separation.

Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices shall not be installed in contact with stored ice.

4-204.17 Ice Units, Separation of Drains.

Liquid waste drain lines shall not pass through an ice machine or ice storage bin.

4-204.18 Condenser Unit, Separation.

If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

4-204.110 Molluscan Shellfish Tanks.

(A) Molluscan shellfish life support system display tanks may not be used to store or display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

4-204.112 Temperature Measuring Devices.

(A) In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

(B) Except as specified in (C) of this section, cold or hot holding equipment used for time/temperature control safety food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.

(C) Paragraph (B) of this section does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food

because to the design, type and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers and salad bars.

(D) Temperature measuring devices shall be designed to be easily readable.

(E) Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale or digital readout in increments no greater than two (2) *degrees* F (1 *degree* C) in the intended range of use.

4-204.113 Warewashing Machine, Data Plate, Operating Specifications.

A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications including the:

(A) Temperature required for washing, rinsing, and sanitizing;

(B) Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and

(C) Conveyor speed for conveyor machines or cycle time for stationary rack machines.

4-204.114 Warewashing Machines, Internal Curtains.

Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

4-204.115 Warewashing Machines, Temperature Measuring Devices.

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

(A) In each wash and rinse tank; and

(B) As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

4-204.116 Manual Warewashing Equipment, Heaters and Baskets.

If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

(A) Designed with an integral heating device, equipped with an integral thermometer, that is capable of maintaining water at a temperature not less than 171 *degrees* F (77 *degrees* C), and

(B) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

4-204.117 Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers.

A warewashing machine shall be equipped to:

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(A) Automatically dispense detergents and sanitizers; and

(B) Incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.

4-204.118 Warewashing Machines, Flow Pressure Device.

(A) Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine; and

(B) If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve.

(C) Paragraphs (A) and (B) of this section do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

4-204.119 Warewashing Sinks and Drainboards, Self-Draining.

Sinks and drainboards of warewashing sinks and machines shall be self-draining.

4-204.120 Equipment Compartments, Drainage.

Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

4-204.122 Case Lot Handling Apparatuses, Moveability.

Apparatuses, such as dollies, pallets, racks and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available apparatuses such as hand trucks and forklifts.

4-205 Acceptability

4-205.10 Food Equipment, Certification and Classification.

(A) Except as specified in (B) of this section, all equipment installed in a retail food establishment after the effective date of this regulation shall be certified or classified and listed to National Sanitation Foundation (NSF) / American National Standards Institute (ANSI) Commercial Food Equipment Standards, or Baking Industry Sanitation Standards Committee (BISSC) or other accredited ANSI food equipment sanitation certification recognized by the Department.

(B) Residential counter-top appliances, such as, but not limited to, coffee makers, a crockpot, toaster, toaster oven, microwave oven; and shelving, residential chest and upright freezers are exempt, but shall meet the requirements of 4-1 and 4-2.

4-3 NUMBERS AND CAPACITIES

4-301 Equipment

4-301.11 Cooling, Heating, and Holding Capacities.

Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to maintain food temperatures as specified under Chapter 3.

4-301.12 Manual Warewashing, Sink Compartment Requirements.

(A) Except as specified in (C) of this section, a sink with at least three (3) compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.

(B) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in (C) of this section shall be used.

(C) Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved. Alternative manual warewashing equipment may include:

- (1) High-pressure detergent sprayers;
- (2) Low- or line-pressure spray detergent foamers;
- (3) Other task-specific cleaning equipment;
- (4) Brushes or other implements;
- (5) Two (2)-compartment sinks as specified under (D) and (E) of this section; or
- (6) Receptacles that substitute for the compartments of a multicompartment sink.

(D) Before a two (2) compartment sink is used:

- (1) The permit holder shall have its use approved; and
- (2) The permit holder shall limit the number of kitchenware items cleaned and sanitized in the two (2) compartment sink, and shall limit warewashing to batch operations for cleaning kitchenware such as between cutting one type of raw meat and another or cleanup at the end of a shift, and shall:

(a) Make up the cleaning and sanitizing solutions immediately before use and drain them immediately after use, and

(b) Use a detergent-sanitizer to sanitize and apply the detergent-sanitizer in accordance with the manufacturer's label instructions and as specified under 4-501.115, or

(c) Use a hot water sanitization immersion step as specified under 4-603.16(C).

(E) A two (2) compartment sink may not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of kitchenware or tableware in an ongoing warewashing process.

4-301.13 Drainboards.

Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

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4-301.14 Ventilation Hood Systems, Adequacy.

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

4-301.15 Clothes Washers and Dryers.

(A) Except as specified in (B) of this section, if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.

(B) If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under 4-901.12, a mechanical clothes washer and dryer need not be provided.

4-302 Utensils, Temperature Measuring Devices, and Testing Devices

4-302.11 Utensils, Consumer Self-Service.

A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.

4-302.12 Food Temperature Measuring Devices.

(A) Food temperature measuring devices required for the immersion into food shall be provided and used to ensure the attainment and maintenance of food temperatures as specified under Chapter 3.

(B) A temperature measuring device with a suitable small diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish filets.

4-302.13 Temperature Measuring Devices, Manual and Mechanical Warewashing.

(A) In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

(B) In hot water mechanical warewashing operations, an irreversible registering temperature indicator shall be provided and readily accessible for measuring the utensil surface temperature.

4-302.14 Sanitizing Solutions, Testing Devices.

A test kit or other device that accurately measures the concentration in MG/L of sanitizing solutions shall be provided.

4-4 LOCATION AND INSTALLATION

4-401 Location

4-401.11 Equipment, Clothes Washers and Dryers, and Storage Cabinets, Contamination Prevention.

(A) Except as specified in (B) of this section, equipment, a cabinet used for the storage of food, or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be located:

- (1) In locker rooms;

- (2) In toilet rooms;
- (3) In garbage rooms;
- (4) In mechanical rooms;
- (5) Under sewer lines that are not shielded to intercept potential drips;
- (6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
- (7) Under open stairwells; or
- (8) Under other sources of contamination.

(B) A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.

(C) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

4-402 Installation

4-402.11 Fixed Equipment, Spacing or Sealing.

(A) Equipment that is fixed because it is not easily movable shall be installed so that it is:

- (1) Spaced to allow access for cleaning along the sides, behind, and above the equipment;
- (2) Spaced from adjoining equipment, walls, and ceilings a distance of not more than one (1) millimeter or one thirty-second inch; or
- (3) Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

(B) Counter-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

- (1) Sealed; or
- (2) Elevated on legs as specified under 4-402.12(D).

4-402.12 Fixed Equipment, Elevation or Sealing.

(A) Except as specified in (B) and (C) of this section, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a six (6) inch (15 centimeters), clearance between the floor and the equipment.

(B) If no part of the floor under the floor-mounted equipment is more than six (6) inch (15 centimeters) from the point of cleaning access, the clearance space may be only four (4) inches (10 centimeters).

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(C) This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

(D) Except as specified in (E) of this section, counter-mounted equipment that is not easily movable shall be elevated on legs that provide at least a four (4) inch (10 centimeters) clearance between the table and the equipment.

(E) The clearance space between the table and counter-mounted equipment may be:

(1) Three (3) inches (7.5 centimeters) if the horizontal distance of the table top under the equipment is no more than twenty (20) inches (50 centimeters) from the point of access for cleaning; or

(2) Two (2) inches (5 centimeters) if the horizontal distance of the table top under the equipment is no more than three (3) inches (7.5 centimeters) from the point of access for cleaning.

4-5 MAINTENANCE AND OPERATION

4-501 Equipment

4-501.11 Good Repair and Proper Adjustment.

(A) Equipment shall be maintained in a state of repair and condition that meets the requirements specified under 4-1 and 4-2.

(B) Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

(C) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

4-501.12 Cutting Surfaces.

Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

4-501.14 Warewashing Equipment, Cleaning Frequency.

A warewashing machine; the compartment(s) of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, raw foods, or laundering wiping cloths; and drainboards or other equipment as specified in 4-301.13 shall be cleaned:

(A) Before use;

(B) Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

(C) During use, at least once every twenty four (24) hours.

4-501.15 Warewashing Machines, Manufacturers' Operating Instructions.

(A) A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.

(B) A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

4-501.16 Warewashing Sinks and Food Preparation Sinks, Use Limitation.

(A) A warewashing sink may not be used for handwashing as specified under 2-301.15.

(B) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under 4-501.14 before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified under 4-7 before and after using the sink to wash produce or thaw food.

4-501.17 Warewashing Equipment, Cleaning Agents.

When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in 4-301.12(C), shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

4-501.18 Warewashing Equipment, Clean Solutions.

The wash, rinse, and sanitize solutions shall be maintained clean.

4-501.19 Manual Warewashing Equipment, Wash Solution Temperature.

The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110 degrees F (43 degrees C) or the temperature as specified on the cleaning agent manufacturer's label instructions.

4-501.110 Mechanical Warewashing Equipment, Wash Solution Temperature.

(A) The temperature of the wash solution in spray type warewashers that use hot water to sanitize shall not be less than:

- (1) For a stationary rack, single temperature machine, 165 degrees F (74 degrees C);
- (2) For a stationary rack, dual temperature machine, 150 degrees F (66 degrees C);
- (3) For a single tank, conveyor, dual temperature machine, 160 degrees F (71 degrees C); or
- (4) For a multitank, conveyor, multitemperature machine, 150 degrees F (66 degrees C).

(B) The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than 120 degrees F (49 degrees C).

4-501.111 Manual Warewashing Equipment, Hot Water Sanitization Temperatures.

If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 171 degrees F (77 degrees C) or above.

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4-501.112 Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.

(A) Except as specified in (B) of this section, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than 194 degrees F (90 degrees C), or less than:

- (1) For a stationary rack, single temperature machine, 165 degrees F (74 degrees C); or
- (2) For all other machines, 180 degrees F (82 degrees C).

(B) The maximum temperature specified under (A) of this section, does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for in-place cleaning and sanitizing of equipment such as meat saws.

4-501.113 Mechanical Warewashing Equipment, Sanitization Pressure.

The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be within the range specified on the machine manufacturer's data plate and may not be less than five (5) pounds per square inch (35 kilopascals) or more than thirty (30) pounds per square inch (200 kilopascals).

4-501.114 Manual and Mechanical Warewashing Equipment, Chemical Sanitization - Temperature, pH, Concentration, and Hardness.

A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times specified in 4-703.11.C shall:

- (A) Meet the criteria specified in 7-204.11;
- (B) Be used in accordance with the EPA registered label use instructions; and
- (C) Be used as follows:
 - (1) A chlorine solution shall have a:
 - (a) Minimum temperature of 75 degrees F (24 degrees C).
 - (b) Concentration between fifty (50) ppm and two hundred (200) ppm.
 - (2) An iodine solution shall have a:
 - (a) Minimum temperature of 68 degrees F (20 degrees C).
 - (b) Concentration between twelve point five (12.5) ppm and twenty five (25) ppm.
 - (3) A quaternary ammonium compound solution shall:
 - (a) Have a minimum temperature of 75 degrees F (24 degrees C);
 - (b) Have a concentration as specified in 7-204.11 and as indicated by the manufacturer's use directions included in the labeling; and

(c) Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions.

(D) If another solution of a chemical specified under (C) of this section is used, the permit holder shall demonstrate to the Department that the solution achieves sanitization and the use of the solution shall be approved.

(E) If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be approved by the EPA and applied in accordance with the EPA-registered label use instructions.

(F) If a chemical sanitizer is generated by a device located on-site at the retail food establishment, it shall be used as specified in (A) through (D) of this section and shall be produced by a device that:

(1) Complies with regulations as specified in 2(q)(1) and 12 of the *Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)*;

(2) Complies with 40 CFR 152.500, *Requirement for Devices* and 40 CFR 156.10, *Labeling Requirements*;

(3) Displays the EPA device manufacturing facility registration number on the device, and

(4) Is operated and maintained in accordance with manufacturer's instructions.

4-501.115 Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers.

If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent-sanitizer that is used in the washing step.

4-501.116 Warewashing Equipment Determining Chemical Sanitizer Concentration.

Concentration of the sanitizing solution shall be accurately determined by using a test or other device.

4-502 Utensils and Temperature and Pressure Measuring Devices

4-502.11 Good Repair and Calibration.

(A) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified under 4-1 and 4-2 or shall be discarded.

(B) Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

(C) Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

4-502.12 Single-Service and Single-Use Articles, Required Use.

A retail food establishment without facilities specified under 4-6 and 4-7 for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers.

4-502.13 Single-Service and Single-Use Articles, Use Limitations.

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(A) Single-service and single use articles may not be reused.

(B) A bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one (1) inch protruding from the chilled dispenser head.

4-502.14 Shells, Use Limitations.

Mollusk and crustacean shells may not be used more than once as serving containers.

4-6 CLEANING OF EQUIPMENT AND UTENSILS

4-601 Objective

4-601.11 Equipment, Food Contact Surfaces, Nonfood Contact Surfaces, and Utensils.

(A) Equipment food contact surfaces and utensils shall be clean to sight and touch.

(B) Food contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

(C) Non food contact surfaces shall be cleaned and kept free of an accumulation of dust, dirt, food residue and other debris.

4-602 Frequency

4-602.11 Equipment Food Contact Surfaces and Utensils.

(A) Equipment food contact surfaces and utensils shall be cleaned:

(1) Except as specified in (B) of this section, before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry;

(2) Each time there is a change from working with raw foods to working with ready-to-eat foods;

(3) Between uses with raw fruits and vegetables and with time/temperature control for safety food;

(4) Before using or storing a food temperature measuring device; and

(5) At any time during the operation when contamination may have occurred.

(B) Subparagraph (A)(1) of this section does not apply if the food contact surface or utensil is in contact with a succession of different raw meats and poultry each requiring a higher cooking temperature as specified under 3-401.11 than the previous food.

(C) Except as specified in (D) of this section, if used with time/temperature control for safety food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four (4) hours.

(D) Surfaces of utensils and equipment contacting time/temperature control for safety food may be cleaned less frequently than every four (4) hours if:

(1) In storage, containers of time/temperature control for safety food and their contents are maintained at temperatures specified under Chapter 3 and the containers are cleaned when they are empty;

(2) Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:

(a) The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

Temperature	Cleaning Frequency
5.0C (41F) or less	24 hours
Greater than 5.0C - 7.2C (Greater than 41F - 45F)	20 hours
Greater than 7.2C - 10.0C (Greater than 45F - 50F)	16 hours
Greater than 10.0C - 12.8C (Greater than 50F - 55F)	10 hours

(b) The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the retail food establishment.

(3) Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat time/temperature control for safety food that is maintained at the temperatures specified under Chapter 3, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every twenty four (24) hours;

(4) Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;

(5) In-use utensils are intermittently stored in a container of water in which the water is maintained at 135 degrees F (57 degrees C) or more and the utensils and container are cleaned at least every twenty four (24) hours or at a frequency necessary to preclude accumulation of soil residues.

(E) Except when dry cleaning methods are used as specified under 4-603.11, surfaces of utensils and equipment contacting food that is not time/temperature control for safety food shall be cleaned:

(1) At any time when contamination may have occurred;

(2) At least every twenty-four (24) hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;

(3) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and

(4) In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:

(a) At a frequency specified by the manufacturer, or

(b) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

4-602.12 Cooking and Baking Equipment.

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(A) Food-contact surfaces of cooking and baking equipment shall be cleaned at least every twenty four (24) hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned at a frequency specified by the manufacturer or at a frequency to preclude accumulation of soil or mold.

(B) The cavities and door seals of microwave ovens shall be cleaned at least every twenty four (24) hours by using the manufacturer's recommended cleaning procedure.

4-602.13 Nonfood-Contact Surfaces.

Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

4-603 Methods

4-603.11 Dry Cleaning.

(A) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not a time/temperature control for safety food.

(B) Cleaning equipment used in dry cleaning food contact surfaces shall not be used for any other purpose.

4-603.12 Precleaning.

(A) Food debris on equipment and utensils shall be scrapped over a waste disposal unit or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

(B) If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

4-603.13 Loading of Soiled Items, Warewashing Machines.

Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

(A) Exposes all surfaces of the items to the unobstructed spray from all cycles; and

(B) Allows the items to drain.

4-603.14 Wet Cleaning.

(A) Equipment food contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

(B) The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

4-603.15 Washing, Procedures for Alternative Manual Warewashing Equipment.

If washing in sink compartments or a warewashing machine is impractical, such as when the equipment is fixed or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in 4-301.12(C) and in accordance with the following procedures:

- (A) Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;
- (B) Equipment components and utensils shall be scrapped or rough cleaned to remove food particle accumulation; and
- (C) Equipment and utensils shall be washed as specified in 4-603.14(A) to remove soils.

4-603.16 Rinsing Procedures.

Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

- (A) Use of a distinct, separate water rinse after washing and before sanitizing if using:
 - (1) A three (3) compartment sink;
 - (2) Alternative manual warewashing equipment equivalent to a three (3) compartment sink as specified in 4-301.12.C;
 - (3) A three (3)-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;
- (B) Use of a detergent-sanitizer as specified under 4-501.115 if using:
 - (1) Alternative warewashing equipment as specified in 4-301.12(C) that is approved for use with a detergent-sanitizer, or
 - (2) A warewashing system for CIP equipment;
- (C) Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a two (2) compartment sink operation;
- (D) If using a warewashing machine that does not recycle the sanitizing solution as specified under (E) of this section, or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:
 - (1) Integrated in the application of the sanitizing solution, and
 - (2) Wasted immediately after each application; or
- (E) If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

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4-7 SANITIZATION OF EQUIPMENT AND UTENSILS

4-701 Objective

4-701.10 Food-Contact Surfaces and Utensils, Sanitizing Procedures.

Equipment food-contact surfaces and utensils shall be sanitized.

4-702 Frequency

4-702.11 Before Use After Cleaning.

Utensils and food contact surfaces of equipment shall be sanitized before use after cleaning.

4-703 Methods

4-703.11 Hot Water and Chemical.

After being cleaned, equipment food contact surfaces and utensils shall be sanitized in:

(A) Hot water manual operations by immersion for at least thirty (30) seconds and as specified in 4-501.111

(B) Hot water mechanical operations by being cycled through equipment that is set up as specified under 4-501.15, 4-501.112, and 4-501.113 and achieving a utensil surface temperature of 160 degrees F (71 degrees C) as measured by an irreversible registering temperature indicator; or

(C) Chemical, manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under 4-501.114 Contact times shall be consistent with those on EPA-registered label use instructions by providing:

(1) Except as specified under (C)(2) of this section, a contact time of at least ten (10) seconds for a chlorine solution specified under 4-501.114(A),

(2) A contact time of at least seven (7) seconds for a chlorine solution of 50 MG/L that has a pH of ten (10.0) or less and a temperature of at least 100 degrees F (38 degrees C) or a pH of eight (8.0) or less and a temperature of at least 75 degrees F (24 degrees C),

(3) A contact time of at least thirty (30) seconds for other chemical sanitizing solutions, or

(4) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in 1-201.10(B).

4-8 LAUNDERING

4-801 Objective

4-801.11 Linens.

Clean linens shall be free from food residues and other soiling matter.

4-802 Frequency

4-802.11 Specifications.

(A) Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

(B) Cloth gloves used as specified in 3-304.15(D) shall be laundered before being used with a different type of raw animal food such as beef, fish, lamb, pork or poultry.

(C) Linens that are used as specified in 3-304.13 and cloth napkins shall be laundered between each use.

(D) Wet wiping cloths shall be laundered daily.

(E) Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

4-803 Methods

4-803.11 Storage of Soiled Linens.

Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single use articles.

4-803.12 Mechanical Washing.

(A) Except as specified in (B) of this section, linens that come in direct contact with food shall be mechanically laundered.

(B) In retail food establishments in which only wiping cloths are laundered, as specified in 4-301.15 (B), the wiping cloths may be laundered in a mechanical washer, sink designated only for wiping cloths, or a warewashing or food preparation sink that is cleaned as specified in 4-501.14.

4-803.13 Use of Laundry Facilities

(A) Except as specified in (B) of this section, laundry facilities located on the premises of a retail food establishment shall be used only for the washing and drying of items used in the operation of the establishment.

(B) Separate laundry facilities located on the premises for the purpose of general laundering such as institutions providing boarding and lodging may also be used for laundering retail food establishment linens.

4-9 PROTECTION OF CLEAN ITEMS

4-901 Drying

4-901.11 Equipment and Utensils, Air-Drying Required.

After cleaning and sanitizing, equipment and utensils:

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(A) Shall be air-dried or used after adequate draining as specified in the first paragraph of 40 CFR 180.940, *Tolerance Exemptions For Active And Inert Ingredients For Use In Antimicrobial Formulations (Food-Contact Surface Sanitizing Solutions)*, before contact with food; and

(B) May not be cloth dried, except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

4-901.12 Wiping Cloths, Air-Drying Locations.

Wiping cloths laundered in a retail food establishment that does not have a mechanical clothes dryer as specified in 4-301.15(B) shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens and single-service and single-use articles and the wiping cloths. This section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under 4-501.114.

4-902 Lubricating and Reassembling

4-902.11 Food-Contact Surfaces.

Lubricants as specified under 7-205.11 shall be applied to food contact surfaces that require lubrication in a manner that does not contaminate food contact surfaces.

4-902.12 Equipment.

Equipment shall be reassembled so that food contact surfaces are not contaminated.

4-903 Storing

4-903.11 Equipment, Utensils, Linens, and Single-Service and Single-Use Articles.

(A) Except as specified in (D) of this section, cleaned equipment and utensils, laundered linens and single-service and single-use articles shall be stored:

- (1) In a clean, dry location; and
- (2) Where they are not exposed to splash, dust, or other contamination; and
- (3) At least six (6) inches (15 cm) above the floor.

(B) Clean equipment and utensils shall be stored as specified in (A) of this section and shall be stored:

- (1) In a self draining position that allows for air drying; and
- (2) Covered or inverted.

(C) Single-service and single-use articles shall be stored as specified under (A) of this section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

4-903.12 Prohibitions.

(A) Except as specified in (B) of this section, cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles shall not be stored:

- (1) In locker rooms;
- (2) In toilet rooms;
- (3) In garbage rooms;
- (4) In mechanical rooms;
- (5) Under sewer lines that are not shielded to intercept potential drips;
- (6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
- (7) Under open stairwells; or
- (8) Under other sources of contamination.

(B) Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

4-904 Preventing Contamination

4-904.11 Kitchenware and Tableware.

(A) Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented.

(B) Knives, forks and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

(C) Except as specified in (B) of this section, single-service articles that are intended for food or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

4-904.12 Soiled and Clean Tableware.

Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

4-904.13 Preset Tableware.

(A) Except as specified in (B) of this section, tableware that is preset shall be protected from contamination by being wrapped, covered, or inverted.

(B) Preset tableware may be exposed if:

- (1) Unused settings are removed when a consumer is seated; or
- (2) Settings not removed when a consumer is seated are cleaned and sanitized before further use.

4-904.14 Rinsing Equipment and Utensils after Cleaning and Sanitizing.

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After being cleaned and sanitized, equipment and utensils shall not be rinsed before air-drying or use unless:

(A) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified under 4-204 and 4-501; and

(B) The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose EPA registered label use instructions call for rinsing off the sanitizer after it is applied in a commercial warewashing machine.

Chapter 5 Water, Plumbing, and Waste

5-1 WATER

5-101 Source

5-101.11 Approved System.

Drinking water shall be obtained from an approved source that is:

(A) An existing public water system (e.g., municipality).

(B) A new public water system (including a well) constructed for the purpose of serving the retail food establishment that is constructed, maintained, and operated according to R.61-58, *State Primary Drinking Water Regulation*.

(1) The owner shall provide the Department with a copy of the public water system *Operating Permit* or *Public Water Supply Construction Permit and Approval to Place into Operation* prior to the issuance of a permit to operate the retail food establishment.

(2) Upon the date of written notification from the Department to the owner/retail food establishment that the water supply to the retail food establishment does not meet acceptable standards for drinking water consumption, the retail food establishment shall immediately cease its food operation.

(C) An approved water transport vehicle, filled from a source that complies with (A) or (B) above;

(D) An approved water container, filled from a source that complies with (A) or (B) above; or

(E) An on-premises water storage tank, filled from a source that complies with (A) or (B) above.

5-101.12 System Flushing and Disinfection.

A drinking water system shall be flushed and sampled for the presence of bacteria before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, or a water main break, that may introduce contaminants to the system.

5-101.13 Bottled Drinking Water.

Bottled drinking water used or sold in a retail food establishment shall be obtained from approved sources in accordance with 21 CFR 129, *Processing and Bottling of Bottled Drinking Water*.

5-102 Quality

5-102.11 Standards.

Water from a public water system shall meet 40 CFR 141, *National Primary Drinking Water Regulations* and R.61-58, *State Primary Drinking Water Regulations*.

5-102.12 Nondrinking Water.

(A) A nondrinking water supply shall be used only if its use is approved.

(B) Nondrinking water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, and fire protection.

5-102.13 Sampling.

Except when used as specified under 5-102.12, water from a public water system shall be sampled and tested at least annually and as required by R.61-58, *State Primary Drinking Water Regulations*.

5-102.14 Sampling Report.

The most recent sample report for the public water system shall be maintained as specified by R.61-58, *State Primary Drinking Water Regulations*.

5-103 Quantity and Availability

5-103.11 Capacity.

(A) The water source and system shall be of sufficient capacity to meet the peak water demands of the retail food establishment.

(B) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the retail food establishment. It is required that the hot water system for retail food service establishments be a dedicated hot water system, separate from other hot water fixtures and demands, such as but not limited to, motel and hotel guest rooms, showers, laundries, hot tubs, jacuzzis, manufacturing industry fixtures and equipment, and school classrooms.

5-103.12 Pressure.

Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified under 5-104.12(A) and (B) in response to a temporary interruption of a water supply need not be under pressure.

5-104 Distribution, Delivery, and Retention

5-104.11 System.

Water shall be received from the source through the use of:

(A) An approved public water main; or

(B) One or more of the following that shall be constructed, maintained and operated according to law:

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- (1) Water pumps, pipes, hoses, connections, and other appurtenances;
- (2) Water transport vehicles; or
- (3) Water containers.

5-104.12 Alternative Water Supply.

Water meeting the requirements specified under 5-101, 5-102, and 5-103 shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a retail food establishment with a temporary interruption of its water supply through:

- (A) A supply of containers of commercially bottled drinking water;
- (B) One or more closed portable water containers;
- (C) An enclosed vehicular water tank;
- (D) An on-premises water storage tank; or
- (E) Piping, tubing, or hoses connected to an adjacent approved source.

5-2 PLUMBING SYSTEM

5-201 Materials

5-201.11 Approved

(A) A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to the law.

(B) A water filter shall be made of safe materials.

5-202 Design, Construction, and Installation

5-202.11 Approved System and Cleanable Fixtures.

(A) A plumbing system shall be designed, constructed, and installed according to law.

(B) Plumbing fixtures such as handwashing sinks, toilet, or urinals shall be easily cleanable.

5-202.12 Handwashing Sink, Installation.

(A) A handwashing sink shall be equipped to provide water at a temperature of at least 100 degrees F (38 degrees C) through a mixing valve or combination faucet.

(B) A steam mixing valve may not be used at a handwashing sink.

(C) A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet.

(D) An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.

5-202.13 Backflow Prevention, Air Gap.

An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than one (1) inch or (25 mm).

5-202.14 Backflow Prevention Device, Design Standard.

A backflow prevention device installed on a water supply system shall meet construction, installation, maintenance, inspection, and testing standards specified by the public water system supplying water to the retail food establishment.

5-202.15 Conditioning Device, Design.

A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

5-203 Numbers and Capacities

5-203.11 Handwashing Sinks.

(A) Except as specified in (B) of this section, at least one (1) handwashing sink, a number of handwashing sinks necessary for their convenient use by employees in areas specified under 5-204.11, and not fewer than the number of handwashing sinks required by law shall be provided.

(B) If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing sinks in a retail food establishment that has a least one (1) handwashing sink.

5-203.12 Toilets and Urinals.

At least one (1) toilet, and not fewer than the toilets required by law, shall be provided. If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified in law.

5-203.13 Service Sink.

(A) At least one (1) service sink or one (1) curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(B) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste.

5-203.14 Backflow Prevention Device, When Required.

A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the retail food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

(A) Providing an air gap as specified under 5-202.13; or

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(B) Installing an approved backflow prevention device as specified under 5-202.14.

5-203.15 Backflow Prevention Device, Carbonator.

(A) If not provided with an approved air gap as specified under 5-202.13, a dual check valve with an intermediate vent preceded by a screen of not less than one hundred (100) mesh to one (1) inch (100 mesh to 25.4 mm) shall be installed upstream from a carbonating device and downstream from any copper in the water supply line.

(B) A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified in (A) of this section.

5-204 Location and Placement

5-204.11 Handwashing Sinks.

A handwashing sink shall be located:

(A) To allow convenient use by employees, in food preparation, food dispensing and warewashing areas; and

(B) In, or immediately adjacent to, toilet rooms.

5-204.12 Backflow Prevention Device, Location.

A backflow prevention device shall be located so that it may be serviced and maintained.

5-204.13 Conditioning Device, Location.

A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

5-205 Operation and Maintenance

5-205.11 Using a Handwashing Sink.

(A) A handwashing sink shall be maintained so that it is accessible at all times for employee use.

(B) A handwashing sink shall not be used for purposes other than handwashing.

(C) An automatic handwashing facility shall be used in accordance with manufacturer's instructions.

5-205.12 Prohibiting a Cross Connection.

(A) A person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality.

(B) The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.

5-205.13 Scheduling Inspection and Service for a Water System Device.

A device such as a water treatment device or backflow prevention device shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge.

5-205.14 Water Reservoir of Fogging Devices, Cleaning.

(A) A reservoir that is used to supply water to a device such as a produce fogger shall be:

(1) Maintained in accordance with manufacturer's specifications; and

(2) Cleaned in accordance with manufacturer's specifications or according to the procedures specified in (B) of this section, whichever is more stringent.

(B) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

(1) Draining and complete disassembly of the water and aerosol contact parts;

(2) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;

(3) Flushing the complete system with water to remove the detergent solution and particulate accumulation; and

(4) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/l hypochlorite solution.

5.205.15 System Maintained in Good Repair.

A plumbing system shall be:

(A) Repaired according to law; and

(B) Maintained in good repair.

5-3 MOBILE WATER TANK AND MOBILE FOOD ESTABLISHMENT WATER TANK

5-301 Materials

5-301.11 Approved.

Materials that are used in the construction of a mobile water tank, mobile food establishment water tank, and appurtenances shall comply with NSF 372 and shall have a weighted average lead content of 0.25 percent or less and meet either ANSI/NSF Standard 59 or 61.

5-302 Design and Construction

5-302.11 Enclosed System, Sloped to Drain.

A mobile water tank shall be:

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- (A) Enclosed from the filling inlet to the discharge outlet; and
- (B) Sloped to an outlet that allows complete drainage of the tank.

5-302.12 Inspection and Cleaning Port, Protected and Secured.

If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

- (A) Flanged upward at least one-half inch (13 mm); and
- (B) Equipped with a port cover assembly that is:
 - (1) Provided with a gasket and a device for securing the cover in place, and
 - (2) Flanged to overlap the opening and sloped to drain.

5-302.13 "V" Type Threads, Use Limitation.

A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

5-302.14 Tank Vent, Protected.

If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

- (A) Sixteen (16) mesh to one (1) inch (25.4 mm) screen or equivalent when the vent is in a protected area; or
- (B) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

5-302.15 Inlet and Outlet, Sloped to Drain.

- (A) A water tank and its inlet and outlet shall be sloped to drain.
- (B) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.

5-302.16 Hose, Construction and Identification.

A hose used for conveying drinking water from a water tank shall be:

- (A) Safe;
- (B) Durable, corrosion resistant and nonabsorbent;
- (C) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, or decomposition;
- (D) Finished with a smooth interior surface; and
- (E) Clearly and durably identified as to its use if not permanently attached.

5-303 Numbers and Capacities

5-303.11 Filter, Compressed Air.

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.

5-303.12 Protective Cover or Device.

A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet, and hose.

5-303.13 Mobile Food Establishment Tank Outlets.

A mobile food establishment water tank inlet shall be:

- (A) Nineteen point one (19.1) mm (three-fourths inch) in inner diameter or less; and
- (B) Provided with a hose connection of a size or type that will prevent its use for any other service.

5-304 Operation and Maintenance

5-304.11 System Flushing and Sanitization.

A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of non-use.

5-304.12 Using a Pump and Hoses, Backflow Prevention.

A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

5-304.13 Protecting Inlet, Outlet, and Hose Fitting.

If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified in 5-303.12.

5-304.14 Tank, Pump, and Hoses, Dedication.

(A) Except as specified in (B) of this section, a water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose.

(B) Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.

5-4 SEWAGE, OTHER LIQUID WASTE, AND RAINWATER

5-401 Mobile Holding Tank

5-401.11 Capacity and Drainage.

A sewage holding tank in a mobile food establishment shall be:

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(A) Sized 15 percent larger in capacity than the water supply tank; and

(B) Sloped to a drain that is one (1) inch (25 mm) in inner diameter or greater, equipped with a shut-off valve.

5-402 Retention, Drainage, and Delivery

5-402.10 Establishment Drainage System.

Retail food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified under 5-202.11(A).

5-402.11 Backflow Prevention.

(A) Except as specified in (B), (C), and (D) of this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.

(B) Paragraph (A) of this section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.

(C) If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five (5) feet (1.5 m) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

(D) If allowed by law, a warewashing or culinary sink may have a direct connection.

5-402.12 Grease Traps and Grease Interceptors.

If used, a grease trap shall be located to be easily accessible for cleaning.

(A) Grease Traps.

(1) When required by the sewer purveyor, grease traps shall be located outside to be easily accessible for cleaning and servicing, except when the building is the property line, a grease trap may be installed inside a retail food establishment, provided the grease trap complies as specified in (2), (3) and (4) of this section.

(2) Grease traps shall not be installed in food preparation, food storage areas, equipment and utensil washing areas, food dispensing areas, or in areas where food equipment and single-service articles are stored.

(3) Grease trap servicing hoses and pumps shall not run through food preparation, food storage areas, equipment and utensil washing areas, food dispensing areas, or in areas where food equipment and single-service articles are stored.

(4) Facilities with existing grease traps that are located in food preparation, food storage areas, equipment and utensil washing areas, or food dispensing areas, prior to the effective date of this regulation, which require inspection, servicing or maintenance, shall:

(a) Temporarily close for business and shall cease all food preparation and utensils washing activities during inspection, servicing or maintenance of the grease trap; and

(b) Immediately after inspection, servicing or maintenance, clean and sanitize the grease trap area and adjacent surfaces before re-opening for business and resuming food service activities.

(B) Grease Interceptors.

(1) When required by the sewer purveyor, grease interceptors may be installed in food preparation, food storage, equipment and utensil washing areas.

(2) Grease interceptors on the floor shall have a minimum unobstructed clearance of twenty-four (24) inches above the interceptors to allow access for servicing and maintenance, and shall have a minimum of six (6) inch spacing to walls or adjacent surfaces to allow access for cleaning around the grease interceptor.

(3) Grease interceptors fully recessed or recessed with an extension to floor level shall not have equipment placed on top of the unit and shall have a minimum unobstructed clearance of twenty-four (24) inches above the grease interceptor; except for floor-mounted equipment that is mobile or portable.

(4) Grease interceptors shall be manually serviced. Grease servicing hoses and pumps are prohibited in food preparation, food storage areas, equipment and utensil washing areas, food dispensing areas, or in areas where food equipment and single-service articles are stored.

(5) Immediately following an inspection, servicing or maintenance of a grease interceptor located inside a retail food establishment, the grease interceptor and the surrounding area shall be cleaned and sanitized.

5-402.13 Conveying Sewage.

Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

5-402.14 Removing Mobile Food Establishment Wastes.

Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created or that sewage is not discharged to the environment.

5-402.15 Flushing a Waste Retention Tank.

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

5-403 Disposal Facility

5-403.11 Approved Sewage Disposal System.

Sewage shall be disposed through an approved facility that is:

(A) A public sewage treatment plant; or

(B) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

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5-403.12 Other Liquid Wastes and Rainwater.

Condensate drainage and other nonsewage liquids and rainwater shall be drained from the point of discharge to disposal according to law.

5-5 REFUSE, RECYCLABLES, AND RETURNABLES

5-501 Facilities on the Premises

5-501.10 Indoor Storage Area.

If located within the retail food establishment a storage area for refuse, recyclables, and returnables shall meet the requirements specified under 6-101.11, 6-201.11 through 6-201.18, 6-202.15, and 6-202.16.

5-501.11 Outdoor Storage Surface.

An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

5-501.12 Outdoor Enclosure.

If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

5-501.13 Receptacles.

(A) Except as specified in (B) of this section, receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect and rodent-resistant, leakproof, and nonabsorbent.

(B) Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the retail food establishment, or within closed outside receptacles.

5-501.15 Outside Receptacles.

(A) Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the retail food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers.

(B) Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

5-501.16 Storage Areas, Rooms, and Receptacles, Capacity and Availability.

(A) An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.

(B) A receptacle shall be provided in each area of the retail food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

(C) If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

5-501.17 Toilet Room Receptacle, Covered.

A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

5-501.18 Cleaning Implements and Supplies.

(A) Except as specified in (B) of this section, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.

(B) If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

5-501.19 Storage Areas, Redeeming Machines, Receptacles and Waste Handling Units, Location.

(A) An area designated for refuse, recyclables, returnables, and, except as specified in (B) of this section, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.

(B) A redeeming machine may be located in the packaged food storage area or consumer area of a retail food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.

(C) The location of receptacles and waste handling units for refuse, recyclables, and returnables may not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

5-501.110 Storing Refuse, Recyclables, and Returnables.

Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

5-501.111 Areas, Enclosures, and Receptacles, Good Repair.

Storage areas and enclosures for refuse, recyclables or returnables shall be maintained in good repair.

5-501.112 Outside Storage Prohibitions.

(A) Except as specified in (B) of this section, refuse receptacles not meeting the requirements specified under 5-501.13(A) such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside.

(B) Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

5-501.113 Covering Receptacles.

Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered:

(A) Inside the retail food establishment if the receptacles and units:

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(1) Contain food residue and are not in continuous use; or

(2) After they are filled; and

(B) With tight-fitting lids or doors if kept outside the retail food establishment.

5-501.114 Using Drain Plugs.

Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

5-501.115 Maintaining Refuse Areas and Enclosures.

A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified under 6-501.114, and clean.

5-501.116 Cleaning Receptacles.

(A) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified under 5-402.13.

(B) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

5-502 Removal

5-502.11 Frequency.

Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

5-502.12 Receptacles or Vehicles.

Refuse, recyclables, and returnables shall be removed from the premises by way of:

(A) Portable receptacles that are constructed and maintained according to law; or

(B) A transport vehicle that is constructed, maintained, and operated according to law.

5-503 Facilities for Disposal and Recycling

5-503.11 Community or Individual Facility.

Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility, such as a landfill or incinerator, which is sized, constructed, maintained and operated according to law.

Chapter 6 Physical Facilities**6-1 MATERIALS FOR CONSTRUCTION AND REPAIR****6-101 Indoor Areas**

6-101.11 Surface Characteristics.

Materials for indoor floor, wall, and ceilings surfaces under conditions of normal use shall be:

(A) Smooth, durable, and easily cleanable for areas where retail food establishment operations are conducted:

(B) Closely woven and easily cleanable carpet for carpeted areas; and

(C) Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.

6-102 Outdoor Areas

6-102.11 Surface Characteristics.

(A) The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

(B) Exterior surfaces of buildings and mobile food establishments shall be of weather-resistant materials and shall comply with law.

(C) Outdoor storage areas for refuse, recyclables, or returnables shall be of materials specified under 5-501.11 and 5-501.12.

6-2 DESIGN, CONSTRUCTION, AND INSTALLATION**6-201 Cleanability**

6-201.11 Floors, Walls, and Ceilings.

Except as specified under 6-201.14 and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.

6-201.12 Floors, Walls, and Ceilings, Utility Lines.

(A) Utility service lines and pipes may not be unnecessarily exposed.

(B) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(C) Exposed horizontal utility service lines and pipes may not be installed on the floor.

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6-201.13 Floor and Wall Junctures, Coved and Enclosed or Sealed.

(A) In retail food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than one (1) thirty-second inch (1 mm).

(B) The floors in retail food establishments in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be coved and sealed.

6-201.14 Floor Carpeting, Restrictions and Installation.

(A) A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

(B) If carpeting is installed as a floor covering in areas other than those specified under (A) of this section, it shall be:

(1) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

(2) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

6-201.15 Floor Covering, Mats and Duckboards.

Mats and duckboards shall be designed to be removable and easily cleanable.

6-201.16 Wall and Ceiling Coverings and Coatings.

(A) Wall and ceiling covering materials shall be attached so that they are easily cleanable.

(B) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

6-201.17 Wall and Ceiling, Attachments.

(A) Except as specified in (B) of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.

(B) In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

6-201.18 Walls and Ceiling, Studs, Joists and Rafters.

Except for temporary food establishments, studs, joists, and rafters may not be exposed in areas subject to moisture.

6-202 Functionality

6-202.11 Light Bulbs, Protective Shielding.

(A) Except as specified in (B) of this section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils and linens; or unwrapped single-service and single-use articles.

(B) Shielded, coated or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:

- (1) The integrity of the packages cannot be affected by broken glass falling onto them; and
- (2) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

(C) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

6-202.12 Heating, Ventilating, Air-conditioning System Vents.

Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

6-202.13 Insect Control Devices, Design and Installation.

(A) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

(B) Insect control devices shall be installed so that:

- (1) The devices are not located over a food preparation area; and
- (2) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

6-202.14 Toilet Rooms, Enclosed.

Except where a toilet room is located outside a retail food establishment and does not open directly into the retail food establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door.

6-202.15 Outer Openings Protected.

(A) Except as specified in (B), (C), and (E) and under (D) of this section, outer openings of a retail food establishment shall be protected against the entry of insects and rodents by:

- (1) Filling or closing the holes and other gaps along floors, walls and ceiling;
- (2) Closed tight-fitting windows; and

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(3) Solid, self-closing doors.

(B) Paragraph (A) of this section does not apply if a retail food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

(C) Exterior doors used as exits need not be self-closing if they are:

(1) Solid and tight-fitting;

(2) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the retail food establishment; and

(3) Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

(D) Except as specified in (B) and (E) of this section, if the windows or doors of a retail food establishment, or of a larger structure within which a retail food establishment is located, are kept open for ventilation or other purposes or a temporary food establishment is not provided with windows and doors as specified under (A) of this section, the openings shall be protected against the entry of insects and rodents by:

(1) Sixteen (16) mesh to one (1) inch (16 mesh to 25.4 mm) screens;

(2) Properly designed and installed air curtains to control flying insects; or

(3) Other effective means.

(E) Paragraph (D) of this section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

6-202.16 Exterior Walls and Roofs, Protective Barrier.

Perimeter walls and roofs shall effectively protect the retail food establishment from the weather and the entry of insects, rodents and other animals.

6-202.18 Outdoor Servicing Areas, Overhead Protection.

Except for areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, servicing areas shall be provided with overhead protection.

6-202.19 Outdoor Walking and Driving Surfaces, Graded to Drain.

Exterior walking and driving surfaces shall be graded to drain.

6-202.110 Outdoor Refuse Areas, Curbed and Graded to Drain.

Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

6-202.111 Private Residence and Living or Sleeping Quarters, Use Prohibition.

A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting retail food establishments operations.

6-202.112 Living or Sleeping Quarters, Separation.

Living or sleeping quarters located in the premises of a retail food establishment such as those provided for lodging registration clerks or resident managers, shall be separated from rooms and areas used for a retail food establishment operations by complete partitioning and solid self-closing doors.

6-3 NUMBERS AND CAPACITIES

6-301 Handwashing Sinks

6-301.10 Minimum Number.

Handwashing sinks shall be provided as specified under 5-203.11.

6-301.11 Handwashing Cleanser, Availability.

Each handwashing sink or group of two (2) adjacent handwashing sinks shall be provided with a supply of hand cleaning, liquid, powder or bar soap.

6-301.12 Hand Drying Provision.

Each handwashing sink or group of adjacent handwashing sinks shall be provided with:

(A) Individual disposable towels; or

(B) A continuous towel system that supplies the user with a clean towel; or

(C) A heated-air hand drying device; or

(D) A hand-drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.

6-301.13 Handwashing Aids and Devices, Use Restrictions.

A sink used for food preparation or utensil washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a handwashing sink as specified under 5-501.16(C), 6-301.11 and 6-301.12.

6-301.14 Handwashing Signage.

A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing sinks used by food employees and shall be clearly visible to food employees.

6-301.15 Disposable Towels, Waste Receptacle.

A handwashing sink or group of adjacent handwashing sinks that is provided with disposable towels shall be provided with a waste receptacle as specified under 5-501.16(C).

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6-302 Toilets and Urinals

6-302.10 Minimum Number.

Toilets and urinals shall be provided as specified under 5-203.12.

6-302.11 Toilet Tissue, Availability.

A supply of toilet tissue shall be available at each toilet.

6-303 Lighting

6-303.11 Intensity.

The light intensity shall be:

(A) At least ten (10) foot-candles (108 lux) at a distance of thirty (30) inches (75cm) above the floor, in walk-in refrigeration units and dry storage areas and in other areas and rooms during periods of cleaning.

(B) At least twenty (20) foot-candles (215 lux):

(1) At a surface where food is provided for customer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;

(2) Inside equipment such as reach-in and under-counter refrigerators; and

(3) At a distance of thirty (30) inches (75cm) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and

(C) At least fifty (50) foot-candles (540 lux) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, saws where employee safety is a factor.

6-304 Ventilation

6-304.11 Mechanical.

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

6-305 Dressings Areas and Lockers

6-305.11 Designation.

(A) Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

6-306 Service Sinks

6-306.10 Availability.

A service sink or curbed cleaning facility shall be provided as specified in 5-203.13.

6-4 LOCATION AND PLACEMENT

6-401 Handwashing Sinks

6-401.10 Conveniently Located.

Handwashing sinks shall be conveniently located as specified in 5-204.11.

6-402 Toilet Rooms

6-402.11 Convenience and Accessibility.

Toilet rooms shall be conveniently located, and shall be accessible to employees during all hours of operation.

6-403 Employee Accommodations

6-403.11 Designated Areas.

(A) Areas designated for employees to eat, drink and use tobacco shall be located so that food, equipment, linens and single-service and single-use articles are protected from contamination.

(B) Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, single-service and single-use articles can not occur.

6-404 Distressed Merchandise

6-404.11 Segregation and Location.

Products that are held by the permit holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

6-405 Refuse, Recyclables, and Returnables

6-405.10 Receptacles, Waste Handling Units, and Designated Storage Areas.

Units, receptacles and areas designated for storage of refuse and recyclable and returnable containers shall be located as specified under 5-501.19.

6-5 MAINTENANCE AND OPERATION

6-501 Premises, Structures, Attachments, and Fixtures - Methods

6-501.11 Repairing.

Physical facilities shall be maintained in good repair.

6-501.12 Cleaning, Frequency and Restrictions.

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(A) Physical facilities shall be cleaned as often as necessary to keep them clean.

(B) Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of food is exposed, such as after closing.

6-501.13 Cleaning Floors, Dustless Methods.

(A) Except as specified in (B) of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

(B) Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

(1) Without the use of dust-arresting compounds; and

(2) In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

6-501.14 Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.

(A) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

(B) If vented to the outside, ventilation systems may not create a public health hazard or nuisance or unlawful discharge.

6-501.15 Cleaning Maintenance Tools, Preventing Contamination.

Food preparation sinks, handwashing sinks, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

6-501.16 Drying Mops.

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

6-501.17 Absorbent Material on Floors, Use Limitation.

Except as specified in 6-501.13(B), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

6-501.18 Cleaning of Plumbing Fixtures.

Plumbing fixtures such as handwashing sinks, toilets and urinals shall be cleaned as often as necessary to keep them clean.

6-501.19 Closing Toilet Room Doors.

Except during cleaning and maintenance operations, toilet room doors as specified under 6-202.14 shall be kept closed.

6-501.110 Using Dressing Rooms and Lockers.

(A) Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.

(B) Lockers or other suitable facilities shall be used for the orderly storage of employees clothing and other possessions.

6-501.111 Controlling Pests.

The premises shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:

(A) Routinely inspecting incoming shipments of food and supplies;

(B) Routinely inspecting the premises for evidence of pests;

(C) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under 7-202.12, 7-206.12, and 7-206.13; and

(D) Eliminating harborage conditions.

6-501.112 Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests.

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

6-501.113 Storing Maintenance Tools.

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

(A) Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and

(B) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

6-501.114 Maintaining Premises, Unnecessary Items and Litter.

The premises shall be free of:

(A) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and

(B) Litter.

6-501.115 Prohibiting Animals.

(A) Except as specified in (B) and (C) of this section, live animals may not be allowed on the premises of a retail food establishment.

(B) Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles can not result:

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(1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(2) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(3) In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals as defined by the *Americans with Disabilities Act* that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;

(4) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:

(a) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas,

(b) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present, and

(c) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and

(5) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.

(C) Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result.

Chapter 7 Poisonous or Toxic Materials

7-1 LABELING AND IDENTIFICATION

7-101 Original Containers

7-101.11 Identifying Information, Prominence.

Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

7-102 Working Containers

7-102.11 Common Name.

Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

7-2 OPERATIONAL SUPPLIES AND APPLICATION

7-201 Storage

7-201.11 Separation.

Poisonous or toxic materials shall be stored so that they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(A) Separating the poisonous or toxic materials by spacing or partitioning; and

(B) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service and single-use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens and single-service and single-use articles.

7-202 Presence and Use

7-202.11 Restriction.

(A) Only those *poisonous* or toxic materials that are required for operation and maintenance of the retail food establishment such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a retail food establishment.

(B) This requirement does not apply to packaged poisonous or toxic materials and medicines that are offered for retail sale.

7-202.12 Conditions of Use.

Poisonous or toxic materials, shall be:

(A) Used according to

(1) Law and this regulation, and

(2) Manufacturer’s use directions included in labeling, and, for a pesticide, manufacturer’s label instructions that state that use is allowed in a retail food establishment.

(B) Applied so that:

(1) A hazard to employees or other persons is not constituted, and

(2) Contamination including toxic residues due to drip, drain, fog, splash, or spray on food, equipment, utensils, linens, and single-service and single use articles is prevented by and for a restricted use pesticide; this is achieved by:

(a) Removing the items,

(b) Covering the items with impermeable covers, or

(c) Taking other appropriate preventive actions, and

(d) Cleaning and sanitizing equipment and utensils, after the application.

(C) A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC 136, *Definitions, (e) Certified Applicator, of the Federal Insecticide, Fungicide, and Rodenticide Act*, or a person under the direct supervision of a certified applicator.

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7-203 Container Prohibitions

7-203.11 Chemical, Poisonous or Toxic Material Containers.

A container previously used to store chemicals including poisonous or toxic materials may not be used to store, transport, or dispense food.

7-204 Chemicals

7-204.11 Sanitizers, Criteria.

Chemical sanitizers, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to food-contact surfaces shall:

(A) Meet the requirements specified in 40 CFR 180.940, *Tolerance Exemptions For Active And Inert Ingredients For Use In Antimicrobial Formulations (Food-Contact Surface Sanitizing Solutions)*, or

(B) Meet the requirements as specified in 40 CFR 180.2020, *Pesticide Chemicals Not Requiring A Tolerance Or Exemption From Tolerance-Non-Food Determinations*.

7.204.12 Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables.

(A) Chemicals, including those generated on-site, used to wash or peel raw, whole fruits and vegetables shall:

(1) Be an approved food additive listed for this intended use in 21 CFR 173, or

(2) Be generally recognized as safe (GRAS) for this intended use, or

(3) Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification), and

(4) Meet the requirements in 40 CFR 156 *Labeling Requirements for Pesticide and Devices*.

(B) Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a retail food establishment shall meet the requirements specified in 21 CFR 173.368, *Ozone*.

7-204.13 Boiler Water Additives, Criteria.

Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR 173.310, *Boiler Water Additives*.

7-204.14 Drying Agents Criteria,

Drying agents used in conjunction with sanitization shall:

(A) Contain only components that are listed as one of the following:

(1) Generally recognized as safe for use in food as specified in 21 CFR 182, *Substances Generally Recognized as Safe*, or 21 CFR 184, *Direct Food Substances Affirmed as Generally Recognized as Safe*,

(2) Generally recognized as safe for the intended use as specified in 21 CFR 186, *Indirect Food Substances Affirmed as Generally Recognized as Safe*,

(3) Generally recognized as safe for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to food as described in 21 CFR 170.30, *Eligibility for classification as generally recognized as safe (GRAS)*,

(4) Subject of an effective *Food Contact Notification* as described in the *Federal Food Drug and Cosmetic Act (FFDCA)* Section 409(h),

(5) Approved for use as a drying agent under a prior sanction as described in the *Federal Food Drug and Cosmetic Act (FFDCA)* 201(s)(4);

(6) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 174 through 178, or

(7) Approved for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39, *Threshold Of Regulation For Substances Used In Food-Contact Articles*; and

(B) When sanitization is with chemicals, the approval required under (A)(5) or (A)(7) of this section or the regulation as an indirect food additive required under (A)(6) of this section, shall be specifically for use with chemical sanitizing solutions.

7-205 Lubricants

7-205.11 Incidental Food Contact, Criteria.

Lubricants shall meet the requirements specified in 21 CFR 178.3570, *Lubricants With Incidental Food Contact*, if they are used on food contact surfaces, on bearings and gears located on or within food contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food contact surfaces.

7-206 Pesticides

7-206.11 Restricted Use Pesticides, Criteria.

Restricted use pesticides specified in 7-202.12.C shall meet the requirements specified in 40 CFR 152, Subpart I, *Classification of Pesticides*.

7-206.12 Rodent Bait Stations.

Rodent bait shall be contained in a covered, tamper-resistant bait station.

7-206.13 Tracking Powders, Pest Control and Monitoring.

(A) Except as specified in (B) of this section, a tracking powder may not be used in retail food establishment.

(B) If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single service and single-use articles.

7-207 Medicines

7-207.11 Restriction and Storage.

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(A) Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees shall be allowed in a retail food establishment.

(B) Medicines that are in a retail food establishment for the employees' use shall be labeled as specified under 7-101.11 and located to prevent the contamination of food, equipment, utensils, linens, and single service and single-use articles.

7-207.12 Refrigerated Medicines, Storage.

Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be:

(A) Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; and

(B) Located so they are inaccessible to children.

7-208 First Aid Supplies

7-208.11 Storage.

First aid supplies that are in a retail food establishment for the employees' use shall be:

(A) Labeled as specified under 7-101.11.

(B) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, linens and single service and single-use articles.

7-209 Other Personal Care Items

7-209.11 Storage.

Except as specified under 7-207.12 and 7-208.11, employees shall store their personal care items in facilities as specified under 6-305.11(B).

7-3 STOCK AND RETAIL SALE

7-301 Storage and Display

7-301.11 Separation.

Poisonous or toxic materials shall be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(A) Separating the poisonous or toxic materials by spacing or partitioning; and

(B) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.

Chapter 8 Compliance and Enforcement

8-1 REGULATION APPLICABILITY

8-101 Use for Intended Purpose

8-101.10 Public Health Protection.

Retail food establishments in operation prior to the effective date of this regulation and in compliance with the previous regulation, but which do not fully comply with all the construction, equipment, and physical requirements of this regulation, shall be deemed acceptable provided the facilities and equipment:

- (A) Are capable of being maintained in a sanitary condition; and
- (B) Are not a public health hazard or nuisance; and
- (C) Are replaced in the normal course of operation with equipment and facilities that meet the requirements of this regulation.
- (D) This section shall not apply to equipment installed or construction begun after the effective date of this regulation.

8-102 Additional Requirements

8-102.10 Preventing Health Hazards, Provision for Conditions Not Addressed.

(A) If necessary to protect against public health hazards or nuisances, the Department may impose specific requirements that are authorized by law in addition to the requirements contained in this regulation.

(B) The Department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the permit applicant or permit holder and a copy shall be maintained in the Department file for the retail food establishment.

8-103 Variances

8-103.10 Modifications and Waivers.

(A) The Department may grant a variance by modifying or waiving the requirements of this regulation if, in the opinion of the Department, a health hazard or nuisance will not result from the variance. If a variance is granted, the Department shall retain the information specified under 8-103.11 in its records for the retail food establishment.

(B) When a retail food establishment desires to use a construction procedure inconsistent with the regulation or use materials and/or equipment other than specified in this regulation, a variance may be requested from the Department. Such a request must:

- (1) Be submitted in writing, and
 - (2) Include a description of the material(s), equipment, and/or construction procedure(s) proposed,
- and

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(3) Identify the material, equipment and/or procedure required by the regulation, and include proof of equivalency.

(C) The Department shall only consider a complete request for approval of a variance. The Department's decision on such a variance will be final.

8-103.11 Documentation of Proposed Variance and Justification.

Before a variance from a requirement of this regulation is approved, the information provided by the retail food establishment requesting the variance and retained in the Department's file shall include:

(A) A statement of the proposed variance of this regulation requirement citing relevant regulation section(s);

(B) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant regulation sections will be alternatively addressed by the proposal; and

(C) A HACCP plan if required as specified under 8-201.13(A) that includes the information specified under 8-201.14 as it is relevant to the variance requested.

8-103.12 Conformance with Approved Procedures.

If the Department grants a variance as specified in 8-103.10, or a HACCP plan is otherwise required as specified under 8-201.13, the permit holder shall:

(A) Comply with the HACCP plan and procedures that are submitted as specified under 8-201.14 and approved as a basis for the modification or waiver; and

(B) Maintain and provide to the Department, upon request, records specified under 8-201.14(D) and (E) that demonstrate that the following are routinely employed:

- (1) Procedures for monitoring the critical control points,
- (2) Monitoring of the critical control points,
- (3) Verification of the effectiveness of the operation or process, and
- (4) Necessary corrective actions if there is failure at a critical control point.

8-2 PLAN SUBMISSION AND APPROVAL

8-201 Operating Plans

8-201.13 When a HACCP Plan is Required.

(A) Before engaging in an activity that requires a HACCP plan, a permit applicant or permit holder shall submit to the Department for approval a properly prepared HACCP plan as specified under 8-201.14 and the relevant provisions of this regulation if:

- (1) Submission of a HACCP plan is required by a section of this regulation;
- (2) A variance is required as specified under 3-401.11(D)(4) and 3-502.11;

(3) The Department determines that a food preparation or processing method requires a variance based on a plan submittal, an inspectional finding, or a variance request.

(B) Before engaging in reduced oxygen packaging without a variance as specified under 3-502.12, a permit applicant or permit holder shall submit a properly prepared HACCP.

8-201.14 Contents of a HACCP Plan.

For a retail food establishment that is required under 8-201.13 to have a HACCP plan, the plan and specifications shall indicate all of the following:

(A) A categorization of the types of time/temperature control for safety foods that are specified in the menu, such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the Department;

(B) A flow diagram by specific food or category type identifying critical control points and providing information on the following:

(1) Ingredients, materials, and equipment used in the preparation of that food, and

(2) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

(C) Food employee and supervisory training plan that addresses the food safety issues of concern;

(D) A statement of standard operating procedures for the plan under consideration including clearly identifying:

(1) Each critical control point,

(2) The critical limits for each critical control point,

(3) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge,

(4) The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control point,

(5) Action to be taken by the person in charge if the critical limits for each critical control point are not met, and

(6) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

(E) Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal.

8-203 Construction Inspection and Approval

8-203.10 Preoperational Inspections.

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The Department shall conduct preoperational inspection(s) to verify that the retail food establishment is constructed and equipped in accordance with this regulation. The permit holder or representative of the permit holder must request the preoperational inspection fourteen (14) days prior to an inspection to issue a permit.

8-3 PERMIT TO OPERATE

8-301 Requirement

8-301.11 Prerequisite for Operation.

(A) No person shall operate a retail food establishment without a valid permit issued by the Department.

(B) Only a person who complies with the requirements of this regulation shall be entitled to, receive and retain such a permit.

(C) The permit shall be kept in the retail food establishment and shall be accessible at all times.

8-301.12 Retail Food Establishment Permits Not Required.

(A) The following establishments shall not be required to have a permit from the Department:

(1) Churches or charitable organizations where the food service is limited to members and their invited guests.

(2) Churches or charitable organizations who prepare and serve food to the public on their own premises at one function a month or not more than twelve functions a year.

(3) Food service such as soup kitchens and food banks operated by organizations that are providing food at no cost and not for profit or gain to the public who are in need of food assistance.

(4) A bed and breakfast with 10 or fewer rental rooms and a residential kitchen that provides food service.

(5) Retail food establishments or facilities located on United States Government property and regulated by federal authorities.

(6) Retail food establishments or facilities operated by the United States Government.

(7) Retail food establishments or facilities serving solely as commissaries for interstate carriers.

(8) Retail food establishments or facilities on vehicles or common carriers for hire such as airplanes, trains (including maintenance crew cook cars), ships, and other similar conveyances.

(9) Retail food establishments or facilities governed by other regulations when such regulations are determined by the Department to be satisfactory.

(10) Food from retail food establishments outside the jurisdiction of the Department or the State of South Carolina, which is sold within the State of South Carolina if such retail food establishments conform to the provisions of this regulation or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the Department may accept reports from responsible authorities in other jurisdictions where such retail food establishments are located.

(11) Bake sales operated by churches or charitable organizations where homemade cakes, breads and cookies may be offered for sale only if they are not time/temperature control for safety foods.

(12) Home Based Food Production Operations, which prepare non-time/temperature control for safety foods such as homemade cakes, breads, cookies and candy in a private residence kitchen for sale directly to the end consumer.

(13) Boarding houses, which provide room and board, and which restrict food service to residents only, and do not provide food service to the non-renting public.

(14) Hunt lodges and outdoor-adventure tours that provide room and board as part of a package, and food service is restricted to participants only.

(15) Motels and hotels that prepare non-time/temperature control for safety foods breakfast foods or serve pre-packaged food.

(16) Taverns that are primarily engaged in the sale of alcoholic beverages and do not engage in the preparation of food.

(17) Cooking Schools or classes where registered students are active participants in preparing the food and are the exclusive consumers of the foods prepared.

(18) Personal chefs that are employed to cook for the owner and occupants of a private residence and their guests. A personal chef may purchase the food and shall prepare, cook and serve the food at the private residence only.

(19) Businesses that serve the following non-time/temperature control for safety foods that use the following considered to have low risk food processes, such as, but not limited to:

- (a) Popcorn, cotton candy, candy apples;
- (b) Sno-cones or shaved ice;
- (c) Soft drinks or beverages;
- (d) Nachos served with heated cheese product;
- (e) Commercially dehydrated pre-packaged pork skins; and
- (f) Pre-formed or prepared pretzels that require baking or warming only.

(20) Businesses that serve the following low risk food processes of time/temperature control for safety foods.

(a) Coffee or coffee based beverages served with pasteurized milk or cream, prepared and served either heated or cold.

(b) Beverages individually prepared upon consumer's request from a commercially pre-packaged powered mix, prepared without the use of a blender, with no additional ingredients, and served in a single service cup;

(c) Commercially pre-packaged, pre-cut frozen french fries;

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- (d) Salt boiled peanuts;
- (e) Boiled or grilled corn; or
- (f) Snow cones or shaved ice served with pasteurized cold milk or cream from a non-reusable container.

(21) For the purpose of this provision, the low risk food processes of time/temperature control for safety foods shall not include meat, poultry, fish or game animals.

(22) Vending machines, convenience stores or other businesses that offer for sale only pre-packaged food from a food processing plant.

(B) The Department may require a facility to submit information sufficient to determine if the facility is exempt from the permit requirement or must apply for and obtain a retail food establishment permit. This information may include, but is not limited to, designation of charitable status, leases or proof of ownership, equipment specifications, menus, ingredient lists, food packaging, and food preparation methods.

8-302 Application Procedure

8-302.11 Submission Thirty (30) Calendar Days Before Proposed Opening.

An applicant shall submit a complete application for a permit at least 30 calendar days before the date planned for opening a retail food establishment except as specified in 8-303.20 (A)(1)(a).

8-302.12 Form of Submission.

A person desiring to operate a retail food establishment shall submit to the Department a written application for a permit on a form provided by the Department.

8-302.13 Qualifications and Responsibilities of Applicants.

To qualify for a permit, an applicant shall:

(A) Be an owner of the proposed retail food establishment or an officer of the legal entity owning the proposed retail food establishment;

(B) Comply with the requirements of this regulation;

(C) As specified under 8-402.11, agree to allow access to the retail food establishment and to provide required information; and

(D) Pay the applicable inspection fees at the time the application is submitted.

8-302.14 Contents of the Application.

(A) The following application documentation shall be submitted as part of the application process:

- (1) A complete retail food establishment application and any applicable supplement form(s);
- (2) Menu or list of foods to be served;
- (3) Anticipated volume of food to be stored, prepared, and sold or served;

- (4) Approval of variances;
- (5) Verification of approved drinking water supply;
- (6) Verification of approved method of sewage disposal;

(7) Documentation that the construction of this facility meets the standards set forth in this regulation and all other applicable regulations and codes;

(8) For new facilities, based on facility type, proposed layout, mechanical schematics, construction materials and finish schedules to comply with the applicable sections of the regulation;

(9) For new facilities, based on facility type, proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications to comply with the applicable sections of the regulation;

(10) Documentation of completed training if required.

(B) Only when an application has been submitted, is considered complete and the applicable inspection fee has been paid, may the applicant request a preoperational inspection for the proposed retail food establishment.

(C) If at any time during the preoperational inspection the information provided during the application process changes or is altered; the Department may require a new application to be submitted.

(D) The Department shall not issue a permit until the facility is in full compliance with the requirements of this regulation.

(E) The Department may deny a new permit based on past compliance or enforcement history.

8-303 Issuance

8-303.10 New, Converted, or Remodeled Establishments.

The Department shall issue a permit to the applicant only after the following are submitted or completed:

- (A) A properly completed application;
- (B) Documentation that the construction of this facility meets the standards set forth in this regulation and all other applicable regulations and codes; and

(C) A preoperational inspection as specified in 8-203.10 shows that the establishment is built or remodeled in accordance this regulation.

8-303.20 Existing Establishments and Change of Ownership.

(A) Routine Change of Ownership.

(1) When a retail food establishment is in the process of changing ownership, the Department shall be notified immediately.

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(a) The new owner shall have fifteen (15) calendar days from the date of the change of ownership to submit a complete application for a new permit as required in 8-302.12 and pay all applicable Department fees.

(b) If the new owner does not submit a complete application and pay applicable fees within the fifteen (15) calendar day period, the retail food establishment will be deemed operating without a permit and shall cease and close all food operations.

(2) The Department shall review the application for a change of ownership, and

(a) If the Department determines, pursuant to 8-304.11, the new owner is making changes to the existing permit operations, the change of ownership protocol shall not apply; and

(b) The retail food establishment shall then be subject to all requirements of 8-302.12; and

(c) The facility may be required to close while changes to the facility are evaluated for compliance with the requirements of the regulation.

(3) A permit shall not be issued to a retail food establishment for a change of ownership if:

(a) The retail food establishment has conditions that constitute an imminent health hazard, or

(b) Has any priority or priority foundation violations, or

(c) Has a score of 87 or below.

(4) Within ninety (90) calendar days of the permitted change of ownership, the retail food establishment shall be in full compliance with 5-103.11, 5-203.11, 5-203.13 and 5-204.12 of this regulation.

(a) Failure to comply with this requirement will result in permit suspension; and

(b) The permit will then remain suspended until the retail food establishment obtains full compliance with all parts of this regulation.

(B) Change of Ownership in Facilities under Enforcement Action.

(1) Retail food establishments under enforcement action are not eligible for a change of ownership protocol as stated in section (A) above.

(2) A person who wants to take ownership of a retail food establishment under enforcement action shall apply for a new permit and shall provide documentation that demonstrates a bona fide change of ownership. This documentation includes, but is not limited to, a bill of sale for the business, a new lease or bill of sale for the building, a new business or liquor license, or applications for these licenses in the new owner's name, and documentation of management and staffing changes the new owner proposes.

(3) If the Department determines that the change of ownership is bona fide, the Department shall notify the new owner in writing that the retail food establishment is subject to a pending enforcement action and that any and all actions necessary to satisfy the enforcement action must be completed before the Department will issue a permit to the new applicant.

(4) If the Department determines that the change of ownership is not bona fide, the Department shall return the permit application and the inspection fee to the applicant and shall notify the applicant in writing that the retail food establishment is subject to a pending enforcement action and that any and all

actions necessary to satisfy the enforcement action must be completed before the Department will process an application for a new permit.

8-303.30 Denial of Application for Permit, Notice.

If an application for a permit to operate is denied, the Department shall provide the applicant with a notice that includes:

- (A) The specific reasons and regulation citations for the permit denial;
- (B) The actions, if any, that the applicant must take to qualify for a permit.

8-304 Conditions of Retention

8-304.10 Responsibilities of the Department.

(A) At the time a permit is first issued, the permit holder shall demonstrate access to a copy of this regulation is available and that the permit holder is knowledgeable of the compliance requirements and the conditions of retention, as specified under 8-304.11, that are applicable to the permit.

(B) Failure to provide the information specified in (A) of this section does not prevent the Department from taking authorized action or seeking remedies if the permit holder fails to comply with this regulation or an order, warning, or directive of the Department.

8-304.11 Requirement to Comply with Regulation and Conditions of Permit.

(A) Once a permit has been issued by the Department, the permit holder, in order to retain the permit, shall:

- (1) Comply with the provisions of this regulation and all terms and conditions stated on the permit document;
- (2) As specified under 8-402.11, agree to allow the Department access to the retail food establishment and to provide required information; and
- (3) Meet the requirements of statutes or regulations requiring fees for retail food establishment permits or inspections. Failure to meet such requirements will result in initial permits not being issued or existing permits being suspended.
- (4) Maintain a copy of this regulation in the retail food establishment. Copies may be obtained from the Department or viewed on the Department website.

(B) The Department shall be notified prior to any retail food establishment changes including, but not limited to, the following items:

- (1) Location;
- (2) Service or seating capacity;
- (3) Drinking water or sewage disposal provider;
- (4) Change of hot water generation and distribution system(s);

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- (5) Change of ownership;
- (6) Permanent closure;
- (7) Installation of equipment and/or structural modifications.

(C) The Department also shall be notified prior to adding a food item to the menu that:

(1) Involves a food preparation process, which may consist of cooking, cooling or reheating food, which was not performed in the retail food establishment; or

(2) Poses a health risk to consumers because it is a raw animal food served raw or undercooked.

(D) Once the Department is notified or becomes aware of changes under (A) and (B) of this section, the Department may amend the permit and may require additional changes as required by this regulation.

(E) Any change under (A) and (B) of this section, not previously approved or authorized by the Department, may subject the retail food establishment to enforcement action, including, but not limited to, civil penalties, permit suspension, permit revocation, or a combination of these.

8-304.20 Permits Not Transferable.

A permit may not be transferred:

(A) From one person or legal entity to another person or legal entity,

(B) From one retail food establishment to another, or

(C) From one type of operation to another if the food operation changes from the type of operation specified in the application and the change in operation is not approved or authorized.

8-4 INSPECTION AND CORRECTION OF VIOLATIONS

8-402 Access

8-402.11 Access.

(A) The Department staff, after proper identification, shall be allowed to enter any retail food establishment at any time the establishment is occupied for the purpose of making an announced, unannounced or complaint inspection(s) to determine compliance with this regulation.

(B) The Department staff shall be allowed to examine all areas of the facility and all records of the retail food establishment to obtain information pertaining to equipment, food or supplies purchased, received, or used.

8-402.20 Refusal, Notification of Right to Access, and Final Request for Access.

If a person denies access to the Department, the Department shall inform the person that:

(A) The permit holder is required to allow access by Department as specified under 8-402.11 of this regulation,

(B) Access is a condition of the acceptance and retention of a retail food establishment permit to operate as specified under 8-304.11 and

(C) If access is denied, the Department may issue an order for access pursuant to 8-402.11 or pursue access as allowed by other applicable laws.

8-402.30 Refusal, Reporting.

If after the Department presents credentials as specified under 8-402.11, explains the authority upon which access is required, and the person in charge continues to refuse access, the Department shall provide details of the denial of access on an inspection report form.

8-402.40 Order to Gain Access.

If denied access to a retail food establishment for an authorized purpose and after an order has been issued by the Department pursuant to 8-402.20 (C), the Department may initiate enforcement action under 8-904.110 (B)(4) or other applicable laws.

8-403 Report of Findings

8-403.10 Documenting Information and Observations.

(A) The findings shall be recorded on the inspection report, and upon completion of the inspection, the weighted sum of the items in violation shall be totaled and subtracted from one hundred (100) to determine the numerical score.

(B) The Department may use whatever means necessary to record violations, including, but not limited to, electronic inspection programs, manual inspection forms, photographs, video, and printed materials.

(C) Grades of permitted retail food establishments shall be as follows:

(1) Grade A. - A permitted retail food establishment having a rating score of eighty-eight to one hundred (88-100) points.

(2) Grade B. - A permitted retail food establishment having a rating score of seventy eight to eighty seven (78-87) points.

(3) Grade C. - A permitted retail food establishment having a rating score of seventy-seven (77) or less points.

(D) Immediately following each inspection, the Department shall post the appropriate grade decal in the retail food establishment, and shall furnish a copy of the completed inspection report to the permit holder, person in charge, or an employee of the retail food establishment.

(E) A grade decal shall be posted by the Department in a location that is conspicuous to consumers.

(F) Notwithstanding the grade criteria established in (C) of this section, when a consecutive violation is discovered, the Department may:

(1) Schedule appropriate follow-up inspections as specified in 8-405.11; or

(2) Downgrade the retail food establishment to the next lower grade; or

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(3) Suspend the permit.

(G) Notwithstanding the grade criteria established in (C) of this section, there are circumstances and conditions under which the grade decal posted may differ from the numerical score of the inspection report:

(1) When the retail food establishment is under enforcement action; or

(2) When the retail food establishment has a consecutive violation(s).

(3) When, in accordance with S.C. Code Ann. Section 1-23-370 (Revised 2005), the retail food establishment is under the following pending enforcement actions,

(a) Imminent health hazard,

(b) Permit suspension, or

(c) Permit revocation.

(H) The permit holder or operator of any retail food establishment in which the grade has been lowered may request an inspection for the purpose of re-grading the retail food establishment. The request shall include a signed statement by the permit holder, person in charge or employee that all violations have been corrected. The Department shall respond to the request within ten (10) calendar days.

8-403.20 Specifying Time Frame for Corrections.

The Department shall specify on the inspection report form the time frame for correction of the violations as specified under 8-404.11 and 8-405.11.

8-403.30 Issuing Report and Obtaining Acknowledgment of Receipt.

A copy of the completed inspection report form shall be furnished to the permit holder, person in charge or an employee, at the conclusion of the inspection. The report may be furnished in either electronic or printed form.

8-403.40 Refusal to Sign Acknowledgement.

The Department shall inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified in 8-403.30 that:

(A) An acknowledgment of receipt is not an agreement with findings;

(B) Refusal to sign an acknowledgment of receipt will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified; and

(C) Refusal to sign an acknowledgment of receipt is noted in the inspection report and maintained in the Department's record for the retail food establishment.

8-403.50 Public Information.

The Department shall treat inspection reports as public documents and shall make them available for disclosure to persons upon request as provided in law.

8-404 Imminent Health Hazard

8-404.11 Imminent Health Hazard.

(A) The Department, without prior notice or hearing, may suspend the permit to operate a retail food establishment when it is determined that the operation of the retail food establishment constitutes an imminent health hazard to public health except as specified under (E) of this section.

(B) Following permit suspension due to an imminent health hazard, all food service operations shall immediately cease.

(C) The Department shall promptly notify, in writing, the permit holder, person in charge or an employee, of the specific reasons for which the permit was suspended.

(D) A retail food establishment may voluntarily close prior to the Department declaring an imminent health hazard but shall remain closed until authorized by the Department to resume operations.

(E) A permit holder may continue operations in areas of the establishment that are unaffected by the imminent health hazard.

8-404.12 Resumption of Operations.

(A) If operations are discontinued as specified under 8-404.11 or otherwise according to law, the permit holder shall obtain approval from the Department before resuming operation.

(B) Notwithstanding 8-904.20, a permit suspended for an imminent health hazard shall remain suspended until the imminent health hazard has been corrected.

8-405 Correction of Violations

8-405.11 Correction of Violations.

(A) The completed inspection report form shall specify a period of time for the correction of the violations found. Implementation of corrective action of all violations shall be within the following specified time periods:

(1) All priority and priority foundation violations shall be corrected immediately. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may schedule a follow-up inspection not to exceed ten (10) calendar days.

(2) When the rating score of the retail food establishment is in the Grade A or B range, all core violations that are operational shall be corrected as soon as possible. Verification of correction will be made at the time of the next routine inspection or earlier if deemed necessary by the Department.

(3) Except as specified in (4) of this section, all consecutive core violations shall be corrected as soon as possible. A follow-up inspection shall be conducted to confirm correction within ten (10) calendar days.

(4) All core violations that are structural shall be corrected by the next routine inspection; however, additional time, not to exceed twelve (12) months, may be granted when such allowances present no public health hazard and the permit holder provides a written schedule for compliance.

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(B) When a retail food establishment's routine inspection score is in the Grade C range or lower (less than 78 points) a subsequent routine inspection must be performed within sixty (60) calendar days of that C grade or lower inspection.

(C) Other than occurrences where a third consecutive inspection is rated below seventy (70) as described in 8-904.110 (C), when the rating score of the retail food establishment is less than seventy (70):

(1) The retail food establishment shall be downgraded to a grade C.

(2) Immediate corrective action on all identified priority and priority foundation violations and core violations shall be initiated.

(a) If priority and priority foundation violations cannot be corrected immediately the retail food establishment will be given the opportunity to cease all operations and close the facility voluntarily.

(b) If the retail food establishment refuses to cease operations voluntarily, the Department shall declare an imminent health hazard under 8-404.10.

(3) Once a retail food establishment is closed, the retail food establishment will be allowed to reopen when all priority and priority foundation violations are corrected, as determined by the Department.

(4) A follow-up inspection shall be conducted within seventy-two (72) hours and as often as necessary to assure correction. If the retail food establishment fails to score seventy (70) or above on the follow-up inspection, action to suspend the permit shall be initiated.

8-5 PREVENTION OF FOODBORNE DISEASE TRANSMISSION BY EMPLOYEES

8-501 Investigation and Control

8-501.10 Obtaining Information: Personal History of Illness, Medical Examination, and Specimen Analysis.

The Department shall act when it has reasonable cause to believe that a food employee or conditional employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:

(A) Securing a confidential medical history of the food employee or conditional employee suspected of transmitting disease or making other investigations as deemed appropriate; and/or

(B) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected food employee or conditional employee.

8-501.20 Restriction or Exclusion of Food Employee, or Summary Suspension of Permit.

Based on the findings of an investigation related to a food employee or conditional employee who is suspected of being infected or diseased, the Department may issue an order to the suspected food employee, conditional employee or permit holder instituting one or more of the following control measures:

(A) Restricting the food employee or conditional employee;

(B) Excluding the food employee or conditional employee; or

(C) Closing the retail food establishment by summarily suspending a permit to operate in accordance with law.

8-501.30 Restriction or Exclusion Order: Prior Warning or Hearing Not Required, Information Required in Order.

Based on the findings of the investigation as specified in 8-501.10 and to control disease transmission, the Department may issue an order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, notice of a hearing, or a hearing if the order:

(A) States the reasons for the restriction or exclusion that is ordered;

(B) States the evidence that the food employee or permit holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;

(C) States that the suspected food employee or the permit holder may request a hearing as provided in law; and

8-501.40 Removal of Exclusions and Restrictions.

A food employee, or conditional employee shall be released from restriction or exclusion when the employee or conditional employee no longer poses a threat to the public health.

8-6 CONSTITUTIONAL PROTECTION

8-602 Judicial Review

8-602.10 Rights of Recipients of Orders or Decisions.

A recipient of a Department decision or order may appeal the decision or order in accordance with applicable law.

8-7 AUTHORITY

8-701 Legal Authority

8-701.10 Adoption of Regulations and Enforcement.

(A) This regulation is issued under the authority of S.C. Code Of Laws, Section 44-1-140 (Revised 2002), and shall be enforced by the Department.

(B) Should any chapter, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

8-701.11 Implementation of Regulations.

(A) The cold holding temperature of 41degrees F (5 degrees C) or below and the hot holding temperature of 135 degrees F (57 degrees C) or above shall not be effective until two (2) years after the effective date of this regulation. During this two (2) year period, the cold holding temperature shall be 45 degrees F (7 degrees C) or below and the hot holding temperature shall be 130 degrees F (54 degrees C.).

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(B) Date marking as specified in 3-501.17, shall not be effective until two (2) years after the effective date of this regulation.

(C) All retail food establishments with a permit on the effective date of this regulation shall have two (2) years to comply with the requirements of section 2-102.11, *Demonstration* and 2-102.20, *Food Protection Manager Certification*.

8-701.20 Enforcement.

Any facility found to be in violation of this regulation, in non-compliance with the requirements of this regulation, or in violation of an order issued by the Department shall be subject to civil penalties, permit suspension and/or revocation pursuant to S.C. Code Ann. Section 44-1-150 (Supp. 2012) and this regulation.

8-9 REMEDIES

8-903 Holding, Examination and Destruction of Food

8-903.10 Hold Orders, Justifying Conditions and Removal of Food.

(A) The Department may place a hold order on a food which is believed to be in violation of this regulation that:

- (1) Originated from an unapproved source;
- (2) May be unsafe, adulterated, or not honestly presented;
- (3) Is not labeled according to law, or, if raw molluscan shellfish, is not tagged or labeled according to law; or
- (4) Is otherwise not in compliance with this regulation.

(B) Should the hold order be violated, action may be initiated to suspend the permit.

(C) The Department may condemn, forbid the sale of, or cause to be removed or destroyed, any food, which is determined to be in violation of this regulation, unwholesome, contaminated, adulterated, or from an unapproved source.

8-903.20 Hold Order, Prior Warning or Hearing Not Required.

The Department may issue a hold order to a permit holder or to a person who owns or controls the food, as specified in 8-903.10, without prior warning, notice of a hearing, or a hearing on the hold order.

8-903.30 Hold Order, Contents.

The hold order shall:

(A) State that food subject to the order may not be used, sold, moved from the retail food establishment, or destroyed without a written release from the Department;

(B) State the specific reasons for placing the food under the hold order with reference to the applicable provisions of this regulation and the hazard or adverse effect created by the observed condition;

(C) Completely identify the food subject to the hold order by the common name, the label information, a container description, the quantity, tag or identification information, and location;

(D) State that the permit holder has the right to a hearing and may request a hearing in accordance with applicable law; and

(E) State that the Department may order the destruction of the food if a timely request for a hearing is not received.

8-903.40 Hold Order, Official Tagging of Food.

(A) The Department shall securely place an official tag or label on the food or containers or otherwise conspicuously identify food subject to the hold order.

(B) The tag or other method used to identify a food that is the subject of a hold order shall be signed and dated by the Department.

8-903.51 Hold Order, Food May Not Be Used or Moved.

(A) Except as specified in (B) of this section, a food placed under a hold order may not be used, sold, served, or moved from the establishment by any person.

(B) The Department may allow the permit holder the opportunity to store the food in an area of the retail food establishment if the food is protected from subsequent deterioration and the storage does not restrict operations of the establishment.

8-903.70 Hold Order, Removing the Official Tag.

Only the Department may remove hold order tags, labels, or other identification from food subject to a hold order.

8-903.80 Destroying or Denaturing Food.

If a hold order is sustained upon appeal or if a timely request for a hearing is not filed, the Department may order the permit holder or other person who owns or has custody of the food to bring the food into compliance with this regulation or to destroy or denature the food under the Department's supervision.

8-903.90 Releasing Food from Hold Order.

The Department shall issue a notice of release from a hold order and shall remove hold tags, labels, or other identification from the food if the hold order is vacated.

8-904 Summary Permit Suspension

8-904.10 Conditions Warranting Action.

The Department may summarily suspend a permit to operate a retail food establishment if it determines through inspection, or examination of employees, food, records, or other means as specified in this regulation, that an imminent health hazard exists.

8-904.20 Summary Suspension, Warning or Hearing Not Required.

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The Department may summarily suspend a retail food establishment's permit by providing written notice of the summary suspension to the permit holder or person in charge, without prior warning, notice of a hearing, or a hearing.

8-904.30 Contents of the Notice.

A summary suspension notice shall state:

(A) That the retail food establishment permit is immediately suspended and that all food operations shall immediately cease;

(B) The reasons for summary suspension with reference to the provisions of this regulation that are in violation;

(C) The name and address of the Department representative to whom a written request for re-inspection may be made and who may certify that reasons for the suspension are eliminated; and

(D) That the permit holder may request a hearing in accordance with applicable law.

8-904.40 Time Frame for Re-inspection.

After receiving a written request from the permit holder stating that the conditions cited in the summary suspension order no longer exist, the Department shall conduct a re-inspection of the retail food establishment for which the permit was summarily suspended within five (5) business days, which means five (5) days during which the Department's office is open to the public.

8-904.50 Term of Suspension, Reinstatement of Permit.

(A) A summary suspension shall remain in effect, until the conditions cited in the notice of suspension no longer exist, and the Department through re-inspection has confirmed their elimination and other means as appropriate.

(B) The suspended permit shall be reinstated if the Department determines that the public health hazard or nuisance no longer exists. A notice of reinstatement shall be provided to the permit holder or person in charge.

8-904.110 Suspension of Permits.

(A) The Department may suspend permits for:

(1) Consecutive priority and priority foundation violations;

(2) Consecutive core violations;

(3) Below seventy (70) inspection scores;

(4) Failure to comply with the terms and conditions of the permit;

(5) Failure to notify the Department and to seek amendments to a permit as required by Section 8-304.11;

(6) Failure to provide the Department access to the retail food establishment for the purpose of conducting an inspection or investigation;

- (7) Covering, defacing, relocating or removing the posted grade decal or permit;
- (8) Violation of a hold order;
- (9) Failure to pay applicable inspection renewal fee;
- (10) As otherwise determined by the Department pursuant to 8-102.10.

(B) The Department may revoke permits for:

- (1) Recurring failure to notify the Department of facility changes or to seek amendments to the permit;
- (2) Recurring failure to comply with the Terms and Conditions of permit;
- (3) Recurring priority and priority foundation violations of the regulation;
- (4) Recurring failure to provide the Department access to the retail food establishment for the purpose of conducting an inspection or investigation; or
- (5) Three (3) routine inspections in a two (2) year period that have a rating score of below seventy (70).

(C) When a facility has a rating score of below seventy (70):

- (1) On the second routine inspection, Department staff shall be accompanied by an additional representative for verification of violations.
- (2) When this second routine inspection results in a score below seventy (70), the Department shall notify the permit holder, by letter, that if on the next routine inspection, the score is less than seventy (70), action will be initiated to revoke the permit.
- (3) On the third routine inspection, Department staff shall be accompanied by a standardization officer of the Department.

8-904.120 Notification of Permit Suspension and Permit Revocation.

Prior to permit suspension or permit revocation, the Department shall notify, in writing, the permit holder, person in charge or an employee, of the specific reasons for which the permit is to be suspended or revoked.

8-904.130 Term of Suspension, Reinstatement of Permit.

A permit suspension shall remain in effect until the conditions cited in the notice of permit suspension no longer exist and their elimination has been confirmed by the Department through re-inspection and other means as appropriate.

8-904.140 Interference with the Department.

Notwithstanding any other provisions of this regulation, the permit shall be revoked if a permit holder, person in charge, or employee engages in any of the following actions towards Department staff while performing, or as a result of performing, official duties and responsibilities:

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(A) Physical or verbal actions that constitute assault, battery, sexual or other harassment, or

(B) Interference, intimidation, threat, or attempted bribery.

8-905 Appeals

8-905.10 Appeals.

A Department decision to deny an application for a permit, deny a request for a variance, impose a penalty, suspend or revoke a permit may be appealed pursuant to applicable law.

8-905.40 Hearings and Appeals Procedures.

All appeals and hearings shall be conducted in accordance with applicable law.

8-913 Civil Penalties

8-913.10 Penalties.

Civil penalties for violations of this regulation may be imposed pursuant to S.C. Code Ann. Section 44-1-150 (Supp. 2012).

Chapter 9 Standards for Additional Retail Food Establishment Operations

9-1 MOBILE FOOD

This standard shall apply to the construction and operation of mobile food units as part of a retail food establishment.

(A) Definitions.

(1) A **mobile food establishment** consists of a commissary and mobile food unit(s) or mobile food pushcart(s).

(2) A **commissary** is a permitted retail food establishment that is authorized by the Department to provide support of operations, storage, and servicing area for mobile food units or mobile food pushcarts, and is constructed and operated in compliance with the requirements of this regulation and standard.

(3) **Mobile food units** are fully enclosed mobile kitchens that may prepare, cook or serve time/temperature control for safety foods as an extension of a retail food establishment. A mobile food unit must be permitted by the Department in order to operate from a retail food establishment.

(4) **Mobile food pushcarts** are limited food service units that operate as a direct extension of a commissary. A mobile food pushcart must be permitted by the Department in order to operate from a commissary.

(B) General.

(1) A mobile food establishment shall comply with all applicable provisions of this regulation, except as outlined in this standard.

(2) The Department may prohibit the sale of certain time/temperature control for safety foods, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(3) Mobile food units and mobile pushcarts shall return to the commissary after each day of operation and shall be stored onsite at the commissary.

(C) Employees.

(1) Food employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings should be stored in a designated place away from food preparation, food service, dry storage areas, utensil and single-service article storage, and utensil washing areas.

(D) Food.

(1) General.

(a) A mobile food establishment shall prepare, hold and serve food according to Chapter 3, *Food*.

(b) All food items shall be protected from contamination during transportation, storage, cooking, display, and service.

(c) Adequate refrigeration or coolers shall be provided. A temperature measuring device shall be provided for cold holding units.

(d) Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or it's positioning in the ice or water.

(e) Ice used as a coolant for foods shall not be used for edible ice.

(f) For the purpose of checking temperatures of food, a mobile food establishment shall have at least one temperature measuring device that meets the following requirements:

(i) Scaled 0 to 220 degrees F (-18 to 104 degrees C); and

(ii) Able to be calibrated; and

(iii) Appropriate for the food density being checked.

(g) Hot held time/temperature control for safety foods on a mobile food unit or mobile push cart shall be discarded at the end of the day at the commissary.

(h) Food(s) shall be stored, displayed and served from the mobile food unit(s) and mobile food pushcart(s) only.

(2) Mobile Food Unit.

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(a) Preparation of bulk food, including washing, slicing, peeling, and cutting shall occur at the commissary.

(b) All food, single-service articles, and other items used for the operation of the mobile food unit shall be stored at the commissary or on the mobile food unit.

(c) Doors on mobile food units shall be kept closed at all times.

(3) **Mobile Food Pushcart.**

(a) All food, single-use articles and other items used for the operation of the mobile food pushcart shall be stored at the commissary.

(b) Other than assembling food items for service, all food preparation including washing, slicing, peeling, cutting, and cooking shall occur at the commissary.

(c) Raw animal food shall not be cooked or prepared in any way on a mobile food pushcarts.

(d) Door(s) on mobile food pushcarts shall be kept closed when not in use and during transportation.

(E) Service.

(1) During operations, food shall be stored, cooked, displayed, and served from the mobile food unit and mobile food pushcart only.

(2) Customer self-service of unpackaged time/temperature control for safety food is prohibited.

(3) Mobile food units and mobile food pushcarts shall provide only single-use articles for use by the consumer.

(4) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(5) Equipment and utensils shall be adequate in number and where appropriate shall be washed, rinsed and sanitized as needed.

(6) In-use wiping cloths must be stored in a clean solution of an approved sanitizer.

(7) A test kit that accurately measures the parts per million concentration of an approved sanitizer shall be accessible and used.

(F) Construction.

(1) **Mobile food units.**

(a) Mobile food units shall have preparation and display areas completely enclosed with a solid material except as specified in (j) of this section.

(b) The serving window opening shall:

(i) Be no more than two (2) feet long by two (2) feet wide, and

(ii) Be covered with solid material or screen. Screening shall be at least sixteen (16) mesh per inch.

(iii) Be self-closing or free falling type, or covered by an approved air curtain when the serving window is open.

(c) Walls, floors and ceilings must be smooth, cleanable, durable, and nonabsorbent.

(d) Light bulbs and fluorescent tubes shall be shielded, coated or otherwise shatter-resistant and provide twenty (20) foot candles of illumination.

(e) Cooking and reheating equipment shall be installed on the unit and used in accordance with the manufacturer's instructions and must meet the provisions of this regulation. Pull behind cookers or smokers are prohibited.

(f) All mobile food unit counters, shelves and food contact surfaces shall be safe, corrosion resistant, nonabsorbent, smooth, easily cleanable, durable and free of seams and difficult to clean areas.

(g) It is not the intent for mobile food units to wash, rinse and sanitize utensils or equipment on the mobile food unit due to hot water demands. If mobile food units are designed to be self sufficient, a utensil washing sink shall:

(i) Have at least three (3) compartments large enough to accommodate two thirds of the largest utensil, and

(ii) Have adequate space for air-drying, and

(iii) Be supplied with hot & cold water under pressure, and

(iv) Be equipped with a mixing faucet that is capable of servicing all sink compartments per 4-301.12.

(h) Mechanical exhaust ventilation equipment shall be provided over all cooking equipment as required to effectively remove cooking odors, smoke, steam, grease, heat, and vapors.

(i) All mechanical exhaust ventilation equipment shall be installed and maintained in accordance to 4-301.14.

(j) Barbecue pit-cooking areas on mobile units must comply with 9-7, *Barbecue Pit And Pit-Cooking Room Construction*.

(2) Mobile food pushcarts.

(a) Mobile food pushcarts shall have preparation and display areas completely enclosed with a solid material.

(b) Food compartment(s) and food storage compartments must be adequately sized for the intended operation of the mobile food pushcart.

(c) Food compartments must be constructed from materials that are nontoxic, smooth, easily cleanable, and durable and constructed to facilitate the cleaning of the interior and exterior of the compartment.

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(d) Food storage compartments shall not contain plumbing of any kind.

(e) All mobile food pushcart counters/shelves and food contact surfaces shall be safe, corrosion resistant, nonabsorbent, smooth, easily cleanable, durable and free of seams and difficult to clean areas.

(G) Handwashing Sinks.

(1) All mobile food units and mobile food pushcarts shall have a separate handwashing sink.

(2) Soap and disposable paper towels shall be provided and adjacent to the handwashing sink.

(3) The handwashing sink shall be:

(a) Equipped with hot and cold water under pressure through a mixing valve or combination faucet. The hot water temperature shall be at least 100 degrees F (37 degrees C) as specified in 5-202.12; and

(b) Separated from food and food contact surfaces by either a splashguard or a distance of at least 12 inches; and

(c) Unobstructed and accessible to employees at all times.

(4) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(H) Water System.

(1) All mobile food units and mobile food pushcarts shall have a drinking water system, under pressure, from an approved drinking water supply system.

(2) Mobile food units and mobile food pushcarts water tanks shall comply with 5-3 of this regulation.

(3) Approved portable drinking water containers shall be stored and handled in a manner that protects the drinking water and equipment from contamination.

(4) The drinking water system tank shall be a minimum of five (5) gallons and of sufficient capacity to furnish hot and cold water for handwashing as specified in 5-202.12.

(5) If the mobile food unit is designed to be self sufficient, the hot water system shall be sufficient to meet hot water demands of at least 120 degrees F (48 degrees C) to the utensil washing sink and comply with all requirements pursuant to 5-103.11.

(I) Sewage Retention.

(1) Mobile food units and mobile food pushcarts water tanks shall comply with 5-3 of this regulation.

(2) Sewage from a mobile push cart may be stored in a removable retention tank that:

(a) Shall be fifteen (15) percent larger capacity than the drinking water supply tank;

(b) Cannot exceed ten (10) gallons (80 lbs) to be approved as portable;

(c) If sewage retention tanks are removable they shall be permanently labeled 'sewage' to eliminate any confusion;

(d) Permanently installed sewage retention tanks on mobile push carts shall meet the same requirements as specified in (1) and (2) of this section.

(3) The mobile food unit and mobile push cart sewage retention tank shall be thoroughly flushed and drained during the servicing operations only at the commissary, and shall be discharged into a sanitary sewerage disposal system or onsite sewage system approved by the Department.

(4) Flushing and draining shall be done in a manner that does not contaminate floors or any other areas in the commissary or the servicing area.

(J) Servicing Area.

The surface of the servicing area shall be constructed of a smooth material, such as concrete or asphalt, and shall be maintained in good repair, kept clean, and be properly drained.

(K) Exemptions.

(1) A mobile food pushcart operated inside fully enclosed structures such as, but not limited to, malls or sports arenas may have the requirement for full enclosure waived if in the opinion of the Department, no risk of contamination to the food exists.

(2) Mobile food pushcarts that are used to serve boiled or steamed hot dogs with precooked chili or ice cream may have the requirement for full enclosure waived if in the opinion of the Department, no risk of contamination to the food exists provided those are the only foods served from the unit.

(3) Mobile food pushcarts are exempt from the requirements for training certification in 2-102.20.

(L) Compliance.

(1) No mobile food unit or a mobile food pushcart shall operate that does not have a permit issued by the Department.

(2) Only a mobile food establishment that complies with the requirements of this regulation and this standard shall be entitled to receive and retain a permit.

(3) The permit shall be kept in the mobile food unit or mobile food pushcart and shall be accessible at all times.

(4) No retail food establishment shall operate as a commissary that does not have an authorization issued by the Department.

(5) Only a retail food establishment that complies with the requirements of this regulation and this standard shall be entitled to, receive and retain such an authorization.

(6) The permit and authorization shall be kept in a location in the commissary and shall be accessible at all times as specified in 8-301.11.

(7) Any person that proposes to operate a mobile food unit or mobile food pushcart must apply to the Department for a permit through the application process.

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(8) The following additional documentation shall be submitted as part of the application process;

(a) Drawings showing all food preparation and cooking, mechanical, electrical, and plumbing systems of the mobile food unit or mobile food pushcart;

(b) A proposed menu or list of foods that will be served from the mobile food unit or mobile food pushcart;

(c) A list of all equipment installed on the mobile food unit or mobile food pushcart;

(d) An operations plan that includes:

(i) Information about methods of cooking, if applicable, and

(ii) Hot and cold holding of food, and

(iii) The mobile food unit or mobile food pushcart operational locations and the hours of operation at those locations, and

(iv) The location of the commissary, and the cleaning and servicing operations at the commissary, and

(v) A supplemental application form completed by the permit holder for each mobile food unit or mobile food pushcart; and

(vi) Any other information requested by the Department.

(9) Once a mobile food unit or mobile food pushcart has been permitted, the Department shall be notified of any changes to the mobile food unit or mobile food pushcart, such as but not limited to operations, menu, or change in commissary in accordance with 8-304.11.

(10) The mobile food unit or mobile food pushcart shall be available for inspection at the commissary at any reasonable time when requested by the Department.

(11) If a mobile food unit or mobile food pushcart is not presented for inspection at the commissary at the appointed time, the commissary permit and mobile food unit or mobile food pushcart permit shall be suspended in accordance with 8-904.110.

(12) Each mobile food unit and mobile push cart shall have its business name, commissary permit number, commissary name and address legibly printed in three (3) inch high letters on the mobile food unit. The letters must be of a contrasting color from the color of the mobile food unit or mobile food pushcart and visible at all times.

(13) Mobile food units or mobile food pushcarts currently permitted prior to the effective date of this regulation and in compliance with the previous regulation, but which do not fully comply with all the construction, equipment, and physical requirements of this regulation, shall be deemed acceptable provided the facilities and equipment:

(a) Are capable of being maintained in a sanitary condition; and

(b) Are not a public health hazard or nuisance; and

(c) Are replaced in the normal course of operation with equipment and facilities that meet the requirements of this standard and regulation.

9-2 TRANSPORTATION AND SALE OF MEAT/MEAT PRODUCTS, SEAFOOD AND FRESHWATER FISH

This standard shall apply to the transportation and sale of meat/meat products, seafood and freshwater fish.

(A) General.

(1) Meat/meat products, seafood and freshwater fish shall be protected from contamination by use of packaging or covered containers while being transported.

(2) All food being transported shall meet the requirements and sections of this regulation relating to approved source, food supplies, food protection, food storage and sanitary control of liquid waste.

(3) Acceptable products for meat/meat products, seafood and freshwater fish sales under this standard are as follows:

(a) Prepackaged frozen meat, seafood, and freshwater fish, which are processed and packaged in an approved food processing plant and are sold by the package or case, or

(b) Fresh unprocessed freshwater fish and seafood from an approved source which are whole, or

(c) Fresh unprocessed shrimp with either the heads on or heads removed.

(B) Employees.

Meat/meat products, seafood and freshwater fish shall be delivered by persons with clean hands and wearing clean clothing.

(C) Food.

(1) All food/ice shall be obtained from approved sources.

(2) Meat/meat products, seafood and freshwater fish shall be protected from contamination when transported with other products.

(3) All food employees shall hold and display food according to all applicable sections of Chapter 3, *Food*.

(4) Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water.

(5) Whole unpackaged freshwater fish and seafood may be stored in ice made from drinking water or obtained from an approved source.

(6) Ice used as a coolant for foods shall not be used for edible ice.

(7) Vehicles transporting meat/meat products, seafood and freshwater fish shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

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- (a) Scaled 0 to 220 degrees F (-18 to 104 degrees C); and
- (b) Able to be calibrated; and
- (c) Appropriate for the food density being checked.

(8) All fresh meat/meat products, seafood and freshwater fish shall be transported so to maintain a temperature of 41 degrees F (5 degrees C) or below during the transportation period.

(D) Construction/Vehicle Maintenance.

(1) Vehicles need not be refrigerated if meat and meat products reach their destination at 41 degrees F (5 degrees C) or below.

(2) The storage portion of each vehicle shall be washed and cleaned.

9-3 OUTDOOR PET DINING

This standard shall apply to outdoor dining areas where table service of food is provided and shall not apply to customer pick up take out service with picnic type dining areas that may be provided by a retail food establishment

(A) Definition.

A **pet** is defined as domesticated cats, dogs, and ferrets.

(B) General.

(1) A retail food service establishment may allow customers to be accompanied by pets in an outdoor dining area provided the retail food service establishment complies with the requirements of this section and all other applicable sections of this regulation.

(2) Pets at retail food establishments shall also comply with the South Carolina Rabies Control Act Section 47-5-60.

(C) Employees.

Employees shall wash hands after any contact with pets, pet supplies, and pet waste.

(D) Service.

(1) All tableware used for the pets shall be restricted to single-service or single-use articles.

(2) Tables and chairs located in the outdoor pet dining area shall be easily cleanable.

(3) Cleaning supplies and sanitizers shall be provided and stored in the outdoor pet dining area. These items shall be exclusive for outdoor pet dining purposes only and stored outside.

(4) Cleaning equipment necessary for the removal of pet waste shall be provided. These items shall be exclusive for outdoor pet dining purposes only and stored outside.

(5) Pet waste shall be removed immediately and the area shall be cleaned and sanitized.

(6) A covered refuse container shall be located and exclusive to all waste generated by the outdoor pet dining area.

(E) Construction.

(1) The retail food establishment shall post signs at the entrance of the outdoor pet dining area stating the facility is pet dining friendly.

(2) The retail food establishment shall post signs stating pets are only allowed in the outdoor pet dining area only.

(3) Outdoor pet dining areas shall have an outside entrance.

(4) Pets shall be restricted to the outdoor pet dining area only and shall not be allowed in the retail food establishment.

(5) All pets shall be restrained and under control of the owners.

(6) No pets are allowed on a chair, table, countertop, or any other furnishings within the outdoor pet dining area.

(F) Compliance.

(1) Retail food establishments that have pets on the premises and do not comply with this standard shall be cited for violations under Sections 2-403.11 and 6-501.115 as applicable.

(2) This standard shall not apply to service animals in outdoor or indoor dining areas.

9-4 WILD MUSHROOM FORAGING

Wild foraged mushrooms species must be individually inspected and found to be safe by an approved mushroom identification expert that:

(A) Has met the requirements of knowledge and passed an exam given by a 3rd party certifier that has been approved by the Department; and

(B) Will harvest only those mushrooms species listed below:

Pink Chanterelles (*Cantharellus cinnabarinus*)

Golden Chanterelles (*Cantharellus cibarius*, *C.lateritius*, *C. Appalachianensis*)

Yellow Morel (*Morchella esculenta*)

Tulip Morel (*Morchella deliciosa*)

Black morel (*Morchella elata*)

Black Trumpet (*Craterellus fallax*)

Lobster (*Hypomyces lactifluorum*)

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Wood Ears (*Auricula auricularia*, *A. Fuscosuccinea*)

Chicken of the Woods (*Laetiporus sulphureus*, *L.cincinnatus*, *L.perscinus*)

Beafsteak (*Fistulina hepatica*)

Hedgehog (*Hydnum repandum*)

Lions Mane or Pom Pom (*Hericium erinaceus*, *H.ramosum*)

White Oyster Mushroom (*Pleurotus ostreatus*, *P. pulmonarius*, *P. populinus*, *P.floridanus*)

Cauliflower (*Sparassis crispa*, *S.herbstii*, *S.spathulata*)\

Maitake (*Grifola frondosa*)

Blewits (*Clitocybe nuda*)

Honey (*Armillaria ostoyae*, *A.mellea*, *A.tabescens*)

Blue Milky (*Lactarius indigo*)

Golden Milkies (*Lactarius corrugis*, *L.volemus*)

Pecan Truffle (*Tuber lyonii*).

9-5 SHARED USE OPERATIONS

This standard shall apply to retail food establishments designed and operated for use by multiple permit holders.

(A) Definitions.

(1) **Shared use operation** means a facility designed for multiple and individually permitted retail food establishment(s) or other food processing plant(s) operating at different times using the same area and equipment for cooking, processing or preparing food that is provided to the consumer. The purpose of a shared use operation is to provide farmers, caterers, gourmet food producers, and others interested in the production of food items, a facility to prepare food products. The shared use operation provides a licensed South Carolina Department of Agriculture or permitted retail food establishment the equipment and individual spaces necessary to prepare, package, store, and label their products. A shared use operation may also serve as a commissary for mobile food establishments provided it meets the requirements as per section 9-1, *Mobile Food*.

(2) **Facilitator** means the person responsible for all facility structural requirements, equipment, maintenance, and scheduling of a shared use operation.

(B) General.

(1) A shared use operation and the associated retail food establishments shall comply with all applicable provisions of this regulation, except as outlined in this standard.

(2) The Department may prohibit the distribution of certain time/temperature control for safety food, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(C) Permits.

(1) Facilitator.

(a) The facilitator shall obtain a retail food establishment permit and shall be responsible for the facility and equipment maintenance, utilities, garbage service and other common use services.

(b) The facilitator shall maintain a schedule of the associated retail food establishment(s) days and hours of operation. This information shall be provided to the Department weekly for purposes of inspections and foodborne outbreak or complaint investigations.

(c) Only those retail food establishment(s) that are scheduled to use the kitchen for a particular day and time will be allowed in the shared areas.

(d) The facilitator shall ensure that deliveries that are received are from approved sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination unadulterated and accurately presented.

(e) The facilitator shall provide notice to the Department prior to the addition or deletion of associated retail food establishments.

(2) Associated retail food establishments.

(a) Each proposed operator shall obtain a retail food establishment permit.

(b) Each associated retail food establishment shall be responsible for its own operation and shall be required to comply with all applicable sections of the regulation.

(c) Each associated retail food establishments shall have a secured dry storage area(s), and designated space in walk-in coolers and freezers for items exclusive to their operation.

(D) Compliance.

(1) No person shall operate a shared use operation that does not have a permit issued by the Department pursuant to 8-301.11.

(2) Only a person who complies with the requirements of this regulation and this standard shall be entitled to, receive and retain such a permit.

(3) Any person who proposes to operate a shared use operation must apply to the Department for a permit on the application form provided by the Department pursuant to 8-302.

(4) The Department shall be notified of any changes to the shared use operation or associated retail food establishment, such as, but not limited to, operations, equipment or menu, in accordance with 8-304.11.

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9-6 IMMEDIATE OUTDOOR COOKING

This standard shall apply to retail food establishments that provide food by outdoor cooking, grilling or roasting of the food on their premises.

(A) Definition.

Immediate outdoor cooking (IOC) is defined as the outdoor cooking, grilling or roasting of food on the physical premises of a permitted retail food establishment. Immediate outdoor cooking activities shall not be associated with a mobile food unit, mobile food pushcart, farmer's market, or seasonal series.

(B) General.

(1) A retail food establishment that conducts IOC shall comply with all applicable provisions of this regulation, except as outlined in this standard.

(2) The Department may prohibit the distribution of certain time/temperature control for safety food, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(3) The retail food establishment shall be in operation at all times during any IOC activities.

(4) The retail food establishment is solely responsible for all IOC provisions, including, but not limited to, employees, person in charge, food supplies and preparations.

(5) The Department must approve the location that is to be considered the IOC area.

(6) The Department may have additional requirements due to environmental conditions that may pose a risk for contamination of food products. Under such conditions, the Department may limit or cease the use of the outdoor cooking and service areas.

(C) Employees.

Food employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(D) Food.

(1) All food preparation shall be completed inside the permitted retail food establishment.

(2) All food items shall be protected from contamination during transportation, storage, cooking, display, and service.

(3) All food employees shall prepare, hold and serve food according to all applicable sections of Chapter 3, *Food*.

(4) IOC shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

(a) Scaled 0 to 220 degrees F (-18 to 104 degrees C); and

(b) Able to be calibrated; and

(c) Appropriate for the food density being checked.

(5) Leftover portions of food cooked during IOC shall be discarded immediately. No food shall be stored for future service.

(E) Service.

(1) Equipment used for IOC shall be limited to grills and steam pots.

(2) The Department shall authorize IOC operations based on the following:

(a) The permitted retail food establishment must be of sufficient size and capability to support the same operations inside as well as IOC.

(b) The same or similar size or type of equipment used for cooking inside the permitted retail food establishment may be authorized for IOC.

(c) The same or similar type foods that are cooked inside the permitted retail food establishment may be authorized for IOC.

(3) Only the cooking and immediate service of food will be allowed during IOC operations; except that the serving of displayed food in the immediate cooking area must be completed within four (4) hours for any single function or activity.

(4) Food shall be kept covered except during times of continuous serving or display.

(5) Covers or lids may be removed only for monitoring, stirring, or adding additional ingredients.

(6) Condiments must be dispensed in individual single-service type packets, pump dispensers, squeeze bottles, shakers, or similar dispensers which minimize contamination of food items by food employees, patrons, vermin, environmental conditions, or other sources.

(7) Equipment and utensils shall be adequate in number to conduct the IOC activities.

(8) In-use wiping cloths shall be stored in a clean solution of an approved sanitizer.

(9) The IOC area shall be effectively separated from the public.

(F) Construction.

(1) Floors shall be constructed of concrete, asphalt, tight wood, or other similarly cleanable material and shall be kept clean and in good repair.

(2) Light bulbs and fluorescent tubes shall be shielded, coated or otherwise shatter-resistant and provide 20-foot candles of illumination.

(3) All IOC equipment, including tables, shall be safe, corrosion resistant, nonabsorbent, smooth, easily cleanable, durable and free of seams and difficult to clean areas.

(4) Warewashing is not permitted outside. All utensils/equipment used in outdoor cooking/serving of food shall be returned to the permitted retail food establishment for proper cleaning; except that, in-place cleaning may be allowed for grills and similar equipment.

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(G) Handwashing Sinks.

If IOC exceeds four (4) times per calendar year, the following handwashing sink requirement shall be met:

(1) A permanently installed exterior handwashing sink shall be provided pursuant to 5-201.12, 5-203.11 & 5-204.11.

(2) If using a portable handwashing sink it shall meet a minimum five (5) gallon potable water-dispensing tank and a minimum seven point five (7.5) gallon waste water holding tank.

(3) The handwashing sink shall be provided with soap and disposable paper towels.

(4) When a permanently installed exterior handwashing sink is not required, a container of water with a spigot, soap, disposable towels and a catch bucket shall be provided.

(5) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(H) Authorization.

(1) No retail food establishment shall conduct IOC operations that does not have an authorization issued by the Department.

(2) Any retail food establishment that operates or proposes to conduct IOC operations must apply to the Department for an authorization thru the application process.

(3) Only a retail food establishment who complies with the requirements of this regulation and this standard shall be entitled to, receive and retain such an authorization.

(4) Once IOC has been authorized, the retail food establishment shall notify the Department of any changes to the authorized IOC operation, such as, but not limited to, operations, procedures, menus, or changes in the retail food establishment in accordance with 8-304.11(B).

9-7 BARBECUE PIT AND PIT-COOKING ROOM CONSTRUCTION

This standard shall apply to the construction and operation of a barbeque pit as part of a retail food establishment.

(A) Definition.

Barbecue is defined as a single process method of cooking by which meat, poultry or fish (either whole or in pieces) is covered and slow cooked in a pit or on a spit, using an indirect or direct heat source.

(B) General.

Barbecue pit rooms shall be located on the physical premises of the permitted retail food establishment.

(C) Employees.

(1) Food employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings shall be stored in a designated place away from food preparation, food service, dry storage areas, utensil and single-service article storage, and utensil washing areas.

(D) Food.

(1) All food items shall be protected from contamination during transportation, storage, cooking, display, and service.

(2) All food employees shall prepare, hold and serve food according to all applicable sections of Chapter 3, *Food*.

(3) Pit rooms shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

- (a) Scaled 0 to 220 degrees F (-18 to 104 degrees C); and
- (b) Able to be calibrated; and
- (c) Appropriate for the food density being checked.

(4) Adequate refrigeration shall be provided to support the cooking activity conducted in the pit room at the permitted retail food establishment.

(E) Pit-Cooking Room Restrictions.

(1) Pit-cooking rooms built according to these minimum construction requirements shall be restricted to barbecue cooking equipment and the single process of cooking.

(2) No additional food preparation or processing activities shall be permitted in the pit room unless there is full compliance with all construction requirements pursuant to Chapter 6 of this regulation.

(F) Construction.

(1) All sides and the ceiling of the pit room shall be completely enclosed.

(2) Screening may be used above wainscot height four (4) feet on walls and must be at least sixteen (16) mesh per inch.

(3) All outside openings shall be protected against insects by tight-fitting, self-closing doors, closed windows, screening, approved fly fans, or other means.

(4) Canvas flaps or other effective devices may be required to protect against blowing contamination.

(5) A large tight fitting garage door may be allowed without a self-closer, but shall remain closed during cooking operations.

(6) Floors of pit-cooking rooms, excluding pit floors, shall be constructed of smooth, durable materials such as sealed concrete, quarry tile, vinyl floor covering, or other approved material.

(7) Floors shall be maintained in good repair.

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(8) Floors approved for water flushing, such as quarry tile or sealed concrete, shall be graded to floor drains, and shall have junctures between walls and floors sealed.

(9) Interior walls shall have smooth, easily cleanable, and washable surfaces to at least wainscot height (4 feet).

(10) If screening is used above wainscot, studs and other exposed bracing shall be sealed or painted.

(11) Concrete blocks or other masonry products used for wall construction shall be trowelled, skim-coated, or receive sufficient coats of full strength block filler to render a smooth surface prior to the application of a washable paint.

(12) Ceilings shall be finished to provide a smooth, nonabsorbent, and easily cleanable surface.

(13) Trusses and rafters shall not be exposed.

(14) Ceiling joists shall be properly sealed.

(15) Pit-cooking rooms shall be ventilated and kept reasonably free of excessive heat, vapors, smoke, and fumes by ventilating the pit itself or by ventilating the room. Pit ventilation can be achieved by a chimney or duct using dampers, pit doors, or other devices to control airflow. Pit-cooking rooms may be ventilated by a cathedral ceiling with screened roof-ridge vents, mechanical exhaust fans, or other effective methods approved by the Department, when pits are not directly vented to the outside.

(16) At least twenty (20) foot-candles of light shall be provided at all working surfaces, including the handwashing sink.

(G) Cooking Pit and Cooker Construction.

(1) Cooking pit floors may consist of a solid base of compacted clay with a top layer of clean sand to absorb grease drippings. Sand shall be replaced as necessary to maintain a safe and sanitary condition.

(2) Pit floors may also be constructed of concrete, firebrick, or other material that can be cleaned and maintained.

(3) Cooking pit walls (exterior sides only) shall be smooth, easily cleanable, and washable.

(4) Concrete blocks or other masonry products used for pit construction shall be trowelled, skim coated, or receives sufficient coats of full strength block filler applied to the exterior wall prior to the application of a washable paint.

(5) Pit grills, grates, and other supports shall be constructed of smooth, easily cleanable, nonabsorbent, and non-toxic material and shall be in sections that are easily removable for cleaning.

(6) Hog wire, chicken wire, hardware cloth, and similar materials, that are not galvanized or have welded joints, are permitted for single-use only and shall be discarded after each cooking period. Expanded metal and cast iron grating are recommended materials that can be cleaned and maintained.

(7) Pit covers shall be single-use or shall be constructed of a smooth, easily cleanable, nonabsorbent, and non-toxic material.

(8) The use of cookers and mobile cookers in lieu of a barbeque pit shall require the prior approval of the Department. These units shall be located in the pit room.

(H) Handwashing Sinks.

- (1) Handwashing sinks shall be provided pursuant to 5-202.12, 5-203.11 and 5-204.11.
- (2) The handwashing sink shall be provided with soap and disposable paper towels.
- (3) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(I) Authorization.

- (1) No retail food establishment shall operate a barbecue pit that does not have an authorization issued by the Department.
- (2) Any retail food establishment that operates or proposes to operate a barbecue pit must apply to the Department for an authorization through the application process.
- (3) The following additional documentation shall be submitted as part of the application process:
 - (a) Information about food prepared in the barbecue pit room; and
 - (b) Any other information requested by the Department.
- (4) Only a retail food establishment that complies with the requirements of this regulation and this standard shall be entitled to, receive and retain such an authorization.
- (5) Once a barbecue pit has been authorized, the Department shall be notified of any changes to the barbecue pit, such as, but not limited to, operational changes, menu changes, or changes in the barbecue pit in accordance with 8-304.11(B).

9-8 TEMPORARY FOOD SERVICE ESTABLISHMENTS

This standard shall apply to the construction and operation of a temporary food establishment.

(A) Definitions.

A **temporary food service establishment** is defined as an establishment that may be authorized by the Department to operate at a fixed location for a period of time not to exceed fourteen (14) consecutive days in connection with a fair, carnival, circus, trade show, golf or other national sporting events and other transitory gatherings organized by the community. This standard also applies to retail food service establishments that operate in an area affected by a natural or man-made disaster and where a state of emergency or a public health emergency has been declared.

(B) General.

- (1) Temporary food service establishments shall comply with all applicable sections of this regulation except as outlined in this standard.
- (2) The Department may prohibit the distribution of certain time/temperature control for safety food, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

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(C) Employees.

(1) Food vendors and/or employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings shall be stored in a designated place away from food preparation, food service, dry storage areas, utensil and single-use article storage, and utensil washing areas.

(D) Food.

(1) All food/ice shall be obtained from sources approved by the Department.

(2) All food items shall be protected from contamination during transportation, storage, cooking, display, and service.

(3) All food vendors shall prepare, hold and serve food according to all applicable sections of Chapter 3, *Food*.

(4) All time/temperature for safety food cooked offsite shall be provided by a retail food establishment or mobile food establishment permitted under this regulation.

(5) Time/temperature for safety foods that have been cooked or in hot holding at any point during the daily operating hours shall be discarded at the end of the day.

(6) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(7) Cakes, breads, cookies that are not made at a permitted retail food establishment may be offered for sale only if they are not a time/temperature for safety food.

(8) Ice shall be obtained in closed single-service bags or approved covered containers and shall be protected from contamination. Ice used as a coolant for foods shall not be used for edible ice.

(9) Each temporary food service establishment shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

- (a) Scaled 0 to 220 degrees F (-18 to 104 degrees C); and
- (b) Able to be calibrated; and
- (c) Appropriate for the food density being checked.

(E) Service.

(1) During operations, food shall be stored, cooked, displayed, and served from the temporary food service establishment only.

(2) Customer self-service of unpackaged time/temperature control for safety foods is prohibited.

(3) Temporary food service establishments shall provide only single-service articles for use by the consumer.

(4) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(5) In use wiping cloths must be stored in clean solution of an approved sanitizer.

(6) A test kit that accurately measures the parts per million concentration of an approved sanitizer shall be accessible and used.

(F) Construction.

(1) Floors shall be constructed of concrete, asphalt, tight wood, or other similar cleanable material.

(2) Floors shall be kept clean and in good repair.

(3) Walls shall be constructed of a solid, easily cleanable material.

(4) Screening may be used above wainscot height, four (4) feet, on walls and must be at least sixteen (16) mesh per inch.

(5) Studs and joists may be exposed, provided they are sealed.

(6) Ceilings shall be constructed of a solid, easily cleanable material.

(7) Exposed ceiling joists and rafters may be allowed, provided they are sealed.

(8) Light bulbs and fluorescent tubes shall be shielded, coated or otherwise shatter-resistant and provide at least twenty (20) foot candles of illumination.

(9) All outside openings shall be protected against insects by tight-fitting, self-closing doors, closed windows, screening, approved air curtains, or other means.

(10) Canvas flaps or other effective devices may be required to protect against blowing contamination where screening is used.

(11) Counter-service openings shall be equipped with approved air curtains, self-closing windows, or free-falling windows or screens that must be at least sixteen (16) mesh per inch. Where air curtains are used, the size of the openings shall be limited so that the fans effectively prevent the entrance of flying insects.

(12) A temporary food establishment shall be equipped with a warewashing sink with at least three (3) compartments large enough to accommodate two thirds of the largest utensil. This requirement shall not apply to temporary food establishments engaged only in the dispensing of prepackaged food.

(13) The warewashing sink shall be supplied with hot & cold water under pressure, equipped with a mixing faucet that is capable of servicing all sink compartments.

(14) Adequate refrigeration shall be provided.

(15) A temperature measuring device shall be provided for each refrigeration unit.

(16) Equipment shall be installed in a manner that allows it to be maintained in a sanitary condition.

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(17) Ice and beverages may be dispensed in the serving area if protected from contamination. This area must be sheltered but is not required to be screened or enclosed.

(G) Handwashing Sinks.

(1) All temporary food service establishments shall have a separate handwashing sink, equipped with hot and cold water under pressure through a mixing valve or combination faucet.

(2) The handwashing sink shall be separated from food and food contact surfaces by either a splashguard or a distance of at least twelve (12) inches.

(3) Soap and disposable paper towels must be provided and be adjacent to the handwashing sink.

(4) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(H) Water system.

(1) Drinking water hoses shall be made from food grade materials and shall be a different color from hoses used for sewage.

(2) Drinking water hoses shall be capped or covered when not in use and shall be stored separately from sewage hoses.

(3) When attached to a drinking water system the temporary food service establishment shall be equipped with an approved backsiphonage prevention device.

(4) Connections to the drinking water and sewage tanks shall be different types or sizes to eliminate contamination of the drinking water supply.

(5) Sewage and drinking water hose connections shall not be interchangeable.

(6) Water heaters with sufficient capacity shall be provided in facilities that prepare and serve time/temperature for safety food.

(I) Sewage Retention.

(1) Sewage that is not directly discharged into an approved sewage system shall be kept in closed containers adequate in number and capacity to prevent spillage and must be discharged into an approved sewage disposal system as often as needed.

(2) All sewage lines shall be connected to sewage tanks with watertight seals.

(3) Used cooking oil shall be disposed of in an approved manner.

(4) Adequate and approved toilet facilities shall be provided.

(5) Adequate trash cans and other sanitary facilities as deemed necessary by the Department shall be provided to support the temporary food service establishments operating at the event.

(J) Specific Exemptions.

(1) Temporary food service establishments are exempt from the requirements for training certification in 2.102.20.

(2) Temporary food service establishments that provide foods pursuant to 8-301.12(A)(11),(12),(19) and (20) of this regulation are exempt from the requirements of this standard.

(3) Mechanical ventilation of cooking equipment is not required.

(K) Authorization.

(1) No person, retail food establishment, or mobile food unit may serve time/temperature for safety food at a temporary food service establishment unless the sponsoring entity obtains authorization from the Department.

(2) The sponsoring entity of an event where temporary food service establishments will operate shall appoint an Event Coordinator as a point of contact.

(3) Any sponsoring entity that operates or proposes to operate an event where temporary food service establishments will operate shall apply for authorization on the form provided by the Department prior to commencement of the event. The following information shall be submitted with the application:

(a) Event Coordinator name and contact information; and

(b) The dates of the fourteen (14) consecutive days of operation; and

(c) A list of temporary food service establishments, with contact information, that will operate at the event; and

(d) The time that all temporary food service establishments are required to be ready for operation.

(4) Each temporary food service establishment shall be authorized by the Department prior to serving food to the public at the event.

(5) The Department may require a sponsoring entity or a temporary food service establishment to submit information sufficient to determine if the definition and requirements of this standard or regulation are met. This information may include, but is not limited to, information defining the fair, carnival, circus, or organized event, event schedule(s), hours of food vendor operations, vendor list and foods specific to those vendors, and vendor contact information.

(6) All food vendors shall meet the requirements for temporary food service establishment.

(7) Food vendors shall not be allowed to operate under the requirements of Sections 9-10, *Community Festivals*, 9-11, *Special Promotions*, or 9-12, *South Carolina Farmers Markets and Seasonal Series* of this regulation.

(8) When the Department determines that a sponsoring entity or a temporary food service establishment has violated applicable provisions of this standard or regulation, the Department may issue a written notice directing any or all temporary food service establishments to cease operations until the violations are corrected as determined by the Department.

(9) Any temporary food service establishment that proposes to operate at one event and location for more than fourteen (14) days, either by remaining in operation for additional consecutive days, or by reopening after a short period of closure, shall comply with the requirements for, and be permitted as, a retail food establishment or a mobile food establishment.

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(10) If a retail food service establishment is operating as a temporary food service establishment in an area affected by a natural or man-made disaster after a state of emergency or a public health emergency has been declared, it may be allowed to exceed fourteen (14) consecutive days of operation if approved by the Department.

9-9 COMMUNITY FESTIVALS

This standard shall apply to the service of food and the requirements of food vendors at community festivals.

(A) Definitions.

Community festivals are defined as events sponsored by a community group, city/county/state organization, as a community celebration, that are generally theme related, and have multiple food vendors recruited to provide food to the public for a time period not to exceed three (3) consecutive days or no more than seventy-two (72) continuous hours. Each community festival is unique and will not be held more frequently than annually, although a sponsoring organization or group might have multiple but differently themed community festivals in a year.

(B) General.

(1) Community festival food vendors shall comply with all applicable sections of this regulation except as outlined in this standard.

(2) The Department may prohibit the distribution of certain time/temperature control for safety food, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(C) Employees.

(1) Food vendor employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings shall be stored in a designated place away from food preparation, food service, dry storage areas, utensils and single-use article storage, and utensil washing areas.

(D) Food.

(1) All food/ice shall be obtained from sources approved by the Department.

(2) All food items must be protected from contamination during transportation, storage, cooking, display, and service.

(3) All food vendors shall prepare, hold and serve food according to all applicable sections of Chapter 3, *Food*.

(4) Time/temperature for safety foods, such as raw meat products, shall be ready to be cooked.

(5) All time/temperature for safety food fully prepared or cooked offsite shall be provided by a retail food establishment or mobile food establishment permitted under the regulation.

(6) Only quantities of meat, such as barbecue, may be pulled, chopped or cut for same day service in the food vendor's preparation area.

(7) No mechanical chopping equipment will be allowed in unenclosed preparation areas.

(8) Time/temperature for safety foods that have been cooked or in hot holding at any point during the daily operating hours shall be discarded at the end of the day.

(9) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(10) Cakes, breads, cookies that are not made at a permitted retail food establishment may be offered for sale only if they are not a time/temperature for safety food.

(11) Ice shall be obtained in closed single-service bags or approved covered containers and shall be protected from contamination. Ice used as a coolant for foods shall not be used for edible ice.

(12) Each community festival food vendor shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

- (a) Scaled 0 to 220 degrees F (-18 to 104 degrees C); and
- (b) Able to be calibrated; and
- (c) Appropriate for the food density being checked.

(E) Construction.

(1) Food preparation areas shall have overhead protection and adequate barriers (e.g., tables or equipment) to prevent the access to the area by the public.

(2) Equipment shall arrive clean and ready to use.

(3) Utensils and single use articles shall be clean, protected during storage, and in sufficient quantities to conduct the activity.

(F) Handwashing Sinks.

(1) When a handwashing sink is not available, a container of water with a spigot, soap, disposable towels and a catch bucket shall be provided.

(2) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(G) Water system.

(1) Drinking water hoses shall be made from food grade materials and shall be a different color from hoses used for sewage.

(2) Drinking water hoses shall be capped or covered when not in use and shall be stored separately from sewage hoses.

(3) When attached to a drinking water system, the hose shall be equipped with an approved backsiphonage prevention device.

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(H) Sewage Retention.

(1) Sewage that is not directly discharged into an approved sewage system shall be kept in closed containers with adequate capacity or adequate in number to prevent spillage and must be discharged into an approved sewage disposal system as often as needed.

(2) All sewage lines shall be connected to sewage tanks with watertight seals.

(3) Used cooking oil shall be disposed of in an approved manner.

(4) Adequate toilet facilities shall be provided.

(5) Adequate trash cans, and other sanitary facilities as deemed necessary by the Department shall be provided to support the community festival food vendors.

(I) Specific Exemptions.

(1) Community festival food vendors are exempt from the requirements for training certification in 2-102.20.

(2) Community festival food vendors that provide food pursuant to 8-301.12(A)(11),(12),(19) and (20) are exempt from the requirements of this standard.

(3) Hot water requirements are waived for food vendors at community festivals.

(4) Mechanical ventilation of cooking equipment is not required.

(J) Authorization.

(1) No person, retail food establishment, or mobile food unit may serve time/temperature control for safety food at a community festival unless the sponsoring entity obtains authorization from the Department.

(2) The sponsoring entity of a community festivals shall appoint an Event Coordinator as a point of contact.

(3) Any sponsoring entity that operates or proposes to operate a community festival where time/temperature for safety food will be served shall apply for authorization on the form provided by the Department prior to commencement of the festival. The following information must be submitted with the application:

(a) The Event Coordinator name and contact information; and

(b) The dates of the seventy-two (72) continuous hour period in which all food vendors will be in operation; and

(c) A list of food vendors, with contact information, that will operate at the event; and

(d) The time that all food vendors are required to be ready for operation.

(4) Each community festival food vendor shall be authorized by the Department prior to serving food to the public at the festival.

(5) The Department may require a sponsoring entity or a food vendor to submit information sufficient to determine if the definition and requirements of this standard or regulation are met. This information may include, but is not limited to, information defining the community group, city/county/state organization, event schedule(s), hours of food vendor operations, vendor list and foods specific to those vendors, and vendor contact information.

(6) When the Department determines that a sponsoring entity or a food vendor has violated applicable provisions of this standard or regulation, the Department may issue a written notice directing any or all food vendors to cease operations until the violations are corrected as determined by the Department.

9-10 SPECIAL PROMOTIONS

This standard shall apply to the service of food and the requirements of food vendors at special promotions.

(A) Special promotions are defined as events sponsored by businesses or city/county organizations that may be authorized by the Department to prepare and dispense food for the purpose of promoting a product or service. Preparation and dispensing food at special promotions are limited to one (1) day in duration at four (4) separate times per year. Special promotions do not include regularly occurring sporting events, such as, but not limited to, school ballgames.

(B) General.

(1) Food preparation and service areas shall comply with all applicable sections of this regulation except as outlined in this standard.

(2) The Department may prohibit the distribution of certain time/temperature control for safety foods, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(C) Employees.

(1) Food vendor employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings shall be stored in a designated place away from food preparation, food service, dry storage areas, utensil and single-use article storage, and utensil washing areas.

(D) Food.

(1) All food/ice shall be obtained from sources approved by the Department.

(2) All food items must be protected from contamination during transportation, storage, cooking, display, and service.

(3) All food vendors shall prepare, hold and serve food according to all applicable sections of Chapter 3, *Food*.

(4) Time/temperature for safety foods, such as raw meat products, shall be ready to be cooked.

(5) All time/temperature for safety food cooked offsite shall be provided by a retail food establishment or mobile food establishment permitted under this regulation.

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(6) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(7) Cakes, breads, cookies that are not made at a permitted retail food establishments may be offered for sale only if they are not a time/temperature for safety food.

(8) Ice shall be obtained in closed single-service bags or approved covered containers and shall be protected from contamination.

(9) Ice used as a coolant for foods shall not be used for edible ice.

(10) Each food vendor shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

(a) Scaled 0 to 220 degrees F (-18 to 104 degrees C); and

(b) Able to be calibrated; and

(c) Appropriate for the food density being checked.

(E) Construction.

(1) Food preparation areas shall have overhead protection and adequate barriers (e.g., tables or equipment) to prevent the access to the area by the public.

(2) Equipment shall arrive clean and ready to use.

(3) Utensils and single-service articles shall be clean, protected during storage, and in sufficient quantities to conduct the activity.

(F) Handwashing Sinks.

(1) When a handwashing sink is not available, a container of water with a spigot, soap, disposable towels and a catch bucket shall be provided.

(2) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(G) Water system.

(1) Drinking water hoses shall be made from food grade materials and shall be a different color from hoses used for sewage.

(2) Drinking water hoses shall be capped or covered when not in use and shall be stored separately from sewage hoses.

(3) When attached to a drinking water system the hose shall be equipped with an approved backsiphonge prevention device.

(H) Sewage Retention.

(1) Sewage that is not directly discharged into an approved sewage system shall be kept in closed containers with adequate capacity to prevent spillage and must be discharged into an approved sewage disposal system as often as needed.

- (2) All sewage lines shall be connected to sewage tanks with watertight seals.
- (3) Used cooking oil shall be disposed of in an approved manner.

(I) Specific Exemptions.

- (1) Special promotions are exempt from the requirements for training certification in 2-102.20.
- (2) Special promotions that provide food pursuant to 8-301.12(A)(11),(12),(19) and (20) are exempt from the requirements of this standard.
- (3) Hot water requirements are waived for special promotions.
- (4) Mechanical ventilation of cooking equipment is not required.
- (5) Toilet and service sink facilities are not required for special promotions.

(J) Authorization.

- (1) The Department may require a sponsoring entity to submit information sufficient to determine if a special promotion complies with this standard and regulation. This information may include, but is not limited to, information defining the businesses, or city/county organizations, event schedule(s), hours of food vendor operations, vendor list and foods specific to those vendors, and vendor contact information.
- (2) When the Department determines that a sponsoring entity has violated applicable provisions of this standard or regulation, the Department may issue a written order directing the special promotion to cease operations.

9-11 SOUTH CAROLINA FARMERS MARKET AND SEASONAL SERIES

This standard shall apply to the service of food and the requirements of food vendors at SC farmers markets and seasonal series.

(A) Definitions.

- (1) **Community-based farmers market** means a market sponsored by a community or governmental organization either having been Certified by the South Carolina Department of Agriculture as a SC Certified Farmer’s Market or a farmers market that meets the definition of the Farmers Market Coalition which states “A farmers market operates multiple times per year and is organized for the purpose of facilitating personal connections that create mutual benefits for local farmers, shoppers and communities and implements rule or guidelines of operation that ensure that the farmers market consists principally of farms selling directly to the public products that the farms have produced.”
- (2) **Seasonal series** means a regularly occurring event sponsored by a community or governmental organization for promoting local business, culture or other local specialties.

(B) General.

- (1) Retail food establishments at a seasonal series or community-based farmers market shall comply with all applicable sections of this regulation except as outlined in this standard.

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(2) The Department may prohibit the distribution of certain time/temperature control for safety foods, and may modify specific requirements for physical facilities when, in the opinion of the Department, no health hazard will result.

(3) Permitted retail food establishments may be authorized by the Department to cook and serve food to the public at community farmers markets and/or seasonal series only one (1) day per week during one continuous period of time not to exceed six (6) hours.

(4) Community-based farmers market and seasonal series shall designate one day of the week food vendors are allowed to operate.

(5) Roadside produce stands and flea markets are not defined as community-based farmers markets or seasonal series, and this standard shall not apply to those locations.

(C) Employees.

(1) Retail food establishment employees shall not contact exposed, ready-to-eat-food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing utensils.

(2) Personal clothing and belongings shall be stored in a designated place away from food preparation, food service, dry storage areas, utensils and single-use article storage, and utensil washing areas.

(D) Food.

(1) Preparation of bulk food, including washing, slicing, peeling, and cutting, shall occur at the permitted retail food establishment.

(2) All food items shall be protected from contamination during transportation, storage, cooking, display, and service.

(3) All food vendors shall prepare, hold and serve food according to all applicable sections of Chapter 3, *Food*.

(4) Time/temperature for safety foods that have been cooked or in hot holding at any point during the daily operating hours shall be discarded at the end of the day.

(5) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection or offered in individual packages.

(6) Ice shall be obtained from an approved source, in closed single-service bags or approved covered containers and shall be protected from contamination.

(7) Ice used as a coolant for foods shall not be used for edible ice.

(8) Each retail food establishment shall have at least one temperature measuring device for checking temperatures of food that meets the following requirements:

(a) Scaled 0 to 220 degrees F (-18 to 104 degrees C); and

(b) Able to be calibrated; and

(c) Appropriate for the food density being checked.

(E) Construction.

- (1) Food preparation areas shall be provided with overhead protection and have adequate barriers (e.g., tables or equipment) to prevent the access to the area by the public.
- (2) Equipment and utensils shall arrive clean, ready to use, and in sufficient quantities to conduct the activity.
- (3) Equipment and utensils shall only be cleaned at the permitted retail food establishment.
- (4) Only single-service articles shall be provided for use by the consumer.

(F) Handwashing Sinks.

- (1) Exterior handwashing sinks shall be provided within twenty-five (25) feet of all retail food establishment food vendors and shall be centrally located and easily accessible.
- (2) Hot and cold water or tempered running water 100 degrees F (38 degrees C) under pressure shall be provided to all handwashing sinks as specified in 5-202.12.
- (3) If using a portable handwashing sink, it shall have a minimum five (5) gallon portable water dispensing tank and a minimum seven point five (7.5) gallon sewage holding tank.
- (4) Gloves and/or hand sanitizers shall not be allowed as a substitute for handwashing facilities.

(G) Water System.

- (1) Drinking water hoses shall be made from food grade materials and shall be a different color from hoses used for sewage.
- (2) Drinking water hoses shall be capped or covered when not in use and shall be stored separately from sewage hoses.
- (3) When attached to a drinking water system the hose shall be equipped with an approved backflow prevention device.

(H) Sewage Retention.

- (1) Sewage that is not directly discharged into an approved sewage system shall be kept in closed containers adequate in number and capacity to prevent spillage and must be discharged into an approved sewage disposal system as often as needed.
- (2) All sewage lines shall be connected to sewage tanks with watertight seals.
- (3) Used cooking oil shall be disposed of in an approved manner.
- (4) Adequate toilet facilities shall be provided.
- (5) Adequate trash cans, as deemed necessary by the Department shall be provided to support the retail food establishment.

(I) Specific Exemptions.

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(1) Seasonal series or community-based farmers markets are exempt from the requirements for training certification in 2-102.20.

(2) Seasonal series or community-based farmers market that provide foods pursuant to 8-301.12(A)(11),(12),(19) and (20) are exempt from authorization based on the requirements of this standard.

(3) Mechanical ventilation of cooking equipment is not required.

(J) Authorization.

(1) No retail food establishment, or mobile food unit may serve time/temperature control for safety foods at a seasonal series or community-based farmers market unless the sponsoring entity obtains authorization from the Department.

(2) The sponsoring entity of a seasonal series or community-based farmers market shall appoint an Event Coordinator as a point of contact.

(3) Any sponsoring entity that operates or proposes to operate a seasonal series or community-based farmers market where time/temperature control for safety foods will be served by retail food establishments shall apply for authorization from the Department. The following information shall be submitted:

(a) The Event Coordinator name and contact information; and

(b) The one day of the week and hours of operation for food service; and

(c) A list of retail food establishments, with contact information, that will operate at the event.

(4) Each retail food establishment at a seasonal series or community-based farmers market shall be authorized by the Department prior to serving food to the public at the event.

(5) The Department may require a sponsoring entity or a retail food establishment to submit information sufficient to determine if the definition and requirements of this standard or regulation are met. This information may include, but is not limited to, information defining the community group, governmental organization, SC Certified Farmer's Market certification, association to Farmers Market Coalition, event schedule(s), hours of food vendor operations, vendor list and foods specific to those vendors, and vendor contact information.

(6) When the Department determines that a sponsoring entity or a retail food establishment has violated applicable provisions of this standard or regulation, the Department may issue a written notice directing any or all retail food establishment vendors to cease operations until the violations are corrected as determined by the Department.

Fiscal Impact Statement:

There are no anticipated new costs associated with the implementation of this regulation to the state or its political subdivisions.

Statement of Need and Reasonableness:

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-115(C) (1)-(3) and (9)-(11) (Revised 2005):

DESCRIPTION OF REGULATION:

Purpose: This amendment strikes the text of the existing regulation in total and amends the regulation in its entirety to meet current standards of the most recent edition of the United States Food and Drug Administration (FDA) Food Code. The FDA Food Code is the national standard for state, local, and tribal food protection programs. The FDA Food Code offers practical, scientifically sound technical and legal basis for regulating the retail food establishment segment of the food industry by addressing the risk factors known to cause foodborne illness outbreaks in retail food establishment settings. This amendment also revises R.61-25, *Retail Food Establishments* to comply with statutory changes in the administrative appeals process pursuant to S.C. Code Ann. Section 44-1-60 (Supp. 2012).

Legal Authority: The legal authority for R.61-25 is S.C. Code Ann. Section 44-1-140 (Revised 2002).

Plan for Implementation: The amendments will take effect upon approval by the General Assembly, and publication in the *State Register*. The regulated community will be provided copies of the regulation.

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

The intent of R.61-25, *Retail Food Establishments*, is to safeguard public health and provide consumers safe, unadulterated food and food products at the retail level. The regulation governs restaurants, grocery stores, school cafeterias and other establishments, where food is prepared and served to the public. The Regulation was last amended in 1995. Since that amendment, there have been numerous changes in the retail food industry, including food handling practices, food equipment technology, and food preparation processes, making R.61-25 in its current form outdated. These amendments will allow the Department, through regulation, to meet current standards of the most recent edition of the FDA Food Code.

The FDA Food Code is the national standard for state, local, and tribal food protection programs. The FDA Food Code offers practical, science-based guidance that addresses the risk factors known to cause foodborne illness outbreaks in retail food establishment settings. It is updated and published every four years and is amended every two years via the Conference for Food Protection, a national conference of food safety regulators, food scientists, industry representatives, and members of academia. Thus, the FDA Food Code is uniquely qualified to address the food safety challenges of the twenty-first century, including an increasingly globalized food supply chain, the aging population, an increased number of immune-compromised consumers, and the growing trend toward consuming food prepared outside the home.

This amendment strikes the text of the existing regulation in total and amends the regulation in its entirety to meet current standards of the most recent edition of the FDA Food Code. This amendment also incorporates into R.61-25 statutory changes in the administrative appeals process pursuant to Section 44-1-60.

DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated new costs associated with the implementation of this regulation. There will be a benefit to food safety in South Carolina and the health of its citizens as the intent of this regulation is to provide consumers with safe, unadulterated food and food products at the retail level. The amendment of R.61-25 to the most recent edition of the FDA Food Code will allow the regulation to conform to the current national standard. For the food service industry, many of which are associated with national chains, the current edition of the FDA Food Code provides a needed uniformity and consistency with food safety rules nationally.

UNCERTAINTIES OF ESTIMATES:

None.

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EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Implementation of this regulation will not compromise the protection of the environment or the public health. The proposed regulation will help to ensure that consumers are receiving safe, unadulterated food and food products at the retail level. The amendment of R.61-25 to conform to the most recent edition of the FDA Food Code also provides effective means of reducing the risks of foodborne illnesses within retail food establishments, thus protecting consumers and industry from potentially devastating public health consequences and financial losses.

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

There will be no adverse effect on the environment if the regulations are not implemented. Not implementing these regulations will prevent the implementation of the latest sanitary standards and will not provide the comprehensive approach to food safety management needed in addressing food protection in the retail food industry; this could have a detrimental effect on the health of South Carolina's citizens and visitors.

Statement of Rationale:

The determination to amend this regulation in totality was in response to the need for the South Carolina regulation to reflect current industry standards and retail food safety practices set forth by the FDA Food Code for the retail food industry. These amendments provide the retail food industry the regulatory framework to meet the latest sanitation requirements for providing safe, unadulterated food and food products to consumers. The FDA Food Code offers proven scientific reasons behind regulation and actively seeks input from the scientific and academic community as their understanding of foodborne pathogens increases. The amendment of R.61-25 to conform to the most recent edition of the FDA Food Code is supported because it provides a comprehensive approach to food safety management, superior supporting documents and training, and is consistent with the national integrated food safety management system.

Document No. 4432

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-96-10 et seq.

61-107.4. Solid Waste Management: Yard Trash and Land-clearing Debris; and Compost

Synopsis:

The South Carolina Solid Waste Policy and Management Act (Act), Section 44-96-10 et seq., S.C. Code of Laws, 1976, as amended, requires the Department to promulgate regulations establishing standards for the management of yard trash and land-clearing debris, and for the production of compost. In 1993, to satisfy the requirements of the Act, the Department promulgated R.61-107.4 Solid Waste Management: Yard Trash and Land-clearing Debris; and Compost. The regulation has not been amended since it became effective in 1993.

This amendment will expand a list of materials that could be composted and to clarify guidelines for the management, mulching (grinding), or composting of land-clearing debris and yard trimmings. The regulation amendment establishes permitting requirements for certain types of composting and mulching facilities and establishes allowable exemptions for certain other facilities based upon the types or amounts of material managed. The amendment addresses existing registered facilities and outlines the process by which they would propose to be considered exempt, conditionally exempt or permitted facilities under the new requirements. The amendment addresses the location, design, operation and closure requirements for permitted composting and mulching facilities. The amendment establishes testing standards for compost to determine safety and stability.

The amendment also addresses penalties for violations of the regulation. These changes are needed in order to promote the recycling of land-clearing debris, yard trash and food residuals; and to ensure that compost and ground mulch material are produced and used in a manner that is protective of health and the environment.

A Notice of Drafting to promulgate this amendment was published in the *State Register* on July 26, 2013. This amendment was drafted in consultation with representatives of state and local government, existing compost producers, the waste disposal industry, the State Solid Waste Advisory Council, the U.S. Department of Agriculture's (USDA) National Resource Conservation Service, Clemson Department of Plant Industry, consumers of compost, environmental groups, the Association of Counties, the South Carolina Municipal Association, and Department staff.

Section-by-Section Discussion of Revisions:

61-107.4 has been substantially amended to clarify permitting requirements, establish exemption conditions and to expand feedstock categories allowed for composting. Original language has been deleted or modified. New text has been added. The amendment divides the regulation into six parts and adds a Table of Contents and an Appendix. The title of the regulation has been changed to R.61-107.4 "Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings, and Organic Residuals".

Part I. General Provisions

The General Provisions section addresses those issues that apply to all types of facilities and activities covered by the regulation and is substantially revised from the original regulation.

Section A. Applicability:

Section A is the revised Applicability Section. It describes the purpose and scope of the regulation. It addresses the amount of time in which existing facilities are expected to comply with new requirements and it identifies specific activities to which the amendment is not applicable. Based on public comment, Part I.A.2.b.(2) has been developed to allow any special operating conditions that were previously approved by the Department at registered facilities to continue after the amendment becomes effective.

Section B. Definitions:

Section B is the revised Definitions Section. It defines the terms used throughout the regulation and presents the terms in alphabetical/numerical order. The amendment adds, deletes and revises definitions from the original regulation.

Section C. Variances:

The addition of Section C establishes the protocol to request a variance from provisions in the regulation and how a decision is conveyed to the applicant.

Section D. Violations and Penalties:

The addition of Section D provides reference to the authority of the Department to issue orders, civil enforcement actions, or criminal enforcement actions for violations of the regulation as delegated by South Carolina law.

Section E. Severability:

The addition of Section E protects the remaining portion of the regulation should any part or language be declared invalid.

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Part II. Exempt and Conditionally Exempt Activities

The addition of Part II addresses Exempt and Conditionally Exempt Activities:

Section A. Exempted Activities:

The addition of Section A lists and describes activities that are exempt from the requirements of this regulation. Exemptions were described in the original regulation in the General Provisions Section. The new section clarifies that the following activities are exempt: backyard composting; on-site woodgrinding; on-site composting of Category One feedstocks; management of Category One feedstocks in amounts less than 80 cubic yards; composting of Category Two feedstocks in amounts less than five cubic yards; emergency storm debris management; on-site farming operations; community programs such as “Grinding of the Greens”; and participants in the USDA National Organic Program.

Section B. Conditionally Exempt Activities:

The addition of Section B lists activities that are exempt from the permitting requirements of this regulation when in compliance with certain conditions. The activities listed in this section are new exemptions and no conditional exemptions were outlined in the original regulation. The section also specifically lists the conditions required for being conditionally exempt. The section clarifies that the following activities are exempt from permitting: management of Category One feedstocks in amounts less than 400 cubic yards; management of Category Two feedstocks in amounts less than 40 cubic yards; and management of Category Two feedstocks generated on site of commercial, industrial, or institutional properties in amounts of less than 400 cubic yards. The section also lists conditions for the exemptions, including buffer requirements, material management practices and other operational practices.

Part III. Permitted Facilities

The addition of Part III describes facility types that require permits, and outlines requirements for those facilities.

Section A. Facility Types:

The addition of Section A describes the three types of facilities that require a permit to operate: Type One facilities that grind and/or compost Category One feedstocks, Type Two facilities that grind and/or compost Category One and/or Two feedstocks, and Type Three facilities that grind and/or compost Category One, Category Two and/or Category Three feedstocks.

Prior to this amendment, R.61-107.4 did not address facilities that compost feedstocks other than land-clearing debris, yard trash and other wood waste.

Section B. General Criteria:

The addition of Section B describes some general requirements that apply to all types of permitted facilities.

Section C. Location Criteria:

The addition of Section C describes the location criteria for permitted facilities, including buffer distances to other entities. Buffers for Type One facilities are similar to those outlined in the original regulation. Buffers are increased for Type Two and Type Three facilities due to the nature of the feedstocks composted.

Section D. Design Criteria:

The revision of Section D describes the design criteria for permitted facilities to include addressing stormwater management, separation to groundwater, surface requirements, and control of access to the facility. Requirements for Type One facilities are similar to those outlined in the original regulation. Additional requirements are included for Type Two and Type Three facilities due to the nature of the feedstocks composted.

Section E. Operational Requirements:

The addition of Section E describes the operational criteria for permitted facilities, to include signage requirements; material acceptance policies; best management practices; control of dust, odor, litter and vectors; pile management; compost methods; material management; reporting requirements; temperature monitoring; operator certification requirements; operational plan requirements and fire prevention plans. Revisions incorporated clarification requested by public comment.

Section F. Quality Assurance and Testing Requirements for Finished Compost:

The addition of Section F describes the quality assurance and testing requirements for finished compost. It establishes standards for the sale of compost and soil amendments. This section establishes testing frequencies based on facility throughput and establishes methods for determining stability of finished compost. It sets testing standards and limits for certain pollutants, physical contaminants and biological contaminants. Quality assurance standards and testing requirements have been added to the regulation as a result of variety of feedstocks that can be composted. Testing requirements do not apply to the production of compost or mulch made from Category One feedstocks.

Section G. Additional Requirements for Permitted Facilities:

The addition of Section G establishes that the Department may impose additional requirements for permitted facilities if needed to protect public health or the environment.

Section H. Financial Assurance:

The addition of Section H clarifies financial assurance requirements for permitted facilities. This section includes a description of how financial assurance requirements will be calculated.

Section I. Closure:

The addition of Section I revises requirements for closure of permitted facilities and describes how an operator may secure release from financial assurance requirements.

Section J. Permit Violations:

The addition of Section J provides reference to the authority of the Department to issue orders, penalties, civil enforcement actions, or criminal enforcement actions for permit violations as delegated by South Carolina law.

Section K. Permit Revocation:

The addition of Section K. establishes Departmental procedures for revoking a permit.

Part IV. Permit Application

The addition of Part IV addresses the Permit Application process.

Section A. Permit Application Process:

The addition of Section A addresses the permit application and necessary documentation.

Section B. Notice:

The addition of Section B adds Noticing requirements. Applicants are required to provide evidence of Noticing to the Department. Applicants are required to provide notice to the host county and all owners of real property contiguous to the facility. This section also provides for a thirty day comment period prior to issuance of a Department decision regarding the permit application.

Section C. Application Review and Permit Decision:

The addition of Section C addresses the permit application review and the permit decision.

Section D. Permit Modifications:

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The addition of Section D addresses how permit modifications may be requested, and addresses Noticing requirements for certain permit modifications.

Section E. Transfer of Ownership:

The addition of Section E addresses transfer of ownership of a permit.

Part V. General Permits

The addition of Part V enables the Department to issue General Permits to regulate certain types of facilities.

Section A. General Permit Issuance:

The addition of Section A addresses the requirements for issuance of a General Permit by the Department. It describes the information that must be included in a General Permit, addresses modification and termination of a General Permit, and describes the Noticing requirements for General Permit issuance.

Section B. Application for Coverage Under a General Permit:

The addition of Section B addresses how an operator could request coverage to operate under authority of a General Permit.

Section C. Corrective Measures and General Permit Revocation:

The addition of Section C addresses corrective measures for facilities operating under a General Permit and the process for revoking an approval to operate under authority of a General Permit.

Part VI. Prohibitions:

This part establishes that open dumping of yard trash, land-clearing debris, and other organic materials are prohibited and that open burning of these materials is prohibited by other regulation.

Appendix: Feedstock Categories

The regulation amendment adds an appendix which lists some common feedstocks approved under authority of the regulation. The appendix also characterizes the feedstock categories so that additional organic materials for composting may be considered by the Department. The regulation originally addressed only land-clearing debris and yard trimmings. The amendment expands the list of feedstocks, most notably adding food residuals, manure, paper and industrial residuals. Category One feedstocks include materials allowed under the current regulation, including but not limited to yard trash and land-clearing debris; Category Two feedstocks include food residuals, waste paper, animal manures and similar materials; and Category Three feedstocks include sewage sludge, industrial sludges, animal-derived residuals not listed in Category Two and other industrially produced non-hazardous organic residuals. Based on public comment, standards were clarified for determining what plastic products could be composted.

The appendix also provides a list of prohibited feedstocks which cannot be managed under authority of R.61-107.4, including but not limited to: mixed municipal solid waste; friable and non-friable asbestos; biomedical or infectious wastes; hazardous waste; toxic wastes; and nuclear wastes.

Instructions: Replace R.61-107.4 in its entirety with this amendment.

Text:

61-107.4. Solid Waste Management: Compost and Mulch Production from Land-clearing Debris, Yard Trimmings and Organic Residuals

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Part I. General Provisions.

A. Applicability.

1. The purpose of this regulation is to establish minimum standards for the proper management of yard trimmings, land-clearing debris and other organic material; to encourage composting and establish standards for the production of compost; and to ensure that operations are performed in a manner that is protective of public health and the environment.

2. Registered wood-grinding or composting facilities operating on the effective date of this regulation are subject to the following:

a. Registered facilities operating on the effective date of this amendment shall be subject to all provisions of the amended regulation with the exception of the location criteria outlined in Part III.C. Such an exception shall not apply to facilities that relocate or modify their permit or registration to include feedstocks other than Category One feedstocks, after the effective date of this amendment.

b. Within 90 days of the effective date of this amended regulation, operators of registered facilities shall send written notification to the Department of their intent to operate in compliance with the regulation or of their intent to cease and close their operations.

(1) Facilities intending to continue to operate as an exempt or conditionally exempt facility shall include in its notice a statement identifying its eligibility to operate as either an exempt facility or a conditionally exempt facility, a signed certification that activities will be conducted in accordance with this regulation, a request that its registration be terminated and, as appropriate, a request that its financial assurance mechanism be canceled.

(2) Facilities intending to operate as a permitted facility shall include in its notice a request that its registration, including any modifications approved in writing by the Department prior to the effective date of this amendment, be converted to a permit, and a certification that activities will be conducted in accordance with the regulation.

(3) Facilities intending to cease wood-grinding or composting activities shall provide written notice of intent to close in accordance with Part III.I of this regulation, and a proposed closure date.

c. Facilities shall achieve compliance with all provisions of this amendment within 270 days of its effective date, or close in accordance with the closure requirements of this regulation, unless otherwise approved by the Department.

d. In addition to the notice described above, a facility may be required to provide additional information to the Department to determine compliance with this regulation or to facilitate conversion of the registration to a permit.

3. The requirements of this regulation are not applicable to the grinding of pallets, packaging or other industrial sources of wood residuals.

4. The requirements of this regulation are not applicable to sewage sludge or industrial sludge generated and managed on site of a wastewater treatment facility permitted under authority of R.61-9, Water Pollution Control Permits, including sludges mixed with Category One feedstocks generated off-site of the facility.

B. Definitions.

For the purposes of this regulation, the following terms are defined as follows:

1. "Aerated Static Pile" means a composting process that uses a controlled air distribution system to either blow or draw air through the composting mass. No agitation or turning of the composting mass is performed.

2. "Aerobic" means the biological decomposition of organic substances in the presence of at least five percent oxygen by volume.

3. "Best management practices" (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of Waters of the State, Waters of the United States or wetlands.

4. "Buffer" means the regulatory minimum separation distance required for wood-grinding equipment, operational areas, storage areas, or boundaries of a wood-grinding or composting site to structures as listed in the regulation.

5. "Carbon-to-Nitrogen ratio" ("C:N Ratio") means the quantity of total carbon (C) in relation to the quantity of total nitrogen (N) in an organic material or composting mass.

6. "Composite sampling" means a single sample for laboratory analysis composed of multiple, well-blended point or sub-samples uniformly distributed throughout the entire volume that, after mixing, accurately represents an average or median value of the property or trait of interest for a batch or general mass of compost.

7. "Compost" means the humus-like product of the process of composting.

8. "Compost stability" refers to a specific stage or state of organic matter during composting as characterized by the inverse measure of the potential for a material to rapidly decompose.

9. "Compostable" means the capability of being decomposed by natural biological processes, and is approved by the Department as an acceptable feedstock.

10. "Compostable products" means manufactured items such as cups, plates and flatware for food service or bags and packaging intended for singular use that undergoes degradation by biological processes at a rate consistent with other known compostable materials and leaves no visually distinguishable or toxic residue. Only the materials that meet the relevant specifications of American Society for Testing Materials (ASTM) D6400 (plastics) or ASTM D6868 (coated papers and natural materials) shall be considered compostable products.

11. "Composting" means the aerobic biological decomposition of organic residuals under managed conditions and minimum time-temperature relationships resulting in compost.

12. "Composting mass" means the result of combining feedstocks in a formulaic recipe to achieve a Carbon-to-Nitrogen ratio, moisture content, and porosity within the mixture that facilitates rapid aerobic decomposition of the materials; the mixture of feedstocks is considered a composting mass until it meets the stability requirements of this regulation.

13. "Control" means having access to a property through part ownership, rental, lease, easement or other access agreement.

14. "Curing" means the process that follows composting in which the compost is matured to meet market conditions.

15. "Department" means the South Carolina Department of Health and Environmental Control (SCDHEC).

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16. “Domestic septage” means either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.

17. “Domestic sewage” means waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

18. “Feedstock” means source separated, recovered organic material approved by the Department or listed in the Appendix to R.107.4 to be used in the production of compost, mulch or other product.

19. “Finished compost” means the product of a composting mass that has met the minimum time and temperature requirements for the composting method chosen and satisfies the stability requirements and applicable quality assurance and testing requirements for finished compost found in Part III.F of this regulation.

20. “Generated on site” means residuals produced on the same single tax map parcel or multiple tax parcels under the same ownership or control, upon which it is managed.

21. “Grinding” means the act of mechanically reducing the size of organic materials.

22. “Industrial sludge” means the solid, semi-solid, or liquid residue generated during the treatment of industrial wastewater in a treatment works. Industrial sludge includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes, and a material derived from industrial sludge. Industrial sludge does not include ash generated during the firing of industrial sludge in an industrial sludge incinerator or grit and screenings generated during preliminary treatment of industrial wastewater in a treatment works. Industrial sludge by definition does not include sludge covered under 40 CFR 503 or R.61-9.503, Water Pollution Control Permits.

23. “Industrial solid waste” means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of the Resources Conservation and Recovery Act (RCRA). The term does not include employee kitchen or cafeteria residuals, packaging waste or yard-trimmings generated on site of an industrial property.

24. “In-process material” means ground organics which have been incorporated into a composting mass and other material that is in the process of being cured, but has not yet achieved the status of finished compost.

25. “In-vessel composting” means a process in which decomposing organic material is enclosed in a drum, silo, bin, tunnel, or other container for the purpose of producing compost; and in which temperature, moisture and air-borne emissions are controlled, vectors are excluded and nuisance and odor generation minimized.

26. “Land-clearing debris” means material generated solely from land-clearing activities, including brush, limbs and stumps, but does not include solid waste from agricultural or silvicultural operations.

27. “Manure” means the fecal and urinary excreta of livestock, poultry, or fish and may also contain bedding, spilled feed, water, soil and other substances incidental to its collection. This definition does not include excreta from household animals such as dogs and cats.

28. “Mulch” means the organic, non-composted product rendered by grinding Category One feedstocks.

29. "Municipal solid waste" means discards from residential, commercial, institutional, and industrial sources which have not been separated at the source for recycling. Industrial process waste is excluded from the wastes that comprise municipal solid waste.

30. "On-site" means activities performed on property under the same ownership or control where the feedstocks were grown, produced or otherwise generated for recycling.

31. "Organic" means a substance derived from living organisms.

32. "Open burning" is defined to have the same meaning as used in Air Pollution Control Regulations and Standards R.61-62.1, Definitions and General Requirements, or any future amendments and currently means any fire or smoke-producing process which is not conducted in any boiler plant, furnace, high temperature processing unit, incinerator or flare, or in any other such equipment primarily designed for the combustion of fuel or waste material.

33. "Open dumping" means any unpermitted disposal or landfilling activity except as specifically exempted by regulation.

34. "Operational Area" means the area of a wood-grinding or composting facility where equipment maintenance, material storage, material processing, composting or curing activities are performed, or as otherwise specified by permit.

35. "Operator" means the person responsible for the overall operation of a wood-grinding or composting facility.

36. "Pathogen" means a disease-causing organism, such as fecal coliform, Salmonella bacteria, Ascaris parasite eggs, etc.

37. "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

38. "Porosity" means the fraction of a material or mass that is void space.

39. "Putrescible" means material that contains organic matter capable of decomposition by microorganisms and of such a character and proportion that it causes obnoxious odors and the capability of attracting or providing food for birds and other animals.

40. "Residence" means any structure, all or part of which is designed or used for human habitation, that has received a final permit for electricity, permanent potable water supply, permanent sewage disposal, and a certificate of occupancy, if required by the local government.

41. "Residuals" means materials that have served their original, intended use and have been source separated and diverted for recycling, grinding or composting.

42. "Run-off" means any rainwater not absorbed by soil, that flows over land from any part of a facility.

43. "Sewage sludge" means the solid, semi-solid, or liquid residue generated during the treatment of municipal wastewater or domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic or industrial sewage in a treatment works.

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44. “Silvicultural” means produced from or pertaining to the care and cultivation of forest trees and timber, including bark and woodchips.

45. “Solid waste” means any garbage, refuse, or sludge from a waste treatment facility, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

46. “Source separated” means segregated from solid waste at the point of generation to facilitate recycling.

47. “Thermophilic” means a biological stage in the composting process during which microorganisms break down proteins, fats, and complex carbohydrates such as cellulose at relatively high temperatures (ranging from 113 degrees Fahrenheit to 167 degrees Fahrenheit or 45 degrees Celsius to 75 degrees Celsius).

48. “Turn” means to physically manipulate the compost mass in order to aerate, decrease temperatures, and increase evaporation rates.

49. “Unauthorized material” means any feedstock or waste material that due to its feedstock category, characteristics, or volume, causes an exempt, conditionally exempt site or permitted facility to be in violation of this regulation or the permit conditions approved by the Department.

50. “Untreated wood” means raw wood or lumber that has not been chemically treated or painted.

51. “Vector” means a carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and vermin.

52. “Waters of the State” means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.

53. “Waters of the United States” means:

a. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

b. All interstate waters, including interstate wetlands;

c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

- (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
- d. All impoundments of waters otherwise defined as Waters of the United States under this definition;
- e. Tributaries of waters identified in paragraph a through paragraph f of this definition;
- f. The territorial sea; and
- g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraph a through paragraph f of this definition.
- h. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act, are not waters of the United States.

54. "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

55. "Yard trimmings" means residuals consisting solely of vegetative matter resulting from maintenance or alteration of public, commercial, institutional or residential landscapes and tends to include grass clippings, leaves, discarded plants and weeds, which have been source separated and diverted for recycling.

C. Variances.

Any request for a change to the adherence to a provision or provisions of this regulation, or to a permit issued pursuant to or in accordance with this regulation, shall be made in writing to the Department. The Department shall provide a written response to such a request.

D. Violations and Penalties.

A violation of this regulation, or any permit or order issued pursuant to or in accordance with this regulation, subjects a violator to the issuance of a Department order, a civil enforcement action, or to a criminal enforcement action in accordance with S.C. Code Ann., Section 44-96-100, as amended.

E. Severability.

If, for any reason, any provision, paragraph, sentence, clause, phrase, or part of this regulation or application thereof, is declared by a court of competent jurisdiction as invalid, or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder of this regulation or its application.

Part II. Exempted and Conditionally Exempted Activities.

The feedstock categories referenced in this part of the regulation are listed and characterized in the Appendix to R.61-107.4. For the purposes of Part II, a "site" shall mean one tax map parcel or multiple contiguous tax parcels under the same ownership.

A. Exempted Activities.

The activities below are exempted from the requirements of this regulation:

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1. Backyard composting, when feedstocks generated on residential property by the property occupants are composted primarily for use on the same property;
2. Grinding or composting of Category One feedstocks by a person on property under their ownership, when the feedstocks are generated at that site;
3. Acceptance, storage, grinding or composting of only Category One feedstocks by a person on property under their ownership, when the combined total of unground feedstocks and in-process material on site at any given time is less than 80 cubic yards;
4. Wood grinding activities for maintenance and land-clearing activities by public agencies, public utilities, railroads, or their representatives, upon land they own or control;
5. Composting activities using only Category One and Category Two vegetative feedstocks by a person on property under their ownership, when the combined total of feedstocks and in-process material on site, at any given time, is less than five cubic yards;
6. Storage, grinding and composting activities required for emergency storm debris management at sites designated by state, county, and municipal government;
7. Composting activities or other organics management activities associated with farming operations when the material managed is produced from crops grown on a farm, and when the compost is produced primarily for use on property under the same ownership or control;
8. Limited duration events that involve processing or storage of organic residuals for distribution to the public, to include "Grinding of the Greens" and, as approved by the Department, other programs of a similar nature; and
9. Composting activities by a participant transitioning to or enrolled in the U.S. Department of Agriculture (USDA) National Organic Program, or other programs of a similar nature as approved by the Department, and the compost produced is primarily for use on property under control of the participant.

B. Conditionally Exempt Activities.

1. The following activities are exempt from the permitting requirements of this regulation, but shall comply with all requirements of Part II.B:
 - a. Management of only source separated Category One feedstocks by a person on property under their ownership, when the combined total of feedstocks and in-process material on site at any given time is less than 400 cubic yards.
 - b. Management of only source separated Category Two feedstocks or mixtures of Category One and Category Two feedstocks by a person on property under their ownership, when the combined total of feedstocks and in-process material on site at any given time is less than 40 cubic yards.
 - c. Management of only source separated Category Two feedstocks or mixtures of Category One and Category Two feedstocks generated on site of commercial, industrial, or institutional properties under the same ownership, when the combined total of feedstocks and in-process material on site at any given time is less than 400 cubic yards.

2. Conditionally exempt activities shall be performed in accordance with the minimum buffers listed below as measured from the operational area, to the listed entities:

a. A minimum 200-foot buffer shall be required from residences, schools, day-care centers, churches, hospitals and publicly owned recreational park areas unless otherwise waived with documented consent of all property owners within the buffer and made available to the Department upon request;

b. A minimum 50-foot buffer shall be required from property lines unless otherwise waived with documented consent of all property owners within the buffer and made available to the Department upon request;

c. A minimum 100-foot buffer shall be required from public and private drinking water wells.

3. The Department may issue a variance to operate with less restrictive buffers when the technology and practices of the operation justify the reduction. The request shall be made in writing to the Department.

4. All putrescible feedstocks shall be managed to prevent the escape of liquids and to suppress odors by immediately incorporating the feedstocks into the compost mass, an in-vessel composting unit, an air-tight container, or an enclosed building.

5. Best Management Practices shall be utilized to manage stormwater and to prevent impact to Waters of the State.

6. No feedstocks or other material piles may be placed or stored in standing water.

7. All feedstocks and other material piles onsite of the facility shall be monitored and managed to prevent fire.

8. Unauthorized material shall be removed from the facility for proper disposal no less than every seven days, except that putrescible waste shall be placed in an air-tight container immediately and removed from the facility within 72 hours.

9. Compost produced by conditionally exempt facilities using Category Two feedstocks shall not be offered for sale to the public unless it can be demonstrated to meet all applicable standards for compost quality under Part III.F of this regulation.

Part III. Permitted Facilities.

The feedstock categories referenced in this part of the regulation are listed and characterized in the Appendix to R.61-107.4.

A. Facility Types.

Facilities described below may not be operated without a permit, except as specifically exempted in Part II of this regulation:

1. Type One facilities. Type One facilities are facilities that grind or compost only source separated organic residuals described as Category One feedstocks.

2. Type Two facilities. Type Two facilities are those facilities that compost only source separated compostable materials described as Category Two feedstocks or mixtures of Category One and Category Two feedstocks, or any similar items specifically approved in writing by the Department.

3. Type Three Facilities. Type Three facilities are those facilities that:

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a. Compost Category Three feedstocks or mixtures of Category Three feedstocks with other feedstock categories from the Appendix to R.61-107.4;

b. Compost feedstocks not listed in the Appendix to R.61-107.4, that pose a level of risk greater than Category Two feedstocks as determined and allowed, on a case-by-case basis, by permit from the Department; or

c. Produce compost using methods not specified in Part III.E.6 of this regulation and as allowed on a case-by-case basis by permit from the Department.

B. General Criteria

1. The siting, design, construction, operation, and closure activities for facilities shall conform to the standards set forth in this regulation, unless otherwise approved by the Department.

2. Facilities shall obtain the appropriate permit or permits from the Department in accordance with Part IV or Part V of this regulation, prior to the construction, operation, expansion, or modification of a facility.

3. The Department may approve a variance from the general, location, design or operating criteria, based upon the technology and practices of the operation.

4. All facilities shall be subject to inspections and evaluations of operations by a representative of the Department.

C. Location Criteria

1. All facilities shall comply with the minimum buffers, listed below, from the operational area of the facility, to the listed entities, as they exist at the time the permit application is received by the Department, except that an entity listed here shall be exempt from the buffer requirement to its own buildings.

a. For Type One facilities, for in-vessel composting or for composting performed in an enclosed building, a minimum 200-foot buffer shall be required from residences, schools, day-care centers, churches, hospitals and publicly owned recreational park areas; for all other Type Two or Three facilities, a minimum 1000-foot buffer shall be required.

b. For Type One facilities, a minimum 50-foot buffer shall be required from property lines; for Type Two or Three facilities, the buffer shall be at least 100 feet;

c. A minimum 100-foot buffer shall be required from any Waters of the U.S.;

d. A minimum 100-foot buffer shall be required from public or private drinking water wells;

e. A minimum 100-foot buffer shall be required from isolated wetlands; and

f. For Type Two or Type Three facilities, a minimum 10,000-foot buffer shall be required from any airport runway used by turbojet aircraft and a minimum 5,000-foot buffer from any airport runway used only by piston-type aircraft.

2. The Department may approve, with documented consent of all property owners within the buffer, less stringent buffers than those listed in Part III.C.1.a and Part III.C.1.b of this regulation.

3. The Department reserves the right to require more stringent buffers if it is determined, based on the site, feedstocks, or operations, that more stringent buffers are necessary to protect health and the environment.

4. The Department's permit decision does not supersede, affect, or prevent the enforcement of a zoning regulation or ordinance within the jurisdiction of an incorporated municipality or county, or by an agency or department of this state.

5. Local governments may require siting criteria and buffer distances that are more stringent than the state regulations.

D. Design Criteria

1. All facilities shall be designed to divert storm water from running onto the operational areas of a facility.

2. The operational area of all permitted Type One facilities shall ensure at least one foot of separation to groundwater.

3. The operational area of all permitted Type Two and Type Three facilities shall be a hard-packed all weather surface able to withstand various temperatures and allow for heavy equipment operation, without damage or failure. The working surface shall be:

a. A naturally occurring or engineered soil mixture with at least two feet separation to the seasonal high water table; or

b. A surface such as concrete or asphalt pad on an appropriate sub-base to support and prevent failure of the surface layer with at least one foot of separation to the seasonal high water table from the sub-base of the constructed surface; or

c. As otherwise approved by the Department.

4. Facilities may use borings to determine separation from the seasonal high water table.

5. The Department may impose more protective design criteria for the operational areas of Type Three facilities to ensure compatibility with the feedstocks in use and the structural integrity needed for the equipment used at the site.

6. Facility design shall ensure that each composting mass can be managed in accordance with the operational requirements of this regulation.

7. Access to all permitted facilities shall be controlled through the use of fences, gates, berms, natural barriers, or other means to prevent unauthorized dumping and access.

E. Operating Criteria

1. Site Control and Sign Requirements shall be as follows:

a. All permitted facilities shall control receipt of all materials.

b. All permitted facilities shall post signs in conspicuous places that are resistant to weather and fading of color in direct sunlight that:

(1) Identify the owner, operator, or a contact person and telephone number in case of emergencies,

(2) Provide the hours during which the facility is open for use; and,

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(3) List the valid SCDHEC Facility I.D. numbers for the facility.

c. Facilities may accept only those materials as allowed by facility type and category as described in Appendix to R.61-107.4 or as otherwise specified in their permit application and approved in writing by the Department.

d. No material, including feedstocks or in-process material, may be stored at the permitted facility in excess of the maximum capacity allowed by permit.

e. No facility shall accept deliveries of feedstocks or other materials that will result in materials being stored in excess of the maximum capacity allowed by permit.

2. All wood-grinding activities shall assure that no debris is ejected onto neighboring properties.

3. Facilities shall use Best Management Practices to control run-on and run-off. An appropriate permit may be required prior to the discharge of any stormwater.

4. Open burning is prohibited except in accordance with Part VI. B of this regulation.

5. Pile sizes and spacing. All materials shall be maintained in such a way as to:

a. Allow the measurement of internal-pile temperatures of the compost mass as required,

b. Enable the compost mass to be turned as needed to result in the aerobic, thermophilic decomposition of the solid organic constituents of the feedstock,

c. Have sufficient space around piles of material to allow access of emergency fire-fighting equipment and procedures as described and approved in the facility operational plan,

d. Provide a safe working environment.

6. The operation of all composting facilities shall follow acceptable management practices for composting methods that result in the aerobic, thermophilic decomposition of the solid organic constituents of the feedstock. The following composting methods will be allowed:

a. Passive leaf composting, in which composting leaves collected by local government programs are managed with little manipulation of the materials after they are mixed and piled; turning shall be performed at least quarterly or as needed to prevent odors;

b. The windrow composting method, in which the following requirements apply: Aerobic conditions at 131 degrees Fahrenheit or 55 degrees Celsius or greater shall be maintained in the composting mass for at least 15 days. During the high temperature period, the composting mass shall be turned at least five times. The composting mass shall be turned before the internal temperature exceeds 160 degrees Fahrenheit or 71 degrees Celsius.

c. The aerated static pile composting method, in which the following requirements apply: Aerobic conditions shall be maintained during the composting process. The temperature of the composting mass shall be maintained at 131 degrees Fahrenheit or 55 degrees Celsius for at least three consecutive days; or

d. The in-vessel composting method, in which the temperature of the composting mass shall be maintained at a minimal temperature of 131 degrees Fahrenheit or 55 degrees Celsius for at least three consecutive days.

- e. The use of other composting methods shall require written Department approval.
7. Temperature measurements shall be as follows:
- a. The temperature of each composting mass shall be measured daily during the first week of active composting, and not less than weekly thereafter.
 - b. Temperature readings shall be taken every 50 feet along the length of a composting mass and from within the center of the mass.
 - c. In-vessel composting systems shall follow the manufacturer's recommendations for monitoring temperatures during active composting.
 - d. Intervals and methods for monitoring temperatures and any alternatives not stated in this regulation must be included in the operational plan and approved in writing by the Department.
 - e. A record of all temperature measurements taken shall be maintained and readily available to the Department upon request.
8. The moisture content in the composting mass shall be monitored regularly and managed to achieve desired results.
9. The working surface of the operational area of all permitted facilities shall be maintained to prevent standing water or uncontrolled releases.
10. Material Management shall occur as follows:
- a. Grass clippings shall be incorporated into the composting mass within 24 hours of arrival at a ratio of no more than one part grass to three parts chipped or ground carbon-rich material by volume.
 - b. Food residuals and other putrescible, nitrogen-rich feedstocks shall be incorporated into the compost mass the same day of receipt or stored not more than 72 hours in closed, air-tight, and leak-proof containers.
 - c. If manure is stored more than three days, the manure shall be stored on a concrete pad or other impervious surface and covered with an acceptable cover to prevent odors, vector attraction, and runoff. The cover should be vented properly with screen wire to let the gases escape. The edges of the cover should be properly anchored.
 - d. Category Three feedstocks shall be incorporated into the compost mass upon receipt or stored in a manner which is described in the operational plan and approved by the Department.
 - e. Source separated feedstocks shall not be combined until incorporated into the compost mass, except as described in the operational plan and approved by the Department.
 - f. Feedstocks shall be thoroughly mixed into the compost mass in accordance with a formulaic recipe that optimizes Carbon-to-Nitrogen ratios, moisture content and porosity. Feedstocks with excessive moisture content shall be delivered onto a bed of woodchips or sawdust or otherwise managed to prevent escape of the liquids from the compost mass.
 - g. All operations shall be performed to prevent the re-introduction of pathogens into materials that have undergone, or are in the process of, pathogen reduction.

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h. Unauthorized feedstocks and waste shall be removed from the facility for proper disposal no less than every seven days unless otherwise approved by the Department. Unauthorized putrescibles shall be placed in an air-tight container immediately and removed from the facility within 72 hours of receipt. The area designated for temporary storage of unauthorized waste at the facility shall be identified in the facility operational plan. The Department may require more frequent removal based on the nature or quantity of other unacceptable waste.

11. All material piles shall be monitored and managed to prevent fire as described in the facility operational plan.

12. Facilities shall identify any chemical changes to a feedstock, or changes to the chemical ratios of a feedstock, significant enough to alter the composting process or the quality of the compost produced, and shall request appropriate permit modifications from the Department for any operational plan changes required as a result of those changes.

13. Reporting and Records Retention shall be in accordance with the following:

a. Not less than once each month, facilities shall measure and record the amounts, in cubic yards, of feedstocks, in-process material and waste material on site at that time.

b. No later than September 1 of each year, all permitted facilities shall submit to the Department, an annual report on a form approved by the Department, for the prior fiscal year ending June 30. The report shall include the following information:

(1) The total amount in tons, either actual or estimated weight, of in-coming feedstock received yearly for each type of feedstock and the source for each;

(2) The total amount in tons, either actual or estimated weight, of mulch, compost or other material that on a yearly basis is:

(a) Produced;

(b) Transferred off-site as products such as mulch, compost or soil amendment;

(c) Transferred off-site for further processing; and,

(d) Disposed in a landfill and the reason for disposal.

c. The following information shall be maintained at all facilities that produce compost for sale or distribution to the public and made available to the Department upon request unless otherwise approved by the Department:

(1) Daily and weekly temperature readings and moisture observations of each composting mass that is formulated;

(2) Start-up dates for each composting mass that is formulated and the date for each time a composting mass is remixed or turned while composting;

(3) Number of days required to produce the end product, by type; and

(4) The results of all testing performed in accordance with the Quality Assurance requirements of this regulation and any corrective action taken to improve product quality to the standards in Part III.F.

d. Any changes in telephone numbers, names of responsible parties, addresses, etc. for a permitted facility shall be submitted to the Department within 10 working days of the change.

e. Records shall be maintained by all facilities for a period of no less than three years and shall be furnished upon request to the Department or be made available at all reasonable times for inspection by the Department.

14. Any compost produced with Category Two or Category Three feedstocks and offered for sale or distribution to the public is required to meet the physical and biological standards listed in Part III.F.

15. Operational Plans.

All facilities shall be operated in accordance with this regulation and an operational plan developed specifically for the facility and approved by the Department in writing.

a. Facilities shall maintain an operational plan onsite of the facility and it shall be made available for inspection upon request by the Department.

b. Facilities requiring permits shall submit their operational plan to the Department along with the permit application. The Department may require changes to an operational plan when the Department has determined that the operation requires additional measures to protect human health and safety and the environment.

c. Facilities shall address all requirements of Part III.E and Part F in their operational plan, including at a minimum:

- (1) A description of the anticipated source and composition of the incoming feedstocks;
- (2) A description of the processes and methods that will be used to grind, compost, cure, store and otherwise manage material, including a description of production capabilities and equipment to be used;
- (3) A description of the procedure for inspecting, measuring, and managing incoming feedstock and unacceptable waste.
- (4) A description of the procedures for prevention and control of vector, odor, dust and litter specific to their geographic location and the types and amounts of feedstocks used in their operation;
- (5) A description of the anticipated markets for end products;
- (6) A quality assurance and testing plan for finished compost that describes:
 - (a) All of the parameters and protocols for obtaining, preserving, storing, and transporting samples to a South Carolina certified laboratory;
 - (b) The frequency of monitoring to assess temperature profiles during composting;
 - (c) The methods and processes used to determine stability of the compost; and
 - (d) Other protocols used to achieve quality assurance standards required in Part III.F;
- (7) A fire prevention and preparedness document which includes:

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(a) A description of the processes used to prevent fire, specific to their site design and operating criteria;

(b) A description of the procedures for control of fire specific to their site location, feedstock types, and operating criteria;

(c) The location of emergency equipment and fire suppressant materials;

(d) The emergency contact information for the local fire protection agency, and

(e) Documentation of arrangements with the local fire protection agency to provide fire-fighting services.

(8) A contingency plan describing facility operations in the event of equipment failure;

(9) A detailed closure plan to meet the requirements of Part III.I, including final closure cost estimate pursuant to Part III.H.2 of this regulation; and

(10) Any additional procedures implemented as a requirement of the Department as described in Part III.G.

16. Compost Program Manager Certification shall be secured and maintained as follows:

a. Unless otherwise approved by the Department, within 18 months of the effective date of this regulation, all permitted Type Two and Type Three facilities are required to have an operator or one or more employees classified as a manager or supervisor who is duly certified as a compost program manager.

b. Persons who have achieved and maintain compost manager certification by the U.S. Composting Council (USCC), the Solid Waste Association of North America (SWANA), or another Department-approved training program shall be deemed certified by the Department.

c. Documentation of Compost Program Manager Certification shall be maintained at all permitted Type Two and Type Three facilities and made available to the Department upon request unless otherwise approved by the Department.

F. Quality Assurance and Testing Requirements for Finished Compost

1. Any compost produced from Category Two or Category Three feedstocks and offered for sale or distribution to the public is required to meet the physical and biological standards listed in this section. Composite samples shall be collected, stored and analyzed in accordance with the procedures found in the U.S. Department of Agriculture publication "Test Methods for the Examination of Composting and Compost." (TMECC) or equivalent methodology recommended by the U.S. Environmental Protection Agency publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods".

2. Compost from Type One facilities or compost made solely from Category One feedstocks with compliant records of time and temperature monitoring are presumed to meet the standard for biological contaminants and are not required to perform laboratory testing.

3. All compost for sale or distribution to the public and produced from feedstocks other than Category One must be tested and meet the designation of Class A Exceptional Quality Compost or be designated for legal disposal, additional processing, or other use as approved by state or federal agencies having appropriate jurisdiction.

4. Class A exceptional quality compost:
 - a. Contains less than two percent physical contaminants by dry weight analysis,
 - b. Has a stability index rating of stable or very stable,
 - c. Meets Class A pollutant limits found in Table 1, and
 - d. Meets standards of this regulation for pathogen reduction.

Table 1. Pollutant Standards: Maximum Allowable Concentration (milligrams per kilogram dry weight)

Pollutant	Class A
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800

5. The distribution and use of exceptional quality compost is unrestricted and the consumer shall be advised to apply the product at agronomic rates based on product analysis, except that the use and distribution of compost produced from feedstocks generated by facilities permitted pursuant to R.61-67, Standards for Wastewater Facility Construction, shall be subject to all applicable requirements of R.61-9.

6. Compost Testing Frequency. The frequency of laboratory testing for pollutants, biological contaminants, and physical contaminants shall be based on the volume of compost produced annually by the facility as indicated in Table 2:

Table 2. Compost Testing Frequency

Compost Quantity	Frequency
1-2500 tons	1 per quarter (or less as approved)
2501-6250 tons	1 per quarter
6251-17500 tons	1 per 2 months
17501 tons and above	1 per month

7. The composted product shall be analyzed for stability using methods as set forth in the USDA TMECC Section 05.08-A through Section 05.08-F and the Compost Stability Index Table 05.08-1.

8. All compost produced for sale or distribution is required by this regulation to meet the physical and biological contaminant standards in Table 3 by a testing method referenced in Section III.F.1 or an equivalent method allowed by the Department:

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Table 3. Physical and Biological Contaminants Limits for Compost

Physical contaminants (man-made inerts)	Less than 2 percent dry weight basis
Biological Contaminants (pathogens)	
Fecal coliform	Less than 1,000 Most Probable Number (MPN) per gram, dry weight basis
Salmonella	Less than 3 MPN per 4 grams, dry weight basis

a. All product quality assurance testing for pollutant standards and biological contaminants required by this regulation or as requested by the Department shall be performed by a South Carolina certified laboratory and reported in a format acceptable to the Department.

b. All products marketed in South Carolina as a soil amendment or fertilizer shall be registered by the product manufacturer with the Clemson University Department of Plant Industry or as otherwise required by law or regulation.

G. Additional Requirements for Permitted Facilities.

1. The Department may impose more stringent requirements than those outlined herein when additional measures are necessary, on a case-by-case basis, to protect public health and the environment from any potentially adverse effects. These requirements include, but are not limited to:

a. Analysis of individual feedstocks to identify any characteristics that may require special management or permit conditions;

b. Feedstock selection; the Department may determine on a case-by-case basis that a material shall not be used as feedstock due to its pollutant content or concentration, the material variability from the source, or its potential for creating adverse environmental effects,

c. Testing frequency and parameters,

d. Location, design, and operating criteria,

e. Monitoring and reporting, including but not limited to, monitoring of groundwater, surface water, soil, plant tissue, feedstocks and/or finished products,

f. Surface or pad requirements, or

g. Other requirements as necessary such as site assessments, groundwater sampling, and corrective action when environmental contamination from a permitted facility is suspected or confirmed.

2. The permittee may request that the Department remove the additional requirements described in Part III.G.1 from a permit if, after two years, those processes are proven to the Department to be effective and those mixtures of feedstocks that are proven compatible for composting, as determined by the Department. In all cases, the Department shall retain the authority to determine the effectiveness of the process and/or feedstock mixture to ensure it is protective of human health, surface water standards, and groundwater standards.

H. Financial Assurance.

The requirements of this Section apply to all permitted facilities except those owned and operated by a local government, by a region comprised of local governments or by state or federal government entities whose debts and liabilities are the debts and liabilities of the State or the U.S.

1. Prior to accepting feedstocks, permitted facilities shall fund a financial responsibility mechanism as described in R.61-107.19, SWM: Solid Waste Landfills and Structural Fill Part I.E, and approved by the Department to ensure the satisfactory closure of the facility as required by this regulation.

2. The permittee shall calculate and declare the maximum amount in cubic yards of feedstocks, in-process material, and waste material that could be stored at the facility in their application for a permit. A final closure cost estimate is to provide funding for the third party costs to properly dispose of the maximum amount of material that the facility can store at any given time and perform any corrective action for soils and groundwater that the Department may require. The cost estimate shall account for tipping fees, material hauling costs, grading and seeding the site, labor, and the cost for soliciting third party bids to complete closure and restore the site to conditions acceptable to the Department.

a. The maximum capacity of a site shall be calculated in cubic yards assuming compliance with all buffers and spacing requirements. The Department shall use an average cost of disposal per ton of material in Class II landfills, as reported in the most recent Solid Waste Management Annual Report, when calculating the amount of financial assurance necessary for a site. The closure cost estimate shall be three times the cost to dispose the maximum capacity of the site in a Class II landfill.

b. During the active life of the facility, the permittee shall annually adjust the closure cost estimate when the disposal cost estimate increases substantially based on information published in the Solid Waste Management Annual Report.

c. The permittee shall increase the closure cost estimate and the amount of financial assurance provided if changes to the closure plan or site conditions increase the maximum cost of closure at any time during the site's remaining active life.

d. The permittee shall increase the closure cost estimate and the amount of financial assurance provided if a release to the environment occurs to include cost of groundwater monitoring, assessment and corrective action if the Department determines that these measures are necessary at any time during the active life of the facility. Financial assurance shall be maintained and adjusted annually until the Department agrees that environmental conditions meet applicable standards.

e. The permittee may reduce the closure cost estimate and the amount of financial assurance provided for proper closure if the cost estimate exceeds the maximum cost of closure at any time during the remaining life of the facility. The permittee shall submit justification for the reduction of the closure cost estimate and the amount of financial assurance to the Department for review and approval.

3. The registrant or permittee shall provide continuous coverage for closure until released from financial assurance requirements, pursuant to this regulation.

4. The Department may take possession of a financial assurance fund for failure to complete closure in accordance with Part III.I or failure to renew or provide an alternate acceptable financial assurance mechanism.

I. Closure.

All facilities will conduct final closure in accordance with the operational plan submitted to the Department and with the following requirements:

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1. Operators of permitted facilities shall provide written notice of intent to close and their proposed closure date to the Department;

2. Upon closing, permitted facilities shall immediately post closure signs at the facility;

3. Unless otherwise approved by the Department, within 90 days after closing date, operators shall:

a. As appropriate, grade land to promote positive drainage and stabilize the site to prevent erosion,

b. Remove all feedstocks, finished product and wastes, except that mulch or Class A compost may be spread on the site to a maximum thickness of four inches if tilled into the soil prior to site stabilization, and

c. Appropriately manage all water collected in containment structures or ponds.

4. Permitted facilities with confirmed contamination shall amend their closure plan with post-closure corrective action requirements for approval by the Department when remediation activities at the facility continue beyond closure of the facility.

5. Permitted facilities shall request that the Department inspect and approve closure. Upon Department approval of proper closure, the permittee shall be released from financial assurance requirements.

J. Permit Violations.

The Department may take civil or criminal action or issue penalties in accordance with Part I.D of this regulation for a violation of a permit issued pursuant to or in accordance with this regulation.

K. Permit Revocation.

1. Whenever the Department finds that material or substantial violations demonstrate a disregard for, or inability to comply with, applicable laws, regulations, or requirements, and that these violations would make continuation of the permit not in the best interest of human health and safety or the environment, the Department may, after a hearing, amend or revoke the permit as appropriate and necessary.

2. For the purposes of Part III.K, "hearing" means a conference between the Department and a permittee, during which the permittee is given opportunity to respond to a written notice of alleged violation, and may be accompanied by legal and/or technical counsel.

3. If, after a hearing, the Department determines that permit revocation is warranted, an administrative order revoking the permit will be issued.

Part IV. Permit Application.

A. Permit Application Process. The applicant shall submit a permit application to the Department. The permit application shall include one hard and one electronic copy of the following in a format approved by the Department:

1. A completed and signed application form provided by the Department.

2. Tax map number for the site.

3. Proof of ownership or control of the property.

4. For Type Two or Type Three facilities, a signed statement from a South Carolina licensed professional engineer, on the form provided by the Department, certifying that the site design is compliant with the requirements of regulation.

5. A vicinity map that shows the location of the facility and the area that is within one mile of the property boundary.

6. A site plan on a scale of not greater than 100 feet per inch that shall, at a minimum, identify the following:

- a. The facility perimeter, the operational area and all storage areas with measurements in feet;
- b. Compliance with required buffers as outlined in Part III.C of this regulation;
- c. Property lines, access roads, gates, fences, natural barriers or other Department approved means of preventing unauthorized access and dumping;
- d. A topographical survey of the site depicting two-foot contours at a minimum, and six-inch contours for sites evaluated for consistency with South Carolina Coastal Zone Management Plan;
- e. A description of any BMPs used for the management of storm water;
- f. The location of, and distance to, any Waters of the U.S. on site of the facility or within the buffer areas described in Part III.C.

7. An operational plan that shall contain all items as required under Part III.E.15.

8. Any request for a variance as allowed by this regulation.

9. A final closure cost estimate pursuant to Part III.H.2 of this regulation, and documentation that the applicant has secured appropriate financial assurance.

B. Notice.

1. Within 15 days of submitting an application to the Department, the applicant shall give notice that he/she has requested a permit to operate to the county administrator, the county planning office, and all owners of real property as they appear on the county tax maps, as contiguous landowners of the proposed permit area. This notice shall contain:

- a. The name and address of the applicant;
- b. The type of facility and what it will produce, for example, mulch, compost;
- c. A detailed description of the location of the facility, using road numbers, street names, and landmarks, as appropriate;
- d. A description of the feedstocks the facility will utilize;
- e. Department locations (Central Office and appropriate Regional Office) where a copy of the permit application will be available for review during normal working hours; and
- f. The Department address and contact name for submittal of comments and inquires.

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2. The applicant shall provide evidence of Noticing as required in Part IV.B.1 to the Department.

3. A comment period of not less than 30 days from the date of Noticing will be provided prior to issuance of a Department Decision.

4. Notice of the Department Decision regarding the permit application will be sent to the applicant, to affected persons or interested persons who have asked to be notified, to all persons who commented in writing to the Department, and to the facility's host county. The use of certified mail to send Notice of the Department's Decision shall be at the discretion of the Department unless specifically requested in writing by an interested person.

C. Application Review and Permit Decision.

1. All information submitted to the Department shall be complete and accurate.

2. Whenever the applicant submits an incomplete application, the Department shall notify the applicant in writing. If the requested information is not provided within 180 days of receipt of the notification, the application may be denied.

3. The Department shall deny a permit for a facility that it has determined does not meet the requirements of this regulation.

4. The Department may attach additional conditions to a permit when the Department has determined that the operation requires safeguards to protect human health and safety or the environment.

D. Permit Modifications.

Permit modifications must be requested in writing and may not be implemented without prior written consent from the Department. The Department may require Noticing as described in Part IV.B of this regulation for modifications that impact the allowable feedstock categories, that impact buffers or that the Department determines may otherwise impact adjoining properties.

E. Transfer of Ownership.

The Department may, upon written request, transfer a permit, as appropriate, to a new permittee where no other change in the permit is necessary.

1. The proposed new owner of a permitted or registered facility shall, prior to the scheduled change in ownership, submit to the Department:

a. A one hard copy and one electronic copy of a completed permit application in a format approved by the Department.

b. A written agreement signed by both parties indicating the intent to change ownership or operating responsibility of the facility.

c. Documentation of financial assurance as required. The previous owner shall maintain financial assurance responsibilities until the new owner can demonstrate satisfactory compliance with Part III.H of this regulation.

2. The new owner shall submit legal documentation of the transfer of ownership of the facility within 15 days of the actual transfer.

Part V. General Permits.

A. General Permit Issuance. The Department may issue one or more general permits for facilities described as Type One and Type Two facilities.

1. A general permit shall, at a minimum, outline the following:

- a. Noticing requirements, including Intent to Operate and public Noticing
- b. Location, siting and design criteria
- c. Operating, monitoring and reporting criteria
- d. Financial assurance requirements
- e. Closure requirements

2. A general permit pursuant to this Section, may be issued, modified, or terminated in accordance with applicable requirements, terms and conditions of this regulation.

3. The Department shall publish a notice of any general permit issued, modified or terminated.

B. Application for Coverage under a General Permit.

1. An operator seeking coverage under a General Permit shall request approval from the Department with a completed Notice of Intent form provided by the Department.

2. A Notice of Intent shall include signatures of the permit applicant and of the landowner, a signed certification that operations will be conducted in accordance with the General Permit, and evidence that the applicant has secured a Financial Assurance mechanism in accordance with Part III.H.

3. The applicant shall also provide a copy of the Notice of Intent to the appropriate local government.

4. A facility may begin operating under a General Permit after a written approval from the Department has been received by the facility operator. Written approval shall not be issued less than 30 days of the date of submission of the Notice of Intent.

C. Corrective Measures and General Permit Revocation.

1. Upon a determination by the Department and written notification that the facility operating under a general permit poses an actual or potential threat to human health or the environment, the Department may require the permittee to implement corrective measures as appropriate.

2. Approval to operate under a General Permit may be revoked for failure to comply with the conditions of the General Permit or this regulation.

a. Whenever the Department finds that material or substantial violations demonstrate a disregard for, or inability to comply with a general permit, and that these violations would make continuation of the approval to operate under a general permit not in the best interest of human health and safety or the environment, the Department may, after a hearing, revoke the approval to operate as appropriate and necessary.

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b. For the purposes of Part V.C, “hearing” means a conference between the Department and a permittee, during which the permittee is given opportunity to respond to a written notice of alleged violation, and may be accompanied by legal and/or technical counsel, at the conference.

c. If, after a hearing, the Department determines that approval to operate under authority of a general permit should be revoked, an administrative order revoking the approval will be issued.

Part VI. Prohibitions.

A. Open dumping of land-clearing debris, yard trimmings and other organics is prohibited.

B. Open burning of land-clearing debris, yard trimmings and other organics is prohibited except as approved by the Department for emergency storm debris management or as allowed by Air Pollution Control Regulations and Standards R.61-62.2, Prohibition of Open Burning.

61-107.4 Appendix: Feedstock Categories

A. Feedstock Categories.

This Appendix defines categories of common organic feedstocks for composting. The feedstock characteristics of Carbon-to-Nitrogen ratio, moisture, pathogen content, source variability, non-compostable contaminants, trace metals and toxic metals content are considered when assessing appropriate facility design features and quality assurance monitoring necessary to produce beneficial products in an environmentally protective process. The Department will use these characteristics to assign the category and level of risk posed for any feedstock not listed here. Any mixture of feedstocks for composting shall assume the level of risk for the most problematic feedstock in the mixture.

1. Feedstock Category One.

Category One feedstocks have a high Carbon-to-Nitrogen ratio and pose limited risk of contamination from pathogens, trace metals, hazardous constituents, or physical contaminants that are not compostable. These feedstocks also have low moisture content. Grass clippings have a lower Carbon-to-Nitrogen ratio than other Category One feedstocks, but are included in this category because they are commonly collected with leaf and limb debris. This category includes only:

- a. Yard trimmings, leaves, and grass clippings;
- b. Land-clearing debris;
- c. Woodchips and sawdust from untreated and unpainted wood that has not been in direct contact with hazardous constituents;
- d. Agricultural crop field residuals;
- e. Compostable bags commonly used for collecting and transporting yard trimmings, leaves and grass clippings; and
- f. Similar materials as specifically approved in writing by the Department.

2. Feedstock Category Two.

Category Two feedstocks have a lower Carbon-to-Nitrogen ratio than Category One feedstocks, have a high moisture content, and are more likely to contain pathogens, trace metals or physical contaminants that are not compostable. This category includes only the following source separated materials:

- a. Non-meat food processing wastes, including marine shells and dairy processing wastes;
- b. Produce and non-meat food preparation residuals generated by wholesale or retail sales establishments or food service establishments;
- c. Plate scrapings including cooked meats generated by food service establishments;
- d. Manufactured compostable products and waste paper products that are otherwise unsuitable for recycling;
- e. Animal manures and materials incidental to its collection as defined in Part I.B of this regulation;
- f. Residual organics from anaerobic digesters or other waste-to-energy conversion processes utilizing only Category One or Category Two feedstocks; and
- g. Similar materials as specifically approved in writing by the Department.

3. Feedstock Category Three.

This category includes feedstocks that have the most risk from trace metals, source variability, physical contaminants, pathogens, and other properties that may be detrimental to plants, soils, or living organisms in high concentrations. These feedstocks require more intensive analysis and monitoring prior to being incorporated into the active composting area and require approval for composting by the Department on a case-by-case basis. This category includes:

- a. Sewage sludge,
- b. Industrial sludges,
- c. Drinking water treatment sludge,
- d. Fats, oils and greases (FOG),
- e. Animal-derived residuals except as specifically identified in Section A.2 of this Appendix,
- f. Residual organics from anaerobic digesters or other waste-to-energy conversion processes utilizing Category Three feedstocks,
- g. Other industrially produced non-hazardous organic residuals not previously categorized in this Appendix, and
- h. Other organic materials not prohibited below, as approved by the Department.

B. Prohibited Feedstocks. Composting of materials containing the following items is not allowable under this regulation:

- 1. Mixed municipal solid waste, except those activities under which after a two-year period of operation in compliance with a permit issued under authority of R.61-107.10, SWM: Research, Development, and

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Demonstration Permit Criteria, have been determined by the Department to have adequately achieved their objectives and satisfactorily protected public health, safety, and the environment;

2. Friable and non-friable asbestos as defined by R.61-86.1, Standards Of Performance For Asbestos Projects;

3. Biomedical or infectious wastes as defined by R.61-105, Infectious Waste Management;

4. Hazardous waste as defined by Resources Conservation and Recovery Act (RCRA), Public Law 94-580, and R.61-79, Hazardous Waste Management Regulations, promulgated pursuant to the South Carolina Hazardous Waste Management Act (SCHWMA), as amended, S.C. Code Ann. Section 44-56-10 et seq.;

5. Materials for compost or mulch production with Polychlorinated biphenyl (PCB) concentrations greater than quantifiable detection limits;

6. Source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended;

7. Radioactive material managed pursuant to R.61-63, Radiological Materials (Title A); and

8. Materials resulting from coal combustion, including but not limited to, fly ash, bottom ash, boiler slag and flue gas desulfurization materials.

Fiscal Impact Statement:

Additional costs to state government are not anticipated. There are no direct costs to local governments that can be attributed to this amendment. There would likely be incremental costs for local governments that elect to expand the feedstocks they compost, but these expenses are optional and could be offset somewhat by the landfill capacity conserved when organic material is diverted for composting.

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 Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF THE REGULATION:

Amendment, R.61-107.4, Solid Waste Management: Yard Trash and Land-clearing Debris; and Compost.

Purpose: This amendment of R.61-107.4, Solid Waste Management: Yard Trash and Land-clearing Debris; and Compost, will amend the applicability of the regulation, update the rules for siting, design, operation, and closure of wood grinding and composting facilities, and include standards for management and composting of a variety of organic materials, including food residuals. The primary purpose of this regulation amendment is to promote the practice of beneficial reuse of the materials, by increasing the variety of organic materials that may be used in compost production operations in South Carolina. It also seeks to reduce the regulatory burden on small operations in the state by expanding the list of allowable operations that may be performed without a permit. The regulation will also establish penalties for violations of the Act and the regulation.

Legal Authority: 1976 Code Sections 44-96-10 et seq., as amended.

Plan for Implementation: The amendment will take effect upon legislative approval and publication in the *State Register*. Copies of the regulation will be available electronically on the South Carolina Legislature Online website, and on the Department regulation development website

(<http://www.scdhec.gov/regulatory.htm>). Printed copies will be available for a fee from the Department's Freedom of Information Office. Staff will educate the regulated community on the provisions of the Act and the requirements of the regulation. No additional positions or personnel should be needed to enforce the revised regulation.

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

The current regulation was promulgated in 1993 and has never been amended. This amendment would allow for composting of a variety of organic materials that are not addressed in the current regulation and are commonly disposed of in landfills. The most notable of these materials is food waste which comprises nearly 21 percent of the waste stream going to landfills on a national average. Diversion of these materials for composting will not only conserve landfill space but also reduce greenhouse gas emissions from landfills when the materials decompose anaerobically. The composting industry is well developed in neighboring states and there is much interest for composting businesses to locate in South Carolina when the regulations allow a wider array of materials to be composted. Compost production and transportation of materials for composting should create jobs in South Carolina.

The amendment is reasonable in the way composting facilities are regulated based on characteristics of the material being composted and the volume or throughput expected at a composting facility. There are exemptions and conditional exemptions for small or "start-up" operations and then more complex permitting requirements for high-volume operations or facilities that compost a wider variety of materials. The problems with compost production facilities are generally from stormwater runoff, odors, compost quality, and accumulation of materials in an unsafe manner or in excess of site capacity. The amendment addresses these hazards and should not require additional staff to implement the provisions.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of this regulation is not expected to require additional resources beyond those currently appropriated.

External Costs: There will be no fees for application or renewal of permits.

External Benefits: The diversion of organic residuals from landfills is beneficial to communities by conserving costly landfill space. The growth of the composting industry in South Carolina will create jobs directly involved with compost production, transportation, and sales of products. Businesses that generate substantial amounts of organic wastes currently destined for landfills should see an expansion of options for managing their organic waste.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The diversion of organic materials to composting operations would reduce the need for landfill capacity. The use of compost in general is more environmentally safe than the use of chemical fertilizers and pesticides. Use of compost is also recognized for its benefit in preventing erosion. There will also be a reduction in greenhouse gasses emitted from landfills as this material is diverted for composting.

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

The failure to allow organic waste for composting will result in the continued production of methane in landfills as this material decomposes anaerobically. Methane is a potent greenhouse gas that can be reduced when organic materials are diverted from landfills and composted under aerobic conditions. The creation of landfill space is expensive and generally undesired by citizens of South Carolina so the conservation of landfill space through the beneficial reuse of materials destined for disposal preserves the economic and natural resources that would be needed to create more landfills.

Fertilizer use for growing crops and plants is generally recognized as a major contributor to non-point source water pollution. The use of compost is more beneficial to growers in South Carolina because soils enhanced with compost retain their nutrient and moisture content. Increased availability of compost will reduce the use of fertilizers.

Statement of Rationale:

The South Carolina Solid Waste Act includes directives to increase recycling rates and reduce waste disposal in South Carolina. This amendment provides the ability to compost an expanded list of organic residuals and utilize the materials for improving South Carolina soils and increases the likelihood of accomplishing the goals of the directives in the Act.

A workgroup comprised of representatives of state and local government, existing compost producers, the waste disposal industry, the State Solid Waste Advisory Council, the USDA's National Resource Conservation Service, Clemson Department of Plant Industry, consumers of compost, environmental groups, the Association of Counties, the South Carolina Municipal Association, and Department staff developed the criteria on which the regulation is based.

Document No. 4433

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-70-10 et seq.

61-122. Standards for Licensing In-Home Care Providers

Synopsis:

South Carolina Act No. 0018, effective May 11, 2011, enacted The Licensure of In-Home Care Providers Act, S.C. Code Section 44-70-10 et seq. (Supp. 2012). The Act directed the Department to promulgate regulations for the licensure of in-home care providers. This regulation will address the minimum standards for licensing in-home care providers. See sectional discussion below and Statements of Need and Reasonableness and Rationale herein. A Notice of Drafting for the regulation was published in the *State Register* on September 27, 2013.

Changes made at the request of the House Medical, Military, Public and
Municipal Affairs Committee by letter dated May 13, 2014:

Section 300.E regarding the minimum qualifications for a caregiver was revised.

Change made at the request of the Senate Medical Affairs Committee
by letter dated April 23, 2014:

Section 300.E.6 was revised regarding the minimum qualifications for a caregiver.

Section-by-Section Discussion of New Regulation as Submitted
to the General Assembly for Review on January 17, 2014, by
the Department of Health and Environmental Control:

Section 100 provides the purpose and scope of the regulation, definitions of key terms in the regulation, and requirements for licensure.

Section 200 discusses enforcement.

Section 300 addresses minimum requirements of in-home care provider staff including criminal background and drug screening, and training.

Section 400 addresses in-home care provider staff health status.

Section 500 provides the requirements for when in-home care providers must report incidents to the Department, as well as reporting when an administrator changes, and closure of the in-home care provider business.

Section 600 addresses the severability of portions of the regulation.

Section 700 provides for situations not covered by the regulation to be managed in accordance with best practices as determined by the Department.

The Appendix provides for an annual tuberculosis risk assessment for in-home care providers.

Instructions: Add new R.61-122, Standards for Licensing In-Home Care Providers, to Chapter 61 regulations.

Text:

61-122. Standards for Licensing In-Home Care Providers

Statutory Authority: 1976 Code Section 44-70-10 et seq.

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SECTION 100. PURPOSE AND SCOPE, DEFINITIONS, AND REQUIREMENTS FOR LICENSURE.

101. Purpose and Scope.

This regulation implements the provisions of the South Carolina In-Home Care Providers Act codified at Section 44-70-10 et seq., S.C. Code of Laws, 1976, as amended. This regulation will apply to all in-home care providers in South Carolina.

102. Definitions.

For the purposes of these regulations the following definitions apply:

A. Administrator. The individual designated by the licensee to have the authority and responsibility to manage the in-home care provider and is in charge of all functions and activities of the provider.

B. Blood Assay for *Mycobacterium tuberculosis* (BAMT). A general term to refer to *in vitro* diagnostic tests that assess for the presence of tuberculosis (TB) infection with *M. tuberculosis*. This term includes, but is not limited to, interferon-gamma release assays (IGRA).

C. Caregiver. Individual employed by, contracted by, referred by, or agent of the in-home care provider who provides services to clients.

D. Client. A person that receives services or care from an in-home care provider licensed by the Department.

E. Department. The South Carolina Department of Health and Environmental Control.

F. Repeat Violation. The recurrence of a violation cited under the same section of the regulation or statute within a thirty-six (36) month period. The time-period determinant of repeat violation status is applicable in instances when there are ownership changes.

G. Responsible Party. A person who is authorized by law to make decisions on behalf of a client. This includes, but is not limited to, a court-appointed guardian, conservator, or any individual with health care or other durable power of attorney.

H. Revocation of License. An action by the Department to cancel or annul a provider's license by recalling, withdrawing, or rescinding the provider's authority to operate.

I. Suspension of License. An action by the Department requiring a provider to cease operations for a period of time or requiring a provider to cease admitting clients until such time as the Department rescinds the restriction.

103. Requirements for Licensure.

A. License. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent itself (advertise and/or market) as an in-home care provider in South Carolina without first obtaining a license from the Department. When it has been determined by the Department that services are being provided and the owner has not been issued a license from the Department to provide such care services, the owner shall cease operation immediately and ensure the safety, health, and well-being of its clients. Current and/or previous violations of the S.C. Code and/or Department regulations may jeopardize the issuance of a license for the provider or the licensing of any other provider or addition to an existing provider which is owned and/or operated by the licensee.

B. Issuance and Terms of License.

1. The license issued by the Department shall be posted in a conspicuous place in a public area of the provider's business office or readily available to the public.

2. The issuance of a license does not guarantee adequacy or quality of individual services, personal safety, fire safety, or the well-being of any client of the provider.

3. A license is not assignable or transferable and is subject to suspension or revocation at any time by the Department for the licensee's failure to comply with the laws and regulations of this State.

4. A license shall be effective for a specified provider at a specific location. A license shall be valid for a period of time specified by the Department.

5. The issuance of a license under this chapter does not guarantee provision of care by the licensee that meets or exceeds applicable standards of care. The Department is not liable to any party for acts or omissions of a licensee involving or relating to provision of care.

C. Provider Name. No proposed provider shall be named, nor shall any existing provider have its name changed to, the same or similar name as any other provider licensed in South Carolina. The Department shall determine if names are similar. If a provider is part of a franchise with multiple locations, the provider must include the geographic area in which it is located as part of its name.

D. Application. Applicants for a license shall submit to the Department a complete and accurate application on a form or by electronic means, as prescribed by the Department prior to initial licensing and periodically thereafter at intervals determined by the Department. The application includes both the applicant's oath assuring that the contents of the application are accurate and true and the applicant will comply with this regulation. The application shall be signed by the owner(s) if an individual or partnership; in the case of a corporation, by two of its officers. The application shall set forth the full name and address of the provider for which the license is sought, the owner in the event the owner's name and address is different from that of the provider, and the names of the persons in control of the provider. The Department may require additional information, including affirmative evidence of the applicant's ability to comply with these regulations. When submitting an application for an initial or renewal license, the provider shall include evidence of:

1. Either liability insurance coverage or, in lieu of liability insurance coverage, a surety bond. The provider shall maintain such coverage for the duration of the license period. The minimum amount of coverage is one hundred thousand dollars (\$100,000) per occurrence and three hundred thousand dollars (\$300,000) aggregate;

2. Indemnity coverage to compensate clients for injuries and losses resulting from services provided; and

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3. Workers compensation insurance in accordance with S.C. Code Section 42-5-10 et seq.;
4. Criminal record checks and drug test results for the prospective licensee; and
5. A random drug testing program pursuant to S.C. Code 44-70-70.

E. Licensing Fees. The initial license fee shall be one thousand dollars (\$1,000). The fee for annual license renewal shall be eight hundred dollars (\$800). Such fees shall be made payable by check or credit card to the Department and is not refundable. If the application is denied, a portion of the fee may be refunded based upon the remaining months of the licensure year.

F. Late Fee. The Department may order an entity to cease operations upon license expiration. Failure to submit a renewal application or fee within thirty (30) days of the expiration of a license may result in a late fee of twenty-five (25) percent of the licensing fee amount, in addition to the licensing fee. Continual failure to submit completed and accurate renewal applications and/or fees by the time period specified by the Department may result in an enforcement action, including revocation.

G. License Renewal. For a license to be renewed, applicants shall file an application with the Department, pay a license fee of eight hundred dollars (\$800), and must not be undergoing enforcement actions by the Department. If the license renewal is delayed due to enforcement actions, the renewal license shall be issued only when the matter has been resolved satisfactorily by the Department or when the adjudicatory process is completed, whichever is applicable.

1. Prior to reinstatement of a suspended license, the licensee shall submit a reinstatement fee of four hundred dollars (\$400).

2. Prior to reinstatement of a revoked license, the licensee must apply for a license as provided for in Section 103 of this regulation along with the initial licensing fee. Any time remaining from the revoked license is forfeited.

H. Change of License.

1. A provider shall request issuance of an amended license by application to the Department prior to any of the following circumstances:

- a. Change of ownership; and/or
- b. Change of provider location from one geographic site to another.

2. Changes in provider name or address (as notified by the post office) shall be accomplished by application or by letter from the licensee to the Department.

3. An amendment fee of fifty dollars (\$50) is required for each amendment.

I. Exceptions to Licensing Standards. The Department has the authority to make exceptions to these standards where it is determined that the health, safety, and well-being of the clients are not compromised, and provided the standard is not specifically required by statute.

J. The in-home care provider shall ensure that it is accessible in person, by phone, or page during the hours of 9:00 A.M. to 5:00 P.M., Monday through Friday, except for those holidays recognized by the State of South Carolina. Those staff members shall have access to all records required for routine inspections and complaint investigations.

SECTION 200. ENFORCEMENT.

201. General.

The Department shall utilize inspections, investigations, applications, and other pertinent documentation regarding a proposed or licensed provider in order to enforce this regulation.

202. Violations.

When the Department determines that an in-home care provider is in violation of any statutory provision, rule, or regulation relating to the operation or maintenance of such provider, the Department, upon proper notice to the licensee, may impose a monetary penalty, deny, suspend, or revoke licenses.

203. Monetary Penalties.

Monetary penalties assessed by the Department must be not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) for each violation of any of the provisions of this regulation. Each day a violation continues will be considered a subsequent offense.

SECTION 300. STAFF, CAREGIVERS, AND TRAINING REQUIREMENTS.

A. Before being employed as an in-home caregiver by a licensed in-home care provider, a person shall undergo a criminal background check as provided by S.C. Code Sections 44-70-60(B) and 44-7-2910 and submit to a drug test as provided by S.C. Code Section 44-70-60(B).

B. Licensed in-home care providers and individuals employed as in-home caregivers by licensed in-home care providers are subject to and must pass random drug testing as provided for in S.C. Code Section 44-70-70. The provider may choose the method of random testing that most suitably meets the provider's needs. The provider's policies and procedures must address random drug testing and describe the procedure chosen. At a minimum, a five (5) panel drug screen will be utilized that tests for cannabis, cocaine, amphetamines, opiates, and phencyclidine.

C. The provider shall maintain accurate information on all staff members including, but not limited to, current address, phone number, training, criminal background checks, and health assessments.

D. Caregivers shall receive or independently obtain necessary training to perform the duties for which they are responsible. Documentation of all in-service training shall be signed and dated by both the individual providing the training and the individual receiving the training. A signature for the individual providing the training may be omitted for computer-based training. The following training shall be provided by appropriate resources:

1. Basic first aid;
2. Medication assistance, if applicable;
3. Depending on the type of clients, care services for persons specific to the physical and/or mental condition of the individual, for example, Alzheimer's disease, related dementia, cognitive disabilities, or similar disabilities;
4. Confidentiality of client information and records and the protecting of client rights, including prevention of abuse and neglect;

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5. Documentation and recordkeeping procedures;
6. Ethics and interpersonal relationships;
7. Proper lifting and transfer techniques, if applicable; and
8. Infection control techniques.

E. Minimum qualifications for caregivers.

A caregiver must:

1. Be able to read, write, and communicate effectively with client and supervisor;
2. Be capable of completing assigned job duties;
3. Be capable of following a care services plan with minimal supervision, if applicable;
4. Have a valid driver's license and proof of insurance if transportation is a part of the caregiver's duties. The provider must ensure the caregiver's license is valid while transporting any client of the provider by verifying the official highway department driving record of the employed individual. A copy of the driving record must be maintained in the caregiver's file;
5. Be at least eighteen (18) years of age;
6. Not have prior convictions or have pled no contest (*nolo contendere*) to crimes related to theft, abuse, neglect, or exploitation of a child or a vulnerable adult as defined in S.C. Code Section 43-35-10 et seq., for child or adult abuse, neglect or mistreatment, or a criminal offense similar in nature to the crimes listed in this subsection. The provider shall coordinate with appropriate abuse-related registries prior to the employment of staff or the contracting with or referral of caregivers to ensure compliance with this provision; and
7. Not have prior convictions or have pled no contest (*nolo contendere*) to crimes related to drugs within ten (10) years of providing in-home care to clients. The provider shall coordinate with appropriate abuse-related registries prior to the employment of staff or the contracting with or referral of caregivers to ensure compliance with this provision.

SECTION 400. HEALTH STATUS.

A. All staff members and caregivers who have contact with clients shall have a health assessment within twelve (12) months prior to initial client contact. The health assessment shall include tuberculosis screening in a manner prescribed in the Center for Disease Control and Prevention's and the Department's most current tuberculosis guidelines.

B. All in-home care providers shall conduct an annual tuberculosis risk assessment in the Appendix to determine the appropriateness and frequency of tuberculosis screening and other tuberculosis related measures to be taken.

SECTION 500. REPORTING.

501. Incidents

A. Serious incidents and/or any sudden or unexpected illness or staff member error resulting in death or inpatient hospitalization shall be reported immediately via telephone to the client's next-of-kin or responsible party.

B. A serious incident is one that results in death or a significant loss of function or damage to a body structure not related to the natural course of a client's illness or underlying condition and resulting from an incident that occurs during staff contact with clients. A serious incident shall be considered as, but is not limited to:

1. Falls or trauma resulting in fractures of major limbs or joints;
2. Client suicide;
3. Criminal events or assaults against clients which are reported and filed with the police; and/or
4. Allegations of client abuse, neglect, or exploitation, as defined in S.C. Code Section 43-35-5 et seq., by an employee.

C. The Department's Bureau of Health Facilities Licensing shall be notified in writing within three (3) days of the occurrence of a serious incident.

D. Reports submitted to the Department shall contain at a minimum: provider name, client age and sex, date of incident, location, witness name(s), extent and type of injury and how treated, for example, hospitalization, cause of incident, internal investigation results if applicable, identity of other agencies notified of incident and the date of any such report(s).

E. The provider shall report any allegation of abuse, neglect, or exploitation of clients to the Adult Protective Services Program in the Department of Social Services in accordance with S.C. Code Section 43-35-25, or Child Protective Services, as appropriate.

502. Provider Closure.

A. Prior to the temporary closure of a provider, the Department's Bureau of Health Facilities Licensing shall be notified, in writing, of the intent to close and the effective closure date. Within ten (10) business days prior to the closure, the provider shall notify the Department's Bureau of Health Facilities Licensing of provisions for the maintenance of records, identification of clients that will require transfer to another provider, and date of anticipated reopening. If the provider closes for a period longer than one year and there is a desire to reopen, the provider shall re-apply to the Department for licensure and shall be subject to all licensing requirements at the time of application as if for a new provider. In the event that the license expires during the period of temporary closure, the licensee shall submit a license renewal application and licensing fee on schedule as if the provider is operating.

B. Prior to permanent closure of a provider, the Bureau of Health Facilities Licensing shall be notified, in writing, of the intent to close and effective closure date. Within ten (10) business days prior to the closure, the provider shall notify the Bureau of Health Facilities Licensing of provisions for maintenance of the records, identification of clients that will require transfer to another provider, and dates and amounts of client refunds. On the date of closure, the provider shall return the license to the Department's Bureau of Health Facilities Licensing.

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SECTION 600. SEVERABILITY.

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect as if such invalid portions were not originally a part of these regulations.

SECTION 700. GENERAL.

Conditions arising which have not been addressed in these regulations shall be managed in accordance with the best practices as determined by the Department. These regulations do not create a duty on the part of the State of South Carolina or the South Carolina Department of Health and Environmental Control independent or in addition to any other duty otherwise prescribed by law.

APPENDIX

Annual Tuberculosis Risk Assessment
In-Home Care Providers

The Tuberculosis (TB) risk assessment worksheet of this appendix applies to Section 400.B of this regulation and shall be used in performing TB risk assessments for in-home care providers. Providers with more than one type of setting shall apply this worksheet to each setting.

Contact the Department of Health and Environmental Control’s TB control program to obtain epidemiologic data necessary to conduct the TB risk assessment.

Provider: _____

Number of Clients: _____

Address: _____

Phone: _____ County: _____

Completed by: _____ Title: _____

Date completed: _____

Part A. Incidence of TB in the provider organization

1. Number of TB cases identified in provider staff, caregivers under contract or otherwise eligible for referral, and clients combined in the past year? (Check only one box)

- No cases within the last 12 months.
- Less than 3 cases identified in the past year.
- 3 or more cases identified in the past year.
- Evidence of ongoing *M. tuberculosis* transmission.

2. Number of TB cases identified in your County in the last year? _____

Information may be obtained from the TB Control section of the South Carolina Department of Health and Environmental Control’s web site.

3. Number of TB cases identified in the State of South Carolina the last year? _____

Information may be obtained from the TB Control section of the South Carolina Department of Health and Environmental Control’s web site.

Part B. TB Infection Control Procedure

Yes No Are all new hires and caregivers newly contracted or newly eligible for referral screened for TB before initial client contact?

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- Yes No Does the provider have a written procedure for managing confirmed or suspected TB cases? (See Section 400.A for the requirement of a written procedure.)
- Yes No Does the provider’s procedure assure prompt detection and appropriate management of infectious persons, including prevention of further transmission of TB?

Part C. Assigning a Risk Classification (check only one box)

- If there have been no cases of TB identified in the provider in the past 12 months, this provider may be classified as LOW RISK.
- If there have been less than 3 cases of TB identified in the provider in the past 12 months, this provider may be classified as LOW RISK.
- If there have been 3 or more cases of TB identified in the provider in the past 12 months, this provider may be classified as MEDIUM RISK.
- There is evidence of ongoing *M. tuberculosis* transmission and the provider has reported the events to the County Health Department and appropriate measures have been implemented. (This is a temporary classification only warranting immediate investigation. After the ongoing transmission has ceased, the setting will be reassessed for classification).

This TB risk assessment is performed annually to assess and assign an appropriate risk classification.

Date of next TB Risk Assessment Review (annually) _____

Provider TB Risk Classification	
<p>Low Risk Setting</p> <p>Less than 3 TB cases/year (see Part A)</p> <p>AND</p> <p>No risk factors are present (See Part B)</p>	<p>Low Risk TB Screening</p> <ul style="list-style-type: none"> • Baseline two step TST or single BAMT upon hire or contract/eligible for referral and prior to client contact. • If TST is positive or employee or caregiver is symptomatic, obtain chest X-ray and refer to Health Department for a symptom assessment and medical evaluation. • NO ANNUAL TST or BAMT required. • Perform/obtain annual symptom assessment if documented prior positive TST or has documentation of prior active TB disease. • Persons identified as a contact to an infectious case and having unprotected exposure will be evaluated in accordance with the Health Department’s contact investigation policies and procedures.
<p>Medium Risk Setting</p> <p>3 or more TB cases/year (see Part A)</p> <p>OR</p>	<p>Medium Risk TB Screening</p> <ul style="list-style-type: none"> • Baseline two step TST or single BAMT upon hire contract/eligible for referral and prior to client contact. • If TST is positive or employee or caregiver is symptomatic, obtain chest X-ray and refer to Health Department for a symptom assessment and medical

<p>Other risk factors apply (see Part B)</p>	<p>evaluation.</p> <ul style="list-style-type: none"> • Perform/obtain ANNUAL TB screening test (TST, BAMT or symptom assessment) for each employee and caregiver. • Perform/obtain annual symptom assessment if documented prior positive TST or has documentation of prior active TB disease treatment. • Persons identified as contact to an infectious case and having unprotected exposure will be evaluated in accordance with the Health Department’s investigation policies and procedures.
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<p>Potential Ongoing Transmission Setting</p> <p>Evidence of ongoing <i>M. tuberculosis</i> transmission</p> <p><i>This is a temporary classification only, warranting immediate investigation. After the ongoing transmission has ceased, the setting will be reassessed for classification.</i></p>	<p>Potential Ongoing Transmission TB Screening</p> <ul style="list-style-type: none"> • Report to local health department immediately. • Persons identified as a contact to an infectious case and having unprotected exposure will be evaluated in accordance with the Health Department’s contact investigation policies and procedures. • Baseline two-step TST for TB or single BAMT for any new hire or any caregiver newly contracted or newly eligible for referral and prior to client contact while in this category. • Consult and coordinate with the Health Department for guidance as to when transmission has ceased and a new risk assessment can be completed.
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Sample Indications for Two-Step Tuberculin Skin Testing – TST

Employee & Client TST Situation	Recommended TST Testing
<p>1. No previous TST or BAMT result.</p>	<p>1. Two-step baseline TST or single BAMT completed upon hire or contract/eligible for referral and prior to client contact.</p>
<p>2. Previous negative TST or BAMT result > 12 months before new employment or contract/eligible for referral.</p>	<p>2. Two-step baseline TST or single BAMT completed upon hire or contract/eligible for referral and prior to client contact.</p>

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<p>3. a. Previous documented negative TST result within 12 months before employment or contract/eligible for referral. b. Previous documented negative BAMT.</p>	<p>3. a. Single TST needed for baseline testing; this will be the second step. b. Single BAMT needed.</p>
<p>4. Previous documented positive TST result in millimeters.</p>	<p>4. No TST or BAMT; need TB symptom assessment.</p>
<p>5. Undocumented history of prior positive TST result.</p>	<p>5. Two-step baseline or single BAMT upon hire or contract/eligible for referral and prior to client contact.</p>

Fiscal Impact Statement:

The regulation will have no substantial fiscal or economic impact on the state or its political subdivisions. Upon approval by the General Assembly, the program will be funded by the regulated community through initial and annual license renewal fees. The cost to the regulated community will consist of an initial license fee and annual license renewal fees.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: New R.61-122, Standards for Licensing In-Home Care Providers.

Purpose: This regulation will implement the provisions of the Licensure of In-Home Care Providers Act, S.C. Code Sections 44-70-10 et seq. (Supp. 2012).

Legal Authority: S.C. Code Ann. Sections 44-70-10 et seq. (Supp. 2012).

Plan for Implementation: Upon approval of the S.C. General Assembly and publication in the State Register, copies of the regulation will be available electronically on the South Carolina Legislature Online website and the Department regulation development website (<http://www.scdhec.gov/regulatory.htm>). Printed copies will be available for a fee from the Department’s Freedom of Information Office. Staff will educate the regulated community on the provisions of the Act and the requirements of the regulation.

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

The regulation is needed and reasonable because it will satisfy a legislative mandate to implement the provisions of the Licensure of In-Home Care Providers Act. As directed by the governing statute, this regulation will provide standards and procedures including license application and renewal procedures; criminal records checks for licensure applicants, which may include criminal offenses that may preclude licensure; drug testing of licensure applicants; responsibilities and duties of a licensee, including the requirements for bonding; fees the Department may charge to process an application for a license, the issuance of a license, the renewal of a license, and the reinstatement of a revoked or suspended license; criteria that a licensee’s employee, agent, independent contractor, or referral must satisfy before providing in-home care service. Pursuant to the Act, these criteria include personal information, completion of a minimum education requirement, completion of minimum training and continuing education requirements and screening for communicable diseases; standards for liability and other appropriate insurance coverage; and sanctions the Department may impose for violation of this chapter, including the suspension or revocation of a license or the imposition of a monetary penalty.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of this regulation will not require additional resources beyond those allowed for in the Act. Existing Department funding and staffing levels do not allow for the implementation of new programs. The Act states that the Department may propose by regulation a fee for processing an application, a fee for issuance of a license, a fee for renewal of a license and a fee for reinstatement of a revoked or suspended license, the proceeds of which are to be used solely to the purposes of implementing the provisions of the Act. Staff anticipates that there will be a minimal cost to the Department for the creation of the staff positions necessary to implement the provisions of the Act; however, these costs will be funded from the licensing fees paid by the licensees, in accordance with the regulation and as allowed by the Act. Additional costs to State government are not anticipated.

External Costs: There will be a cost to the licensees of in-home care providers as allowed by, and in accordance with the Act. Fees established by the regulation include initial licensing fees, annual fees, reinstatement fees, and amended license fees. Fees are set out in Sections 103.E, F, G, and H of this regulation. There will be no cost to the public for implementation of the regulation.

External Benefits: Consumers of the services furnished by in-home care providers can be reasonably certain that the caregivers have been screened for criminal backgrounds and substance abuse. The consumer can be reasonably certain that the caregivers have been trained to provide the care for which the consumer contracted with the in-home care provider. This regulation will provide in-home care providers with licensing requirements that set standards for the in-home care industry across South Carolina.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment.

The regulation will provide minimum standards for a growing in-home care industry in South Carolina. The public will benefit from caregivers that have met minimum training requirements, passed a criminal background check and are subject to random drug screening. The public will receive appropriate care from appropriate sources.

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

There would not be a detrimental effect on the environment.

However, if the regulation is not implemented, consumers of services from in-home care providers would not have reasonable assurances that the caregivers have completed a minimum amount of training to provide the proper care for the consumer. The consumers would not have a reasonable assurance that the caregivers do not have a record of criminal convictions or are free from drug abuse. The consumers would have no assurance that the provider they contract to provide care meets minimum licensing standards.

Statement of Rationale:

The Department promulgated this regulation to implement the provisions of the Licensure of In-Home Care Providers Act codified at Section 44-70-10 et seq., S.C. Code of Laws, 1976, as amended.

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Document No. 4434

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-29-40 and 44-29-180 (2002 & Supp. 2012)

61-8. Vaccination, Screening and Immunization Regarding Contagious Diseases

Synopsis:

This regulation defines immunization requirements for school admittance; exemptions from immunization requirements; reporting requirements; and compliance authority for required immunizations. The regulation was promulgated by the DHEC Board in more or less its current form on June 12, 1979, published in the *State Register* and effective on April 11, 1980, superseding the previous R.61-8, and last amended on April 23, 1992.

This regulation amendment updates language regarding religious exemption criteria; clarifies compliance of the reporting requirements with the federal Family Educational Rights and Privacy Act (FERPA); facilitates compliance with the McKinney-Vento Homeless Assistance Act; reflects the use of electronic forms in addition to paper copies provided by the Department; makes general editorial revisions to clarify and improve the language; and amends the title of the regulation to more accurately reflect the subject matter.

A Notice of Drafting for the proposed amendments was published in the *State Register* on September 27, 2013.

Section-by-Section Discussion of Revisions:

The Title describes the subject of the regulation. The amendment more accurately reflects the scope and subject.

Section I provides the immunization requirements for school and childcare attendance. Amendments simplify and clarify the regulation.

Section II discusses the allowed exemptions from immunization requirements. Amendments update language regarding exemption criteria and reflect the use of electronic forms in addition to paper copies provided by the Department. The reference to the thirty-day time limit for special exemptions is removed from the regulation to facilitate compliance with the McKinney-Vento Homeless Assistance Act.

Section III provides the reporting requirements of the regulation. Amendments clarify compliance with the federal Family Educational Rights and Privacy Act (FERPA).

Section IV addresses compliance. The amendment provides clarification.

Section V currently states that the regulation is effective upon completion of legislative review. The amendment removes this section as it is unnecessary. The effective date determined by the Administrative Procedures Act is the date of publication in the *State Register*.

Instructions: Due to numerous revisions, replace R.61-8 in its entirety with this amendment.

Text:

61-8. Immunization Requirements for School and Childcare Attendance.

Statutory Authority: S.C. Code Sections 44-29-40(A) and 44-29-180 (2002 & Supp. 2012).

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- I. REQUIREMENTS FOR SCHOOL AND CHILDCARE ATTENDANCE.
- II. EXEMPTIONS.
- III. REPORTING REQUIREMENTS.
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I. REQUIREMENTS FOR SCHOOL AND CHILDCARE ATTENDANCE.

A. No child or person shall be admitted to or retained in any public, private, or parochial school, grades kindergarten through twelve (K-12), or any public or private childcare facility as defined in Code Section 63-13-20 without a valid South Carolina Certificate of Immunization. To be valid, the South Carolina Certificate of Immunization must be signed by a licensed physician or his/her authorized representative. Exemptions to this requirement are authorized in Section II of this regulation.

B. A South Carolina Certificate of Immunization must be presented to school or childcare officials on admission and as required to document any subsequent immunizations required by the Department. School and childcare officials shall keep a copy of the Certificate with the child's or person's record.

C. The standard to obtain a South Carolina Certificate of Immunization shall be compliance with the schedule of required immunizations for school and childcare attendance published by the Department. The schedule of required immunizations shall apply to any child attending school or childcare after the effective dates indicated in the schedule unless otherwise stipulated by the Department .

D. Blank forms for the South Carolina Certificate of Immunization will be provided to licensed physicians and their authorized representatives by the Department . The Certificate of Immunization may also be generated for signature using the statewide immunization registry.

E. Registered family childcare homes are exempt from requirements of this regulation.

F. "Childcare facility" and "childcare" in this regulation have the meaning given in Code Section 63-13-20 and are intended to include the terms child care, childcare facility, day care facility, child day care facility, day care, and family day care homes, as used in Code Section 44-29-180.

II. EXEMPTIONS.

A. Students may be exempt from the immunization requirements of this regulation for the following reasons:

1. Medical Exemption.

A Medical Exemption, may be granted when a licensed physician has determined, for medical reasons, that a particular vaccine(s) required by this regulation is not advisable for the child. The exemption is granted when the physician or his/her authorized representative completes and signs the South Carolina Certificate of Immunization containing the Medical Exemption. The physician must indicate whether the exemption is

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permanent or temporary. If the exemption is temporary, an updated South Carolina Certificate of Immunization showing proof of immunization must be presented to the school or childcare by the end of the exemption period.

2. Religious Exemption.

A South Carolina Certificate of Religious Exemption may be granted to any student whose parent, guardian, or person in loco parentis signs the appropriate section of the South Carolina Certificate of Religious Exemption stating that one or more immunizations conflicts with their religious beliefs. The Certificate of Religious Exemption form may only be obtained from the local health department.

3. Special Exemption.

A South Carolina Certificate of Special Exemption, signed by the school principal, authorized representative, or childcare director may be issued to transfer students while awaiting arrival of medical records from their former area of residence or to other students who have been unable to secure immunizations or documentation of immunizations already received. At the expiration of this special exemption, the student must present a valid South Carolina Certificate of Immunization, or a valid South Carolina Certificate of Medical Exemption, or a valid South Carolina Certificate of Religious Exemption. Completion of the Medical Exemption section of the Certificate of Immunization satisfies the requirement for the South Carolina Certificate of Medical Exemption.

B. Blank forms for the South Carolina Certificate of Special Exemption will be provided by the Department to school and childcare administrators.

III. REPORTING REQUIREMENTS.

Forty five (45) calendar days after the beginning of each school year, school principals must submit to the local health department, on forms provided by the Department, the numbers of students admitted to school with South Carolina Medical Exemptions, South Carolina Certificates of Religious Exemption, and South Carolina Certificates of Special Exemption as provided in Section II of this regulation.

IV. COMPLIANCE.

Representatives of the Department will audit school and childcare records to insure compliance with this regulation.

Fiscal Impact Statement:

This is an amendment to an existing regulation, making no substantive change to current requirements and practices. The amendments should have no fiscal impact.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: Amendment of R.61-8, Vaccination, Screening, and Immunization Regarding Contagious Diseases.

Purpose: The purpose of this regulation is to define immunization requirements for school admittance; exemptions from immunization requirements; reporting requirements; and compliance authority for required

immunizations. The regulation was promulgated by the DHEC Board in more or less its current form on June 12, 1979, published in the State Register and effective on April 11, 1980, superseding the previous R.61-8, and last amended on April 23, 1992.

This regulation amendment updates language regarding religious exemption criteria; clarifies compliance of the reporting requirements with the federal Family Educational Rights and Privacy Act (FERPA); facilitates compliance with the McKinney-Vento Homeless Assistance Act; reflects the use of electronic forms in addition to paper copies provided by the Department; makes general editorial revisions to clarify and improve the language; and amends the title of the regulation to more accurately reflect the subject matter.

Legal Authority: S.C. Code Sections 44-29-40 and 44-29-180 (2002 & Supp. 2012).

Plan for Implementation: No or negligible additional effort or impact on other program areas is expected from the amendments.

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

The amendment to this regulation is needed and reasonable to update language regarding religious exemption criteria; clarify compliance of the reporting requirements with the federal Family Educational Rights and Privacy Act (FERPA); reflect the use of electronic forms in addition to paper copies provided by the Department; make general editorial revisions to clarify and improve the language; and amend the title of the regulation to more accurately reflect the subject matter.

DETERMINATION OF COSTS AND BENEFITS:

There will be no costs associated with this regulation amendment. The benefits of these regulation amendments are clarification of compliance with federal constitutional and statutory requirements and improvement in the regulation language to more accurately reflect the subject matter.

UNCERTAINTIES OF ESTIMATES:

Uncertainties are not expected since this regulation is already in effect and amendments are requested to update and clarify language.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The regulation will continue to promote public health by supporting immunization coverage for vaccine preventable diseases in South Carolina children attending school and childcare.

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

There will be no effect on the environment. Failure to amend the regulation will perpetuate outdated and unclear language and uncertainty as to the intent of the regulation.

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Statement of Rationale:

The Department is amending this regulation to update language regarding religious exemption criteria; clarify compliance of the reporting requirements with the federal Family Educational Rights and Privacy Act (FERPA); facilitate compliance with the McKinney-Vento Homeless Assistance Act; reflect the use of electronic forms in addition to paper copies provided by the Department; make general editorial revisions to clarify and improve the language; and amend the title of the regulation to more accurately reflect the subject matter.

Document No. 4425

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-68. Water Classifications and Standards

Synopsis

These amendments will strengthen and improve the existing regulation and make appropriate revisions of the State's water quality standards in accordance with Section 303(c)(2)(B) of the Federal Clean Water Act (CWA). Section 303(c)(2)(B) requires that South Carolina's water quality standards be reviewed and revised, where necessary, to comply with Federal regulatory revisions and recommendations. These revisions will clarify the use of flow and resolve potential inconsistencies with R.61-119, Surface Water Withdrawal, Permitting, Use and Reporting. These changes limit the uses of flow in the regulation. The Department is also adopting a methylmercury standard to reflect the most current final published criteria in accordance with Sections 304(a) and 307(a) of the CWA.

A Notice of Drafting was published in the *State Register* on February 22, 2013.

Discussion of Revisions

(1) Stylistic changes to correct readability, clarity, grammar, punctuation, typography, codification, references, consistency, and language style.

R.61-68.C.4 - The added language clarifies how critical flows will be utilized to determine permit limits or conditions, as was requested by stakeholders.

R.61-68.C.4.a(3) and b(3) - The removal of language that is no longer needed with the clarification that is proposed.

R.61-68.C.4.a(4) - The change in numbering to accommodate the removal of language from the previous sections.

(2) Revision of Federal toxics criteria to reflect the most current final published criteria in accordance with Sections 304(a) and 307(a) of the CWA.

R.61-68.E.18 and 19. - The language is added to reflect the EPA's most recent recommendations and guidance concerning methylmercury and implementation language for derivation of permit limits.

Instructions: Amend R.61-68 pursuant to each individual instruction provided with the text of the amendments below.

Text:**R.61-68.C, Applicability of Standards**

Amend R.61-68.C.4, introductory only; C.4.a(1) and (2) remain the same.

4. Critical flows for determining permit effluent limitations and/or permit conditions or requirements, including permit development such as wasteload allocations or load allocations in TMDL's, will be calculated in accordance with the following:

Delete R.61-68.C.4.a(3).

Renumber R.61-68.C.4.a(4) to C.4.a(3) to adjust outline for deletion of R.61-68.C.4.a(3) to read.

(3) NPDES Permit conditions shall be based on a critical condition analysis (e.g., critical flow, temperature or pH, or a combination of factors which would represent a critical conditions). Regarding ambient water temperature as a component of a critical conditions analysis, the department may consider less stringent limits during November through February based on a critical ambient water temperature during November through February.

Delete R.61-68.C.4.b(3).

R.61-68.E, General Rules and Standards Applicable to All Waters

Add R.61-68.E.18 and 19 to read.

18. For the protection of human health, methylmercury concentration in fish or shellfish shall not exceed 0.3 mg/kg in wet weight of edible tissue.

a. NPDES permit implementation for methylmercury will require mercury monitoring, assessment and minimization for discharges that meet the following conditions;

- (1) The receiving stream is impaired for methylmercury in fish or shellfish tissue, and;
- (2) The discharge or proposed discharge has consistently quantifiable levels of mercury.

b. The need for a total mercury effluent limit, for the protection of aquatic life and/or human health, pursuant to R.61-9.122.44(d), shall be based on a reasonable potential analysis of the discharge compared to the mercury standards for ambient waters.

19. The assessment of methylmercury in fish or shellfish for purposes of Section 303(d) listing determinations shall be based on the Department's Fish Consumption Advisories.

Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-115(C)(1)-(3) and (9)-(11) (2005):

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DESCRIPTION OF REGULATIONS: Amendment of Regulation 61-68, *Water Classifications and Standards*.

Purpose: These amendments of R.61-68 will clarify, strengthen, and improve the overall quality of the existing regulation and make appropriate revisions of the State's water quality standards in accordance with Section 303(c)(2)(B) of the Federal Clean Water Act (CWA).

Legal Authority: S.C. Code Ann. Sections 48-1-40, 48-1-60, and 48-1-80 (2008), implementing the CWA.

Plan for Implementation: The amendments will be incorporated within R.61-68 upon approval of the General Assembly and publication as final regulations in the State Register. These amendments will be implemented in the same manner in which the present regulation is implemented.

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

The amendment to R.61-68 is required to comply with Federal requirements of Section 303(c)(2)(B) of the CWA. The proposed amendments to R.61-68 include the following:

Addition and adoption of methylmercury criteria to reflect the most current final published criteria in accordance with Sections 304(a) and 307(a) of the CWA.

The changes to R.61-68 relating to methylmercury criteria are reasonable because the stated criteria in the amendment are based on sound scientific principles and are required in order to comply with the goals of Section 101(a)(2) and 303(c) of the CWA for protection and maintenance of the uses of the waters of the State. These changes reflect the EPA's most recent criteria.

Modification and adoption of changes to R.61-68 to address potential inconsistencies with R.61-119, Surface Water Withdrawal, Permitting, Use and Reporting. These changes are necessary to clarify the uses of flow in the regulation.

DETERMINATION OF COSTS AND BENEFITS:

Existing staff and resources will be utilized to implement these amendments to the regulation. No additional cost will be incurred by the State if the revisions are implemented and therefore, no additional State funding is being requested.

In reviewing the potential for significant economic impact of the proposed amendment to R.61-68, the Department specifically evaluated situations in which costs would most likely be incurred by the regulated community. These estimates addressed the specific revisions by issue after determining those of greatest potential impact. The Department found that the overall impact to the State's political subdivisions or the regulated community as a whole was not likely to be significant in that the existing standards would have incurred similar cost or the fact that the standards required under the amendment will be substantially consistent with the current guidelines and review guidelines utilized by the Department.

UNCERTAINTIES OF ESTIMATES:

Minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Implementation of these amendments will not compromise the protection of the environment or the health and safety of the citizenry of the State. The amendments to R.61-68 will promote and protect aquatic life and human health by the regulation of pollutants into waters of the State.

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

Failure by the Department to incorporate appropriately protective water quality standards in R.61-68 that are the basis for issuance of National Pollutant Discharge Elimination System (NPDES) permits, stormwater permits, wasteload and load allocations, groundwater remediation plans, and multiple other program areas will lead to contamination of the waters of the State with detrimental effects on the health of flora and fauna in the State as well as the citizens of South Carolina.

Statement of Rationale:

The statement of rationale was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-110(A)(3)(h) (2005).

The first issue contained in the amendment of R.61-68 is a requirement of the CWA and is necessary for compliance with EPA's recommendations for the triennial review of the water quality standards to ensure consistency with the CWA. The second issue serves to resolve any potential conflict with R.61-119 and limits the use of flow in the regulation.

Document No. 4444

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-9. Water Pollution Control Permits

Synopsis:

The Department amends R.61-9 to strengthen and improve the existing regulation and make appropriate revisions to address land application of sludge with PCB contamination. To address PCB contamination in sludge, which occurred in 2013, the Department issued an emergency regulation (September 25, 2013) and this regulation follows. Amendments are from sections 503 (domestic sludge) and 504 (industrial sludge) of R.61-9.

A Notice of Drafting was published in the *State Register* on October 25, 2013. Discussion of Revisions

Regulation sections 61-9.503 and 61-9.504 are similar, so changes are made to both sections.

61-9.503 - The Table of Contents at the beginning of 61-9.503 is revised to add new Appendix C - PCB. Polychlorinated biphenyls.

61-9.503.1(b)(5) - New section 61-9.503(b)(5) is added to describe how the changes in this regulatory package will sunset five years after becoming effective.

61-9.503.2(e) - This section is added to reference compliance with 61-9.503 Appendix C - PCB. Polychlorinated biphenyls.

61-9.503.3(a) and 3(a)(4) - These subsections are revised to address that new Appendix C- PCB. Polychlorinated biphenyls will be self-implementing (directly enforceable) without needing to be implemented via a permit.

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61-9.503.3(b) This amendment deletes "[Reserved]" and adds new language for direct enforceability condition for 503 Appendix C - PCB. Polychlorinated biphenyls.

61-9.503.6(f) – This section is revised to clarify that high PCB concentration sludge cannot be land applied.

61-9.503. New Appendix C - PCB. Polychlorinated biphenyls is added to address PCB monitoring.

61-9.504. The Table of Contents at the beginning of 61-9.504 is revised to add Appendix C - PCB. Polychlorinated biphenyls.

61-9.504.1(b)(5) - New section describes how the changes in this regulatory package will sunset five years after becoming effective.

61-9.504.2(e) - This section is added to reference compliance with 61-9.504 Appendix C - PCB. Polychlorinated biphenyls.

61-9.504.3(a) - This section is revised to add reference to 61-9.504 Appendix C - PCB. Polychlorinated biphenyls and self-implementing provisions of 504.3(b).

61-9.504.3(b). This amendment deletes "[Reserved]" and adds new language to direct enforceability condition for 504 Appendix C - PCB. Polychlorinated biphenyls.

61-9.504.6(f) – This section is revised to clarify that high PCB concentration sludge cannot be land applied.

61-9.504 - New Appendix C - PCB. Polychlorinated biphenyls is added to address PCB monitoring.

Instructions: Amend R.61-9 pursuant to each individual instruction provided below with the text.

Text:

Amend the Table of Contents at the beginning of 61-9.503 to add Appendix C to read:

Appendix C. PCB. Polychlorinated biphenyls

Add new 61-9.503.1(b)(5) to read:

(5) The requirements incorporated into this regulation pursuant to State Register Document 4444, including Appendix C, expire and are no longer effective five years from the State Register Document 4444 amendments' effective date.

Add new 61-9.503.2(e) to read:

(e) Compliance with 503 Appendix C-PCB, shall be required upon publication of the revised regulation in the South Carolina State Register.

Revise 61-9.503.3(a) to read:

(a) The requirements in this part shall be implemented through a permit, with the exception of 503 Appendix C-PCB in accordance with 503.3(b):

Revise 61-9.503.3(a)(4) to read:

(4) A person who derives a bulk or bag material from sewage sludge shall not be required to obtain a permit if: (1) the sewage sludge meets the ceiling concentrations in Table 1 of section 503.13; the pollutant concentration limits in Table 3 of section 503.13; the Class A pathogen requirements of section 503.32(a); one of the vector attraction reduction requirements in section 503.33(b)(1) through section 503.33(b)(8); and the requirements in 503 Appendix C-PCB, and (2) there is a permit in effect for either the preparer, generator and/or applier of the sewage sludge.

At R.61-9.503.3(b) delete [Reserved] and add new language to read:

(b) Direct Enforceability. In addition to any other requirement of this regulation or a permit, sewage sludge use via land application shall be in accordance with Appendix C-PCB. This includes but is not limited to: bulk sewage sludge applied to agricultural land, forests or public contact sites; sewage sludge sold or given away in a bag or other container for application to the land; domestic septage; reclamation sites; or other materials mixed with sludge before application.

Revise 61-9.503.6(f) to read:

(f) Sewage sludge with high PCB concentration. This part does not establish requirements and no land application of these materials may occur for the use or disposal of sewage sludge with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry weight basis). Requirements for land application of sludges (including sewage sludge, sludges and septage that may be mixed with grease trap waste) with PCB concentrations of less than 50 milligrams per kilogram (mg/kg dry weight basis) or less than 50 parts per million (ppm) are included in 503 Appendix C-PCB.

At 61-9.503 add new Appendix C to read:

APPENDIX C. PCB. Polychlorinated biphenyls.

(1) Beginning with the effective date of this appendix, sludges for land application (including sewage sludge, sludges and septage that may be mixed with grease trap waste) must be sampled at least quarterly (based on calendar year quarters) for PCBs using EPA SW-846 Method 8082A with an appropriate sample preparation method approved for use by the Department based on the matrix of the sample. This includes but is not limited to: bulk sewage sludge applied to agricultural land, forests or public contact sites; sewage sludge sold or given away in a bag or other container for application to the land; domestic septage; reclamation sites; or other materials mixed with sludge before application. Reporting the above information, in addition to requirements specified later in this appendix, should be included in annual reports required by permits.

(2) If levels of PCBs are greater than or equal to one (1) milligram per kilogram (mg/kg dry weight basis), but less than ten (10) milligrams per kilogram (mg/kg dry weight basis), confirmation sludge sampling must be done as soon as practicable and the results provided to the Department within five (5) calendar days of receipt by the permittee.

(3) If levels of PCBs are greater than or equal to ten (10) milligrams per kilogram (mg/kg dry weight basis), confirmation sludge sampling must be done as soon as practicable and the results provided to the Department within five (5) calendar days of receipt of the results by the permittee. In addition, representative soil sampling of land application sites that may have received sludge during the monitoring period must be conducted within 30 days of knowledge of the confirmation sampling that confirms sludge PCB levels equal to or greater than ten (10) milligrams per kilogram (mg/kg dry weight basis). The results of the soil sampling must be provided to the Department within five (5) calendar days of receipt by the permittee. The Department may require any further action as deemed necessary and consistent with applicable laws.

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Amend the Table of Contents at 61-9.504 to add Appendix C to read:

Appendix C. PCB. Polychlorinated biphenyls

Add new 61-9.504.1(b)(5) to read:

(5) The requirements incorporated into this regulation pursuant to State Register Document 4444, including Appendix C, expire and are no longer effective five years from the State Register Document 4444 amendments' effective date.

Add new 61-9.504.2(e) to read:

(e) Compliance with 504 Appendix C-PCB, shall be required upon publication of the revised regulation in the South Carolina State Register.

Revise 61-9.504.3(a) to read:

(a) The requirements in this part shall be implemented through a permit, with the exception of 504 Appendix C-PCB in accordance with 504.3(b):

At 61-9.504.3(b) delete [Reserved] and add new language to read:

(b) Direct Enforceability. In addition to any other requirement of this regulation or a permit, industrial sludge use via land application shall be in accordance with Appendix C-PCB. This includes but is not limited to: bulk sludge applied to agricultural land, forests or public contact sites; sludge sold or given away in a bag or other container for application to the land; domestic septage; reclamation sites; or other materials mixed with sludge before application.

Revise 61-9.504.6(f) to read:

(f) Industrial sludge with high PCB concentration. This part does not establish requirements and no land application of these materials may occur for the use or disposal of industrial sludge with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry weight basis). Requirements for land application of sludges (including industrial sludge, sludges and septage that may be mixed with grease trap waste) with PCB concentrations of less than 50 milligrams per kilogram (mg/kg dry weight basis) or less than 50 parts per million (ppm) are included in 504 Appendix C-PCB.

At 61.9.504 add new Appendix C to read:

APPENDIX C. PCB. Polychlorinated biphenyls.

(1) Beginning with the effective date of this appendix, sludges for land application (including sewage sludge, sludges and septage that may be mixed with grease trap waste) must be sampled at least quarterly (based on calendar year quarters) for PCBs using EPA SW-846 Method 8082A with an appropriate sample preparation method approved for use by the Department based on the matrix of the sample. This includes but is not limited to: bulk sewage sludge applied to agricultural land, forests or public contact sites; sewage sludge sold or given away in a bag or other container for application to the land; domestic septage; reclamation sites; or other materials mixed with sludge before application. Reporting the above information, in addition to requirements specified later in this appendix, should be included in annual reports required by permits.

(2) If levels of PCBs are greater than or equal to one (1) milligram per kilogram (mg/kg dry weight basis), but less than ten (10) milligrams per kilogram (mg/kg dry weight basis), confirmation sludge sampling must be

done as soon as practicable and the results provided to the Department within five (5) calendar days of receipt by the permittee.

(3) If levels of PCBs are greater than or equal to ten (10) milligrams per kilogram (mg/kg dry weight basis), confirmation sludge sampling must be done as soon as practicable and the results provided to the Department within five (5) calendar days of receipt of the results by the permittee. In addition, representative soil sampling of land application sites that may have received sludge during the monitoring period must be conducted within 30 days of knowledge of the confirmation sampling that confirms sludge PCB levels equal to or greater than ten (10) milligrams per kilogram (mg/kg dry weight basis). The results of the soil sampling must be provided to the Department within five (5) calendar days of receipt by the permittee. The Department may require any further action as deemed necessary and consistent with applicable laws.

Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-115(C)(1)-(3) and (9)-(11) (2005).

DESCRIPTION OF REGULATIONS: Amendment of Regulation 61-9, Water Pollution Control Permits.

Purpose: Amendments of R.61-9 will clarify, strengthen, and improve the overall quality of the existing regulation to regulate land application of sludge relative to PCBs.

Legal Authority: S.C. 1976 Code Sections 48-1-10 et seq.

Plan for Implementation: The amendments would be incorporated within R.61-9 upon approval of the General Assembly and publication in the State Register. The amendments will be implemented in the same manner in which the present regulation is implemented.

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

The amendments to R.61-9 is important to properly regulate PCBs in sludge. Requirements for additional monitoring of sludge and reporting to the Department are added. Requirements to monitor soil for PCBs in certain circumstances are also added. The Sections 61-9.503 and 504 address domestic sludge and industrial sludge respectively. Both sections are amended in similar fashion.

DETERMINATION OF COSTS AND BENEFITS:

Existing staff and resources will be utilized to implement these amendments to the regulation. No additional cost will be incurred by the State if the revisions are implemented and therefore, no additional State funding is being requested.

In reviewing the potential for significant economic impact of the amendments to R.61-9, the Department identified that a significant portion of sludge generated in South Carolina is landfilled. For permittees that land-apply sludge, additional PCB monitoring is required. The Department found that the overall impact to the State's political subdivisions or the regulated community as a whole was not likely to be significant in that PCBs are not typically found in sludge. The circumstances that led to the emergency regulation issued on

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September 25, 2013 were likely due to illegal dumping of PCB wastes into municipal sewer systems. Because these illegal activities don't occur often, the impact is not expected to be significant. However, in the event that they occur in the future, the regulation needs to be amended to protect public health and the environment by gathering information about levels of PCBs applied to the land (e.g., private farm land). This evaluation does not address any potential indirect effect of local sewer providers charging additional costs for disposal of grease trap waste at their wastewater treatment facilities.

UNCERTAINTIES OF ESTIMATES:

Minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Implementation of these amendments will not compromise the protection of the environment or the health and safety of the citizenry of the State. The amendments to R.61-9 will promote and protect the environment and human health by the regulation of pollutants onto land in South Carolina.

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

Failure by the Department to better track PCB contaminated sludge may result in increased risk of PCB contaminated soils on farm land (or other areas) where sludge is applied.

Statement of Rationale:

The statement of rationale was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-110(A)(3)(h) (2005).

The federal Toxic Substances Control Act (TSCA) regulates PCB levels in sludge at levels equal to or greater than 50 parts per million (ppm). Because PCBs were significantly restricted in the United States over thirty years ago, PCBs are not typically expected to be found in wastewater systems. However, PCBs were found in sludge in South Carolina in 2013, leading to the issuance of an emergency regulation. Current state regulations do not adequately address land application of sludge containing PCBs. Therefore, the Department believes it is warranted to have a regulation to better identify PCB contamination.

Document No. 4453

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-110 et seq., 38-3-110 and 38-9-180

69-37. Annuity Mortality Tables For Use In Determining Reserve Liabilities For Annuities

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-37, Annuity Mortality Tables For Use In Determining Reserve Liabilities For Annuities. The amendments to Regulation 69-37 will recognize the 2012 Individual Annuity Reserve Table ("2012 IAR Table") for use in determining the minimum standard of valuation for annuity and pure endowment contracts issued on or after January 1, 2015. Notice of drafting for the proposed regulation was published in the *State Register* on October 25, 2013.

Instructions:

Amend Regulation 69-37 as drafted below and add to the South Carolina Code of Regulations.

Text:

69-37. Annuity Mortality Tables For Use In Determining Reserve Liabilities For Annuities

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- Section 1. Authority
- Section 2. Purpose
- Section 3. Definitions
- Section 4. Individual Annuity or Pure Endowment Contracts
- Section 5. Application of the 2012 IAR Table
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- Section 7. Application of the 1994 GAR Table
- Section 8. Separability
- Appendix I. 2012 IAM Period Table, Female, Age Nearest Birthday
- Appendix II. 2012 IAM Period Table, Male, Age Nearest Birthday
- Appendix III. Projection Scale G2, Female, Age Nearest Birthday
- Appendix IV. Projection Scale G2, Male, Age Nearest Birthday

Section 1. Authority

This regulation is promulgated by the Director of Insurance pursuant to Section 38-9-180 of the South Carolina Code.

Section 2. Purpose

The purpose of this regulation is to recognize the following mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 Table "a," the 1983 Group Annuity Mortality (1983 GAM) Table, the Annuity 2000 Mortality Table, the 2012 Individual Annuity Reserving (2012 IAR) Table and the 1994 Group Annuity Reserving (1994 GAR) Table.

Section 3. Definitions

A. As used in this regulation "1983 Table 'a'" means that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

B. As used in this regulation "1983 GAM Table" means that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners.

C. As used in this regulation "1994 GAR Table" means that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force. The 1994 GAR Table is included in the report on pages 865-919 of Volume XLVII of the *Transactions of the Society of Actuaries* (1995).

D. As used in this regulation "Annuity 2000 Mortality Table" means that mortality table developed by the Society of Actuaries Committee on Life Insurance Research. The Annuity 2000 Table is included in the report on pages 211-249 of Volume XLVII of the *Transactions of the Society of Actuaries* (1995).

E. As used in this regulation, "Period table" means a table of mortality rates applicable to a given calendar year (the Period).

F. As used in this regulation, "Generational mortality table" means a mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a Period table and a projection scale containing rates of mortality improvement.

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G. As used in this regulation “2012 IAR Table” means that Generational mortality table developed by the Society of Actuaries Committee on Life Insurance Research and containing rates, q_x^{2012+n} , derived from a combination of the 2012 IAM Period Table and Projection Scale G2, using the methodology stated in Section 5.

H. As used in this regulation, “2012 Individual Annuity Mortality Period Life (2012 IAM Period) Table” means the Period table containing loaded mortality rates for calendar year 2012. This table contains rates, q_x^{2012} , developed by the Society of Actuaries Committee on Life Insurance Research and is shown in Appendices 1-2.

I. As used in this regulation, “Projection Scale G2 (Scale G2)” is a table of annual rates, $G2_x$, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table was developed by the Society of Actuaries Committee on Life Insurance Research and is shown in Appendices 3-4.

Section 4. Individual Annuity or Pure Endowment Contracts

A. Except as provided in Subsections B and C of this section, the 1983 Table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1979.

B. Except as provided in Subsection C of this section, either the 1983 Table "a" or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1986.

C. Except as provided in Subsection D of this section, the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2001.

D. Except as provided in Subsection E of this section, the 2012 IAR Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015.

E. The 1983 Table "a" without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 2001, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

- (1) Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;
- (2) Settlements involving similar actions such as workers' compensation claims; or
- (3) Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

Section 5. Application of the 2012 IAR Mortality Table

In using the 2012 IAR Mortality Table, the mortality rate for a person age x in year $(2012 + n)$ is calculated as follows:

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n$$

The resulting q_x^{2012+n} shall be rounded to three decimal places per 1,000, e.g., 0.741 deaths per 1,000. Also, the rounding shall occur according to the formula above, starting at the 2012 period table rate.

For example, for a male age 30, $q_x^{2012} = 0.741$.

$q_x^{2013} = 0.741 * (1 - 0.010)^1 = 0.73359$, which is rounded to 0.734.

$q_x^{2014} = 0.741 * (1 - 0.010)^2 = 0.7262541$, which is rounded to 0.726.

A method leading to incorrect rounding would be to calculate q_x^{2014} as $q_x^{2013} * (1 - 0.010)$, or $0.734 * 0.99 = 0.727$.

It is incorrect to use the already rounded q_x^{2013} to calculate q_x^{2014} .

Section 6. Group Annuity or Pure Endowment Contracts

A. Except as provided in Subsections B and C of this section, the 1983 GAM Table, the 1983 Table "a" and the 1994 GAR Table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one of these tables may be used for purposes of valuation for an annuity or pure endowment purchased on or after January 1, 1979 under a group annuity or pure endowment contract.

B. Except as provided in Subsection C of this section, either the 1983 GAM Table or the 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1986 under a group annuity or pure endowment contract.

C. The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 2001 under a group annuity or pure endowment contract.

Section 7. Application of the 1994 GAR Table

In using the 1994 GAR Table, the mortality rate for a person age x in year (1994 + n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994} (1 - AA_x)^n$$

where the q_x^{1994} and AA_x s are as specified in the 1994 GAR Table.

Section 8. Separability

If any provision of this regulation or its application to any person or circumstances is for any reason held to be invalid, the remainder of the regulation and the application of its provisions to other persons or circumstances shall not be affected.

APPENDIX I

2012 IAM Period Table
 Female, Age Nearest Birthday

AGE	1000 q_x^{2012}	AGE	1000 q_x^{2012}	AGE	1000 q_x^{2012}	AGE	1000 q_x^{2012}
0	1.621	30	0.300	60	3.460	90	88.377
1	0.405	31	0.321	61	3.916	91	97.491
2	0.259	32	0.338	62	4.409	92	107.269
3	0.179	33	0.351	63	4.933	93	118.201
4	0.137	34	0.365	64	5.507	94	130.969
5	0.125	35	0.381	65	6.146	95	146.449
6	0.117	36	0.402	66	6.551	96	163.908
7	0.110	37	0.429	67	7.039	97	179.695
8	0.095	38	0.463	68	7.628	98	196.151
9	0.088	39	0.504	69	8.311	99	213.150
10	0.085	40	0.552	70	9.074	100	230.722
11	0.086	41	0.600	71	9.910	101	251.505
12	0.094	42	0.650	72	10.827	102	273.007
13	0.108	43	0.697	73	11.839	103	295.086
14	0.131	44	0.740	74	12.974	104	317.591
15	0.156	45	0.780	75	14.282	105	340.362
16	0.179	46	0.825	76	15.799	106	362.371
17	0.198	47	0.885	77	17.550	107	384.113
18	0.211	48	0.964	78	19.582	108	400.000
19	0.221	49	1.051	79	21.970	109	400.000
20	0.228	50	1.161	80	24.821	110	400.000
21	0.234	51	1.308	81	28.351	111	400.000
22	0.240	52	1.460	82	32.509	112	400.000
23	0.245	53	1.613	83	37.329	113	400.000
24	0.247	54	1.774	84	42.830	114	400.000
25	0.250	55	1.950	85	48.997	115	400.000
26	0.256	56	2.154	86	55.774	116	400.000
27	0.261	57	2.399	87	63.140	117	400.000
28	0.270	58	2.700	88	71.066	118	400.000
29	0.281	59	3.054	89	79.502	119	400.000
						120	1000.000

APPENDIX II

2012 IAM Period Table
Male, Age Nearest Birthday

AGE	1000 q_x^{2012}	AGE	1000 q_x^{2012}	AGE	1000 q_x^{2012}	AGE	1000 q_x^{2012}
0	1.605	30	0.741	60	5.096	90	109.993
1	0.401	31	0.751	61	5.614	91	123.119
2	0.275	32	0.754	62	6.169	92	137.168
3	0.229	33	0.756	63	6.759	93	152.171
4	0.174	34	0.756	64	7.398	94	168.194
5	0.168	35	0.756	65	8.106	95	185.260
6	0.165	36	0.756	66	8.548	96	197.322
7	0.159	37	0.756	67	9.076	97	214.751
8	0.143	38	0.756	68	9.708	98	232.507
9	0.129	39	0.800	69	10.463	99	250.397
10	0.113	40	0.859	70	11.357	100	268.607
11	0.111	41	0.926	71	12.418	101	290.016
12	0.132	42	0.999	72	13.675	102	311.849
13	0.169	43	1.069	73	15.150	103	333.962
14	0.213	44	1.142	74	16.860	104	356.207
15	0.254	45	1.219	75	18.815	105	380.000
16	0.293	46	1.318	76	21.031	106	400.000
17	0.328	47	1.454	77	23.540	107	400.000
18	0.359	48	1.627	78	26.375	108	400.000
19	0.387	49	1.829	79	29.572	109	400.000
20	0.414	50	2.057	80	33.234	110	400.000
21	0.443	51	2.302	81	37.533	111	400.000
22	0.473	52	2.545	82	42.261	112	400.000
23	0.513	53	2.779	83	47.441	113	400.000
24	0.554	54	3.011	84	53.233	114	400.000
25	0.602	55	3.254	85	59.855	115	400.000
26	0.655	56	3.529	86	67.514	116	400.000
27	0.688	57	3.845	87	76.340	117	400.000
28	0.710	58	4.213	88	86.388	118	400.000
29	0.727	59	4.631	89	97.634	119	400.000
						120	1000.000

APPENDIX III

Projection Scale G2
 Female, Age Nearest Birthday

AGE	G2 _x	AGE	G2 _x	AGE	G2 _x	AGE	G2 _x
0	0.010	30	0.010	60	0.013	90	0.006
1	0.010	31	0.010	61	0.013	91	0.006
2	0.010	32	0.010	62	0.013	92	0.005
3	0.010	33	0.010	63	0.013	93	0.005
4	0.010	34	0.010	64	0.013	94	0.004
5	0.010	35	0.010	65	0.013	95	0.004
6	0.010	36	0.010	66	0.013	96	0.004
7	0.010	37	0.010	67	0.013	97	0.003
8	0.010	38	0.010	68	0.013	98	0.003
9	0.010	39	0.010	69	0.013	99	0.002
10	0.010	40	0.010	70	0.013	100	0.002
11	0.010	41	0.010	71	0.013	101	0.002
12	0.010	42	0.010	72	0.013	102	0.001
13	0.010	43	0.010	73	0.013	103	0.001
14	0.010	44	0.010	74	0.013	104	0.000
15	0.010	45	0.010	75	0.013	105	0.000
16	0.010	46	0.010	76	0.013	106	0.000
17	0.010	47	0.010	77	0.013	107	0.000
18	0.010	48	0.010	78	0.013	108	0.000
19	0.010	49	0.010	79	0.013	109	0.000
20	0.010	50	0.010	80	0.013	110	0.000
21	0.010	51	0.010	81	0.012	111	0.000
22	0.010	52	0.011	82	0.012	112	0.000
23	0.010	53	0.011	83	0.011	113	0.000
24	0.010	54	0.011	84	0.010	114	0.000
25	0.010	55	0.012	85	0.010	115	0.000
26	0.010	56	0.012	86	0.009	116	0.000
27	0.010	57	0.012	87	0.008	117	0.000
28	0.010	58	0.012	88	0.007	118	0.000
29	0.010	59	0.013	89	0.007	119	0.000
						120	0.000

APPENDIX IV

Projection Scale G2
Male, Age Nearest Birthday

AGE	G2 _x	AGE	G2 _x	AGE	G2 _x	AGE	G2 _x
0	0.010	30	0.010	60	0.015	90	0.007
1	0.010	31	0.010	61	0.015	91	0.007
2	0.010	32	0.010	62	0.015	92	0.006
3	0.010	33	0.010	63	0.015	93	0.005
4	0.010	34	0.010	64	0.015	94	0.005
5	0.010	35	0.010	65	0.015	95	0.004
6	0.010	36	0.010	66	0.015	96	0.004
7	0.010	37	0.010	67	0.015	97	0.003
8	0.010	38	0.010	68	0.015	98	0.003
9	0.010	39	0.010	69	0.015	99	0.002
10	0.010	40	0.010	70	0.015	100	0.002
11	0.010	41	0.010	71	0.015	101	0.002
12	0.010	42	0.010	72	0.015	102	0.001
13	0.010	43	0.010	73	0.015	103	0.001
14	0.010	44	0.010	74	0.015	104	0.000
15	0.010	45	0.010	75	0.015	105	0.000
16	0.010	46	0.010	76	0.015	106	0.000
17	0.010	47	0.010	77	0.015	107	0.000
18	0.010	48	0.010	78	0.015	108	0.000
19	0.010	49	0.010	79	0.015	109	0.000
20	0.010	50	0.010	80	0.015	110	0.000
21	0.010	51	0.011	81	0.014	111	0.000
22	0.010	52	0.011	82	0.013	112	0.000
23	0.010	53	0.012	83	0.013	113	0.000
24	0.010	54	0.012	84	0.012	114	0.000
25	0.010	55	0.013	85	0.011	115	0.000
26	0.010	56	0.013	86	0.010	116	0.000
27	0.010	57	0.014	87	0.009	117	0.000
28	0.010	58	0.014	88	0.009	118	0.000
29	0.010	59	0.015	89	0.008	119	0.000
						120	0.000

Fiscal Impact Statement:

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

Statement of Rationale:

The amendments to the regulation are needed to set forth updated standards for setting reserves in connection with annuity contracts to ensure the adequacy and accuracy of reserves. The “2012 IAR Table” is a generational mortality table developed by the Society of Actuaries Committee on Life Insurance Research which includes an updated mortality table and a prescribed method of projecting future mortality rates. The National Association of Insurance Commissioners (NAIC) adopted revisions to the *NAIC Model Rule (Regulation) for Recognizing a New Annuity Table for Use in Determining Reserve Liabilities for Annuities (#821)* to incorporate the 2012 Individual Annuity Reserving Table. The proposed amendments to Regulation 69-37 will be based upon the amendments to the NAIC Model.

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Document No. 4437

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
CHAPTER 10**

Statutory Authority: 1976 Code Sections 40-1-50 and 40-1-70

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, in conformance with South Carolina Code Section 40-1-50 and with authority delegated by the boards and commissions stated herein below, proposes to add Chapter 10 to the South Carolina Code of Regulations so as to establish within this chapter and to amend the schedules of fees for certain professional and occupational licensing boards and commissions appearing in Title 40 of the South Carolina Code of Laws, specifically: Board of Architectural Examiners (Regulation 11-5); State Athletic Commission (Regulations 20-4.10, 20-23.11, 20-24.10, 20-26.1, and 20-27.23); Building Codes Council (Regulation 8-618); Board of Dentistry (Regulations 39-1, 39-2, and 39-3); Board of Registration for Professional Engineers and Surveyors (Regulation 49-103); Environmental Certification Board (51-6); Board of Funeral Service (Regulation 57-12); Board of Registration for Geologists (Regulation 131-13); Long Term Health Care Administrators Board (Regulation 93-100); Manufactured Housing Board (Regulation 79-26); Board of Medical Examiners (Regulation 81-300); Board of Nursing (Regulation 91-31); Board of Occupational Therapy (Regulation 94-09); Board of Examiners in Opticianry (Regulation 96-109); Board of Physical Therapy Examiners (Regulation 101-8); Board of Podiatry Examiners (Regulation 134-20); Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Licensed Psycho-educational Specialists (Regulation 36-15); Board of Examiners in Psychology (Regulation 100-7); Real Estate Appraisers Board (Regulation 137-800.03); Real Estate Commission (Regulation 105-13); Residential Builders Commission (Regulation 106-3); Soil Classifiers Advisory Council (Regulation 108-7); and Board of Veterinary Medical Examiners (Regulation 120-14).

The South Carolina Department of Labor, Licensing and Regulation further proposes to add to Chapter 10 the fee schedule for the Board of Accountancy, State Auctioneers Commission, Board of Barber Examiners, Contractor’s Licensing Board, Panel for Dietetics, Board of Landscape Architectural Examiners, Panel for Massage/Bodywork, and Board of Examiners in Speech-Language Pathology and Audiology in accordance with S.C. Code Sections 40-2-70(11), 40-6-50(C), 40-7-50(B), 40-11-50, 40-79-50, 40-10-50, 40-20-55(B), 40-28-80(B), 40-30-80 and 40-67-50.

The Notices of Drafting were published in the *State Register* on October 25, 2013 and November 22, 2013.

Instructions:

The following sections of Chapter 10 are added as provided below.

Text:

10-1. Division of Professional and Occupational Licensing.

[Reserved]

10-2. Board of Accountancy.

The Board shall charge the following fees:

- | | |
|--------------------------------|------|
| 1. Individual Application Fee: | \$50 |
| 2. Individual License: | |
| a. CPA | \$80 |
| b. Accounting Practitioner: | \$80 |

3. Annual Renewal of Individual License:	
a. CPA/PA:	\$80
b. Accounting Practitioner:	\$80
4. Individual Licensing Certificate:	\$20
5. Firm Registration:	
a. Out-of-State Firm:	\$50
b. In-State Firm:	\$50
6. Annual Renewal of Firm Registration:	
a. Out-of-State Firm:	\$50
b. In-State Firm:	\$50
7. Reinstatement of Certificate/License:	\$500
8. Miscellaneous Fees:	
a. Verification/License's History:	\$5
b. Wall Certificate Replacement:	\$20

10-3. Board of Architectural Examiners.

The Board shall charge the following fees:

(1) Individual Fees	
(a) Application fee	\$105
(b) Initial licensure fee	\$85
(c) Biennial renewal fee	\$115
(d) Penalty late fees	\$50
(e) Reinstatement application fee	\$105
(f) Reinstatement licensure fee	\$85
(2) Firm Fees	
(a) Application and licensure fee	\$100
(b) Biennial renewal fee	\$185
(c) Penalty late fees	\$50
(d) Reinstatement application and licensure fee	\$100
(3) Other Fees	
(a) File transfer fee	\$50
(b) Electronic list of licensees	\$10

Note: The penalty for late fees is \$50 during first month after the expiration date with a cap of \$150 being charged for the remainder of the year after expiration. Late penalty fees are assessed in addition to the renewal fee.

10-4. Athletic Commission.

The Commission shall charge the following fees:

1. Boxing	
a. Promoter Boxing	\$150
b. Judge Boxing/OTSB	\$75
c. Referee Boxing/OTSB	\$75
d. Manager Boxing	\$100
e. Professional Boxer	\$75
f. Trainer Boxing	\$100
g. Seconds Boxing	\$100
h. Timekeeper Boxer/OTSB	\$50

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i. Announcer Boxing/OTSB	\$75
j. Matchmaker Boxing	\$130
k. Promoter Representative	\$150

Note: If a person holding a second's license applies for a manager's license the amount paid for the second's license will be credited toward the fee for the manager's license.

2. Off the Street Boxing (OTSB)	
a. Promoter OTSB	\$150
b. Off the Street Boxer	\$75
3. Kickboxing	
a. Promoter	\$150
b. Judge	\$75
c. Referee	\$75
d. Manager	\$100
e. Kick Boxer	\$75
f. Trainer	\$100
g. Second	\$100
h. Timekeeper	\$50
i. Announcer	\$75
j. Matchmaker	\$130
k. Promoter Representative	\$150
4. Wrestling	
a. Promoter	\$150
b. Referee Pro Wrestling	\$75
c. Announcer	\$75
d. Pro Wrestler	\$75
e. Promoter Representative	\$150
5. MMA	
a. Promoter	\$150
b. Manager	\$100
c. Matchmaker	\$130
d. Trainer	\$100
e. Judge	\$75
f. Referee	\$75
g. Seconds	\$100
h. Promoter Representative	\$150
i. Timekeeper	\$50
j. Announcer	\$75
k. Amateur Fighter	\$75
l. Pro Fighter	\$75
6. Permits	
a. MMA Permit	\$300
b. Wrestling Permit	\$150
c. Boxing Permit	\$150
d. OTSB Permit	\$150
e. Kickboxing Permit	\$150

10-5. Auctioneers' Commission.

The Board shall charge the following fees:

A. Auctioneers	
1. New License:	\$435 (total)
a. Two-year License:	\$300
b. Recovery Fund:	\$100
c. Examination Fee:	\$25
d. Credit Report:	\$10
e. Pro-rated amount:	\$235
2. Applicants for Licensure by Reciprocity:	\$410 (total)
a. Two-year License:	\$300
b. Recovery Fund:	\$100
c. Credit Report:	\$10
d. Pro-rated amount:	\$210
3. Biennial Renewal:	\$300
B. Auction Firm	
1. New License:	\$410 (total)
a. Two-Year License:	\$300
b. Recovery Fund:	\$100
c. Credit Report:	\$10
d. Pro-rated amount:	\$210
2. Biennial Renewal:	\$300
C. Apprentice Auctioneer:	
1. New License:	\$235 (total)
a. One-year license:	\$150
b. Recovery Fund fee:	\$50
c. Exam Fee:	\$25
d. Credit Report:	\$10
2. Renewal:	\$200 (may be renewed one time)
a. License Fee:	\$150
b. Recovery Fund Fee:	\$50
D. Miscellaneous Fees:	
1. Licensee List Request:	\$10
2. Duplicate license (wallet card):	\$10
3. License verification:	\$5
4. New license card for change of name or address:	\$10

10-6. Board of Barber Examiners.

The Board shall charge the following fees:

(A) Registered Barber License and Examination:

(1) Application

(a) Theory and practical examination

paid directly to provider

(b) Theory examination

paid directly to provider

(c) Practical examination

paid directly to provider

(2) Renewal

\$125

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(3) Late Fee	\$25
(4) Reinstatement	\$105
(5) Endorsement/Reciprocity	\$140
(B) Master Hair Care License and Examination	
(1) Application	
(a) Theory and practical examination	paid directly to provider
(b) Theory examination	paid directly to provider
(c) Practical examination	paid directly to provider
(2) Renewal	\$150
(3) Late Fee	\$25
(4) Reinstatement	\$125
(5) Endorsement/Reciprocity	\$140
(C) Barber Assistant (Manicurist or Shampoo) License and Examination	
(1) Application	\$90
(2) Renewal	\$100
(3) Late Fee	\$25
(4) Reinstatement	\$75
(D) Instructor License and Examination	
(1) Application –	
(a) Theory examination	paid directly to provider
(2) Renewal	\$140
(3) Late Fee	\$25
(4) Reinstatement	\$120
(E) Barber Shop License	
(1) Application	\$250
(2) Renewal	\$125
(3) Late Fee	\$25
(4) Reinstatement	\$105
(F) Change of Barbershop Owner	\$100
(G) Change of Barbershop Name	\$100
(H) Change of Barbershop Location	\$250
(I) Barber College License	
(1) Application	\$300
(2) Renewal	\$300
(3) Reinstatement	\$140
(J) Change of Barber College Owner	\$140
(K) Change of Barber College Name	\$140
(L) Change of Barber College Location	\$300
(M) Student/On-the-Job Training Permit	\$35
(N) Hair Braiders	
(1) Application	\$100
(2) Renewal	\$100
(3) Reinstatement	\$40
(O) Duplicate license	\$10
(P) License verification	\$5 each at https://verify.llronline.com
(Q) Licensee list/roster	\$10 per license type

10-7. Building Codes Council.

The Council shall charge the following fees:

A. Code Enforcement Officers Registration:	\$50
B. Modular Building Program Schedule of Fees	
1. Modular Building Systems plan review:	
a. Structural systems:	\$110
b. Electrical systems:	\$30
c. Plumbing systems:	\$30
d. HVAC systems:	\$30
e. Total of all systems:	\$200
2. Component or core unit plan review:	
a. Structural systems:	\$60
b. Electrical systems:	\$20
c. Plumbing systems:	\$20
d. HVAC systems:	\$20
e. Total of all systems:	\$120
3. Additional fee for plan review requiring more than 10 hours to complete:	\$20.00 per hour
4. Annual plan maintenance fee:	\$50 per manufacturer
5. Field Technical Services:	
a. In-state:	\$20 per hour
b. Out-of-state:	\$20 per hour plus expenses
6. Label fees:	
a. Modular Systems:	\$45
b. Single Modular Floor, Wall or Roof/Ceiling System:	\$15
c. All other components:	\$5
7. Modular Building Manufacturer License:	
a. 24 units or less per year:	\$500 biennially
b. Producing 25 units or more:	\$1,500 biennially
8. Modular Building Manufacturer's Representative:	\$200 biennially
9. Reviewing fee for Approved Inspection Agencies	
a. Initial:	\$125 per year
b. Renewal:	\$200 biennially
10. Building Recertification Fee:	\$200

10-8. Perpetual Care Cemetery Board.

[Reserved]

10-9. Board of Chiropractic Examiners.

[Reserved]

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10-10. Contractor's Licensing Board.

The Board shall charge the following fees:

- A. Contractors – General and Mechanical
 - 1. Initial License Fee: \$350
 - 2. Biennial Renewal Fee: \$135
 - 3. Reinstatement: \$350
 - 4. Late Payment Penalties:
 - a. Up to 30 days: \$100
 - b. 31-60 days: \$150
 - c. 61-90 days: \$200
 - 5. Annual Inactive Certificate Status Fee: \$10 per year for up to four years
 - 6. Annual Inactive License Status Fee: \$110 per year
 - 7. Miscellaneous:
 - a. Biennial Certificate Fee: \$10
 - b. Replacement of lost or destroyed certificate: \$10
 - c. Replacement of lost or destroyed license: \$5
- B. Burglar Alarm Contractors and Fire Alarm Contractors
 - 1. Initial License Fees:
 - a. Alarm System Business License: \$200, which includes one primary qualifying party certificate
 - b. Branch Office: \$50.00 each, which includes one primary qualifying party certificate
 - c. Additional Qualifying Party: \$10
 - 2. Biennial Renewal
 - a. Alarm System Business License: \$85 each, which includes one primary qualifying party certificate
 - b. Branch Office: \$50.00 each, which includes one primary qualifying party certificate
 - c. Additional Qualifying Party: \$10
 - 3. Reinstatement: \$200
 - 4. Late Renewal Penalties:
 - a. Up to 30 days: \$100
 - b. 31-60 days: \$150
 - c. 61-90 days: \$175
 - 5. Miscellaneous:
 - a. Replacement of lost or destroyed certificate: \$10
 - b. Replacement of lost or destroyed license: \$10
- C. Fire Sprinkler Protection Systems Contractors
 - 1. Initial License Fees:
 - a. Fire Sprinkler Contractor License Fee: \$200, which includes one qualifying party certificate
 - b. Additional Qualifying Party: \$50 each
 - c. Branch Office: \$100 for each branch office, which includes one primary qualifying certificate.
 - 2. Renewal:
 - a. Fire Sprinkler Business: \$85, which includes one qualifying party certificate
 - b. Additional Qualifying Party: \$50 for each additional qualifying party certificate
 - c. Branch Office: \$100 each, which includes one primary qualifying certificate
 - 3. Reinstatement: \$200
 - 4. Late Renewal Penalties:
 - a. Up to 30 days: \$100
 - b. 31-60 days: \$150
 - c. 61-90 days: \$200
 - d. 91-120 days: \$250
 - 5. Fee for transferring Qualification Certificate to another licensee: \$10

- 6. Miscellaneous:
 - a. Replacement of lost or destroyed certificate: \$10
 - b. Replacement of lost or destroyed license: \$10

10-11. Board of Cosmetology.

[Reserved]

10-12. Board of Dentistry.

The Board shall charge the following fees:

1. Application Fees for Licensure/Registration

- a. General Dentist:
 - (1) By Clinical Examination: \$300
 - (2) By Credentials: \$2000
 - (3) By Credentials with Waiver: \$500
 - a. Dental Specialty: \$300
 - b. Dental Hygiene: \$150
 - c. Dental Technician: \$100
 - d. Orthodontic Technician: \$100
 - e. Dental Instructor: \$300
 - f. Volunteer License: \$0

2. Fees for Biennial Renewal of License/Certificate

- a. General Dentist: \$280
- b. Dental Specialist: \$290, unless multiple
- c. Dental Hyg IA: \$90
- d. Dental Hygienist: \$80
- e. Dental/Orthodontic Technician: \$150
- f. Dental Instructor: \$320
- g. Infiltration Anesthesia Certification: \$10

3. Fees for Annual Renewal of Mobile Facilities and Portable Dental Unit

- a. Mobile Facilities: \$150
- b. Portable Units: \$75

4. Fees for Reinstatement of License/Registration Application and Fees

- Application Fee \$75, plus Reinstatement fee below
- a. Dental License: \$500
- b. Dental Hygiene License: \$300
- c. Technician Registration: \$300

5. Application Fes for Certifications

- a. Administer Infiltration Anesthesia: \$70
- b. Monitor Nitrous Oxide: \$25

6. Miscellaneous Fees

- a. Verification of Licensure: \$5
- b. Name Change and New Wallet Card: \$10
- c. Returned Check Charge: \$30
- d. Licensure List: \$10 (download form)
- e. Mailing Labels: \$0.08 per name
- f. Duplicate Certificates: see list below
- g. Wall Certificate: \$25

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h. Wallet Card/Wall Certificate:	\$10
i. Nitrous Oxide Certificate:	\$10
j. Infiltration Anesthesia Certificate:	\$10

10-13. Panel for Dietetics.

The Panel shall charge the following fees:

A. Application:	\$175
B. Biennial Renewal of License:	\$100
C. Late Renewal Fee:	\$50 up to thirty days
D. Reinstatement Fee:	\$50 in addition to the renewal and late renewal fees
E. Miscellaneous:	
1. Replacement of wall certificate:	\$15
2. Duplicate pocket card:	\$10
3. Name change and new pocket card:	\$10
4. Fee for returned check:	\$30
5. Licensure verification:	\$5
6. Licensure list:	\$10

10-14. Board of Registration for Professional Engineers and Surveyors.

The Board shall charge the following fees:

(1) Application Fee, Individual License:	
(a) Engineer-in-Training:	NO FEE
(b) Professional Engineer by Comity:	\$75
(c) Professional Engineer by Exam:	\$65
(d) Temporary License:	\$100
(e) Surveyor-in-Training:	NO FEE
(f) Tier A Professional Surveyor by examination:	\$65
(g) Tier A Professional Surveyor by comity:	\$75
(h) Tier B Surveyor:-	\$75
education evaluation fees may be assessed by independent evaluators when required for licensure.	
(2) Application Fee, Firms	
(a) Firm (Certificate of Authorization):	\$115
(b) Temporary Certificate of Authorization:	\$150
(3) Examination Fee - Set by the National Council of Examiners for Engineering and Surveying (NCEES) as follows:	
(a) Fundamentals of Engineering (FE):	\$225 Book/Scoring/Administration
(b) Fundamentals of Surveying (FS):	\$225 Book/Scoring/Administration
(c) Principles and Practice of Engineering (PE):	\$250 Book/Scoring; add \$100 for Administration by NCEES
(d) Principles and Practice of Surveying (PS):	\$250 Book/Scoring; add \$100 for Administration by NCEES
(e) Structural Engineering – Vertical:	\$500 Book/Scoring/Administration
(f) Structural Engineering – Lateral:	\$500 Book/Scoring/Administration
(4) Biennial Renewal Fee, Individual:	\$85
(a) Biennial Renewal Fee, Individuals dually licensed:	\$170
(5) Biennial Renewal Fee, Firm:	\$75
(6) Temporary Permits	
(a) Individuals:	\$100
(b) Firms:	\$150

- (7) Reinstatements Individuals:
- (8) Reinstatements Firms:

Governed by Section 40-22-240
 \$115 Governed by Regulation 49-106 (B),
 authorized by Section 40-22-240

10-15. Environmental Certification Board.

The Board shall charge the following fees:

Biological Wastewater Treatment Operator Application:	\$50
Biological Wastewater Treatment Operator Certification by Reciprocity:	\$50
Biological Wastewater Treatment Operator Renewal:	\$30
Bottled Water Operator Application:	\$50
Bottled Water Certification by Reciprocity:	\$50
Bottled Water Renewal:	\$30
Water Distribution System Operator Application:	\$50
Water Distribution System Operator Certification by Reciprocity:	\$50
Water Distribution System Operator Renewal:	\$30
P/C Wastewater Treatment Operator Application:	\$50
P/C Wastewater Treatment Operator Certification by Reciprocity:	\$50
P/C Wastewater Treatment Operator Renewal:	\$30
Well Driller Application:	\$50
Well Driller Certification by Reciprocity:	\$50
Well Driller Renewal:	\$50
Water Treatment Plant Operator Application:	\$50
Water Treatment Plant Operator Certification by Reciprocity:	\$50
Water Treatment Plant Operator Renewal:	\$30
Roster (Licensee) List:	\$10

10-16. Board of Registration for Foresters.

[Reserved]

10-17. Board of Funeral Service.

The Board shall charge the following fees:

(1) Initial Application and License Fee	
(a) Funeral Director Apprentice	\$50
(b) Embalmer Apprentice	\$50
(c) Embalmer	\$100
(d) Funeral Director	\$100
(e) Dual Application	\$150
(f) Endorsed Funeral Director	\$100
(g) Endorsed Embalmer	\$100
(h) Endorsed Dual Application	\$150
(i) Funeral Director Student Permit	\$25
(j) Embalmer Student Permit	\$25
(k) New Funeral Home Permit	\$200
(l) Additional Funeral Facility	\$200
(2) Biennial License renewal	
(a) Embalmer	\$300
(b) Funeral Director	\$300

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(c) Dual License	\$320
(d) Funeral Home (Parent)	\$350
(e) Funeral (Chapel)	\$350
(f) Crematory	\$350
(g) Funeral Home (Branch)	\$350
(h) Retail Outlet	\$350
(3) Apprentice and Student Renewal	
(a) Funeral Director Apprentice	\$100
(b) Embalmer Apprentice	\$100
(c) Funeral Director Student Permit	\$50
(d) Embalmer Student Permit	\$50
(4) Late Renewal Penalty (1-6 months)	\$120
(5) Reactivation (Revival) (6 months or more)	\$120 + renewal fee for each year license was expired
(6) Examination Fee	
(a) National State Examination	Actual fee charged by examination provider (One part)
(b) National State Examination	Actual fee charged by examination provider (Two parts)
(c) State Statutes and Regulations Exam	Fee charged by examination provider

10-18. Board of Registration for Geologists.

The Board shall charge the following fees:

A. Application Fees	
1. Geologist-in-Training	\$75
2. Professional Geologist	\$400
B. Renewal Fees	
1. Professional Geologist	\$300
2. Late Renewal from July 1-December 31:	Renewal plus fifty (50%) percent penalty fee
3. Reactivation of Registration	\$300 plus renewal fee
C. Replacement Certificate	\$10
D. Examination Appeal	\$50 + actual costs charged by testing organization
E. Roster fee	\$10
F. Temporary Registration	\$300

10-19. Board of Landscape Architectural Examiners.

The Board shall charge the following fees:

A. Initial license fee:	\$50
B. Biennial license renewal fee:	\$200
C. Initial certificate of authorization fee:	\$200
D. Biennial certificate of authorization renewal fee:	\$400
E. Temporary license fee:	\$100
F. Initial examination fee--cost of exam:	\$200
G. Examination retake fee--cost of section(s):	\$100
H. File transfer fee:	\$50
I. Duplicate license/certificate fee:	\$25
J. Late fee:	\$20

K. Out-of-state applicant fee: not to exceed \$100

10-20. Liquefied Petroleum Gas Board.

[Reserved]

10-21. Long Term Health Care Administrators Board.

The Board shall charge the following fees:

- A. Nursing Home Administrator’s Fee Schedule:
 - 1. Application for Licensure: \$200
 - 2. Application for Re-examination: \$135
 - 3. Provisional License: \$500
 - 4. Initial Licensure period: \$175
 - 5. Annual Renewal:
 - a. Active Status: \$175
 - b. Inactive Status: \$135
 - c. Late Fee: \$50
- B. Community Residential Care Facility Administrator’s Fee Schedule
 - 1. Application for Licensure: \$100
 - 2. Application for Re-examination: \$65
 - 3. Provisional License: \$250
 - 4. Initial Licensure Period: \$150
 - 5. Annual Renewal:
 - a. Active Status: \$150
 - b. Inactive Status: \$115
 - c. Late Fee: \$50
- C. Dual Administrators:
 - 1. Application for Licensure: \$200
 - 2. Application for Re-examination: \$65
 - 3. Provisional License: \$600
 - 4. Initial Licensure: \$255
 - 5. Annual Renewal:
 - a. Active Status: \$325
 - b. Inactive Status: \$250
 - c. Late Fee: \$50
- D. Charges for Both Classes of Administrators:
 - 1. Reinstatement of a Lapsed License (Penalty per month, not to exceed twelve months):
 - a. 1st and 2nd month: \$50
 - b. 3rd - 12th month: \$25
 - 2. Transfer of Information to Another State: \$50
 - 3. Record Change: \$25
 - 4. Record Change and Reissue of Certificate: \$50
 - 5. Copy of Licensee Lists: \$20
 - 6. Labels for license list: \$100
 - 7. NSF Fee: \$30
 - 8. Copy of Regulations: \$5
 - 9. Application for Approval of Continuing Education:
 - a. By a Sponsoring Organization: \$100
 - b. For a repeat presentation: \$25
 - c. By an Individual: \$15

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10. State and federal fingerprint reviews: \$38

10-22. Manufactured Housing Board.

The Board shall charge the following fees:

A. Biennial Licensing Fees:

- | | |
|---|-------|
| 1. Manufacturer: | \$300 |
| 2. Retail Dealer: | \$100 |
| 3. Salesperson: | \$50 |
| 4. Multi-Lot Salesperson: | \$100 |
| 5. Contractor: | \$100 |
| 6. Installer: | \$100 |
| 7. Repairer: | \$100 |
| 8. Apprentice Salesperson: | \$50 |
| 9. Fees for applications received with one year or less remaining in the current licensing cycle will be based on one half of the two year licensing fee. | |

B. Renewal Late Fee: \$25 per month

C. Manufactured Home Show Permits: \$100

D. Miscellaneous Fees:

- | | |
|---|-------------|
| 1. License Update/Duplication Fee: | \$10 |
| 2. Credit Report: | \$10 |
| 3. Red Tag Removal Fee: | \$5 per tag |
| 4. Fee for reinspection performed on a manufactured home that is involved in a complaint: | \$50 |

10-23. Advisory Panel for Massage/Bodywork.

The Panel shall charge the following fees:

- | | |
|--|---------------------|
| A. Application fee: | Not to exceed \$50 |
| B. Initial Licensure fee: | Not to exceed \$100 |
| C. Biennial renewal fee: | Not to exceed \$200 |
| D. Re-examination fee: | Not to exceed \$250 |
| E. Application and provisional licensure fee: | Not to exceed \$200 |
| F. Application and reactivation for inactive status fee: | Not to exceed \$250 |
| G. Renewal fee for inactive status: | Not to exceed \$250 |
| H. Continuing Education course provider fee: | Not to exceed \$100 |
| I. Continuing Education course provider renewal: | Not to exceed \$50 |
| J. Duplicate license: | \$5 |

10-24. Board of Medical Examiners.

The Board shall charge the following fees:

(A) Physicians:

- | | |
|-------------------------|------------------------------|
| (1) Academic License-- | \$150 |
| (a) Renewal-- | \$150 |
| (2) Limited License-- | \$75 (6 mo.), \$150 (1 year) |
| (a) Renewal-- | \$75 (6 mo.), \$150 (1 year) |
| (b) 14 days-- | \$75 |
| (3) Permanent License-- | \$580 |
| (a) Biennial Renewal-- | \$155 |
| (b) Reactivation-- | \$460 |

(4) Special Volunteer Limited License--	no fee
(a) Renewal--	no fee
(5) Temporary License Extension--	\$75
(B) Acupuncture--	\$111
(1) Biennial Renewal--	\$145
(C) Anesthesiologist's Assistant--	\$300
(1) Biennial Renewal--	\$295
(D) Physician Assistant--	\$120
(1) Biennial Renewal--	\$45
(2) Limited License Application--	\$25
(3) Limited License Renewal--	\$25
(4) Prescriptive Authority--	\$40
(No fee for expanded prescriptive authority, Schedule III-V drugs)	
(E) Respiratory Care Practitioner	
(1) Application - Permanent License--	\$120
(2) Biennial Renewal--Permanent License--	\$75
(3) Limited License--	\$40
(4) Limited License Renewal--	\$40
(5) Update License Application--	\$80
(6) Reactivation--Permanent License--	\$160
(F) Other fees	
(1) Verification of License--	\$5
(2) Wall Certificate--Duplicate--	\$50
(3) Name change--	no fee
(4) Licensure Listing--	\$10
(5) Mailing Labels--	\$.08 per name

10-25. Board of Nursing.

The Board shall charge the following fees:

a. R.N. Examination:	\$90
R.N. Endorsement:	\$100
R.N. Re-examination:	\$65
L.P.N. Examination:	\$70
L.P.N. Endorsement:	\$100
L.P.N. Re-examination:	\$45
R.N. and L.P.N. Renewals:	\$75
R.N. and L.P.N. Reinstatements:	\$60
R.N. and L.P.N. Reactivation:	\$50
R.N. and L.P.N. Reinstatement of Disciplined License:	\$150
Name change only on records:	\$0
Verification to another state (A.P.R.N., R.N. and L.P.N.):	\$5
Certification Exam Verification:	\$5
VISA Screen Verification:	\$5
Temporary permit:	\$10
Official Inactive Status:	\$15
APRN Initial Fee (current S.C. licensee only):	\$30
APRN Renewal:	\$105
APRN Endorsement:	\$140
APRN Reinstatement:	\$90
APRN Reactivation:	\$70

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Application for Prescriptive Authority:	\$20
Renewal of Prescriptive Authority:	\$145
Returned check charge:	\$30

10-26. Board of Occupational Therapy.

The Board shall charge the following fees:

A. Application fee:	
1. Occupational Therapist:	\$135
2. Occupational Therapy Assistant:	\$115
B. Biennial license renewal:	
1. Occupational Therapist:	\$100
2. Occupational Therapy Assistant:	\$80
C. Late Renewal Penalty:	\$50
D. Reactivation (Inactive to Active):	
1. Occupational Therapist:	\$50 plus renewal fee
2. Occupational Therapy Assistant:	\$50 plus renewal fee
E. Reactivation (Lapsed to Active):	\$300 plus renewal fee
F. License verification to another state:	\$5
G. Name change and new license:	\$10
H. Duplicate license:	\$10
I. Duplicate certificate - wall certificate:	\$10
J. Returned check charge: (or amount specified by law; see Section 34-11-70):	\$30
K. Temporary License Fee:	\$10
L. Registry of Applicants (licensee mailing list):	\$10

10-27. Board of Examiners in Opticianry.

The Board shall charge the following fees:

A. Applications:	
1. Optician:	\$100
2. Contact Lens Dispenser:	\$100
3. Apprentice Application:	\$20
B. Certificate of Licensure:	\$25
C. Biennial Renewal:	
1. Active Resident Optician:	\$200
2. Nonresident or Inactive Optician:	\$120
3. Active Resident Contact Lens Dispenser:	\$100
4. Nonresident or Inactive Contact Lens Dispenser:	\$60
5. Apprentice Renewal Fee (Annual only):	\$50
D. Late Renewal Fee:	\$25
E. Reinstatement Fee:	\$50

10-28. Board of Examiners in Optometry.

[Reserved]

10-29. Board of Pharmacy.

[Reserved]

10-30. Board of Physical Therapy Examiners.

The Board shall charge the following fees:

(1) Application fee:	\$120
(2) Biennial license renewal:	
(a) physical therapist:	\$90
(b) physical therapist assistant:	\$80
(3) Late Renewal Processing Fee:	\$150
(4) Deactivation:	\$50
(5) Reactivation (inactive to active):	\$150 + renewal fee
(6) Reinstatement (lapsed to active) :	\$300 + renewal fee

10-31. Pilotage Commission.

[Reserved]

10-32. Board of Podiatry Examiners.

The Board shall charge the following fees:

A. Biennial License Renewal:	\$200
B. Late License Renewal:	\$200
C. License Reinstatement Fee: \$75 plus a \$5 per day penalty to be assessed starting three months from the date of notification by the Secretary that said fee is due.	

10-33. Board of Examiners for Licensure of Professional Counselors and Marital and Family Therapists.

The Board shall charge the following fees:

A. Application Fee - Application goes to Center for Credentialing Education (CCE) to be reviewed and approved.

B. Initial License Fee:

1. Intern:	\$150
2. Professional Counselors:	\$170
3. Marriage and Family Therapists:	\$170
4. Psycho-educational Specialists:	\$130
5. Professional Counselor Supervisors:	\$100
6. Marriage and Family Therapy Supervisors:	\$100

C. Biennial license renewal

1. Professional Counselors:	\$150
2. Marriage and Family Therapists:	\$150
3. Psycho-educational Specialists:	\$150
4. Professional Counselor Supervisors:	\$100
5. Marriage and Family Therapy Supervisors:	\$100

D. Late Renewal Penalty (1 through 3 months): \$50

E. Reinstatement Fee: \$300 + renewal

F. Examination Fee:

1. Professional Counselors: paid to National Board for Certified Counselors (NBCC)
2. Marriage and Family Therapists - paid to Professional Examination Service (PES)

G. License Verification (copy of file): \$15

H. License verification to another state: \$5

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I. Name change and new license no fee:	\$10
J. Duplicate license:	
1. Wall certificate:	\$25
2. License card:	\$10
K. Returned check charge:	\$30 (or as otherwise established by law as administrative costs for returned checks)

10-34. Board of Examiners in Psychology.

The Board shall charge the following fees:

A. Preliminary and Formal Applications:	Not to exceed \$500
B. Written Examination (Examination for the Professional Practice of Psychology):	Not to exceed \$500
C. Initial License: Prorated portion of annual renewal of license fee:	Not to exceed \$250
D. Biennial Renewal:	Not to exceed \$395
E. Temporary Permit:	Not to exceed \$250
F. Miscellaneous Fees:	
1. Replacement of lost/stolen license:	Not to exceed \$50
2. Return of incomplete renewal form:	Not to exceed \$30
3. Filing of Professional Association information:	Not to exceed \$50
4. Late Fee:	Not to exceed \$75
5. Fee for second and each subsequent oral exam:	Not to exceed \$200
6. Fee for administration of examination for the professional practice of Psychology to candidates for licensure in other states:	Not to exceed \$50
7. Fee for returned checks:	Not to exceed \$25
8. Fee for name change:	Not to exceed \$50
9. Fee for supervised employee annual registration:	Not to exceed \$150

10-35. Board of Pyrotechnic Safety.

[Reserved]

10-36. Real Estate Appraisers Board.

The Board shall charge the following fees:

(1) Apprentice appraiser permit:	\$400
(2) Apprentice appraiser permit renewal:	\$400
(3) Mass appraiser renewal:	\$400
(4) Appraiser license/certification examination fee (per application) :	\$100
(5) Appraiser license/certification:	\$400
(6) Appraiser license/certification renewal:	\$400
(7) Late penalty for renewal of license/certification/inactive status:	
(a) July 1 through July 31:	\$75
(b) August 1 through August 31:	\$100
(c) After August 31 and before next renewal period:	\$150
(8) Late penalty for submission of continuing education credit:	\$50 after July 31
(9) Permit/license/certification replacement fee (per application):	\$25
(10) Personal name change (per application):	\$15
(11) Inactive status:	\$200
(12) Reinstatement from inactive licensed or certified appraiser:	\$400
(13) Attestation of license/certification (per request):	\$20
(14) Course approval (under 15 hours) (per application):	\$100

(15) Course approval (15 hours or more) (per application):	\$200
(16) Course approval renewal:	\$100
(17) Penalty for late course renewal:	\$50
(18) Instructor approval (per application):	\$200
(19) Instructor approval renewal:	\$150
(20) Penalty for late instructor renewal:	\$50
(21) Appraisers roster (per request):	\$40
(22) Appraiser mailing labels (per request):	\$50
(23) Diskette of appraisers roster (per request):	\$50
(24) Change in appraiser classification (per application):	\$75
(25) Appraiser equivalent continuing education approval (per application):	\$50
(26) Bad check charge (per occurrence):	\$30 (or amount specified by law; see Section 34-11-70)

(27) Temporary practice permit (per application): \$50

(28) In addition to the fees listed above, an annual Federal Registry Transmittal fee of \$80 established by Public Law 101-73, Title XI, Real Estate Appraisal Reform Amendments will be charged for all licenses and certifications.

10-37. Real Estate Commission.

The Board shall charge the following fees:

A. New License:

1. Broker-in-Charge/Property Manager-in-Charge (biennial)	\$250
2. Broker/Property Manager (biennial)	\$125
3. Salesperson (Provisional), (annual)	\$25
4. Credit report for applicant by reciprocity	\$10
5. Salesperson applicant from non-reciprocity states (biennial)	\$50

B. Renewal:

1. Broker-in-Charge/Property Manager-in-Charge (biennial)	\$75
2. Broker/Property Manager (biennial)	\$55
3. Salesperson (biennial)	\$45
4. Inactive Status (biennial)	\$120
5. The late renewal fee is \$25 per month, beginning July 1 st through December 31 st . After December 31 st , the licensee must reapply.	
6. Timeshare Salesperson:	\$30

C. Licensing Transactions:

1. Upgrade of Salesman Provisional License	\$25
2. License Transfer	\$0
3. Duplicate License	\$10
4. Certification of Licensure	\$5
5. Personal Name Change	\$10
6. Change of License Status	
a. BIC/PMIC to Broker/Property Manager	\$10
b. Activate License (same classification) from Inactive	\$10
c. Company Name or Address Change	\$10
(\$10 per licensee or maximum of \$250 an office)	

D. Examination Process

1. Application	\$25
2. Credit Report	\$10

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3. Examination is payable directly to examination vendor.

10-38. Residential Builders Commission.

The Board shall charge the following fees:

A. Licensed Residential Builder:	
1. Application:	\$135
2. License Fee:	\$220
3. Renewal Fee:	\$220
4. Late Fee:	\$50
5. Reinstatement Fee (after 12 months but not later than 3 years):	\$260
B. Licensed Residential Specialty Contractors: Electrical, Heating and Air and Plumbing	
1. Application:	\$135
2. License Fee:	\$220
3. Renewal Fee:	\$220
4. Late Fee:	\$50
5. Reinstatement Fee (after 12 months but not later than 3 years):	\$260
C. Registered Residential Specialty Contractor:	
1. Registration Fee:	\$100
2. Renewal Fee:	\$100
3. Late Fee:	\$20
4. Reinstatement Fee (after 12 months but not later than 3 years):	\$90
D. Certificate of Authorization	
1. License Fee:	\$100
2. Renewal Fee:	\$100
E. Home Inspectors:	
1. Application Fee:	\$80
2. Renewal Fee:	\$160
3. Late Fee:	
a. After July 1:	\$90
b. More than 12 months after expiration of the license:	an additional \$110
F. Miscellaneous Fees	
1. Replacement fee for lost, destroyed or mutilated license or registration:	\$10
2. Reissued license or registration for changes requested by licensee or registrant:	\$10

10-39. Board of Social Work Examiners.

[Reserved]

10-40. Soil Classifiers Advisory Council.

The Board shall charge the following fees:

A. Initial Application Fee:	\$25
B. License:	
1. Soil Classifier-in-Training:	\$25
2. Professional Soil Classifier:	\$200
C. Biennial License Renewal – Certificate of Licensure:	\$200
D. Late Payment Penalty:	\$40
E. Reinstatement Fee:	\$250

10-41. Board of Examiners in Speech-Language Pathology and Audiology.

The Board shall charge the following fees:

- A. Initial License Fees:
 - 1. Audiologist and Speech-Language Pathologist License Fee: \$220
 - 2. Audiologist and Speech-Language Pathologist Intern Fee: \$110
 - 3. Audiologist and Speech-Language Pathologist Inactive License Status: \$100
 - 4. Speech-Language Pathologist Assistant: \$50
- B. Renewal Fees:
 - 1. Audiologist and Speech-Language Pathologist Biennial License Fee: \$160
 - 2. Annual Intern License Fee: \$110
 - 3. Audiologist and Speech-Language Pathologist Biennial Inactive License Status: \$100
 - 4. Biennial Speech-Language Pathologist Assistant: \$40
- C. Reinstatement Fee: \$50 for renewals received after 3/31 but before 5/1
 - 1. Audiologist and Speech-Language Pathologist Licensee: \$270
 - 2. Speech-Language Pathology Assistant: \$150
- D. Reactivation of Inactive License: \$120
- E. Fee for change in supervising Speech-Language Pathologist or Audiologist Intern during internship while completing the Supervised Professional Employment program: \$25
- F. Miscellaneous Fees:
 - 1. Replacement Fee: \$10 for replacing a license or wallet card
 - 2. Roster or List Fee: \$10
 - 3. Returned check fee: \$30 or amount provided by statute

10-42. Board of Veterinary Medical Examiners.

- (A) Fees for Veterinarians:
 - (1) Application for License \$175
 - (2) Temporary Veterinary License \$100
 - (3) Temporary New Graduate License \$50
 - (4) Biennial Renewal by March 31 \$300
 - (5) Biennial Renewal late fee after April 1 \$100 + renewal fee
 - (6) Reinstatement fee after April 30 \$250 + renewal fee
- (B) Fees for Veterinary Technicians:
 - (1) Application for License \$50
 - (2) Temporary Veterinary Technician License \$10
 - (3) Biennial Renewal by March 31 \$60
 - (4) Biennial Renewal late fee after April 1 \$10 + renewal fee
 - (5) Reinstatement fee after April 30 \$20 + renewal fee
- (C) Miscellaneous Fees:
 - (1) License Verification Fee \$5
 - (2) Wall Certificate Replacement \$10
 - (3) Pocket Card Certificate Replacement \$10
 - (4) Licensee List Request \$10
 - (5) Returned Check Fee \$30
 - (6) Walk-in Service Fee \$25

Fiscal Impact Statement:

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

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Statement of Rationale:

Adding all fees into one regulation streamlines the process for biennial adjustment in accordance with S.C. Code §40-1-50(D) and simplifies fee review and comparison for interested parties.

Document No. 4382
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF ELEVATORS AND AMUSEMENT RIDES
CHAPTER 71

Statutory Authority: 1976 Code Sections 41-16-40, 41-16-70, 41-18-70, 41-18-80, and 41-18-120

71-4800. Qualifications of Approved Special Inspectors

71-5400. Qualification of Special Inspectors

Synopsis:

The South Carolina Office of Elevators and Amusement Rides is amending Regulations 71-4800 and 71-5400 regarding qualification of special inspectors.

The Notice of Drafting was published in the *State Register* on February 22, 2013.

Instructions:

The following sections of Chapter 71 are modified as provided below. All other items and sections remain unchanged.

Text:

71-4800. Qualifications of Approved Special Inspectors.

1. A special inspector shall have the following qualifications:

A.(1) At least five (5) years experience in amusement device maintenance and safety and completion of approved courses in materials inspection and testing and in fasteners or in the alternative.

(2) A four-year college degree in engineering or architecture with a minimum of twelve (12) semester hours of course work in the area of mechanics and strength of materials.

B. Evidence of successful completion of an approved Rides Safety Inspection course within the previous two (2) calendar years.

2. Each applicant for approval as a special inspector shall submit with his annual application evidence of insurance against errors and omissions (or approved general liability insurance) covering inspections of amusement rides and devices in an amount of no less than \$500,000 per occurrence, procured from one or more insurers licensed to transact insurance in South Carolina or approved as a non-admitted surplus lines carrier for risks located in this State. Each policy, by its original terms or an endorsement, shall obligate the insurer that it will not cancel, suspend, or nonrenew the policy without thirty (30) days written notice of the proposed cancellation, suspension, or nonrenewal and a complete report of the reasons for the cancellation, suspension, or nonrenewal being given to the Director of the Department of Labor, Licensing and Regulation. In the event the liability insurance is cancelled, suspended or nonrenewed, the insurer shall give immediate notice to the Director.

3. Each applicant for approval as a special inspector shall submit with his annual application a license fee in the amount of \$200.00.

4. Applications for approval as a special inspector shall be made annually on a form to be provided by the Director.

5. Special inspectors shall conduct all follow up, safety related complaint inspections, and abatement inspections as called for by the division and shall be responsible for submitting all associated paperwork.

6. Special inspectors shall record and report the findings of all inspections conducted pursuant to S.C. Code 41-18-10 et seq. on forms supplied by the Department. Special inspectors shall execute and convey the form in a manner prescribed by the Department. The Director may suspend or revoke a special inspector's license for failure to complete the inspection form as prescribed by the Department. The Director may also suspend or revoke a special inspector's license for any misrepresentation or omission of any material fact related to the inspection. In addition to the foregoing, the director may withhold issuance of an Operating Certificate for failure to complete the inspection form as prescribed by the Department or misrepresentation or omission of any material fact related to the inspection.

7. Any special inspector may have his license revoked or may have a license denied to him who:

A. uses or discloses information gained in the course of or by reason of his official position for any purpose other than making official inspections;

B. receives compensation to influence his inspections;

C. uses a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure as a special inspector;

D. has had a license to practice a regulated profession or occupation including special inspector in another state or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;

E. has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate this article or a regulation promulgated under this article;

F. has intentionally used a fraudulent statement in a document connected with practice as a special inspector;

G. has obtained fees or assisted in obtaining fees under fraudulent circumstances;

H. has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;

I. lacks the professional or ethical competence to practice as a special inspector;

J. has been convicted of or has pled guilty to or *nolo contendere* to a felony or a crime involving drugs or moral turpitude;

K. has practiced as a special inspector while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice as a special inspector;

L. has sustained a physical or mental disability which renders further practice dangerous to the public;

M. has violated a provision of this article or of a regulation promulgated under this article.

8. Any special inspector whose license has been revoked or to whom a license has been denied may appeal this decision to the Director or his designee within thirty days of receipt of written notice of the decision revoking or denying his license. The Director or his designee will conduct a hearing to review the decision and will issue a written order of decision thereafter.

9. Any person aggrieved by the final action of the Director may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the Director's decision pending completion of the appellate process.

71-5400. Qualification of Special Inspectors.

1. Any applicant for a license as a special inspector shall present evidence of all qualifications as stated in the 1984 edition of QEI-1, The American National Standard for Qualification of Elevator Inspectors, and supplements thereto as adopted by the American National Standards Institute. Submission of a copy of a valid Inspector's Certificate issued by any authority accredited by the American Society of Mechanical Engineers shall be evidence that the applicant has all required qualifications.

2. Each applicant for approval as a special inspector shall submit with his annual application evidence of insurance against errors and omissions (or approved general liability insurance) covering inspections of elevators in an amount of no less than \$500,000 per occurrence, procured from one or more insurers licensed to transact insurance in South Carolina or approved as a non-admitted surplus lines carrier for risks located in

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this State. Each policy, by its original terms or an endorsement, shall obligate the insurer that it will not cancel, suspend, or nonrenew the policy without thirty (30) days written notice of the proposed cancellation, suspension, or nonrenewal and a complete report of the reasons for the cancellation, suspension, or nonrenewal being given to the Commissioner. In the event the liability insurance is cancelled, suspended or nonrenewed, the insurer shall give immediate notice to the Commissioner.

3. Special inspectors shall conduct all follow-up, safety related complaints, and abatement inspections as called for by the division and shall be responsible for submitting all associated paperwork.

4. Special Inspectors shall record and report the findings of all inspections conducted pursuant to S.C. Code 41-16-10 et seq. on forms supplied by the Department. Special inspectors shall execute and convey the form in a manner prescribed by the Department. The Director may suspend or revoke a special inspector's license for failure to complete the inspection form as prescribed by the Department. The Director may also suspend or revoke a special inspector's license for any misrepresentation or omission of any material fact related to the inspection. In addition to the foregoing, the Director may withhold issuance of an Operating Certificate for failure to complete the inspection form as prescribed by the Department or misrepresentation or omission of any material fact related to the inspection.

5. Any special inspector may have his license revoked or may have a license denied to him who:

A. uses or discloses information gained in the course of or by reason of his official position for any purpose other than making official inspections;

B. receives compensation to influence his inspections;

C. uses a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure as a special inspector;

D. has had a license to practice a regulated profession or occupation including special inspector in another state or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;

E. has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate this article or a regulation promulgated under this article;

F. has intentionally used a fraudulent statement in a document connected with practice as a special inspector;

G. has obtained fees or assisted in obtaining fees under fraudulent circumstances;

H. has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;

I. lacks the professional or ethical competence to practice as a special inspector.

J. has been convicted of or has pled guilty to or *nolo contendere* to a felony or a crime involving drugs or moral turpitude;

K. has practiced as a special inspector while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice as a special inspector;

L. has sustained a physical or mental disability which renders further practice dangerous to the public;

M. has violated a provision of this article or of a regulation promulgated under this article.

6. Any special inspector whose license has been revoked or to whom a license has been denied may appeal this decision to the Commissioner or his designee within thirty days of receipt of written notice of the decision revoking or denying his license. The Commissioner or his designee will conduct a hearing to review the decision and will issue a written order of decision thereafter.

7. Any person aggrieved by the final action of the Commissioner may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the Commissioner's decision pending completion of the appellate process.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are updated to require special inspectors to make reports on forms prescribed by the Department.

Document No. 4445
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF STATE FIRE MARSHAL
CHAPTER 71

Statutory Authority: 1976 Code Sections 23-9-40, 23-9-60, 23-9-550, 23-35-45, and 23-36-80

Article 8. Office of State Fire Marshal.

Synopsis:

Regulations 71-8300.1 through 71-8305.8 are amended and Regulations 71-8306.1 through Regulations 71-8312 are repealed in conformance with NFPA codes and standards. New Regulations 71-8306.1 through 71-8306.5 are added for the permitting of hydrogen facilities.

The Notice of Drafting was published in the *State Register* on November 22, 2013.

Instructions:

The following sections of Chapter 71 are modified as provided below. All other sections remain unchanged.

Text:

ARTICLE 8
OFFICE OF STATE FIRE MARSHAL
SUBARTICLE 1
FIRE PREVENTION AND LIFE SAFETY

71-8300. FIRE PREVENTION AND LIFE SAFETY.

(Statutory Authority: 1976 Code Sections 23-9-60, 39-41-260, 40-82-70)

71-8300.1. General.

A. Title. These regulations shall be known as the State Fire Marshal's Rules and Regulations.

B. Intent.

1. The purpose of these regulations is:

a. to safeguard to a reasonable degree, life and property from fire, explosion, dangerous conditions, natural disasters, acts of terrorism, and other hazards associated with the construction, alteration, repair, use, and occupancy of buildings, structures, or premises, and

b. to provide safety to fire fighters and emergency responders during emergency situations.

2. These regulations shall be the minimum standards required by the Office of State Fire Marshal (OSFM) for fire prevention and life safety in South Carolina for all buildings and structures.

C. Applicability.

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1. These regulations shall apply to state, county, municipal, and private buildings, structures, or premises unless excluded by these regulations or state statute.

2. All buildings, structures, or premises shall be constructed, altered, or repaired in conformance with these regulations.

3. All equipment or systems in a building, structure, or premise shall be constructed, installed, altered, or repaired in conformance with these regulations.

4. These regulations shall not conflict with any state statute, code, or ordinance adopted pursuant to S.C. Code Ann. Section 6-9-5 et.seq., 1976, as amended, by any municipality or political subdivision. In the event of a conflict, such statute, code, or ordinance shall apply.

5. These regulations shall not apply to:

a. Buildings constructed, or occupied exclusively as one and two-family dwellings, unless amended by these or other state regulations. Conversion of such buildings to another use that is not regulated under the IRC but is regulated under the IBC, such as a facility providing medical care, custodial care, or personal care services, or converted to a boarding house, congregate living facility, or live/work unit, is considered a change of occupancy, and must comply with the applicable provisions of the IBC for such a change of use.

D. Existing Buildings.

1. Existing buildings, structures, or premises shall be permitted to continue in operation under the code the buildings, structures, or premises were constructed unless addressed by these regulations or state statute.

2. Alterations, repairs, additions, and rehabilitation to an existing building, structure, or premise shall fully comply with the current codes.

3. Change of use or occupancy of an existing building shall comply with the current code requirements for change of occupancy classification.

E. Acronyms and Definitions: The following references apply throughout these regulations. Words not defined in these regulations shall have the meaning stated in the referenced codes and standards adopted by these regulations.

1. "AHJ" means Authority Having Jurisdiction, which is the SFM, or his agents, or any local fire official covered by S.C. Code Ann. Section 23-9-30, 1976, as amended.

2. "ATF" means the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.

3. "Bulk hydrogen compressed gas system" means an assembly of equipment that consists of, but is not limited to, storage containers, pressure regulators, pressure relief devices, compressors, manifolds, and piping with a storage capacity of more than 400 cubic feet (approximately 3000 gal.) of compressed hydrogen gas (or 5000 scf), including unconnected reserves on hand at the site, and terminates at the source valve.

4. "Bulk liquefied hydrogen gas system" means an assembly of equipment that consists of, but is not limited to, storage containers, pressure regulators, pressure relief devices, vaporizers, liquid pumps, compressors manifolds, and piping, with a storage capacity of more than 39.7 gal. of liquidized hydrogen, including unconnected reserves on hand at the site, and terminates at the source valve.

5. "Citation" means a summons to appear before the OSFM because of a violation of any part or all of this regulation and may carry a monetary fine of up to \$2,000 per violation.

6. "Consumer Fireworks" means any small device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in Title 16, Code of Federal Regulations, parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing fifty (50) mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336 and UN0337 by the USDOT at 49 CFR 172.101. This term does not include fused setpieces containing components which together exceed 50 mg of salute powder. Consumer fireworks are further defined as those classified by the USDOT hazard classification 1.4g. These fireworks were formerly known as "Class C Fireworks."

7. "Container" means all vessels including, but not limited to tanks, cylinders, or pressure vessels used for the storage of hydrogen.

8. "Day box" means a portable magazine used for immediate storage of pyrotechnic materials.

9. "Department" means the Department of Labor, Licensing and Regulation, Division of Fire and Life Safety.

10. "Display Fireworks" means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than two (2) grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as "Consumer Fireworks." Display fireworks are classified as fireworks UN0333, UN0334, or UN0335 by the USDOT at 49 CFR 172.101. This term also includes fused setpieces containing components which together exceed fifty (50) mg of salute powder. Display fireworks are further defined as those classified by the USDOT as hazard classification 1.3g. These fireworks were formerly known as "Class B Fireworks."

11. "Engineered hydrogen systems" means systems or equipment that is custom designed for a particular application.

12. "Existing Building" means a building, structure, or premise for which preliminary or final drawings have been approved by the appropriate agency as provided in these regulations, in buildings where construction has begun, or those occupied on or before the date of adoption of these regulations.

13. "Fire Prevention" means any activity to prevent fire before fire occurs.

14. "Fireworks" means any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "consumer fireworks" or "display fireworks" as defined by this section.

15. "Firm" means any person, partnership, corporation, association, or governmental entity.

16. "Fixed Extinguishing System" means a pre-engineered fire extinguishing system.

17. "Hydrogen" is an element of the periodic table which, at room temperature and pressure, but can be compressed and/or refrigerated into a liquefied state.

18. "Hydrogen facility" is a fueling station or a fuel cell site that will store or dispense hydrogen for use as a transportation fuel, motor fuel, or in a fuel cell.

19. "Hydrogen generation system" means a packaged, factory matched, or site constructed hydrogen gas generation appliance or system such as (a) an electrolyzer that uses electrochemical reactions to electrolyze water to produce hydrogen gas; (b) a reformer that converts hydrocarbon fuel to a hydrogen-rich stream of composition and condition suitable for a type of device using the hydrogen. It does not include hydrogen generated as a byproduct of a waste treatment process.

20. "IBC" means the International Building Code.

21. "ICC" means the International Code Council.

22. "IFC" means the International Fire Code.

23. "IFGC" means the International Fuel Gas Code.

24. "LP-Gas" means Liquefied Petroleum Gas as defined in 40-82-20.

25. "Motion Picture" means, for the purposes of this item, any audiovisual work with a series of related images either on film, tape, or other embodiment, where the images shown in succession impart an impression of motion together with accompanying sound, if any, which is produced, adapted, or altered for exploitation as entertainment, advertising, promotional, industrial, or educational media.

26. "MSDS(s)" means Material Safety Data Sheet(s).

27. "NFPA" means the National Fire Protection Association.

28. "OSFM" means the Office of State Fire Marshal.

29. "Person" means an individual, partnership, or corporation;

30. "Portable Fire Extinguisher" means a portable device containing extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire.

31. "Pre-engineered hydrogen system" means a system or device that has been designed with the intention of mass production and sales to the public, which uses or produces hydrogen in its function.

32. "Proximate Audience" means any indoor use of pyrotechnics and the use of pyrotechnics before an audience located closer than the distances allowed by NFPA 1123.

33. "Public Firework Display" means a presentation of Display or Consumer Fireworks for a public gathering.

34. "Pyrotechnics" means any composition or device designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation.

35. "S.C." means South Carolina.

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36. "Servicing" includes maintenance, recharging, or hydrostatic testing of a Portable Fire Extinguisher or a Fixed Extinguishing System.

37. "SFM" means the State Fire Marshal or his agent.

38. "Theatrical Pyrotechnics" means pyrotechnic devices for professional use in the entertainment industry similar to consumer fireworks in chemical composition and construction but not intended for consumer use.

39. "USDOT" means U.S. Department of Transportation.

71-8300.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions specified in the IFC unless otherwise stated in these regulations or adopted by state statutes.

B. The requirements of the IFC, International Fire Code, (as adopted pursuant to S.C. Code Ann. Section 6-9-5, et. seq., 1976, as amended) shall constitute the minimum standards for fire prevention and life safety protection for construction, occupancy, and use of all buildings, structures, and premises within the scope of these regulations except as modified by these regulations. In addition, to the extent to which they can be applied without conflicting with other state regulations or state statutes, the following sections of Chapter 1 of the IFC shall apply:

1. Scope and General Requirements (Section 101)
2. Applicability (Section 102)
3. Liability (Section 103.4)
4. General Authority and Responsibilities (Section 104), except:
 - a. Authority at fires and other emergencies (104.11)
5. Maintenance (Section 107)
6. Violations (Section 109)
7. Unsafe Buildings (Section 110)

C. The requirements of NFPA 10, Standard for Portable Fire Extinguishers, shall be used as referenced within the adopted ICC codes for the installation, servicing, maintenance, recharging, repairing, and hydrostatic testing of all portable fire extinguishers.

D. The requirements of the following NFPA standards shall be used as referenced within the adopted ICC codes for the design, installation, testing and maintenance of fixed suppression systems in South Carolina except as modified by these regulations.

1. NFPA 11, Standard for Low-, Medium-, and High-Expansion Foam
2. NFPA 12, Standard on Carbon Dioxide Extinguishing Systems
3. NFPA 12A, Standard on Halon 1301 Fire Extinguishing Systems
4. NFPA 17, Standard for Dry Chemical Extinguishing Systems
5. NFPA 17A, Standard for Wet Chemical Extinguishing Systems
6. NFPA 750, Standard on Water Mist Fire Protection Systems
7. NFPA 2001, Standard on Clean Agent Fire Extinguishing Systems
8. NFPA 2010, Standard for Fixed Aerosol Fire-Extinguishing Systems

E. The requirements of the following NFPA standards shall be used as referenced within the adopted ICC codes for the design, installation, testing, and maintenance of water-based extinguishing systems in South Carolina except as modified by these regulations.

1. NFPA 13, Standard for the Installation of Sprinkler Systems
2. NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes
3. NFPA 13R, Standard for the Installation of Sprinkler Systems in Low-Rise Residential Occupancies
4. NFPA 14, Standard for the Installation of Standpipe and Hose Systems
5. NFPA 15, Standard for Water Spray Fixed Systems for Fire Protection
6. NFPA 16, Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems
7. NFPA 18, Standard on Wetting Agents
8. NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection
9. NFPA 22, Standard for Water Tanks for Private Fire Protection

10. NFPA 24, Standard for the Installation of Private Fire Service Mains and Their Appurtenances

11. NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems

12. NFPA 214, Standard on Water-Cooling Towers

F. The requirements of NFPA 30, Flammable and Combustible Liquids Code, shall be used as referenced within the adopted ICC codes for the storing and handling of flammable and combustible liquids in South Carolina except as modified by these regulations.

G. The requirements of NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, shall be used as referenced within the adopted ICC codes for the storing, handling, and dispensing of flammable and combustible liquids at service stations, farms, and isolated sites in South Carolina except as modified by these regulations.

H. The requirements of NFPA 52, Vehicular Gaseous Fuel Systems Code, shall be used as referenced within the adopted ICC codes for storing, handling, and dispensing vehicular alternative fuels in South Carolina except as modified by these regulations.

I. The requirements of NFPA 54, National Fuel Gas Code, shall be used as referenced within the adopted ICC codes for design, materials, components, fabrication, assembly, installation, testing, inspection, operation, and maintenance installation of fuel gas piping systems, appliances, equipment, and related accessories, installation, combustion, and ventilation air and venting in South Carolina except as modified by these regulations.

J. The requirements of NFPA 58, Liquefied Petroleum Gas Code, shall be used as referenced within the adopted ICC codes for the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck or tank trailer, and use of LP-Gases and the odorization of such gases in South Carolina except as modified by these regulations.

K. The requirements of NFPA 59, Utility LP-Gas Plant Code, shall be used as referenced within the adopted ICC codes for the design, construction, location, installation, operation, and maintenance of refrigerated and non-refrigerated utility gas plants to the point where LP-Gas or an LP-Gas and air mixture is introduced into the utility distribution system in South Carolina except as modified by these regulations.

L. The requirements of NFPA 70, National Electrical Code, shall be used as referenced within the adopted ICC codes for fire prevention and life safety from hazards of electricity in South Carolina except as modified by these regulations.

M. The requirements of NFPA 72, National Fire Alarm and Signaling Code, shall be used as referenced within the adopted ICC codes for the design, installation, testing, and maintenance of fire alarm systems in South Carolina except as modified by these regulations.

N. The requirements of NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, shall be used as referenced within the adopted ICC codes for ventilation control and fire protection of commercial cooking operations in South Carolina except as modified by these regulations.

O. The requirements of NFPA 99, Health Care Facilities Code, shall be used as referenced within the adopted ICC codes for flammable and non-flammable medical gasses used in health care and other facilities intended for inhalation or sedation, but not limited to, analgesia systems for dentistry, podiatry, veterinary, and similar uses in South Carolina except as modified by these regulations.

P. The requirements of NFPA 101, Life Safety Code, shall be used as referenced within the adopted ICC codes for fire prevention and life safety in South Carolina when evaluating alternative methods of fire and life safety per R. 71-8300.10 except as modified by these regulations.

Q. The requirements of the NFPA 102, Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures, shall be used as referenced within the adopted ICC codes for fire prevention and life safety for all tents and membrane structures normally used in South Carolina except as modified by these regulations.

R. The requirements of NFPA 160, Standard for the Use of Flame Effects Before an Audience, including Annexes B and C, shall be used as referenced within the adopted ICC codes for all flame effects use in proximate audience pyrotechnics displays or motion picture special effects in South Carolina except as modified by these regulations.

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S. The requirements of NFPA 407, Standard for Aircraft Fuel Servicing, shall be used as referenced within the adopted ICC codes for the storing, handling, and dispensing of flammable and combustible liquids at private aircraft fueling facilities in South Carolina except as modified by these regulations.

T. The requirements of NFPA 409, Standard on Aircraft Hangars, shall be used as referenced within the adopted ICC codes for the design construction, occupancy, and use of aircraft hangars in South Carolina except as modified by these regulations.

U. The requirements of NFPA 495, Explosive Materials Code, shall be used as referenced within the adopted ICC codes for the manufacture, transportation, use and storage for all explosives in South Carolina, except as modified herein.

V. The requirements of NFPA 1122, Code for Model Rocketry, shall be used as referenced within the adopted ICC codes for model rocketry associated with public firework displays or proximate audience pyrotechnic displays or motion picture special effects in South Carolina except as modified by these regulations.

W. The requirements of NFPA 1123, Code for Fireworks Display, including Annex A and E, shall be used as referenced within the adopted ICC codes for all firework displays in South Carolina except as modified by these regulations.

X. The requirements of NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, shall be used as referenced within the adopted ICC codes for transportation, storage, and use of all display fireworks and pyrotechnic articles used for proximate audience pyrotechnic displays or motion picture special effects in South Carolina except as modified by these regulations.

Y. The requirements of NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience, including Annexes A, B, and D, shall be used as referenced within the adopted ICC codes for all proximate audience displays in South Carolina except as modified by these regulations.

Z. The requirements of NFPA 1127, Code for High Power Rocketry, shall be used as referenced within the adopted ICC codes for all high power rockets used for proximate audience pyrotechnic displays or motion picture special effects in South Carolina except as modified by these regulations.

AA. The requirements of NFPA 1142, Standard on Water Supplies for Suburban and Rural Fire Fighting, shall be used as referenced within the adopted ICC codes for water supplies for rural fire fighting in South Carolina except as modified by these regulations.

BB. The OSFM shall post and maintain a list of the currently adopted editions of the codes and standards listed above on the OSFM website.

CC. The codes and standards listed in R.71-8300.2 that are adopted by the OSFM shall be accessible for viewing at no cost to the public through the OSFM website.

71-8300.3. Alternate Materials and Alternate Methods of Construction.

A. The requirements of these regulations are not intended to prevent the use of any material or method of construction not specifically prescribed by the regulations, adopted codes, or standards enforced by the OSFM. The SFM has the authority to accept alternative methods of compliance within the intent of these regulations, after finding that the materials and method of work offered is for the purpose intended, at least the equivalent of that prescribed in these regulations in quality, strength, effectiveness, fire resistance, durability, and safety. The SFM shall require submission of sufficient evidence or proof to substantiate any claim made regarding use of alternative materials and methods.

B. Compliance with applicable standards of the National Fire Protection Association, or other nationally recognized fire safety standards, may be used for consideration of alternative methods if found suitable by the SFM.

71-8300.4. Construction Documents and Shop Drawings.

A. Construction documents and/or shop drawings, as appropriate, must be submitted to the OSFM for the following:

1. Fire sprinkler systems per S.C. Code Ann. Section 40-10-260.

2. LP-Gas systems per R.71-8304.
3. Hydrogen facilities per S.C. Code Ann. Section 23-9-510 et seq.
4. Facilities that the OSFM is contractually obligated to review.

B. Construction documents. Construction documents and shop drawings shall be in accordance with this section.

1. Submittals. Construction documents and supporting data shall be submitted in one complete set with each application for a review and in such form and detail as required by the OSFM reviewer to be able to determine compliance.

2. The construction documents and shop drawings shall be prepared by the appropriate registered design professional(s) or other LLR licensee as required by statute or regulation.

a. Practice of architecture as defined in S.C. Code Ann. Section 40-3-20 requires a licensed architect unless exempt per S.C. Code Ann. Section 40-3-290.

b. Practice of engineering as defined in S.C. Code Ann. Section 40-22-20 requires a licensed engineer unless exempt per S.C. Code Ann. Section 40-22-280.

c. Fire sprinkler system documentation shall be prepared in accordance with the specific provisions in S.C. Code Ann. Sections 40-10-250 and 40-10-260.

3. The OSFM is authorized to not require the submission of construction documents and supporting data if:

a. they are not required to be prepared by a registered design professional, and

b. it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

4. Examination of documents. OSFM shall examine or cause to be examined the submitted construction documents and shall ascertain by such examinations whether the work indicated and described is in accordance with the applicable requirements.

5. Information on construction documents. Construction documents shall be drawn to scale upon suitable material. Electronic media documents are allowed to be submitted when approved by the OSFM. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of these regulations and other relevant laws, rules and regulations as determined by the OSFM.

a. Fire protection system shop drawings. Shop drawings for fire protection system(s) reviewed by OSFM shall be submitted to indicate compliance with these regulations and the referenced codes and standards, and shall be approved prior to the start of installation. Shop drawings shall contain all information as required by the applicable statutes, regulations, adopted codes and referenced installation standards.

6. Applicant responsibility. It shall be the responsibility of the applicant to ensure that the construction documents include all of the fire protection requirements and the shop drawings are complete and in compliance with the applicable statutes, regulations, codes and standards.

7. Approved documents. Construction documents approved by the OSFM are approved with the intent that such construction documents comply in all respects with this code. Review and approval by the OSFM shall not relieve the applicant of the responsibility of compliance with this code.

a. Phased approval. The OSFM is authorized to issue approval for the construction of part of a structure, system or operation before the construction documents for the whole structure, system or operation have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such approval for parts of a structure, system or operation shall proceed at the holder's own risk with the building operation and without assurance that approval for the entire structure, system or operation will be granted.

b. Compliance with code. The issuance or granting of approval shall not be construed to be an approval of any violation of any of the provisions of these regulations. Approvals presuming to give authority to violate or cancel the provisions of these regulations shall not be valid. The issuance of approval based on construction documents and other data shall not prevent an AHJ from requiring the correction of errors in the construction documents and other data. Any addition to or alteration of approved construction documents shall be approved in advance by the AHJ, as evidenced by the issuance of a new or amended approval.

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8. Corrected documents. Where field conditions necessitate any substantial change from the approved construction documents, the AHJ shall have the authority to require the corrected construction documents to be submitted for approval.

9. Revocation. The OSFM is authorized to revoke approval issued under the provisions of these regulations when it is found by inspection or otherwise that there has been a false statement or misrepresentation as to the material facts in the application or construction documents or shop drawings on which the permit or approval was based including, but not limited to, any one of the following:

- a. The permit or approval is used for a location or establishment other than that for which it was issued.
- b. The permit or approval is used for a condition or activity other than that listed in the permit.
- c. Conditions and limitations set forth in the permit or approval have been violated.
- d. There have been any false statements or misrepresentations as to the material fact in the application for permit or plans submitted or a condition of the permit.
- e. The permit or approval is used by a different person or firm than the name for which it was issued.
- f. Failure, refusal, or neglect to comply with orders or notices duly served in accordance with the provisions of this regulation within the time provided therein.
- g. The permit or approval was issued in error or in violation of a statute, regulation, code, or standard.

71-8300.5. Incident Reporting.

A. Purpose. These provisions are intended to help the State and its local governmental entities to develop fire reporting and analysis capability for their own uses, to obtain data that can be used to more accurately assess and subsequently combat the fire problem at the State or local level, and to support the efforts of the National Fire Data Center in the United States Fire Administration (USFA) to gather and analyze information on the magnitude of the nation's fire problem, as well as its detailed characteristics and trends.

B. The local fire chief or his designee shall furnish to the OSFM the following information:

1. Fire fatalities from fires occurring within the fire department's jurisdiction, shall be reported directly to the OSFM immediately.
2. Firefighter line-of-duty deaths shall be reported directly to the OSFM immediately.
3. By the 15th day of each month, information concerning all incidents responded to by the fire department during the preceding month shall be reported. This information shall be reported by a method and in a format approved by the OSFM. The National Fire Incident Reporting System (NFIRS) shall serve as the minimum standard reporting method and format for these monthly reports.

C. These reports are privileged against liability unless the report is made with actual malice.

71-8300.6. Fire Investigations.

A. Purpose.

1. The intent of this section is to assist OSFM in improving its ability to provide fire prevention and fire education efforts and data; and, to support OSFM licensing and permitting functions.

2. It is not the intent of this section for OSFM to perform criminal investigation functions which overlap the authority and responsibility of police and other enforcement agencies.

B. The OSFM shall have the authority to investigate the cause, origin, and circumstances of any fire, explosion or other hazardous condition.

C. Information that could be related to trade secrets or processes shall not be made part of the public record, except as directed by a court of law.

SUBARTICLE 2

FIRE PREVENTION AND LIFE SAFETY FOR SPECIAL OCCUPANCIES

71-8301. FIRE PREVENTION AND LIFE SAFETY FOR SPECIAL OCCUPANCIES.

(Statutory Authority: 1976 Code Section 23-9-60)

71-8301.1. General.

A. The purpose of this regulation is to clarify the application of current codes and retroactive application of the regulations to existing licensed special occupancies covered by these regulations.

B. This regulation shall apply to:

1. Existing childcare facilities built prior to September 1, 2009.
2. New and existing foster homes.
3. New and existing schools inspected by the OSFM.

C. This regulation shall not apply to new childcare facilities. New childcare facilities shall comply with R.71-8300.

D. The Department of Social Services shall provide a list of registered in-home childcare facilities to the OSFM annually.

71-8301.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R.71-8300.2 and are modified by the following regulations as shown below.

B. The building code shall define occupancy classifications referenced in these regulations.

71-8301.3. Requirements for Special Occupancies.

A. All existing licensed Childcare Centers shall comply with the following:

1. All Childcare Centers keeping children first grade and younger shall be located on the floor of exit discharge. Second grade children shall not be located more than one (1) story above or below the floor of exit discharge. This restriction does not apply to structures equipped throughout with an NFPA 13 sprinkler system.

a. All facilities with fire alarm systems shall be designed, installed, and maintained per NFPA 72.

b. Each Childcare Center serving more than one hundred clients shall have a fire alarm system to provide off-premise notification to the fire department per NFPA 72.

c. All facilities licensed after 1999 shall have a listed smoke detector installed and maintained per NFPA 72 in every room occupied by clients, excluding bathrooms and closets.

d. All facilities continuously licensed before 1999 may use hard-wired single station smoke detectors with battery backup.

2. Closed facilities that reopen must comply with the codes in effect at the time of licensure.

3. An existing Childcare Center that has been continuously licensed may continue operation under the codes to which it was initially licensed. These Childcare Centers shall also meet the following standards:

a. Facilities providing care, maintenance, and supervision for thirteen (13) or more clients for less than twenty-four (24) hours but more than four (4) hours per day shall be classified as Group E occupancy.

b. Special protective covers for electrical receptacles shall be installed on all receptacles located in areas occupied by clients.

c. Emergency evacuation drills shall include complete evacuation of all persons from the building.

d. The owner shall maintain records of emergency evacuation drills for at least three (3) years.

e. Facilities shall provide a copy of their Fire Evacuation Plan to the responding fire department. The plan must note the rooms keeping children under twenty-four (24) months of age.

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f. Facilities with six (6) or more children under twenty-four (24) months of age shall comply with the regulations for "Facilities with Children Under 24 Months of Age" (R.71-8301.3(B)).

4. The SFM has authority to approve alternate methods of compliance within the intent of the regulations for existing facilities.

B. Existing "Facilities with Children Under 24 Months of Age"

1. Facilities caring for four or more children under twenty-four (24) months of age unattended by a parent or guardian shall provide the following safeguards:

a. Rooms shall have a one (1) hour fire rated separation. No fire rated separation is required between adjacent rooms caring for children less than twenty-four (24) months of age.

b. Rooms shall have a direct exit to the outside. Exit door(s) from infant rooms shall swing in the direction of egress and the door leaf shall be at least thirty-six (36) inches wide.

c. Rooms shall be limited to twelve (12) children per direct exit. There shall be no more than twenty-four (24) children per room. Older children kept in the room shall be counted as part of the total for direct exits and room occupancy considerations.

d. Rooms shall not have any type of open flame appliances.

e. Rooms shall have smoke detectors installed and maintained per NFPA 72 inside the room and in the adjacent area of the facility near the protected room's entrance.

f. Doors in the required one-hour separation partitions shall be twenty (20) minute labeled doors equipped with door closures or a smoke actuated hold-open device.

g. Facilities shall develop a fire safety and evacuation plan complying with the requirements for Group E occupancies in the IFC.

h. Facilities shall provide a copy of their fire safety and evacuation plan to the local fire authorities. The plan must note the rooms keeping children under twenty-four (24) months of age.

i. Emergency evacuation drills shall comply with the requirements for Group E occupancies in the IFC. The owner shall maintain records per the IFC of emergency evacuation drills for at least three (3) years.

j. Portable unvented fuel-fired heating equipment shall be prohibited in all infant rooms and childcare centers.

C. Existing Group Childcare Homes

1. Facilities providing care, maintenance, and supervision for seven (7) to twelve (12) children for less than twenty-four (24) hours but more than four (4) hours per day shall be classified as Group R-3 occupancy.

a. Group Childcare facilities shall be separated from other type occupancies (excluding owner residence) by a one (1) hour fire barrier constructed per the IBC.

b. Group Childcare facilities located in R-2 occupancies shall be located on the floor of exit discharge.

c. Each Group Childcare facility occupied by clients shall have at least two (2) independent means of escape as defined in NFPA 101.

d. The doorway between the level of exit discharge and any floor below shall be equipped with a self-closing 1 1/2" solid core wood door or a labeled fire rated door with a twenty (20) minute or higher rating.

e. Group Childcare is prohibited in manufactured housing (mobile homes).

f. A fire plan describing what actions are to be taken by the staff in the event of a fire must be developed, posted, and copies made available to staff members and the local fire department. This plan shall note the location of all crib children under twenty-four (24) months of age.

g. A fire drill shall be conducted per the IFC for educational occupancies. Records of drills shall be maintained for a period of three (3) years and report the date, time, description, and evaluation of each drill.

h. At least one (1) portable fire extinguisher with a minimum classification of 2A:10BC shall be installed in cooking areas. The fire extinguishers shall be installed and maintained per NFPA 10.

i. All heating devices must be selected, used, and installed per the IFC, the manufacturer's recommendations, and listing conditions set by an approved testing laboratory.

j. Unvented gas heaters shall have an operating oxygen depletion device, an operating safety shutoff device, and means to protect clients from burns.

k. Fireplaces shall be equipped with fire screens, partitions, or other means to protect clients from burns.

1. Facilities with six (6) or more children under twenty-four (24) months of age shall comply with R.71-8301.3(B) for "Facilities with Children Under 24 Months of Age."

m. Portable unvented fuel-fired heating equipment shall be prohibited in all Group Childcare Facilities.

D. Existing Family Childcare Homes

1. Facilities providing care, maintenance, and supervision for six (6) or less children for less than twenty-four (24) hours but more than four (4) hours per day shall be classified as Group R-3 occupancy.

a. Family Childcare Homes shall be separated from other type occupancies (excluding owner residence) by a one-hour fire barrier constructed per the IBC.

b. Family Childcare Homes located in R-2 occupancies shall be located on the floor of exit discharge.

c. Each Family Childcare Home occupied by clients shall have at least two (2) independent means of escape as defined in NFPA 101.

d. The doorway between the level of exit discharge and any floor below shall be equipped with a self-closing 1 1/2" solid core wood door or a labeled fire rated door with a twenty (20) minute or higher rating.

e. A fire plan describing what actions are to be taken by the staff in the event of a fire must be developed, posted, and copies made available to staff members and the local fire department. This plan shall note the location of all crib children under twenty-four (24) months of age.

f. A fire drill shall be conducted per the IFC for educational occupancies. Records of drills shall be maintained for a period of three (3) years and report the date, time, description, and evaluation of each drill.

g. The interior finish in occupied spaces and exits in Family Childcare Homes shall be a minimum of Class C.

h. At least one (1) portable fire extinguisher with a minimum classification of 2A:10BC shall be installed in cooking areas. The fire extinguishers shall be installed and maintained per NFPA 10.

i. All heating devices must be selected, used, and installed per the IFC, the manufacturer's recommendations, and listing conditions set by an approved testing laboratory.

j. Unvented gas heaters shall have an operating oxygen depletion device, an operating safety shutoff device, and means to protect clients from burns.

k. Fireplaces shall be equipped with fire screens, partitions, or other means to protect clients from burns.

1. Facilities with six (6) or more children under twenty-four (24) months of age shall comply with the regulations for "Facilities with Children Under 24 Months of Age" (R.71-8301.3(B)).

m. Portable unvented fuel-fired heating equipment shall be prohibited in all family day cares.

E. All Foster Home Facilities

1. Foster homes providing care, maintenance, and supervision for no more than six (6) children, including the natural or adopted children of the foster parent; shall comply with the following:

a. Must be a facility designed and constructed with the intent to be used as a dwelling per applicable statutes and regulations.

b. Listed smoke alarms shall be installed in the following locations:

(i) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms;

(ii) In each room used for sleeping purposes; and

(iii) In each habitable story within a dwelling.

c. Listed smoke alarms shall be powered from:

(i) the electrical system of the dwelling as the primary power source and a battery as a secondary power source; or

(ii) a battery rated for a 10-year life, provided the smoke alarm is listed for use with a 10-year battery.

d. Listed smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the dwelling unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

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e. At least one (1) portable fire extinguisher with a minimum classification of 2A:10BC shall be installed near cooking areas. The fire extinguishers shall be installed and maintained in accordance with the manufacturer's instructions.

f. Each facility housing foster children shall maintain means of egress as required by original construction.

g. All sleeping rooms below the fourth story shall have emergency escape and rescue openings that open from the inside and are sized to permit the egress of the occupants.

h. All heating devices must be selected, used, and installed per the manufacturer's recommendations and the listing conditions set by an approved testing laboratory.

i. Unvented gas heaters shall have an operating oxygen depletion device, an operating safety shutoff device, and shall be located or guarded to prevent burn injuries.

j. Fireplaces shall be equipped with fire screens, partitions, or other means to protect clients from burns.

k. A fire escape plan describing what actions are to be taken by the family in the event of a fire must be developed and posted.

l. A fire escape drill shall be conducted every three (3) months.

m. Records of the drills shall be maintained on the premises for three (3) years. The records shall give the date, time, and weather conditions during the drill, number evacuated, description, and evaluation of the fire drill. Fire drills shall include complete evacuation of all persons from the building.

n. A fire escape drill shall be conducted within twenty-four (24) hours of the arrival of each new foster child.

o. Portable unvented fuel-fired heating equipment shall be prohibited in all foster homes.

p. An approved carbon monoxide alarm shall be installed and maintained outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units within which fuel fired appliances are installed and in dwelling units that have attached garages.

q. Each sleeping room must have an operable door that closes and latches to provide compartmentation that protects occupants in case of a fire event.

r. The dwelling shall be free of dangers that constitute an obvious fire hazard, such as faulty electrical cords, overloaded electrical sockets, or an accumulation of papers, paint, or other flammable material stored in the dwelling.

s. Facilities serving as a foster home shall have approved address numbers placed in a position that is plainly legible and visible from the street. Address number shall be a minimum of 4 inches high with a minimum stroke width of 0.5 inch and shall contrast with their background.

F. Inspection of School Facilities

1. The OSFM shall work in conjunction with local resident fire marshals to ensure an annual fire and life safety inspection of all schools, including 4K programs and childcare centers located within public schools, that are subject to these regulations. The OSFM shall work in conjunction with the Department of Education's Office of School Facilities to ensure a fire and life safety inspection of each new school is conducted prior to occupancy and to ensure that additions to schools and school alterations are also inspected.

SUBARTICLE 3

EXPLOSIVES

71-8302. EXPLOSIVES.

(Statutory Authority: 1976 Code Sections 23-9-40(b), 23-9-60, 23-36-10 et seq.)

71-8302.1. General.

A. The purpose of this regulation is to provide reasonable safety and protection to the public, public property, private property, and operators from the manufacture, transportation, handling, use, and storage of explosives in South Carolina.

B. This regulation shall apply to the manufacture, transportation, handling, use, and storage of explosives in South Carolina.

C. This regulation does not apply to the sale or storage of fireworks as regulated by the Board of Pyrotechnic Safety.

71-8302.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R.71-8300.2 and are modified by the following regulations as shown below.

B. The building code shall define occupancy classifications referenced in these regulations.

71-8302.3. Licensing and Permitting Fees.

A. All applications for licenses, tests, or permits must be accompanied by the appropriate fees.

B. The OSFM is responsible for all administrative activities of the licensing program. The SFM shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in S.C. Code Ann. Section 40-1-50(D), 1976, as amended.

C. Fees shall be established for the following:

1. Application
2. Background Check
3. Testing
4. Licensing
5. Permitting
6. Inspection
7. Renewal

D. All fees are due at time of application.

E. Submission requirements for Blasting Permit application

1. Applications for one year Blasting Permits shall be submitted to the OSFM for approval at least 30 days before the start of blasting operations.

2. Applications for all other Blasting Permits shall be submitted to the OSFM for approval at least 48 hours before the start of blasting operations.

3. Applications submitted less than 48 hours before the start of blasting operations will be subject to a \$200.00 special processing fee.

4. Blasting Permit applications shall include the properly completed form and shall be accompanied by all information listed on the Blasting Permit application form when applying to the OSFM for a Blasting Permit.

F. All fees paid to the OSFM are nonrefundable.

71-8302.4. Licenses and Permits.

A. Classification of Licenses and Permits

	Class	Category	Blasting Permitted
1.	A	Unlimited	All types of blasting
2.	B	General aboveground	All phases of blasting operations in quarries, open pit mines, and aboveground construction
3.	C	General underground	All phases of blasting operations in underground mines, shafts, tunnels, and drifts
4.	D	Demolition	All phases of blasting in demolition projects
5.	E	Seismic	All phases of blasting in seismic prospecting
6.	G	Special	Special blasting as described on the permit

B. Licenses

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1. No person shall be granted a license who has not successfully completed a written examination administered by the OSFM covering the applicable codes, state laws and regulations for the license classification for which they are applying.

2. Any applicant who fails the written examination is allowed one (1) re-test after a minimum seven (7) day waiting period. Any applicant who fails the re-test shall wait at least six (6) months before reapplying.

3. Licenses are not transferable.

4. The OSFM may accept determination of relief from disability incurred by reason of a criminal conviction that has been granted by the Director of the Bureau of Alcohol, Tobacco and Firearms, U. S. Department of the Treasury, Washington, D.C., pursuant to Section 555.142, Subpart H, Title 27, Code of Federal Regulations and Title 18 United States Code, Chapter 40, Section 845(b).

5. New Applications for licensing shall:

a. Submit a completed fingerprint card with their application for the OSFM to conduct a National Crime Information Center (NCIC) criminal background check as part of the initial licensing application process.

b. Provide the appropriate Federal licenses to handle and use explosives or explosive materials. Applicants must provide a copy of applicable Federal licenses with their application.

c. Provide proof of insurance. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the OSFM.

6. Each applicant for renewal shall each year:

a. Submit an application for renewal.

b. Have a National Crime Information Center (NCIC) background check conducted by the OSFM as part of the licensing renewal process.

c. Provide a copy of their current Federal licenses for handling and using explosives or explosive material with their renewal application.

d. Attend at least four (4) hours of continuing education acceptable to the OSFM. Certificates of training or other proof of training attendance must be provided when requested by the OSFM.

e. Provide proof of insurance. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the OSFM.

C. Blasting Permits

1. Blasting Permit application forms shall be available on the OSFM website and shall contain the information deemed appropriate by the OSFM. At a minimum, the application form shall include:

a. Applicant name and contact information;

b. Blaster name, license, and contact information;

c. Blast site information including location, purpose of blasting, and fire department responsible for responding to the site;

d. Anticipated date and time range of blasting operations;

e. Information on separation distances detailing the actual distances to the nearest gas lines, power transmission lines, public roads, and structures;

f. The type(s) of explosive used;

g. Information on quantities of explosive used including the estimated amount of explosives for the duration of the permit, amount per shot, and amount per charge; and,

h. Information regarding whether a seismograph will be used.

2. Blasting Permit application forms shall list all information required to be submitted with the form per R.71-8302.3.E. This list shall include at least the following:

a. Current certificate of insurance;

b. Directions to the blast site;

c. Site plan of the blast site showing measured distances to adjacent buildings, streets, utilities, wells, and other facilities;

d. Blasting plan that addresses proposed blasting procedures, quantity of material to be removed by blasting, number of blasts to be detonated, quantity and type of explosives to be used, maximum amount of explosives per delay, the maximum number of holes per delay, and the proposed placement of seismographs; and

e. Safety plan that addresses on-site storage, traffic control, barricading, signage plan, and adverse weather operation plan.

3. No permit will be granted without submission of a complete Blasting Permit application form and payment of application fee.

4. No variations from the terms of the blasting permit are allowed without authorization from the OSFM or their designee.

D. Magazine Permits

1. Magazine Permit Application Forms shall contain the information deemed appropriate by the OSFM.

2. Magazine Permit Application Forms shall be available on the OSFM website.

3. Magazine permits expire at 12:01 AM on January 1 of each licensing cycle. Any magazine permit not renewed by December 31 shall incur a late fee of \$100.00 (each).

4. Magazine permits shall be visible on the exterior of all magazines. Defaced or destroyed permits will be reported to the SFM when discovered. The OSFM may, at their discretion, charge the administrative costs of replacing the magazine permit.

5. Each magazine shall be inspected and approved by the OSFM before use.

71-8302.5. Records.

A. Licensed blasters shall keep records of each blast. The Blaster's Log shall contain the following minimum data:

1. Name of company or contractor;
2. Location, date, and time of blast;
3. Name, signature, and license number of blaster in charge of blast;
4. Type of material blasted;
5. Number of holes, burden and spacing;
6. Diameter and depth of holes;
7. Types of explosives used;
8. Total amount of explosives used;
9. Maximum amount of explosives per delay period of 8 milliseconds or greater;
10. Method of firing and type of circuit;
11. Direction and distance in feet to nearest dwelling house, public building, school, church, commercial or institutional building neither owned nor leased by the person conducting the blasting;
12. Weather conditions;
13. Type and height or length of stemming;
14. Whether mats or other protections were used;
15. Type of delay electric blasting caps used and delay periods used;
16. Exact location of seismograph, if used, and the distance of seismograph from blast as indicated accurately by the person taking the seismograph reading;
17. Seismograph records, where required including:
 - a. Name of person and firm analyzing the seismograph record; and
 - b. Seismograph reading;
18. Maximum number of holes per delay period of eight milliseconds or greater.

B. Blasters will provide a blast report on forms approved by the OSFM and submit these forms within three working days of the blast when deemed necessary by the OSFM.

C. Blasting records shall be retained by the licensed blaster and available for inspection by SFM during normal work hours at their place of business. These blast records shall include as a minimum for each blast:

1. Blasting Permit;
2. Seismograph reports when used;

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3. Blaster's Record/log;
4. Pre-Blast Survey (if applicable).

D. Magazine log shall be available for inspection by SFM upon request during normal work hours or hours of operation of the magazine.

71-8302.6. Blasting Safety and Operations.

A. The contractor, operator, and the blaster are responsible for the conduct of blasting operations on any site.

B. These regulations do not relieve the contractor, operator, blaster or other persons of their responsibility and liability under any other laws.

C. The OSFM may require the use of a seismograph on any blasting operation where damage to personal property has or may occur.

D. A Seismograph shall be used on all blasting operations within 1500 feet of a building, where the scaled distances shown in NFPA 495 are not followed, or when directed by the OSFM.

E. Operators must notify the OSFM within 24 hours of any fires or thefts involving explosives. The operators shall provide the OSFM with a copy of the report filed with the police department or the incident report from the fire department. Operators must also provide the OSFM Office with a copy of ATF Form 5400.5.

F. The operator shall have their license in their possession when handling, possessing or using explosive materials and shall show their license when asked by any AHJ.

G. A copy of the blasting permit shall be kept at the firing station.

H. This section shall be followed for firing the blast:

1. A warning signal shall be given before every blast. Warning signals shall comply with the following:

a. Warning signal is a one (1) minute series of long horn or siren blasts five (5) minutes before the blast signal.

b. Blast signal is a series of short horn or siren blasts one (1) minute before the shot.

c. All clear signal is a prolonged horn or siren blast following the inspection of the blast area.

2. The signal shall be made from an air horn, siren or other device, and must be loud enough to be clearly heard in all areas that could be affected by the blast or flyrock from the blast. The signal must be distinctive and unique so that it cannot be confused with any other signaling system that might occur on the site. A vehicle horn shall not be used as a signaling system.

71-8302.7. Explosives and Investigations.

All costs incurred by the OSFM for investigations involving explosives or blasting operations shall be reimbursed to the State by the individual or company involved in the investigation. Such reimbursements will only apply when the individual or company has been found in violation of the South Carolina Explosives Control Act (S.C. Code Ann. 23-36-10, et seq., 1976, as amended) or these Regulations.

71-8302.8. Variances.

A. This section provides licensees the opportunity to request variances of the regulations under specific conditions.

1. The OSFM may grant variances when it can be demonstrated the variance improves safety or provides an equivalent level of safety as provided in the regulations and adopted codes.

2. Such a variance may be modified or revoked by the OSFM.

3. When applicable, these variances must also be approved by the U.S. Bureau of Alcohol, Tobacco, and Firearms.

SUBARTICLE 4

PORTABLE FIRE EXTINGUISHERS AND FIXED FIRE EXTINGUISHING SYSTEMS

71-8303. PORTABLE FIRE EXTINGUISHERS AND FIXED FIRE EXTINGUISHING SYSTEMS.

(Statutory Authority: 1976 Code Sections 23-9-40, 23-9-45)

71-8303.1. General.

A. The purpose of this subarticle is to regulate the leasing, renting, reselling, servicing and testing of portable fire extinguishers and the installation, testing, and servicing of fixed fire extinguishing systems in the interest of protecting lives and property.

B. This regulation shall apply to:

1. The filling, charging, and recharging of all portable fire extinguishers other than the initial filling by the manufacturer.

2. The testing and servicing of all types of portable fire extinguishers.

3. The installation, testing, and servicing of all types of fixed fire extinguishing systems.

C. This regulation shall not apply to the following:

1. The filling or charging of a portable fire extinguisher by the manufacturer before the initial sale;

2. The installation or servicing of water-based extinguishing systems addressed by S.C. Code Ann. Section 40-10-240 et seq; and

3. Firms engaged in the retailing or wholesaling of new portable fire extinguishers.

71-8303.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R. 71-8300.2 and are modified by the following regulations as shown below.

B. The building code shall define occupancy classifications referenced in these regulations.

71-8303.3. Fees for Licensing, Testing, and Inspections.

A. The OSFM is responsible for all administrative activities of the licensing program. The SFM shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in S.C. Code Ann. Section 40-1-50(D), 1976, as amended.

B. Fees shall be established for the following:

1. Application

2. Testing

3. Permitting

4. Licensing

5. Inspection

6. Renewal

C. All fees are due at time of application for licenses, testing, permits, inspection or renewal.

D. All fees paid to the OSFM are nonrefundable.

71-8303.4. Licensing and Permitting Requirements.

A. General Licensing Requirements.

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1. Each firm testing and servicing portable fire extinguishers; installing, testing, and servicing fixed fire extinguishing systems; or hydrostatic testing portable fire extinguishers or portions of fixed fire extinguishing systems must have a license issued by the OSFM.

2. Each firm's license shall be displayed in a conspicuous location at their place of business.

3. Each firm shall apply in writing on a form available from the OSFM, for the license classification the firm is seeking.

4. Each firm shall furnish a certificate of insurance with their application in the amount required for their license classification. The firm shall list the State of South Carolina and its agents as additional insured. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or not renewed, the insurer shall give immediate notice to the OSFM.

5. Each firm shall possess the equipment required for the class of license sought. The OSFM shall inspect the firm's facilities to verify the firm has the minimum required equipment. The OSFM shall not license a firm until deficiencies discovered by inspection are corrected.

6. Licenses issued under this subarticle are not transferable.

7. All licenses expire when insurance coverage lapses or is cancelled and on the day of expiration shown on the license and shall be renewed biennially.

8. Expired licenses shall not be renewed. A new license shall be obtained by complying with all requirements and procedures for an original license.

B. General Permitting Requirements.

1. Each individual servicing, recharging, repairing, installing, or testing portable fire extinguishers or fixed fire extinguishing systems shall possess a valid permit issued by the OSFM.

2. Each individual shall apply in writing on a form available from the OSFM, for the permit classification they are seeking.

3. Applicants must provide a current photograph with their application.

4. Applicants must be at least eighteen (18) years old.

5. Applicants shall pass a written examination administered by the OSFM before a permit is issued. The exam will cover the applicable codes, state laws, and regulations and the additional requirements for the specific class of permit for which they are applying.

6. Any applicant who fails the written examination is allowed one (1) re-test after a minimum seven-day waiting period. Any applicant who fails the re-test shall wait at least six (6) months before reapplying.

7. Permit holders shall have their permits in their possession while working on equipment or systems covered by their permit.

8. Permit holders shall show their permits on the request of any AHJ.

9. Permit holders shall be limited to specific type of work allowed by the class of permit they hold and the specific systems covered by their permit.

10. Permits issued under this subarticle are not transferable.

11. Permits shall expire on the day of expiration shown on the permit and shall be renewed biennially.

12. Expired permits shall not be renewed. A new permit shall be obtained by complying with all requirements and procedures for an original permit.

C. License and Permit Classifications.

1. Class "A" - may service, recharge, or repair, all types of portable fire extinguishers, including recharging carbon dioxide units; and to conduct hydrostatic tests on all types of fire extinguishers.

2. Class "B" - may service, recharge, or repair all types of portable fire extinguishers, including recharging carbon dioxide units and conducting hydrostatic tests on water, water chemical, and dry chemical types of extinguishers only.

3. Class "C" - may service, recharge, or repair all types of portable fire extinguishers, except recharging carbon dioxide units; and to conduct hydrostatic tests of water, water chemical, and dry chemical types of fire extinguishers only.

4. Class "D" - may service, recharge, repair, or install all types of fixed fire extinguishing systems.

5. Class "E" is an apprentice permit classification only. Permits in this classification may perform the services only under direct supervision of a person holding a valid permit and who works for the same firm as the apprentice. An apprentice permit is valid for one (1) year from the day of issuance and may not be renewed.

D. Firms applying for a Class "A", "B", or "C" License must meet all of the general requirements for licensing and provide proof of public liability insurance for an amount not less than one million (\$1,000,000) dollars.

E. Firms applying for a Class "D" License must:

1. Designate on their application for licensing each type of fixed fire-extinguishing system for which they want to be licensed;

2. Provide proof of public liability insurance for an amount not less than one million (\$1,000,000) dollars; and

3. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system.

4. For each additional type of preengineered fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

F. Individuals applying for a Class "A", "B", or "C" Permit must meet all of the general requirements.

G. Individuals applying for a Class "D" Permit must:

1. Designate on their application for licensing each type of fixed fire-extinguishing system for which they want to be permitted.

2. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system.

3. For each additional type of preengineered fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

H. Employees applying for a Class "E" Permit must file an application for a Class "E" Permit and provide a current photograph.

71-8303.5. Renewal of Licenses and Permits.

A. To qualify for biennial renewal of a Class "A", "B" or "C" license, a firm must:

1. Apply in writing on a form available from the OSFM designating the Class of license sought;

2. Provide proof of public liability insurance.

B. To qualify for biennial renewal of a Class "A", "B" or "C" permit, an individual must:

1. Apply in writing on a form available from the OSFM, designating the permit classification they are seeking.

C. To qualify for biennial renewal of a Class D license, a firm must:

1. Apply in writing on a form available from the OSFM, designating each type of fixed fire-extinguishing system for which they wish to be licensed to install, test, or service;

2. Provide proof of public liability insurance;

3. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system;

4. For each additional type of preengineered fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

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D. To qualify for biennial renewal of a Class D permit, an individual must:

- 1. Apply in writing on a form available from the OSFM, designating each type of fixed fire-extinguishing system for which they wish to be permitted to install, test, or service;
- 2. Provide an up to date manufacturers training certificate for each type pre engineered system that renewal is sought;
- 3. Provide an affidavit to attest to the applicant’s ability to obtain the proper manufacturer’s installation, maintenance and service manuals and manufacturer’s parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer’s installation, maintenance and service manuals.

71-8303.6. Restrictions for Class D Fire Equipment Licenses and Permits.

- A. A firm or person shall not willfully engage in the business of installing, testing or servicing Class D fire equipment or use in any advertisement or on a business card or letterhead, or make any other verbal or written communication that the person is a Class D Fire Equipment Dealer or acquiesce in such a representation, unless that person is licensed as a Class D Fire Equipment Dealer by the OSFM.
- B. No person shall install or service any type of Class D fire equipment not covered on their permit.

71-8303.7. Licensing Requirements: For Firms Performing Hydrostatic Testing.

- A. Each firm performing hydrostatic testing of fire extinguishers manufactured according to the specifications of the USDOT shall be required to possess a valid license issued by the USDOT. All hydrostatic testing of fire extinguishers shall be performed per the appropriate USDOT standards and NFPA standards.
- B. Each employee certified to conduct hydrostatic testing shall attend a USDOT certification refresher course every three years and provide a copy of the current certification to the OSFM upon completion.

71-8303.8. Installation and Maintenance Procedures.

- A. All Portable Fire Extinguishers and Fixed Fire Extinguishing Systems covered by these regulations shall be installed, inspected, tested and serviced per the applicable NFPA standards and the manufacturer’s installation, service and maintenance manuals.
- B. Any portable fire extinguisher or fixed fire extinguishing system that cannot be maintained per the manufacturer’s installation, service, and maintenance manuals or the applicable NFPA standards shall be removed from service and replaced.
- C. Tamper seals on all portable fire extinguishers shall be imprinted with the year. The year imprinted on the tamper seal shall match the date on the maintenance tag for portable fire extinguisher servicing and maintenance.

71-8303.9. Minimum Equipment and Facility Requirements for Fire Equipment Dealer License.

The OSFM Minimum Equipment and Facility Requirements
for a Fire Equipment Dealer License

Minimum Equipment and Facilities Required			
	YES	NO	N/A
1 A D Hydrostatic test equipment for high pressure testing and calibrated cylinder. (0-11,000 psi)			

2 A D Equipment for test dating high-pressure cylinders

(over 900 psi). Die stamps must be a minimum of 1/4 inches.

3 A D Clock with sweep secondhand on or close to hydrostatic test apparatus.

4 A B D CO₂ receiver--cascade system for proper filling of CO₂ extinguishers.

5 A B D Supply of metallic labels for CO₂ hose conductivity test. Labels attached to the hose must include month and year of testing, name or initials of person performing test, and name of agency performing test.

6 A B C D Scales graduated in 1/8 ounce or 1 gram weight if refilling CO₂ cartridges. Minimum of 20 lbs.

7 A B C D All Scales calibrated within the last 12 months. Certification date(s)_____ Certified by_____

8 A B C D Approved drying method for high and low pressure cylinders. Listed for its use.

9 A B C D Proper wrenches with non-serrated jaws or valve puller (hydraulic or electric).

10 A B C D Inspection light.

11 A B C D Low-pressure test apparatus.

12 A B C D Low-pressure hydrostatic test labels per NFPA 10.

13 A B C D Scales for weighing extinguisher/system agent bottles during inspection and filling, minimum of 500 lbs. Calibrated and certified annually.

14 A B C D Closed recovery system(s) and storage to remove and store chemicals from fire extinguishers or system cylinders during servicing.

15 A B C D Closed recovery system(s) and storage to remove and store chemicals from halon type fire extinguishers or system cylinders during servicing.

16 A B C Current installation, maintenance and service manuals from the manufacturer of each make or brand of fire extinguisher or system the company installs, services, recharges, repairs, or maintains.

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17 A B C Supply of extinguisher recharge agents for the type/brands of fire extinguishers the company requests to recharge or service.

18 A B C D Vise 6-inch minimum (chain or bench).

19 A B C D Facilities for proper storage of extinguishing agents.

20 A B C D Facilities for leak testing of pressurized extinguishers.

21 A B C D Nitrogen with regulator and indicator. Regulator not to exceed 1500 psi--minimum 500 psi.

22 A B C D Supply of "Verification of Service" collars containing Month and Year the service was performed.

23 A B C Adapters, fittings, and tools and equipment for properly servicing and/or recharging all extinguishers being serviced and recharged.

24 A B C D Safety cage (in shop) for hydrostatic testing of low-pressure cylinders.

25 A B C D 1/4 pound graduated scales minimum 150 pounds for weighing chemical recharging.

26 D Cable crimping tool (where required).

27 D Cocking lever (where required).

28 D Pipe vise, dies, reamer, etc.

29 D Stock and supply of fuse links, proper elbows, and nozzles for system which is being installed.

30 D Parts from each manufacturer's system that the permittee is permitted to work on or service, including original service manuals and all up to-date technical bulletins.

31 D Listed links from each manufacturer that the permittee is permitted to service or work on.

32 D Current service manuals from the manufacturer for each model of fixed fire extinguishing system being installed, tested, or serviced by the fire equipment license holder.

33 D System Reports - custom or generic.

34 D Non-compliance Tags for non compliant systems.

35 A B C D Supply of tags with the appropriate company and other related information on them.

36 D Thermometer with a minimum of 2° F or 1° C increments.

37 D Agent Transfer Pump (for Halon or Clean Agents).

38 D Torque Wrench.

39 D Leak test device (for Halon or Clean Agents).

40 D Liquid Level detector ("Halon Scanner").

71-8303.10. Powers and Duties of the Office of State Fire Marshal.

A. Powers and duties of the OSFM are:

1. To evaluate the applications of firms or individuals for a license and permits to engage in the business of servicing portable fire extinguishers or installing, testing and servicing fixed fire-extinguishing systems;
2. To administer written examinations to ascertain the competency of applicants for a license to service portable fire extinguishers or install fixed fire extinguishing systems;
3. To issue licenses, permits, and apprentice permits required by this subarticle;
4. To suspend or revoke licenses and permits for cause; and
5. To administer these regulations and supervise personnel in carrying out the requirements of this regulation.

B. The OSFM, upon request, shall conduct hearings or proceedings concerning the suspension, revocation, or refusal to issue or renew licenses or permits issued under this subarticle or the application to suspend, revoke, refuse to renew, or refuse to issue the same.

C. An applicant, licensee, or permit holder whose license or permit has been refused or revoked under this subarticle, except for failure to pass a required written examination, shall not file another application for a license or permit within one year from the effective date of the refusal or revocation. After one year from that date, the applicant may re-apply, and in a public hearing, show good cause why the issuance of a license or permit does not hinder public safety and health.

D. The OSFM shall maintain a registry of all applications for licenses or permits and of all firms or persons holding licenses or permits. The OSFM shall make the roster of Fire Equipment Dealers Licenses or Fire Equipment Permits, with notation concerning the types of fixed fire extinguishing system for which licenses or permits have been granted, available on the OSFM website.

E. At least ninety (90) days before the expiration of a license, the OSFM shall send written notice of the impending license or permit expiration to the license or permit holder's last known address. This subsection shall not be construed to prevent the denying or refusing to renew a license under applicable law or regulations of the OSFM.

71-8303.11. Fitness to Practice; Investigation of Complaints.

A. If the OSFM has reason to believe that a person licensed under this chapter has become unfit to practice as a Fire Equipment Dealer or if a complaint is filed with the OSFM alleging a violation of a provision of this chapter by a license or permit holder or if a complaint is filed with the OSFM alleging that an licensed person is fraudulently holding him or herself out as qualified to engage in business as a Fire Equipment Dealer, the OSFM shall initiate an investigation per the procedures of Title 40, Chapter 1.

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71-8303.12. Administrative Sanctions.

A. If after an investigation it appears that the license or permit holder under this regulation has become unfit to practice or has violated these regulations, the OSFM shall file a Petition with the Administrative Law Court stating the facts and the particular statutes and regulations at issue.

B. The Administrative Law Court may, after opportunity for hearing, order that the license or permit be revoked, suspended, or otherwise disciplined on the grounds that the license or permit holder:

1. Used a false, fraudulent, or forged statement or document in obtaining a license or permit under this chapter; or
2. Committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining a license or permit under this chapter; or
3. Has had an authorization to practice a regulated profession or occupation in another state or jurisdiction canceled, revoked or suspended, or has otherwise been disciplined by another jurisdiction; or
4. Has intentionally used a fraudulent statement in a document connected with the license or permit; or
5. Obtained fees or assisted in obtaining fees under fraudulent circumstances; or
6. Sustained a physical or mental disability or uses alcohol or drugs to such a degree as to render further practice as a Fire Equipment Dealer dangerous to the public; or
7. Failed to perform all installation, service, and testing in complete compliance with the manufacturer's manuals.

71-8303.13. Sanctions for Unlawful Practice.

A. The Administrative Law Court may, after opportunity for hearing, order injunctive relief against a person who, without possessing a valid license or permit under this chapter, practices or offers to practice or uses the title or term Fire Equipment Dealer. For each violation, the administrative law judge may impose a fine of no more than ten thousand (\$10,000) dollars.

B. A person who does not hold a license or permit as required by this Chapter, may not bring any action either at law or in equity to enforce the provisions of any contract for providing services as a Fire Equipment Dealer.

71-8303.14. Certain Acts Prohibited.

A. No person or firm shall:

1. Engage in the business of installing or servicing portable fire extinguishers without a valid and current license;
2. Engage in the business of installing or servicing fixed fire-extinguishing systems without a valid and current license;
3. Service, test, or install fixed fire-extinguishing systems without a valid and current license;
4. Perform hydrostatic testing of USDOT cylinders for portable fire extinguishers or parts of a fixed fire extinguishing systems without a valid and current hydrostatic license;
5. Obtain or attempt to obtain a license or permit by fraudulent representation;
6. Service portable fire extinguishers or test, service, or install fixed fire-extinguishing systems contrary to the provisions of these regulations;
7. Service or hydrostatic test a fire extinguisher that does not have the proper identifying labels;
8. Sell, offer for sale, or give any make, type, or model of new or used fire extinguisher, unless extinguisher has first been tested and is currently approved or listed by Underwriters' Laboratories, Inc., Factory Mutual Laboratories, Inc., or other nationally recognized testing laboratory whose testing procedures used for approval in the listing of portable fire extinguishers are acceptable to the OSFM, and unless such extinguisher carries an Underwriters' Laboratories, Inc., or manufacturer's serial number. The serial number shall be permanently stamped on the manufacturer's identification and instruction plate;
9. Permit an individual who works for the firm to engage in installation, repair, recharge, maintenance or servicing fire extinguishers or fixed fire extinguishing systems without a valid permit or license.

71-8303.15. Cease and Desist Orders; Notice to Correct Hazardous Conditions.

When the OSFM shall have reason to believe that any person is or has been violating any provisions of this regulation or any rules or regulations adopted and promulgated pursuant thereto, the OSFM or their designated agent may issue and deliver to such person an order to cease and desist such violation or to correct such hazardous condition.

71-8303.16. Suspensions or Revocation of License or Permit.

A. The license of any company or individual may be suspended or revoked because of failure to comply with the terms of any order to correct violations within the specified abatement period or for failure to comply with any cease and desist orders. A license may be suspended for a period not to exceed one year from the date of license suspension. A license may be revoked for a period not to exceed two years from the date of license revocation.

B. In addition, a license may be suspended or revoked where the license or permit holder is found to have:

1. Rendered inoperative a fire extinguisher or fixed system, which is required by any rule of the OSFM, except during such time as the extinguisher, or fixed system is being inspected, serviced, or tested;
2. Falsified any records required to be maintained by this chapter or rules adopted thereto;
3. Improperly serviced, tested, or inspected a fire extinguisher or fixed fire extinguishing system;
4. Allowed another person to use his permit or license number or use a license or permit number other than the license or permit holder's valid license or permit number; or
5. Obliterated the serial number on a fire extinguisher for purposes of falsifying service records.

71-8303.17. Responsibility of Equipment Manufacturer.

All manufacturers of portable fire extinguishers and fixed fire extinguishing systems doing business in South Carolina shall provide the OSFM with all technical information as well as installation instructions that apply to their systems and equipment sold, installed, serviced or tested in South Carolina. This technical information shall include design revisions and updating information on systems sold in South Carolina.

71-8303.18. Penalties.

The OSFM authorizes any Deputy SFM to issue a citation for each offense to any person, firm, or corporation licensed under these regulations who has violated any provision of this subarticle. The OSFM may assess fines for each charge to both the fire equipment company and the permit holder. Citations shall be assessed by the OSFM at not more than two thousand (\$2000.00) per violation.

SUBARTICLE 5

LIQUEFIED PETROLEUM GAS

71-8304. LIQUEFIED PETROLEUM (LP) GAS.

(Statutory Authority: 1976 Code Section 23-9-20, 23-9-40, 23-9-60, 40-82-70)

71-8304.1. General.

A. The purpose of this regulation is to provide reasonable protection of the health, welfare, and safety of the public and LP-Gas operators from the hazards associated with the handling, use, transportation, and storage of LP-Gas.

B. These regulations apply to:

1. LP-Gas Dealers, Installers, Gas Plants, Wholesalers, Resellers, or Cylinder Exchange operators and;

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2. Any person handling, dispensing, transporting, or storing LP-Gas.

C. These regulations shall not apply to:

1. LP-Gas pipeline transmission regulated by the SC Public Safety Commission.
2. Gas plants after the point where LP-Gas or LP-Gas and air mixture enters a utility distribution system.
3. Natural gas systems covered by the IFGC.

71-8304.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R.71-8300.2 and are modified by the following regulations as shown below.

B. The building code shall define occupancy classifications referenced in these regulations.

71-8304.3. Licensing and Permitting Fees.

A. The OSFM is responsible for all administrative activities of the licensing program. The SFM shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in S.C. Code Ann. Section 40-1-50(D), 1976, as amended.

B. Fees shall be established for the following:

1. Application
2. Testing
3. Permitting
4. Licensing
5. Inspection
6. Renewal

C. All fees are due at time of application for licenses, testing, permits, inspection, or renewal.

D. All fees paid to the OSFM are nonrefundable.

71-8304.4. Licensing Requirements.

A. Licenses

1. Each company shall possess a license issued by the OSFM.

2. Licenses shall be displayed in a conspicuous location at the place of business for the LP-Gas Dealer, Installer, Gas Plant, Wholesaler, Reseller, or Cylinder Exchange operator.

B. Permits

1. Each site shall have a designated person that has a permit issued by the OSFM to supervise people handling, dispensing, installing, transporting, repairing, or exchanging LP-Gas.

2. Any applicant who fails the written examination is allowed one (1) re-test after a minimum seven (7) day waiting period. Any applicant who fails the re-test shall wait at least thirty (30) days before reapplying.

3. Permits shall bear the name, photograph, and any other identifying information deemed necessary by the OSFM.

4. Permit holders shall have their permit in their possession when supervising the handling, dispensing, installing, manufacturing, transporting, repairing, or exchanging LP-Gas.

5. Permit holders shall exhibit their permits on request of any AHJ.

6. Each permit is valid for a period of two (2) years and must be renewed before it expires.

7. Permits are not transferable.

71-8304.5. Plan Submittal Requirements.

A. Licensees which are required to obtain a site approval per S.C. Code Ann. Section 40-82-220, 1976, as amended, shall comply with the plan submittal requirements of NFPA 58, where applicable.

SUBARTICLE 6

FIREWORKS AND PYROTECHNICS

71-8305. FIREWORKS AND PYROTECHNICS.

(Statutory Authority: 1976 Code Sections 23-9-10 et seq., 23-35-10 et seq., 40-56-10(D))

71-8305.1. General.

A. The purpose of this regulation is to provide reasonable safety and protection to the public, public property, private property, performers, and display operators from the hazards associated with the handling, use, transportation, and storage of pyrotechnics and fireworks.

B. This regulation shall apply to:

1. The handling and use of fireworks intended for public fireworks display;
2. The construction, handling and use of fireworks equipment intended for public fireworks display;
3. The general conduct and operation of public firework displays;
4. The transportation and storage of fireworks for public fireworks display;
5. The transportation and use of consumer fireworks;
6. The construction, handling, and use of pyrotechnics intended for proximate audience displays; special effects for motion picture, theatrical, and television productions;
7. The construction, handling, and use of flame effects intended for proximate audience displays, or special effects for motion picture, theatrical, and television productions;
8. The construction, handling, and use of rockets intended for proximate audience displays, or special effects for motion picture, theatrical, and television productions; and
9. The general conduct and operation of proximate audience displays.

C. This regulation shall not apply to:

1. The manufacture, sale, or storage of fireworks as governed by the SC Department of Labor Licensing and Regulation, State Board of Pyrotechnic Safety;
2. The transportation, handling, and/or use of fireworks by the SFM, his employees, or any commissioned law enforcement officers acting within their official capacities;
3. Fireworks deregulated by the USDOT;
4. Weapons used in enactments, when there is no projectile;
5. Artillery field pieces used as salutes with no projectile; and
6. The outdoor use of model rockets within the scope of NFPA 1122.

71-8305.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R.71-8300.2 and are modified by the following regulations as shown below.

B. The building code shall define occupancy classifications referenced in these regulations.

71-8305.3. Licensing and Permitting Fees.

A. All fees are due at time of application for licenses, tests, or permitting.

B. Permit applications are due in the OSFM fifteen days before the performance date. Fees will be doubled for an application received less than fifteen days before the performance date.

C. The OSFM is responsible for all administrative activities of the licensing program. The SFM shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in S.C. Code Ann. Section 40-1-50(D), 1976, as amended.

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D. Fees shall be established for the following:

1. Application
2. Background Check
3. Testing
4. Licensing
5. Permitting
6. Inspection
7. Renewal

E. All fees are due at time of application for licenses, background checks, testing, permits, inspection or renewal.

F. All fees paid to the OSFM are nonrefundable.

71-8305.4. Qualifications of Operators.

A. All Operators.

1. No person shall be granted a license who has not successfully completed a written examination administered by the OSFM. The exam will cover the applicable codes, state laws, and regulations and the additional requirements listed below for the specific class of license for which they are applying.

2. Any applicant who fails the written examination is allowed one re-test after a minimum seven-day waiting period. Any applicant who fails the re-test shall wait at least six months before reapplying.

3. Applicants shall submit a completed fingerprint card with their application. The OSFM will conduct a criminal background check as part of the licensing application process.

4. Operators using explosives or explosive materials must have the appropriate Federal licenses. Operators shall provide a copy of applicable Federal licenses.

5. Licenses must be renewed biennially on the day of expiration shown on the license.

6. Every two years, each licensed operator shall be required to attend training offered by the OSFM or attend pre-approved training providing a total of eight (8) hours of continuing education during the licensing cycle.

7. The OSFM may revoke, suspend, or deny a license because of, but not limited to:

- a. Failure to comply with any order written by the OSFM;
- b. Conviction of a felony, a crime of violence, or any crime punishable by a term of imprisonment exceeding two years; or
- c. Advocating or knowingly belonging to any organization or group which advocates violent overthrow of or violent action against the federal, state, local government, or its citizens; or
- d. Having or contracting physical or mental illness or conditions that in the judgment of the OSFM would make use or possession of fireworks, pyrotechnics, or explosive materials hazardous to the licensee or the public; or
- e. Violating the terms of the license or essential changes in the conditions under which the license was issued without prior approval of the OSFM;
- f. Violating the state laws or regulations governing Public Fireworks Displays or Proximate Audience Pyrotechnics; or
- g. Giving false information or making a misrepresentation to obtain a license.

B. Public Display Operators.

1. Applications for licensing must furnish a notarized statement from a South Carolina licensed display operator concerning their participation in at least 6 fireworks displays and indicating for each display the date, the site, and the name and license number of the supervising operator.

2. The person in charge of the Public Fireworks Display shall be licensed by the OSFM.

C. Pyrotechnic Operators.

1. Applications for licensing must provide written documentation from a South Carolina licensed display operator or company that the applicant has actively participated in the set-up and operation of at least six proximate audience performances using the types of pyrotechnics for the license classification the applicant is seeking. Only the OSFM may accept an alternative number of displays for this requirement based on the applicant's experience.

2. Licenses for pyrotechnic operators authorize and place the responsibility for the handling, supervision, and discharge of the fireworks or pyrotechnic device permitted by their license classification. The operator is responsible for the training of his or her assistants in the safe handling, supervision, and discharge of the fireworks or pyrotechnic devices permitted by their license classification.

a. "Pyrotechnic Operator - Unrestricted" may conduct and take charge of all activity in connection with the use of explosives or explosive materials, rockets, flame effects, Display Fireworks, binary system pyrotechnics, Consumer Fireworks, Theatrical Pyrotechnics, Novelties, and other special effects permitted by the OSFM for a proximate audience display, commercial entertainment, or special effects in motion picture, theatrical, and television productions.

b. "Pyrotechnic Operator - Commercial Outdoor" may conduct and take charge of all activity in connection with the use of flame effects, Display Fireworks, binary system pyrotechnics, Consumer Fireworks, Theatrical Pyrotechnics, and Novelties permitted by the OSFM for a proximate audience display and commercial entertainment.

c. "Pyrotechnic Operator - Rockets" may conduct and is restricted to all activities in connection with research, experiments, production, transportation, fuel loading, and launching of all types of experimental, solid fuel, and high power rockets. Only individuals or companies holding valid import, export, or wholesale licenses may import, export, or wholesale experimental high-powered motors.

d. "Pyrotechnic Operator - Motion Picture Special Effects" may conduct and take charge of all activity in connection with the use of explosives or explosive materials, flame effects, Display Fireworks, binary system pyrotechnics, Consumer Fireworks, Theatrical Pyrotechnics, and Novelties, and other special effects permitted by the OSFM for the sole purpose of motion picture, television, theatrical or operatic productions.

e. "Pyrotechnic Operator - Commercial Indoor" may conduct and take charge of all activity in connection with the use of binary system pyrotechnics, Theatrical Pyrotechnics, and Novelties permitted by the OSFM in stage or theatrical productions only.

f. "Pyrotechnic Operator - Trainee" must function under the direct supervision and control of a pyrotechnic operator for the license classification that he/she is seeking a license.

71-8305.5. Display Permits.

A. All Displays.

1. Any person who desires to hold a Public Fireworks Display or a Proximate Audience Display must obtain a permit from the OSFM before the display.

2. Permits shall be valid for up to one calendar period prescribed or until any condition of the permit application changes. The OSFM shall make final determination of a change of condition in the permit.

3. All permit forms will be made available on the OSFM website.

4. The OSFM may revoke, suspend, or deny a permit because of, but not limited to:

a. The display operator does not possess the correct license classification for the display; or

b. Not complying with any order written by the OSFM; or

c. Violating the terms of the permit or essential changes in the conditions under which the permit was issued without prior approval of the OSFM; or

d. Giving false information or making a misrepresentation to obtain a permit.

5. The following additional information must be provided with the permit application:

a. A list of the number, type, and size of fireworks or effects being discharged;

b. A Diagram of display site including measurements;

c. Directions to the site; and

d. A Copy of certificate of insurance.

6. The AHJ providing fire suppression equipment and personnel for the Public Fireworks Display must sign the permit form.

7. Permits must be posted at the display site.

B. Public Fireworks Display Permits.

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1. The sponsor of the display shall forward a copy of the permit to the OSFM along with the items required in these regulations fifteen working days before the display. The permit becomes valid when co-signed by the OSFM.

2. The validated permit will be distributed as follows:

- a. The OSFM shall retain the original;
- b. A copy to the sponsor;
- c. A copy to the supplier, which will authorize shipment of the fireworks;
- d. A copy to the AHJ providing the fire suppression equipment and personnel for the display;
- e. A copy posted at the display site.

3. All pyrotechnics shall be purchased from a pyrotechnic manufacturer or distributor licensed by the Board of Pyrotechnic Safety. A licensed Public Display Operator shall be present and supervise firing of all public fireworks displays.

4. The fireworks supplier shall carry a minimum of \$500,000 of Public Liability Insurance. The policy must list the display sponsor, the State of South Carolina, and its agents as additional insured. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the OSFM.

C. Proximate Audience Display Permits.

1. Public Liability Insurance in the amount of \$500,000 shall be provided by the permittee. The permittee shall furnish a certificate of insurance in this amount with their application. The permittee shall list the State of South Carolina and its agents as additional insured.

2. Public Liability Insurance in the amount of \$1,000,000 shall be provided by any permittee involved with motion picture productions. Motion picture companies employing this person(s) shall list the State of South Carolina and its agents as additional insured.

3. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the OSFM.

71-8305.6. General Operational Requirements of Displays.

A. All Displays.

1. The operator shall have their license in their possession when conducting a display and shall exhibit their license on request of any AHJ.

2. All displays must have a person in charge that holds the proper license issued by the OSFM for the type of display being conducted.

3. The SFM or any approved AHJ may enforce these laws and regulations.

4. Magazine log shall be available for inspection during normal work hours, 1 hour before, and 1 hour after each performance.

5. Operators must notify the OSFM within 24 hours of any fires or thefts involving fireworks. The operators shall provide the OSFM with a copy of the report filed with the police department or the incident report from the fire department. Operators must also provide the OSFM with a copy of ATF Form 5400.5.

6. Any person who violates any provision of these laws and regulations will purchase the appropriate permit, pay the appropriate license fee, if any are required, and be subject to the following penalty provisions:

- a. S.C. Code Ann. Section 23-36-170, 1976, as amended.
- b. S.C. Code Ann. Section 23-35-150, 1976, as amended.

7. Confiscation, storage, or disposal of fireworks, pyrotechnic and explosive materials used for proximate audience or public firework displays by the SFM shall comply with S.C. Code Ann. Section 23-36-110, 1976, as amended.

8. Storage of special effects pyrotechnics and other material.

a. All classes of explosives shall be stored in accordance with the South Carolina Explosives Control Act (S.C. Code Ann. Section 23-36-10, et seq., 1976, as amended) or Title 27 Code of Federal Regulations, Subpart K.

b. All other fireworks or pyrotechnic materials shall be stored per the appropriate NFPA standard.

9. The AHJ may require the permittee to furnish fire support personnel other than local firefighters.

B. Public Fireworks Displays.

1. Where unusual conditions exist, the AHJ may increase the minimum clearances as necessary before granting approval of the display site. The AHJ may not reduce clearances specified in NFPA 1123 without written approval of the OSFM.

2. A copy of the display permit shall be kept at the firing station.

3. Operators shall never use damaged fireworks, fireworks that are wet, or fireworks damaged by moisture. Operators shall not dry wet pyrotechnics for reuse. Operators shall handle and dispose of wet or damaged pyrotechnics per the manufacturer's instructions.

4. The operator of the display shall keep a record of all shells that fail to ignite or function. The form shall be completed and returned to the supplier within fifteen days of the display and the operator shall retain a copy for their records. The operator and supplier shall retain Malfunction Reports for three years from the date of the display. The operator and supplier must produce these reports upon request of the OSFM. The "Malfunction Report" form shall be available on the OSFM website.

5. Moorings or anchors shall secure floating vessels or platforms used for firing of a Public Fireworks Display.

6. Operators shall not reload mortars during a display.

7. If a display is postponed, the sponsor of the display shall notify the OSFM and the department providing fire suppression equipment and personnel for the display of the alternate date before presenting the display.

8. It shall be the responsibility of the permittee to arrange with the AHJ for the detailing of firefighters and equipment as required.

C. Proximate Audience Display.

1. The licensed pyrotechnic operator is responsible for the storing, handling, supervision, discharge, and removal of all pyrotechnic devices and materials based on their license classification and the terms of their permit. The licensed pyrotechnic operator is responsible for supervising and training of their assistants in the safe handling and discharge of all pyrotechnic devices.

2. The permit package shall contain a copy of the permit, Certificate of Insurance, and the MSDS(s) for material used.

3. A copy of the permit package shall be kept at the control site used to initiate the display. An audible announcement shall be made not more than 10 minutes before the display to notify personnel of the use of proximate audience pyrotechnics.

4. Motion Picture productions shall display one permit package at the production office, and maintain the second permit package on the film site through the First Assistant Director. Before the start of any effect, verbal notification of Proximate Audience Pyrotechnic use shall be required before each camera roll.

5. The AHJ may inspect the proximate audience display. As a minimum, the inspection shall cover the requirements in Annex B of NFPA 1126.

6. The permittee shall furnish a fire watch during the times the special effects materials have been removed from storage and/or magazines and the conclusion of the performance. This person shall be identified by an orange shirt or vest (or other color approved by the AHJ) with three-inch white letters on the front and back stating FIRE WATCH. For motion picture productions, the method for identifying the FIRE WATCH shall be a mutually agreed means of designation between the OSFM, the permittee, and the First Assistant Director.

7. Indoor facilities used for Proximate Audience Displays must be equipped with an automatic fire alarm system and a public address system.

a. The fire alarm system shall be zoned so that the areas affected by special effects smoke can be overridden during the event.

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b. An override switch shall be provided at the firing point and a second switch in the control room to shut off stage sound and make the public address system available for evacuation instructions. These switches must be labeled and visible throughout the show.

c. The fire alarm system must be returned to normal operation before the fire watch and the display operator may leave the facility.

71-8305.7. Use of Consumer Fireworks in South Carolina.

A. It shall be deemed a violation of these regulations to:

1. Explode or ignite fireworks within 600 ft. of any Assembly Occupancy, Educational Occupancy, Hazardous Occupancy, Institutional Occupancy, or any facility storing or dispensing flammable liquids, combustible liquids, LP-Gas, or other hazardous materials;

2. Explode or ignite fireworks within 75 ft. of where fireworks are stored, sold or offered for sale;

3. Ignite, discharge, and/or throw fireworks from any motor vehicle or to place, ignite, discharge, and/or throw fireworks into or at any motor vehicle; and

4. Ignite or discharge fireworks in a wanton or reckless manner to constitute a threat to the personal safety or property of another.

B. The distances in R.71-8305.7 A (1) maybe reduced if the display is permitted with the OSFM as a Public Fireworks Display or as a Proximate Audience Display.

C. Consumer Fireworks shall not be used for a Public Fireworks Display unless permitted by the OSFM per the applicable provisions of this regulation and all permit fees are paid.

71-8305.8. Transportation of Fireworks or Pyrotechnics in South Carolina.

A. Vehicles transporting Display Fireworks (pyrotechnics classified as 1.3 explosives) in any quantity and Consumer Fireworks (pyrotechnics classified as 1.4 explosives) in quantities greater than 1000 lbs. shall be in the custody of drivers with a CDL with a HAZMAT endorsement.

B. On both sides, on the front, and on the rear, vehicles transporting Display Fireworks (pyrotechnics classified as 1.3 explosives) in any quantity and Consumer Fireworks (pyrotechnics classified as 1.4 explosives) in quantities greater than 1000 lbs. shall prominently display signs marked "EXPLOSIVES" that conform to the United States Department of Transportation and other federal regulations.

C. The fire and police departments shall be promptly notified when a vehicle transporting pyrotechnics is involved in an accident, break down, or fire. Only in the event of such an emergency shall the transfer of pyrotechnics from one vehicle to another be allowed on highways and then only when qualified supervision is provided.

D. Any vehicle used for the transportation of pyrotechnics covered by item A or B above shall have not less than one approved-type fire extinguisher with a minimum rating of 2A 10 B:C and shall be so located as to be readily available for use.

E. Operators must notify the OSFM within 24 hours of any fires or thefts involving fireworks. The operator shall provide the OSFM with a copy of the report filed with the police department or the incident report from the fire department. Operators must also provide the OSFM with a copy of ATF Form 5400.5.

SUBARTICLE 7

HYDROGEN FACILITIES

71-8306. HYDROGEN FACILITIES.

(Statutory Authority: 1976 Code Section 23-9-550)

71-8306.1. General.

A. The purpose of these regulations are to provide reasonable safety and protection to the public, public property, private property from the hazards associated with the handling, use, storage, transfer and dispensing at a hydrogen facility.

B. This regulation shall apply to:

1. Hydrogen dispensing stations for public or commercial use as a transportation fuel and motor vehicle fuel or in a fuel cell
2. Bulk hydrogen compressed gas systems for a hydrogen facility
3. Bulk liquefied hydrogen gas systems for a hydrogen facility
4. Commercial hydrogen generation systems connected to a hydrogen facility
5. Engineered and pre-engineered hydrogen fuel cell systems

C. This regulation shall not apply to:

1. The manufacture, sale, or storage of small scale hydrogen generation or consumption systems where hydrogen is held in containers of one liter or less and Maximum Allowable Quantities (MAQ) are not exceeded.
2. The transportation, handling, and/or use of hydrogen by the State Fire Marshal, his employees, or any commissioned law enforcement officers acting within their official capacities.
3. The manufacture or transportation of bulk hydrogen.
4. Hydrogen used as an ingredient or by product in the manufacture of a product.

71-8306.2. Codes and standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R. 71-8300.2 and are modified by the following regulations as shown below.

B. All facilities shall be designed and installed in accordance with the adopted codes and standards listed in R.71-8300.2.

C. Alternate Materials and Alternate Methods of Construction. Compliance with a current edition of NFPA 2 may be used for consideration of alternative means, methods and materials if found suitable by the State Fire Marshal per R.71-8300.3.

71-8306.3. Engineered and preengineered systems

A. Engineered hydrogen systems

1. All installations shall be in accordance with South Carolina Laws, Regulations, and adopted Codes.
2. Plans and specifications prepared by a licensed engineer or prepared under the licensee's direct supervision must be stamped with seals prior to submission and review by OSFM.

B. Pre-engineered hydrogen systems.

1. All installations shall be in accordance with South Carolina Laws, Regulations, and adopted Codes.
2. Plans and specifications are not required to be prepared by a licensed engineer nor be stamped with seals prior to submission and review by OSFM.

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71-8306.4. Permit application requirements for hydrogen facilities.

A. The OSFM may issue a permit to a location when presented a completed application that contains at least the following, where applicable:

1. A site plan, drawn to scale, which shows equipment locations and point(s) of transfer with respect to property lines, nearby structures, roads & dikes, power lines, and other potential ignition sources;
2. An accidental release plan;
3. The piping layout with valves and fitting details;
4. Normal and emergency ventilation designs;
5. Container capacity (or capacities) and design standards;
6. Electrical plan;
7. Container and piping support details;
8. Information concerning onsite fire protection equipment;
9. Information concerning the project's beginning and ending points, if part of a larger system;
10. Listed equipment with listing agency;
11. Unless exempted, design documents sealed by an engineer licensed in South Carolina; and,
12. All applicable fees paid in full.

71-8306.5. Licensing and permitting fees.

A. All fees are due at time of application for licenses, tests, or permitting.

B. Permit applications are due in the OSFM prior to construction or installation.

C. Approval of plans for hydrogen facilities are to be obtained prior to start of construction or installation.

D. The OSFM is responsible for all administrative activities of the licensing program. The State Fire Marshal shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program.

E. Fees shall be established for the following:

- | | |
|--|-------------------------------------|
| 1. Application fee | \$10 |
| 2. Permitting fee (includes plan review and initial site inspection)
based upon location and complexity | \$250 plus actual expenses incurred |
| 3. Inspection fee (semi-annual)
based upon location and complexity | \$100 plus actual expenses incurred |
| 4. Renewal of permits (annual – includes inspection)
based upon location and complexity | \$100 plus actual expenses incurred |

F. The application fee is due at time of application for license. All other fees will be billed and must be paid prior to issuance of license.

G. All fees paid to the OSFM are nonrefundable.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are updated in conformance with national adopted codes and standards.

Document No. 4446

DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH
 CHAPTER 71

Statutory Authority: 1976 Code Sections 41-3-40 and 41-15-210

- 71-400. Definitions.
- 71-401. Citations; Notice of De Minimis Violation.
- 71-402. Proposed Penalty.
- 71-403. Posting of Citation.
- 71-404. Failure to Correct Violation for Which Citation Has Been Issued.
- 71-405. Petition for Modification of Abatement.
- 71-406. Informal Conference.
- 71-407. Employer or Employee Contest.
- 71-408. Failure to Contest.
- 71-409. Withdrawal, Modification or Amendment to Citation and Proposed Penalty.
- 71-410. Abatement Verification.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, Office of Occupational Safety and Health proposes to amend Regulations 71-400 through 71-407, add Regulation 71-408, and amend Regulations 71-409 through 71-411 to reflect recent amendments made to the South Carolina Occupational Safety and Health Act.

A Notice of Drafting was published in the *State Register* on February 22, 2013.

Instructions:

The following sections of Chapter 71 are modified as provided below. All other sections remain unchanged.

Text:

SUBARTICLE 4

ENFORCEMENT OF VIOLATIONS

71-400. Definitions.

As used in this Subarticle, unless the context clearly requires otherwise

- A. "Abatement" means corrections of violations issued in citation package.
- B. "Act" means Act 379, South Carolina Acts and Joint Resolutions, 1971, as amended, and State Laws enacted by the South Carolina General Assembly.
- C. "Administrator" means that person in the South Carolina Department of Labor, Licensing and Regulation, who is designated by the Director as responsible for the supervision of the activities of the Occupational Safety and Health Division.
- D. "Affected Employee" shall mean an employee of a cited employer who is exposed to the alleged hazard described in the citation, as a result of his employment.
- E. "Agency" means the South Carolina Department of Labor, Licensing and Regulation.
- F. "Authorized Employee Representative" means a labor organization which has a collective bargaining relationship with the cited employer and which represents affected employees.

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G. "Citation" means a written agency determination issued by the Director or his designated representative pursuant to Section 41-15-280, Code of Laws, State of South Carolina, 1976, as amended. For the purpose of this section, the word "citation" includes "amended citation".

H. "Compliance Manager" means that person in the Department of Labor, Licensing and Regulation, State of South Carolina, who is designated by the Administrator as responsible for inspections made pursuant to the State's Occupational Safety and Health Laws including, but not limited to, the issuance of citations and assessment of penalties.

I. "Contest Period" means the thirty day period that begins once the citation is received by the employer.

J. "Designee" means the person or persons acting on behalf of one or more of the following: Director, Administrator, Compliance Officer, or Informal Conference Hearing Officer, having the same authority and responsibility as the one for whom he is acting.

K. "Day" means calendar day.

L. "Director" means the Director of the South Carolina Department of Labor, Licensing and Regulation.

M. "Employee" means any person employed by an individual, partnership, joint venture, cooperative association or corporation doing business in the State, or by the State of South Carolina or any political subdivision thereof.

N. "Employer" means any individual, partnership, joint venture, cooperative association or corporation doing business in the State and the State of South Carolina and any political subdivision thereof which employs one (1) or more persons to perform work within the State of South Carolina.

O. "Informal Conference" means a conference held to discuss any issues raised by an inspection, citation, notice of penalty, and notification of failure to correct violation. No informal conference or request for an informal conference shall operate as a stay of the thirty (30) day period for filing a request for a contested case hearing to the ALC.

P. "Informal Conference Hearing Officer" means the designee of the Administrator given authority to hold informal conferences.

Q. "Informal Settlement Agreement" means the product of an agreement between both parties, which includes the parameters of such settlement and signatures of both parties. This agreement serves as a final order in lieu of contest, which the employer waives by entry into this agreement.

R. "Notification of Penalty" means a written agency determination issued by the Director or his designee to an employer to notify the employer of penalties assessed under Section 41-15-320, Code of Laws, State of South Carolina, 1976, as amended.

S. "OSH Compliance Officer" means any individual commissioned by the Director to enforce safety and health statutes, rules and regulations.

T. "Party" means any individual, partnership, joint venture, cooperative association, corporation, State of South Carolina or any political subdivision thereof who shall have a vested interest to participate in a hearing conducted in accordance with this subarticle.

U. "Person" means any individual, partnership, joint venture, cooperative association, corporation, organization of employees, or the State of South Carolina or any political subdivision thereof.

V. "Representative" means any person, including an authorized employee representative, authorized by a party, survivor, or intervener to represent him in a proceeding.

W. "Rules and Regulations" means any rules and regulations promulgated and adopted by the Department.

X. "State" means the State of South Carolina.

71-401. Citation; Notice of De Minimis Violation.

A. The Compliance Manager or his designee shall review the report of inspection of each OSH Compliance Officer. If the report indicates a violation of the state statutes or rules and regulations, there shall be issued to each employer, by certified mail or by personal service, a citation(s). Any citation shall be issued with reasonable promptness after the termination of the inspection. No citation shall be issued after the expiration of six (6) months following the occurrence of any violation. Citations shall detail the conditions and circumstances of the violation, and refer to applicable statutes, rules and regulations or order alleged to have been violated. The citation shall also fix a reasonable time for abatement of the violation(s). Where a citation is issued as a result of a request for inspection under Subarticle 5, R. 71-508, copies of the citation shall also be

provided to the employee or employee representative who made such request. If appropriate, a citation will be issued to an employer even where the employer abates immediately.

B. Notice of De Minimis Violation. The Compliance Manager or his designee shall review the report of inspection of each OSH Compliance Officer. If the report indicates a violation of the state statutes or rules and regulations which have no direct or immediate relationship to safety or health, the Compliance Manager may issue a notice of de minimis violation if he shall determine that such notice shall be beneficial to the health and safety of employees. Such notice of de minimis violation shall be in the form of a recommendation only and may not be contested.

C. While the issuance of a citation is the agency's determination, it does not constitute a determination that a violation of state statutes or rules and regulations has occurred, but it is an allegation that such may have occurred, unless there is a failure to contest as provided for in accordance with Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court, or, if contested, unless the violation is determined to have existed by a final order of the Administrative Law Court or by a final adjudication in the courts of this State.

D. No citation may be issued to an employer because of a rescue activity undertaken by an employee of that employer with respect to an individual in imminent danger unless:

(1)(a) such employee is designated or assigned by the employer to have responsibility to perform or assist in rescue operations; and

(b) the employer fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

(2)(a) such employee is directed by the employer to perform rescue activities in the course of carrying out the employee's job duties; and

(b) the employer fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

(3)(a) such employee is employed in a workplace that requires the employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such a workplace operation where employees are located in confined spaces or trenches; handle hazardous waste, respond to emergency situations, perform evacuations, or perform construction over water; and

(b) such an employee has not been designated or assigned to perform or assist in rescue operations and voluntarily elects to rescue such an individual; and

(c) the employer has failed to instruct employees not designated or assigned to perform or assist in rescue operations of the arrangements for rescue, not to attempt rescue, and of the hazards of attempting rescue without adequate training or equipment.

71-402. Penalty.

A. After, or concurrent with, the issuance of a citation, and within a reasonable time of the inspection, the Compliance Manager, or his designee, shall notify the employer by certified mail or by personal service of the penalty under Section 41-15-300, Code of Laws of South Carolina, 1976, as amended, or that no penalties are assessed.

B. The Compliance Manager or his designee shall determine the amount of any penalty, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations in accordance with Section 41-15-320, Code of Laws of South Carolina, 1976, as amended.

C. Appropriate penalties may be assessed with respect to alleged violations even though after being informed of such an alleged violation by the OSH Compliance Officer, the employer immediately abates or initiates steps to abate such violation. A penalty shall not be assessed for de minimis violations.

D. While the issuance of an assessed penalty is the agency's determination, it does not constitute an obligation unless there is a failure to contest the assessed penalty as provided in accordance with Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court, or, if contested, unless the assessed penalty is determined to be an obligation under Section 41-15-320, Code of Laws of South Carolina, 1976, as amended, by an Order of the Administrative Law Court or upon final adjudication in the courts of this State.

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71-403. Posting of Citation.

A. Upon receipt of a citation under the Act, the employer shall immediately post such citation, or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided below. Where, because of the nature of the employer's operations, it is not practical to post the citation at or near each place of alleged violation, such citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. The employer shall take steps to ensure that the citation is not altered, defaced, or covered by other material. Notices of de minimis violations need not be posted.

B. Each citation, or a copy thereof, shall remain posted until the violation has been abated, or for three working days, whichever is later. The filing by the employer of a request for a contested case hearing under R. 71-407 and R. 71-408 shall not affect his posting responsibility under these sections.

C. Any employer failing to comply with the provisions of paragraphs A and B of this regulation shall be subject to citation and penalty in accordance with the provisions of Section 41-15-320, Code of Laws of South Carolina, 1976, as amended.

71-404. Failure to Correct Violation for Which Citation Has Been Issued.

A. If any subsequent inspection discloses that an employer has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, the Compliance Manager or his designee shall notify the employer by certified mail or by personal service of such failure and of the penalty assessed under Section 41-15-320, South Carolina Code of Laws, 1976, as amended, by reason of such failure, and of a later date after which an additional penalty may be assessed for continued failure to correct the violation.

B. Any employer receiving a notification of penalties for failure to abate violations and notification of penalty may notify the Administrator, in writing, that he intends to contest such citation or notification of penalty. Such right to contest notification of failure to correct a violation or assessed penalty may be made by the employer, by notifying the Administrator, in writing. Such request for a contested case hearing shall comply with Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court.

71-405. Petition for Modification of Abatement.

A. Filing. If the employer has made a good faith effort to comply with the abatement period, but has not been able to do so by the prescribed date because of factors beyond his control, he may file a petition for modification of abatement. The petition must be filed with the Compliance Manager or his designee no later than the end of the next working day following the date on which abatement was to have been completed. The petition shall state why the abatement cannot be completed within the prescribed time, the steps taken to achieve compliance, and what interim steps are being taken to protect the employees from the cited hazard. Affected employees and their authorized representative (if any) must be also notified in writing of the petition by posting of the petition at the same location the citation is posted, and the petition shall remain posted for a period of ten (10) days.

B. Incomplete Petition for Modification of Abatement. Should a petition for modification of abatement be submitted to the Compliance Manager, or his designee, which does not meet the requirements of this regulation, the Compliance Manager, or his designee, shall immediately notify the employer of the deficiency and may allow up to an additional five (5) days to meet the requirements.

C. Objections to Petition for Modification of Abatement. Affected employees or their authorized representative may file an objection in writing to a petition for modification of abatement with the Compliance Manager. Failure to file such objection within ten (10) days of the date of posting of such petition or of service upon an authorized representative shall constitute a waiver of any further right to object to the petition unless good cause is shown for such failure.

D. Decision. The Compliance Manager or his designee may issue a decision, served by certified mail, after ten (10) days. The decision of the Compliance Manager or his designee to accept or deny the petition for modification of abatement may be contested by the employer or affected employee; or within thirty (30) days from receipt of the decision, it may be contested to the Administrative Law Court.

E. Service. Unless otherwise ordered, service to the Department may be accomplished by postage prepaid first class mail or by personal delivery. Service is deemed effective at the time of mailing (if by mail) or at the time of personal delivery (if by personal delivery). Service and notice to employees represented by an authorized employee representative shall be deemed accomplished in the manner prescribed in paragraph B of this regulation

F. Failure to File Timely. Where the employer fails to file with the Compliance Manager or his designee, a petition for modification of abatement within the time prescribed in paragraph A of this regulation, the abatement period shall be deemed a final order of the Compliance Manager or his designee unless good cause is shown for such failure. Where any filing required by this regulation is made later than the period specified herein, the Compliance Manager or his designee may consider the merits of the objection or petition if he finds that there was a good cause for such delay and that such delay was not excessive. If the Compliance Manager or his designee shall determine that there was not good cause or that the delay was excessive, he shall recommend the denial of and thereby object to the petition for modification of abatement in accordance with paragraph D of this regulation.

71-406. Informal Conference.

A. Authority. At the request of either the employer, an affected employee, or representative of employees, the Informal Conference Hearing Officer or his designee may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of penalty, or notification of failure to abate violation. The settlement of any issue at such conference shall be subject to these rules and regulations of procedure. If the conference is requested by the employer, an affected employee or his representative shall be afforded an opportunity to participate, at the discretion of the Administrator or his designee. Any party may be represented by legal counsel. No such conference or request for conference shall operate as a stay of the thirty (30) day period for filing a request for a contested case hearing, and no such conference or request for conference will be held or accepted subsequent to receipt of a request for a contested case hearing as defined in Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court.

B. Informal Conference Procedures—If the request for a contested case hearing is not filed pursuant to subsection A., the Informal Conference procedure is as follows:

1. Requesting Informal Conference. Request for an informal conference may be made orally or in writing to the Informal Conference Hearing Officer.

2. Location. Informal conferences shall be conducted by the Informal Conference Hearing Officer and held at the South Carolina Department of Labor, Licensing, and Regulation. At the request of an employer, an alternate site may be designated upon approval by the Administrator.

3. Time. Informal conferences will be scheduled upon request. All conferences will be held and decisions rendered within the thirty (30) day contest period.

4. Decision. A decision of the Informal Conference Hearing Officer or his designee will be made at the close of the informal conference and communicated promptly to the parties as close to the informal conference as possible and within the thirty (30) day contest period.

C. Informal Settlement Agreement. Informal Settlement Agreement is the product of an agreement between both parties, which include the parameters of such settlement and signatures of both parties. This agreement serves as a final order in lieu of contest, which the employer waives by entry into this agreement.

D. The Informal Conference Hearing Officer. The Informal Conference Hearing Officer may enter into a settlement agreement which amends any previous citations, penalties, and abatement dates. Such settlement agreements will be in writing, signed by both parties, and within the thirty (30) day contest period.

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71-407. Employer or Employee Contest.

A. Any employer to whom a citation or notice of penalty has been issued may request a contested case hearing in which it does contest such citation, proposed penalty, abatement date, or any combination thereof in accordance with the rules of procedure of Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court. The request for a contested case hearing shall be filed within thirty (30) days after the receipt of the citation issued by the Compliance Manager. The employer shall provide a copy of the filed request for a contested case hearing to the Compliance Manager.

B. Any employee or any employee representative of an employer to whom a citation or notice of penalty has been issued, may request for a contested case hearing in which it does contest such abatement date in accordance with the rules of procedure of Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court. The employee or any employee representative of an employer shall provide a copy of the filed request for a contested hearing to the Administrator.

C. Where the employer, employee or employee representative fails to file a request for a contested case hearing pursuant to the rules of procedure of the Administrative Law Court, the citation and penalty shall be deemed a final order not subject to administrative review.

71-408. Request for a Contested Case Hearing; Posting.

A. Request for a contested case hearing; posting.

1. In the event that there are any affected employees who are not represented by an authorized employee representative, the employer shall, immediately upon receipt of notice of the docketing of the request for a contested case hearing, post where the citation is required to be posted, a copy of the request for a contested case hearing and a notice informing such affected employees of their right to party status and of the availability of all pleadings for inspection and copying at reasonable times.

2. The authorized employee representative, if any, shall be served with a copy of the request for a request for a contested case hearing.

3. Where a request for a contested case hearing is filed by an affected employee who is not represented by an authorized employee representative and there are other affected employees who are represented by an authorized employee representative, the unrepresented employee shall serve a copy of his notice on the authorized employee representative and shall file proof of such service in a manner prescribed in subsection D.1. of this section.

4. Where a request for a contested case hearing is filed by an affected employee or an authorized employee representative, a copy of the request for a contested case hearing and response filed in support thereof shall be provided to the employer for posting in the manner prescribed in paragraph A.1. of this rule.

5. An authorized employee representative who files a request for a contested case hearing shall be responsible for serving any other authorized employee representative whose members are affected employees in a manner prescribed in subsection D.1. of this section.

B. Notice of Hearing.

1. A copy of the notice of the hearing to be held before the Administrative Law Court shall be served by the employer on affected employees who are not represented by an authorized employee representative by posting a copy of the notice of such hearing at or near the place where the citation is required to be posted.

2. A copy of the notice of the hearing to be held before the Administrative Law Court shall be served by the employer on the authorized employee representative of affected employees in the manner prescribed in paragraph D.1 of this rule, if the employer has not been informed that the authorized employee representative has entered an appearance as of the date such notice is received by the employer.

C. Other Documents.

1. At the time of filing pleadings or other documents, a copy thereof shall be served by the filing party or intervenor on every other party or intervenor.

2. Service upon a party or intervenor who has appeared through a representative shall be made only upon such representative.

D. Proof of Service.

1. Unless otherwise ordered, service may be accomplished by postage pre-paid first class mail or by personal delivery. Service is deemed effective at the time of mailing (if by mail) or at the time of personal delivery (if by personal delivery).

2. Proof of service shall be accomplished by a written statement which sets forth the date and manner of service. Such statement shall be filed with the pleading or document.

3. Where service is accomplished by posting, proof of such posting shall be filed not later than the first working day following the posting.

4. Where posting is required by this section, unless otherwise specified, such posting shall be maintained until the commencement of the hearing or until earlier disposition.

71-409. Failure to Contest.

Where the employer, employee or employee representative fails to file a request for a contested case hearing pursuant to the rules of procedure of the Administrative Law Court, the citation and penalty shall be deemed a final order of the Director not subject to administrative review unless good cause is shown for such failure. Where the filing of request for a contested case hearing is made later than the period specified, the Director may nevertheless waive his objection to the late contest, if he finds that there was good cause for such delay and that the delay was not excessive.

71-410. Withdrawal, Modification or Amendment to Citation and Penalty.

A. The Occupational Safety and Health Division of the South Carolina Department of Labor, Licensing and Regulation may withdraw, modify or amend a citation and/or penalty during the thirty (30) day contest period.

B. After the expiration of the thirty (30) day period or after a request for a contested case hearing has been filed and provided to the Administrator or his designee, the Administrator may on his own motion withdraw, modify or amend a citation and/or penalty, provided the same does not unduly prejudice the position of any party.

C. After the request for contested case hearing is filed and received by the Administrative Law Court, any action to withdraw, modify, or amend a citation or penalty shall be according to the rules of the Administrative Law Court.

71-411. Abatement Verification.

PURPOSE: OSHA's inspections are intended to result in the abatement of violations of the South Carolina Occupational Safety and Health Act. This section sets forth the procedures OSHA will use to ensure abatement. These procedures are tailored to the nature of the violation and the employer's abatement actions.

A. Scope and application. This section applies to employers who receive a citation for a violation of the Occupational Safety and Health Act.

B. Abatement certification.

(1) Within 10 calendar days after the abatement date, the employer must certify to OSHA (The Agency) that each cited violation has been abated, except as provided in paragraph (B)(2) of this section.

(2) The employer is not required to certify abatement if the OSHA Compliance Officer, during the on-site portion of the inspection:

- (a) Observes, within 24 hours after a violation is identified, that abatement has occurred; and
- (b) Notes in the citation that abatement has occurred.

(3) The employer's certification that abatement is complete must include, for each cited violation, in addition to the information required by paragraph (G) of this section that affected employees and their representatives have been informed of the abatement.

Note to paragraph (B): Appendix A contains a sample abatement certification letter.

C. Abatement documentation.

(1) The employer must submit to the Agency, along with the information on abatement certification required by paragraph (B)(3) of this section, documents demonstrating that abatement is complete for each

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willful or repeat violation and for any serious violation for which the Agency indicates in the citation that such abatement documentation is required.

(2) Documents demonstrating that abatement is complete may include, but are not limited to, evidence of the purchase or repair of equipment, photographic or video evidence of abatement, or other written records.

D. Abatement plans.

(1) The Agency may require an employer to submit an abatement plan for each cited violation (except an other-than-serious violation) when the time permitted for abatement is more than ninety (90) calendar days. If an abatement plan is required, the citations must so indicate.

(2) The employer must submit an abatement plan for each cited violation within twenty five (25) calendar days from the final order date when the citation indicates that such a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, where necessary, how employees will be protected from exposure to the violative condition in the interim until abatement is complete.

Note to paragraph (D): Appendix B contains a sample abatement plan form.

E. Progress reports.

(1) An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:

- (a) That periodic progress reports are required and the citation items for which they are required;
- (b) The date on which an initial progress report must be submitted, which may be no sooner than thirty (30) calendar days after submission of an abatement plan;
- (c) Whether additional progress reports are required;
- (d) The date(s) on which additional progress reports must be submitted.

(2) For each violation, the progress report must identify, in a single sentence if possible, the action taken to achieve abatement and the date the action was taken.

Note to paragraph (E): Appendix B contains a sample progress report form.

F. Employee notification.

(1) The employer must inform affected employees and their representative(s) about abatement activities covered by this section by posting a copy of each document submitted to the Agency or a summary of the document near the place where the violation occurred.

(2) Where such posting does not effectively inform employees and their representative(s) about abatement activities (for example, for employers who have mobile work operations), the employer must:

- (a) Post each document or a summary of the document in a location where it will be readily observable by affected employees and their representatives; or
- (b) Take other steps to communicate fully to affected employees and their representatives about abatement activities.

(3) The employer must inform employees and their representatives of their right to examine and copy all abatement documents submitted to the Agency.

(a) An employee or an employee representative must submit a request to examine and copy abatement documents within three (3) working days of receiving notice that the documents have been submitted.

(b) The employer must comply with an employee's or employee representative's request to examine and copy abatement documents within five (5) working days of receiving the request.

(4) The employer must ensure that notice to employees and employee representatives is provided at the same time or before the information is provided to the Agency and that abatement documents are:

- (a) Not altered, defaced, or covered by other material; and
- (b) Remain posted for three (3) working days after submission to the Agency.

G. Transmitting abatement documents.

(1) The employer must include, in each submission required by this section, the following information:

- (a) The employer's name and address;
- (b) The optional report number to which the submission relates;
- (c) The citation and item numbers to which the submission relates;
- (d) A statement that the information submitted is accurate; and
- (e) The signature of the employer or the employer's authorized representative.

(2) The date of postmark is the date of submission for mailed documents. For documents transmitted by other means, the date the Agency receives the document is the date of submission.

H. Movable equipment.

(1) For serious, repeat, and willful violations involving movable equipment, the employer must attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment that is moved within the work site or between work sites.

Note to paragraph (H)(1): Attaching a copy of the citation to the equipment is deemed by OSHA to meet the tagging requirement of paragraph (H)(1) of this section as well as the posting requirement of 71-403 in this subarticle.

(2) The employer must use a warning tag that properly warns employees about the nature of the violation involving the equipment and identifies the location of the citation issued.

Note to paragraph (H)(2): Non-Mandatory Appendix C contains a sample tag that employers may use to meet this requirement.

(3) If the violation has not already been abated, a warning tag or copy of the citation must be attached to the equipment.

(a) For hand-held equipment, immediately after the employer receives the citation; or

(b) For non-hand-held equipment, prior to moving the equipment within or between work sites.

(4) For the construction industry, a tag that is designed and used in accordance with 29 CFR 1926.20(b)(3) and 29 CFR 1926.200(h) is deemed by OSHA to meet the requirements of this section when the information required by paragraph (H)(2) is included on the tag.

(5) The employer must assure that the tag or copy of the citation attached to movable equipment is not altered, defaced, or covered by other material.

(6) The employer must assure that the tag or copy of the citation attached to movable equipment remains until:

(a) The violation has been abated and all abatement verification documents required by this regulation have been submitted to the Agency;

(b) The cited equipment has been permanently removed from service or is no longer within the employer's control; or

(c) The Court issues a final order vacating the citation.

Appendices Abatement Verification

Note: Appendices A through C provide information and non-mandatory guidelines to assist employers and employees in complying with the appropriate requirements of this section.

Appendix A: Sample Abatement Certification Letter (Non-mandatory)

(Name), Administrator
S.C. Department of Labor, Licensing & Regulation OSHA
Address of the Area Office (on the citation)

[Company's Name]
[Company's Address]

The hazard referenced in Optional Report No. (insert 6-digit #) for violation identified as:
Citation [insert #] and item [insert #] was corrected on [insert date] by:

Citation [insert #] and item [insert #] was corrected on [insert date] by:

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Citation [insert #] and item [insert #] was corrected on [insert date] by:

Citation [insert #] and item [insert #] was corrected on [insert date] by:

Citation [insert #] and item [insert #] was corrected on [insert date] by:

I attest that the information contained in this document is accurate.

Signature

Typed or Printed Name

Appendix B – Sample Abatement Plan or Progress Report (Non-mandatory)

(Name), Administrator

S.C. Department of Labor, Licensing & Regulation – OSHA

Address of Area Office (on the citation)

[Company’s Name]

[Company’s Address]

Check one:

Abatement Plan []

Progress Report []

Optional Report Number _____

Page _____ of _____

Citation Number(s)* _____

Item Number(s)* _____

Action	Proposed Completion Date (for Abatement Plans only)	Completion Date (for Progress reports only)
--------	---	--

1. _____

2. _____

3. _____

4. _____

- 5. _____

- 6. _____

- 7. _____

Date required for final abatement: _____
 I attest that the information contained in this document is accurate.

Signature

Typed or Printed Name

Name of primary point of contact for questions: (optional)

Telephone Number: _____

*Abatement plans or progress reports for more than one citation item may be combined in a single abatement plan or progress report if the abatement actions, proposed completion dates, and actual completion dates (for progress reports only) are the same for each of the citation items.

APPENDIX C:
 Sample Warning Tag (Nonmandatory)

WARNING:
 EQUIPMENT HAZARD CITED BY OSHA

EQUIPMENT CITED:

HAZARD CITED

FOR DETAILED INFORMATION SEE OSHA CITATION POSTED AT:

BACKGROUND COLOR-----ORANGE
MESSAGE COLOR-----BLACK

Appendix C --- Sample Warning Tag (Non-mandatory)

○

WARNING:

EQUIPMENT HAZARD
CITED BY OSHA

EQUIPMENT CITED:

HAZARD CITED:

FOR DETAILED INFORMATION
SEE OSHA CITATION POSTED AT:

BACKGROUND COLOR—ORANGE
MESSAGE COLOR—BLACK

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions in complying with these proposed regulations.

Statement of Rationale:

The updated regulations will reflect recent amendments made to the Occupational Safety and Health Act.

Document No. 4438
MANUFACTURED HOUSING BOARD
 CHAPTER 79

Statutory Authority: 1976 Code Sections 40-1-70 and 40-29-200(B)(1)

79-4. Financial Responsibility

Synopsis:

To satisfy the requirements of licensure for manufactured home builders and salespersons, Regulation 79-4 must be updated in conformance with the current Manufactured Housing Board Practice Act as updated by 2013 Act No. 97.

The Notice of Drafting was published in the *State Register* on July 26, 2013.

Instructions:

The following section of Chapter 79 is modified as provided below. All other sections remain unchanged.

Text:

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 the company is a corporation or partnership agreement if the company is a partnership;

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(c) Applicants who have a net worth of less than one hundred fifty thousand dollars demonstrated by possession of one hundred fifty thousand dollars in cash or cash equivalency or a credit score of less than seven hundred must appear before the board;

(d) A financial statement reviewed by a licensed certified public accountant must be provided to the board.

(e) Should the board license an applicant who is unable to meet the financial responsibility guidelines of this section or regulations of the board, then the board may modify or restrict the activities of the licensee.

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

(g) 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.

Fiscal Impact Statement:

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

Statement of Rationale:

This regulation is updated in conformance with the current Manufactured Housing Practice Act and newer legislation.

Document No. 4414

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Sections 50-11-2200, 50-11-2210 and 50-11-2215

123-204. Additional Regulations Applicable to Specific Properties

Synopsis:

These regulations amend Chapter 123-204 Additional Regulations Applicable to Specific Properties in order to improve access and monitor use of DNR property.

A Notice of Drafting was published in the *State Register* on September 27, 2013, Volume 37, Issue No. 9.

Instructions:

Amend Regulation 123-204 as follows: Included are specific changes, deletions and additions. Unless specifically listed as a change, all other existing regulations remain intact.

123-204. Additional Regulations Applicable to Specific Properties

N. Jim Timmerman Natural Resources Area at Jocassee Gorges - add additional roads open year round on Jocassee. Additions and changes to (2),(b), (f), and (h).

JJ. add free daily use card requirement for 13 properties in order to monitor property use.

Text:

ARTICLE 5.5

REGULATION OF REAL PROPERTY OWNED AND LEASED BY THE DEPARTMENT

123-204. Additional Regulations Applicable to Specific Properties.

A. Aiken County Gopher Tortoise Heritage Preserve.

(1) Bicycles may be ridden on hiking trails. Bicyclists may ride in groups no larger than five (5).

B. Bay Point Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

C. Bear Branch Heritage Preserve.

Public visitation is by permit only. The preserve is closed to use except by permit.

D. Bear Island.

(1) Except when closed for scheduled hunts, the area is open from 1/2 hour before sunrise to 1/2 hour after sunset.

(2) The property is closed to all public access from November 1 through February 8, except for scheduled hunts.

(3) All terrain vehicles are prohibited.

(4) Camping is allowed only at designated sites and only during scheduled big game hunts.

(5) The area is closed to general public access during scheduled hunts.

(6) Fishing is allowed in designated areas from April 1 through September 30.

E. Bird-Key Stono Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) March 15 through October 15 the area is closed to all access including the intertidal zone between low and high tide waterlines.

(4) October 16 through March 14 access is allowed only in the intertidal zone between low and high tide waterlines.

(5) No motorized vehicles, bicycles or horses.

F. Capers' Island Heritage Preserve.

(1) Overnight Camping on Capers Island is by permit only. Permit may be obtained from the DNR Charleston office. No more than 80 people will be allowed to camp per night. These 80 people may be divided into no more than 20 different groups.

(2) Permits will be issued on a first come first served basis.

(3) Campsites will be occupied on a first come first served basis.

(4) Permits are not required for day use.

(5) Persons without permits must be off the island by one hour after sunset.

(6) No trash is to be placed in any fire or buried.

(7) Department maintenance facilities on the island are not open to the public.

(8) No crab or fish pots or traps are allowed in impoundments.

(9) No motorized vehicles, nonmotorized vehicles, off road vehicles, or all-terrain vehicles are allowed on Capers Island.

(10) No fishing is allowed from the impoundment tide gate.

G. Crab Bank Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) March 15 through October 15 the area is closed to all access including the intertidal zone between low and high tide waterlines.

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(4) October 16 through March 14 access is allowed only in the intertidal zone between low and high tide waterlines.

(5) No motorized vehicles, bicycles or horses.

H. Daws Island Heritage Preserve.

Camping is allowed only by permit issued by the Department. Primitive camping only is allowed. Daws Island camping is limited to two groups of no more than eight people in each group.

I. Deveaux Bank.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

(3) Closed all year above the high tide line (no seasonal closure) except in the recreation area.

(4) No motorized vehicles, bicycles or horses.

J. Donnelley WMA.

(1) Horseback riders must obtain a permit from the Donnelley WMA office prior to riding.

(2) All terrain vehicles are prohibited.

(3) Camping is prohibited.

K. Dungannon Plantation Heritage Preserve.

(1) No person may enter any area of the preserve designated as a nesting area for birds.

(2) Entrance to the preserve is through a designated parking area. Each person must sign in and out of the preserve at a designated entrance/exit.

L. Gopher Branch Heritage Preserve.

Public visitation is by permit only.

M. Great Pee Dee River Heritage Preserve.

(1) Primitive camping only is allowed. Camping may occur only along riverbanks and on sandbars, which may be approached only by backpacking or boat.

(2) Each person entering the preserve other than by boat must sign in and out at a designated entrance/exit.

N. Jim Timmerman Natural Resources Area at Jocassee Gorges.

This subsection shall apply to all Department owned land within the boundaries of the Jim Timmerman Natural Resources Area at Jocassee Gorges (hereinafter referred to as Jocassee Gorges).

(1) Camping.

(a) Backcountry camping by permit will be allowed at any time during the year that the main roads allowing access to the Jocassee Gorges are not opened in connection with big game hunting. Backcountry camping is allowed by permit only at any location within the Jocassee Gorges, except for any area closed for camping by the Department. Backcountry camping is defined as minimal impact camping. No fires are allowed and each permitted camper is responsible for camping in a manner that results in no trace of the camping activity being left after breaking camp. Backcountry campers must apply for camping permits over the Department internet site. No camping is permitted within twenty-five (25) feet of a stream, lake, or as posted by the Department.

(b) The Foothills Trail passes through portions of the Jocassee Gorges. Use of the Foothills Trail shall be limited to hiking and primitive camping. Camping is allowed at any point along the trail and within one hundred feet of either side of the trail. Camping along the Foothills Trail is restricted to hikers while engaged in backpacking.

(2) Operation of motorized, non-motorized vehicles, all terrain vehicles, and off road vehicles. Motorized and non-motorized vehicle access to the Jocassee Gorges is limited. Highway 178 and Cleo Chapman Road (county road 143) are the only paved roads that access the property. Access by the general public to the Jocassee Gorges by motorized vehicles will follow a seasonal schedule with the exception of portions of Horsepasture and Camp Adger Roads. Road opening and closing schedules written below are given as general information. The Department may open and close any road at any time and for such duration as deemed necessary by the Department to manage the property.

(a) The operation of a motorized vehicle behind any closed gate is prohibited.

(b) Roads open to year-round public access include a section of Horsepasture Road to Jumping Off Rock (from Highway 178 only) and a section of Camp Adger Road.

(c) All roads with Green gates are seasonally open. All roads with red gates are closed to vehicular traffic. This information will be posted at all major entrances.

(d) Motorized vehicles, all terrain vehicles, and off road vehicles may be operated only on open maintained roads and parking areas except as otherwise established by posted notice or as approved by the Department.

(e) Motorized vehicles, all terrain vehicles, and off road vehicles shall not exceed speed limits posted on Department signs. On any land where no speed limit signs are posted the speed limit shall be 15 miles per hour.

(f) Subject to the authority in subsection (d) above, the operation of all terrain vehicles is restricted as follows: Operation of all terrain vehicles is restricted to one hour before sunrise to one hour after sunset each day beginning on Monday and continuing through the following Friday. A person may use an all terrain vehicle while actually engaged in hunting at any time hunting is allowed; provided, however, the operation of an all terrain vehicle is restricted to one hour before sunrise to one hour after sunset with the exception of game retrieval, and an all terrain vehicle may be used only on open roads. All terrain vehicles and off-road vehicles may not be operated on Horsepasture Road or Camp Adger Road during the periods January 16 – March 19 and May 11 – September 14 when the main roads are closed.

(g) All terrain vehicles having three (3) wheels and motorcycles constructed or intended primarily for off road use, such as dirt bikes and motocross bikes, are prohibited within the Jim Timmerman Natural Resources Area at all times.

(h) Bicycles may be ridden on any road or area that is not posted as closed to bicycles except that the Foothills Trail and Palmetto Trail are closed to bicycles.

(3) The use of hang gliders, parachutes, or similar devices is not allowed and may be deemed abuse of Department land.

O. Joiner Bank Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

P. Little Pee Dee Heritage Preserve.

(1) Primitive camping only is allowed. Camping may occur only along riverbanks and on sandbars, which may be approached only by backpacking or boat.

Q. Nipper Creek Heritage Preserve.

Public visitation is by permit only. The preserve is closed to use except by permit.

R. North Santee Bar Heritage Preserve.

(1) No dogs are allowed.

(2) No person may enter any area of the preserve designated as a nesting area for birds.

S. St. Helena Sound Heritage Preserve (Ashe Island, Beet Island, Big Island, Warren Island, and South Williman).

Camping is restricted to primitive camping in designated areas only.

T. St. Helena Sound Heritage Preserve (Otter Island).

(1) No dogs are allowed.

(2) Primitive camping only is allowed by permit issued by the Department. Primitive camping is restricted to designated areas and will be allowed only between November 1 and April 30 .

U. Samworth WMA.

(1) Managed wetlands will be open for wildlife observation, bird watching, photography or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year. Between November 1 and February 8 these activities will be restricted to designated areas on Butler Creek and the Big Pee Dee River. All public use of this type will be by foot travel only after arriving by watercraft.

(2) The mainland nature trail will be open without day or time restriction to foot traffic only.

(3) All terrain vehicles, bicycles, and horses are prohibited.

(4) Temporary primitive camping will be available to organized groups by permit. No camping will be allowed that may conflict with organized hunts.

(5) Dirleton grounds are open to the public from 8:30 a.m. until 5:00 p.m., Monday through Friday.

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V. Santee Coastal Reserve.

(1) The Santee Coastal Reserve is open during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) for limited public use year round except during annually scheduled hunts. Notice of the hunts will be issued annually.

(2) Managed wetlands will be open for wildlife observation, bird watching, photography, or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year except during special hunts and events regulated by the Department.

(3) The dikes around the waterfowl impoundments and the canoe trail will be closed, except by prior arrangement, during the period of November 1 through February 8 of the next year.

(4) Prior arrangements must be made with the Reserve manager to use observation blinds for waterfowl.

(5) The upland nature trail will be available during open periods stated above.

(6) The hiking/biking trail will also be available during open periods, however, it will be closed between the dates of November 1 and February 8.

(7) The beaches on Cedar and Murphy Islands will be open year round, seven days a week.

(8) Bicycles may be ridden on nature trails.

(9) Fishing is permitted from the Santee River dock and the Hog Pen impoundment except during scheduled hunts. Fishing will be allowed during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset). Fishing is permitted on Murphy and Cedar Island beaches at any time on a year round basis.

(10) A permit is required for all camping. Primitive camping is available on Cedar and Murphy Islands beaches year round which requires no prior arrangement. All arrangements for camping should be made with the supervisor of the Santee Coastal Reserve.

W. Santee-Delta WMA.

(1) Managed wetlands will be open for wildlife observation, bird watching, photography or nature study during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) from February 9 through October 31 each year except during special hunts and events regulated by the Department. Area closed to all public access from November 1 through February 8 except for special hunts and events regulated by the Department. All public use of this type will be by foot travel only.

(2) All terrain vehicles, bicycles, and horses are prohibited.

(3) Camping is prohibited.

X. Shealy's Pond Heritage Preserve.

Gasoline powered motors on boats are prohibited.

Y. Tillman Sand Ridge Heritage Preserve.

(1) Camping is allowed in designated campsites during designated hunts only.

Z. Tom Yawkey Wildlife Center.

The center is a wildlife sanctuary.

(1) The public may visit the Yawkey Center on a limited basis. Visitation is by pre-scheduled field trip only. Individual trips cannot be scheduled. Group field trip may be arranged by contacting the manager for the center. The public is advised that scheduling of field trips is entirely at the discretion of the manager in order to accommodate the basic responsibilities of the sanctuary.

(2) Camping is allowed only by permit issued by mail no less than two weeks in advance by the Department. Camping is allowed only on the beaches along the ocean front, which are accessible by boat only, between September 16 and May 14. Primitive camping only is allowed for a period of no more than four consecutive nights per individual permittee.

AA. Victoria Bluff heritage Preserve.

(1) Camping is allowed only during Department designated archery hunts. Gas lanterns and gas grills only may be used by campers.

(2) No campfires or any other use of fire shall be allowed.

BB. Waccamaw River Heritage Preserve.

Primitive camping only is allowed. Camping is allowed only along riverbanks and on sandbars; campers may approach only by backpacking or boat.

CC. Watson Cooper Heritage Preserve.

Camping is restricted to primitive camping. No live plants may be cut or cleared to improve or expand a campsite. No campsites or campfires within 25 feet of a stream or creek.

DD. Webb WMA.

(1) Webb WMA is closed to the general public from one hour after official sunset to one hour before official sunrise.

(2) Overnight visitors to the Webb Center are not restricted in hours of access.

(3) No camping without a permit except for deer, turkey, and hog hunters on nights before a designated hunt.

(4) Bicycles may be ridden on any area that is not marked or posted as restricted to bicycles. No bicycle may be operated in any manner or place that will damage or degrade any feature or habitat. During scheduled big game hunts, bicycles and all terrain vehicles are prohibited except as used by legal hunters and anglers.

EE. Laurel Fork Heritage Preserve.

(1) All terrain vehicles may be ridden on the portions of Cane Break and Horsepasture roads on the Preserve subject to the same rules as the Jim Timmerman Natural Resources Area at Jocassee Gorges.

FF. Botany Bay Plantation WMA.

(1) No camping is allowed.

(2) All terrain vehicles are prohibited except those permitted by the Department for special management activities.

(3) The Fig Island shell rings are closed to all public access except organized scientific, management or educational activities permitted by the the Department.

(4) Access to the beach is by foot, bicycle or boat; no horses allowed on the beach. No dogs allowed on the beach. No collection, removal or possession of shells, fossils, driftwood or cultural artifacts is permitted.

(5) Sea Cloud Landing on Ocella Creek and all other designated access points are restricted to non-trailerred watercraft.

(6) All hunters, fishermen and visitors must obtain and complete a day use pass upon entering the area and follow instructions on the pass.

(7) Botany Bay Plantation WMA is closed to public access 1/2 hour after sunset until 1/2 hour before sunrise except for special events regulated by the Department.

(8) No person may gather, collect, deface, remove, damage, disturb, destroy, or otherwise injure in any manner whatsoever the plants, animals (except lawful hunting), fungi, rocks, minerals, fossils, artifacts, or ecofacts including but not limited to any tree, flower, shrub, fern, moss, charcoal, plant remains, or animal remains. The Department may authorize the collection of certain material upon issuance of a permit as provided in 123-206.

(9) Shorebased fishing, shrimping, and crabbing, is allowed only on the front beach and in designated areas only.

(10) The Department reserves the right to close specific areas as needed for management purposes.

(11) Alcoholic beverages are prohibited on the area.

GG. McBee WMA.

(1) All terrain vehicles are prohibited.

HH. Cambells Crossroads and Angelus Tract.

(1) All terrain vehicles are prohibited.

II. Pee Dee Station WMA.

(1) All terrain vehicles are prohibited.

JJ. Daily use cards are required for all users of Hamilton Ridge WMA, Palachucola WMA, Webb WMA, Victoria Bluff Heritage Preserve, Tillman Sand Ridge Heritage Preserve, Bonneau Ferry WMA, Bear Island WMA, Donnelley WMA, Great Pee Dee River Heritage Preserve, Lynchburg Savanna Heritage Preserve, Savage Bay Heritage Preserve, Belfast WMA, Congaree Bluffs Heritage Preserve and Santee Cooper WMA. Cards must be in possession while on the property and completed cards must be returned daily upon leaving the property.

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Fiscal Impact Statement:

The amendment of Regulation 123-204 will not have fiscal impact since the changes will not impact use of DNR properties and they actually increase the roads open to year round use on one property and allow for use determination of other properties.

Statement of Rationale:

Rationale for the formulation of these regulations is based on over 60 years of experience by SCDNR in establishing public hunting and use areas. New areas are evaluated on location, size, current wildlife presence, access and recreation use potential. Contractual agreements with the landowners provide 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.

Document No. 4428

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Sections 50-21-610 and 50-23-230

123-60. Homemade Watercraft

Synopsis:

The Department of Natural Resources proposes to add Regulation 123-60 to set requirements that homemade watercraft must meet in order to be considered watercraft for the purposes of titling and registration.

A Notice of Drafting was published in the *State Register* on October 25, 2013.

Instructions:

Print Regulation 123-60 as shown below.

Text:

123-60. Homemade Watercraft.

A. To title and register a homemade watercraft, the vessel must first meet the definition of a watercraft and must have an operator's position from which the operator is afforded unobstructed forward visibility to each side of center line for at least seventy degrees and the operator must have unobstructed lateral visibility to each side of centerline at ninety degrees from the operator's position.

B. Any watercraft that is capable of being used as a homemade houseboat must also comply with any legal requirements for a marine toilet.

C. A floating dock cannot be titled or registered as a watercraft.

Fiscal Impact Statement:

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

Statement of Rationale:

The rationale for the creation of this regulation is to maintain the intent of the Public Waters Nuisance Abatement Act of 2007 (Act No. 33).

Document No. 4411

DEPARTMENT OF NATURAL RESOURCES**CHAPTER 123**

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-3-100, 50-9-740, 50-11-10, 50-11-65, 50-11-120, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-430, 50-11-500, 50-11-510, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210

123-40. Wildlife Management Area Regulations

123-42.1. Regulations Concerning the Hunting of Wild Turkeys in Game Zone Nine (9)

123-47. Designation of Certain Areas and Times of the Year for Wild Turkey Hunting

123-51. Turkey Hunting Rules and Seasons

123-52. Either-sex Days for Private Lands in Game Zones 1-6

Synopsis:

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

The Notice of Drafting for this regulation was published on July 26, 2013 in the *South Carolina State Register* Volume 37, Issue No. 7.

Instructions:

Amend Regulations 123-40, 123-51, and 123-52, add 123-53, and delete 123-42.1 and 123-47 as follows: Included are specific changes, deletions and additions. Unless specifically listed as a change, all other existing regulations remain intact.

123-40

A. Game Zone 1

1. Other WMAs (d)(ii) – change “7” to “5” and change “gun hunts” to “methods combined”.
2. Glassy Mountain (a)(i) – delete “Oct. 16, Oct. 31”.

B. Game Zone 2

1. Other WMAs (c)(ii) – add “2 per day”; (d)(ii) – change “10” to “5” and change “gun hunts” to “methods combined”.
2. Keowee WMA (e)(ii) – delete “except during special designated hog hunts and during the party dog hunts for bear”.
3. Draper WMA – (a) - (c) – new (adds deer season and limits); current (a) - (c) changed to (d) - (f); (g) – new (adds data card requirement for hunter access).
4. Fants Grove WMA – (f)(ii) - delete “except during special designated hog hunts and during the party dog hunts for bear”.

E. Game Zone 5

3. Longleaf Pine HP WMA – (a) – delete “Total 2 deer for all hunts”.
4. Manchester SF WMA – (k) – adds Still Hog Hunts; (l) – adds Hog Hunts with Dogs.
12. Cartwheel Bay HP WMA – (b)(i) and (ii) – change archery deer hunt seasons; (c)(i) add “or bear”.

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13. Lewis Ocean Bay HP WMA – (b)(i) – change Archery deer season to “Sept. 1 – Sept. 14”; (ii) – change “either-sex” to “buck only”; (iii)(iv) - new; and (c)(i) – change Archery and Muzzleloader season to “Oct. 16 – 23, Nov. 6 – 9”.

14. Little Pee Dee Complex WMA – (c)(i) – change season to “Sept. 1 – Sept. 14”; (c)(ii) – change season to “Sept. 15 – Oct. 15; (d)(i) – change season to “Oct. 16 – 23”; (d)(ii) – change season to “Nov. 6 – 9”.

15. Waccamaw River HP WMA - (b)(i) - change Archery deer season to “Sept. 1 – Sept. 14”; (ii) - change “either-sex” to “buck only”; (iii) and (iv) – new; (c)(i) – change season to “Oct 16 – 23, Nov. 6 – 9”.

F. Game Zone 6

1. Francis Marion National Forest – (a) – delete 5th sentence beginning with “On all still gun...” and delete 6th sentence beginning with “Individual Antlerless Deer Tags ...”.

4. Webb WMA – delete (b)(iv); delete (c); change “(d)” to “(c)”; (i) – change “Mar.” to “May”; (ii) – delete; (v) – delete; (vi) – delete; change “(e),(f) and (g)” to “(d),(e) and (f)”.

13. Palachucola WMA – delete (e) Still Hog Hunts; change “(f)” to “(e)”, (i) - change “Mar.” to “May”; (ii) – delete; change “(iii)” to “(ii)” and “(iv)” to “(iii)”, (v) – delete; change “(g) and (h)” to “(f) and (g)”.

15. Waccamaw River HP WMA – delete Waccamaw River WMA from Game Zone 6. It was moved to Game Zone 5 by statute.

Re-number 16, 17 and 18 to “15, 16, and 17”

18. Hamilton Ridge WMA – re-number to “17”; (d) delete still hog hunts; change “(e)” to “(d)”, (i) - change “Mar.” to “May”; (ii) – delete; change “(iii)” to “(ii)” and “(iv)” to “(iii)”; change “(f) to (e)”; change “(g) to (f)”, add “(iv)”.

Re-number 19, 20 and 21 to “18, 19 and 20”.

3.1 – delete “or” and add “or arrows with exploding tips”

3.3 – add second sentence “Shotguns with only buckshot or slugs are allowed.”

4.2 – (b) add “the last”, delete “beginning 23 days after Thanksgiving day”, “the last day of the open season”, add “Jan. 1”; (c) – add “Game Zone limits apply”; (d) – change “2” to “1”.

10.11 – delete “Hunters may not enter the area prior to 3:00 a.m. on hunt days.”

10.12 – delete “Hunters may not enter Hatchery WMA prior to 3 AM and”, add “On Hatchery WMA, hunters”, delete “ On Hatchery WMA”, add “except on the last Saturday of waterfowl season when hunters may hunt until sunset.”

10.20 – add “Hunters may not enter the areas prior to 5:00 am on hunt days.”

123-42.1 – delete entire section. This regulation was only applicable to Game Zone 9 which no longer exists.

123-47 – delete entire section. This regulation was only applicable to the 1980 turkey season.

123-51

F. Game Zone 6

10. Waccamaw River HP WMA – delete Waccamaw River HP WMA from Game Zone 6 and re-number 11, 12, and 13. Statute moved this property to Game Zone 5.

2.(a) – change “bearded” to “male”; (e) – add new.

123-52

2. – change Game Zone 2 – 6 either-sex days; 3. – change “2” to “1”; 4. – change “2” to “1”;

5. – change “2” to “1” and add sentence beginning “Antlerless deer must ...”; add 6. – new.

123-53 – add 123-53(new) the Coastal black bear hunting season.

Text:

ARTICLE 3
WILDLIFE AND FRESH WATER FISHERIES DIVISION—HUNTING REGULATIONS

SUBARTICLE 1

HUNTING IN WILDLIFE MANAGEMENT AREAS

123-40. Wildlife Management Area Regulations.

1.1 The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking wildlife, and bag limits for Wildlife Management Areas and special restrictions for use of WMA lands are as follows:

A. Game Zone 1

1. Other WMAs

- (d) Still Gun Hunts for Deer (no dogs).
 - (ii) Total of 5 deer for all methods combined. 2 deer per day, buck only except either-sex on days specified in Reg. 4.2. Archers allowed to take either-sex during entire period.

2. Glassy Mountain Archery Only Area – Chestnut Ridge Heritage Preserve

- (a) Archery Only Hunts for Deer (no dogs).
 - (i) Oct. 1 – Jan. 1

B. Game Zone 2

1. Other WMAs

- (c) Primitive Weapons for Deer (no dogs).
 - (ii) Total of 2 deer, 2 per day, for primitive weapons hunt.
- (d) Still Gun Hunts for Deer (no dogs).
 - (ii) Total of 5 deer for all methods combined. 2 deer per day, buck only except either-sex on days specified in Reg. 4.2. Archers allowed to take either-sex during entire period.

2. Keowee WMA

- (e) Hogs and Coyotes
 - (ii) No hog hunting with dogs.

3. Draper WMA

- (a) Archery Only Hunts for Deer (no dogs)
 - (i) Sept. 15 – Sept. 30, Mon. after Thanksgiving – 3rd Sat. after Thanksgiving.
 - (ii) Total 3 deer for all archery only hunts, 2 per day, either-sex.
- (b) Archery and Muzzleloader (no dogs)
 - (i) Oct. 1 – Oct. 10
 - (ii) Total of 2 deer
 - (iii) Muzzleloaders, buck only, except either-sex on days specified in Reg. 4.2. Archery either-sex.
- (c) Still Gun Hunts for Deer (no dogs)
 - (i) Oct. 11 – Sat. after Thanksgiving, 3rd Mon. after Thanksgiving – Jan. 1.
 - (ii) Total of 10 deer for all gun hunts. 2 deer per day, buck only except either-sex on days specified in Reg. 4.2. Archery either-sex during entire period.
- (d) Quail Hunts
 - (i) 1st and 2nd Sat. in Dec., 3rd and 4th Wed. in Dec., 1st and 2nd Wed. and Sat. in Jan.
 - (ii) 10 quail per day.
 - (iii) Sunrise until 4:00 PM.
- (e) Rabbit Hunts
 - (i) 1st Wed. after Thanksgiving, Wed. in Dec. prior to the 2nd Sat. in Dec., Wed. and Sat. in Jan. following the last scheduled quail hunt until Mar. 1.

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(ii) 3 per day.

(f) Other Small Game

(i) No hunting before Sept. 1 or after Mar.; otherwise Game Zone 2 seasons apply.

(ii) Game Zone 2 bag limit.

(iii) No open season on fox squirrels.

(g) Data cards required for hunter access, except draw dove hunts. Completed cards must be returned daily upon leaving.

4. Fants Grove WMA

(f) Hogs and Coyotes

(ii) No hog hunting with dogs .

E. Game Zone 5

3. Longleaf Pine Heritage Preserve WMA

(a) Still hunting only, no deer dogs, no buckshot, no hunting from motor vehicles. Individual Antlerless Deer Tags valid on days not designated as either-sex after Sept. 15.

4. Manchester State Forest WMA

(k) Still Hog Hunts (no dogs)

(i) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.

(ii) 1st two full weeks in Mar.

(iii) No limit.

(l) Hog Hunts with Dogs

(i) Handguns only.

(ii) Last two full weeks in Mar.

(iii) No more than 4 bay or catch dogs per party.

(iv) No live hogs removed from WMA.

(v) No limit.

12. Cartwheel Bay Heritage Preserve WMA

(b) Archery Deer Hunts.

(i) Sept. 1 – Sept. 14

(ii) Sept. 15 – Oct. 15

(c) Small Game (no open season on fox squirrels).

(i) No small game hunting during scheduled deer or bear hunting periods.

13. Lewis Ocean Bay Heritage Preserve WMA

(b) Archery Deer Hunts

(i) Sept. 1 – Sept. 14

(ii) 1 deer per day, buck only.

(iii) Sept. 15 – Oct. 15

(iv) 1 deer per day, either-sex

(c) Archery and Muzzleloader Deer Hunts

(i) Oct. 16 – 23, Nov. 6 - 9

14. Little Pee Dee Complex WMA

(c) Archery Deer Hunts

(i) Sept. 1 – Sept. 14

(ii) Sept. 15 – Oct. 15, Mon. after Dec. 15 – Jan. 1.

(d) Archery and Muzzleloader Deer Hunts

(i) Oct. 16 - 23

(1) 1 deer per day, buck only

(ii) Nov. 6 - 9

(1) 1 deer per day, either-sex

15. Waccamaw River Heritage Preserve WMA

(b) Archery Deer Hunts

(i) Sept. 1 – Sept. 14

(ii) 1 deer per day, buck only.

- (iii) Sept. 15 – Oct. 15
- (iv) 1 deer per day, either-sex
- (c) Archery and Muzzleloader Deer Hunts
 - (i) Oct. 16 – 23, Nov. 6 - 9

F. Game Zone 6

1. Francis Marion National Forest

(a) During still gun hunts for deer, there shall be no hunting or shooting from, on or across any road open to vehicle traffic. No buckshot on still gun hunts. During deer hunts when dogs are used, buckshot only is permitted. On either-sex hunts with dogs, all deer must be checked in by one hour after legal sunset. Tibwin Special Use Area (in Wambaw) is closed to hunting except for Special hunts. On youth deer hunts, only youths 17 and younger may carry a gun and must be accompanied by an adult 21 years old or older. Hogs may be harvested during any scheduled hunt. No fox or coyote hunting with dogs on the Francis Marion.

4. Webb WMA

- (b) Still Gun Hunts for Deer (no dogs)
- (c) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, 2nd Thurs. – Sat. in Sept.
- (d) Quail Hunts
- (e) Other Small Game (no fox squirrels)
- (f) Dove Hunting

13. Palachucola WMA

- (e) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, 2nd Thurs. – Sat. in Sept.
 - (ii) No live hogs removed from WMA.
 - (iii) Handguns only.
- (f) Quail Hunts
- (g) Other Small Game (no fox squirrels)

15. Tillman Sand Ridge Heritage Preserve WMA

- (a) Archery Deer Hunts
 - (i) 14 hunting days beginning the last Fri. in Oct.
 - (ii) 2 deer, either-sex
- (b) Archery and Muzzleloader Hunts for Deer
 - (i) 8 hunting days beginning the 2nd Fri. in Dec.
 - (ii) 2 deer, buck only except either-sex on Fri. and Sat.
- (c) Small Game (no fox squirrels)
 - (i) No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 6 seasons apply.
 - (ii) Game Zone 6 bag limits.
 - (iii) No small game hunting during scheduled deer hunt periods.

16. Victoria Bluff Heritage Preserve WMA

- (a) Archery Deer Hunts (no dogs)
 - (i) Three hunting day periods beginning the 1st Thurs. in Oct., 2nd Thurs. in Oct., the 3rd Thurs. in Oct., the 4th Thurs. in Oct., eight hunting days beginning the 1st Fri. in Nov. and eight hunting days beginning the 2nd Fri. after Thanksgiving.
 - (ii) 3 deer per hunt period, either-sex
- (b) Small Game
 - (i) No hunting before Oct. 15 or after Feb. 1, otherwise Game Zone 6 seasons.
 - (ii) Game Zone 6 bag limits.
 - (iii) No small game hunting during scheduled deer hunt periods.
 - (iv) Shotguns only, shot no larger than no. 2.

17. Hamilton Ridge WMA

(a) Quality Deer Management Area – Antlered deer must have at least 4 points on 1 side or a minimum 12-inch antler spread. A point must be at least 1 inch long measured from the nearest edge of main beam to the top of the point. No more than 3 bucks total may be taken during all seasons combined regardless of method.

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Firearms must be unloaded and cased when not hunting. Scouting and stand placement allowed 1 day prior to hunts. No buckshot. Hogs may be taken only during deer hunts or scheduled hog hunts. All hogs must be killed where taken. Horseback riding by permit only. No ATVs allowed. Data cards are required for hunter access. Completed data cards must be returned daily upon leaving the WMA.

(b) Archery Deer Hunts (no dogs)

(i) 3rd Mon. – Sat. in Sept., 4th Mon. – Sat. in Oct., 1st week in Nov., 2nd Mon. – Sat. in Nov., 2nd Thur. – Sat. in Dec.

(ii) 2 deer per hunt period, either-sex, only 1 buck. Hogs no limit.

(c) Still Gun Hunts for Deer (no dogs)

(i) No open season except hunters selected by computer drawing.

(ii) 3 deer, either-sex but only 1 buck.

(d) Hog Hunts with Dogs

(i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, 2nd Thurs. – Sat. in Sept.

(ii) No live hogs removed from WMA.

(iii) Handguns only.

(e) Quail Hunts

(i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.

(ii) Bag limit 8 per day.

(iii) Shooting hours end 30 minutes prior to official sunset.

(f) Other Small Game (no fox squirrels)

(i) No hunting before Dec. 26 or after Mar. 1; otherwise Game Zone 6 seasons apply.

(ii) Game Zone 6 bag limits.

(iii) No hog hunting during small game hunts.

(iv) Dove Hunting on designated public dove field only

18. Old Island Heritage Preserve WMA

(a) Archery Deer Hunts (no dogs)

(i) Sept. 15 – Jan. 1.

(ii) Total 2 deer per season, 1 deer per day, either-sex.

19. Botany Bay Plantation WMA

(a) All hunters, fishermen and visitors must obtain and complete a day use pass upon entering the area and follow all instructions on the pass. Botany Bay Plantation WMA is open to public access during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) except during special hunts and events regulated by DNR. Area is closed to general public access during special scheduled hunts. Hunting in designated areas only. Hunting access by boat is prohibited. Fishing in the Jason's Lake complex and all other ponds is adult/youth catch and release only on designated days. For adult/youth fishing, youth must be accompanied by no more than two adults 18 years old or older. Adult may also fish.

(b) Archery Deer Hunts

(i) 1st Mon. after Sept. 15 until the 1st Sat. in Oct., Mon. – Sat. during the week of Thanksgiving, Mon. – Sat. during the week of Christmas.

(ii) Total of 3 deer, either-sex but only 1 buck with a minimum 4 points on one side or a 12" antler spread.

(c) Still Gun Hunts for Deer (no dogs, no buckshot)

(i) No open season except for hunters selected by computer drawing.

(ii) Total 3 deer, either-sex but only 1 buck with a minimum 4 points on one side or a 12" minimum antler spread.

(iii) Draw hunts are for two and one-half days (afternoon on the first day and 2 full days). Hunt periods begin in Sept. and continue into Dec. Hunters are required to have permit in possession and must sign in and sign out (Name, permit # and deer killed each day) at the designated check station. All harvested deer must be checked in at the designated check station.

(d) Raccoon and Opossum

(i) Jan. 2 – Mar. 15 (Wed. – Fri. only)

(ii) Game Zone 6 bag limits

(e) Small Game (no open season for fox squirrels or foxes).

- (i) Jan. 2 – Mar. 1 (Wed. and Sat. only)
- (ii) Game Zone 6 bag limits except quail 8 per day.
- (iii) Dogs allowed during gun seasons only.

20. Congaree Bluffs Heritage Preserve WMA

- (a) Still Gun Hunts for Deer (no dogs, no buckshot)
 - (i) No open season except for hunters selected by drawing.
 - (ii) Total 2 deer per day, either-sex
- (b) Hogs and Coyotes
 - (i) Feral hogs and coyotes may be taken during any scheduled hunts only with weapons allowed for current open season. No hog hunting with dogs except during special designated hog hunts with dogs. No limit on hogs or coyotes.

WEAPONS

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

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

DEER

4.2 Deer either-sex days for gun hunts are as follows:

- (a) Game Zone 1: The first three Sat. in Nov.
- (b) Game Zones 2 – 6: Every Sat. from Oct. 1 to the Sat. after Thanksgiving day inclusive; the last Sat. in Dec. and Jan. 1.
- (c) In Game Zones 1 and 2 hunters using archery equipment may take either-sex during any open season for deer. Game Zone limits apply.
- (d) On special mobility impaired and youth deer hunts sanctioned by the department and during the statewide youth deer hunt day, participants may take antlerless deer, 1 per day.

WATERFOWL & DOVE REGULATIONS

10.11 Potato Creek Hatchery Waterfowl Area is closed to hunting access and fishing during the period one week prior to and two weeks after the Federal waterfowl season except for scheduled waterfowl hunts. All hunters must enter and leave the Potato Creek Hatchery Waterfowl Area through the designated public landing on secondary road 260 and complete a data card and deposit card in receptacle prior to leaving the area. Hunting hours are from 30 minutes before legal sunrise to legal sunset (including the special youth hunt). No airboats are allowed for hunting or fishing and no hunting from secondary road 260.

10.12 On Hatchery WMA, hunters must leave the area by 1 PM except on the last Saturday of waterfowl season when hunters may hunt until sunset. Each hunter is limited to twenty-five nontoxic shot shells (steel, bismuth/tin, bismuth, tungsten-polymer, tungsten-iron) per hunt and no buckshot allowed. Hunters must enter and leave Hatchery WMA through the Hatchery Landing and accurately complete a data card and deposit card in receptacle prior to leaving the area. No airboats are allowed in the Hatchery WMA for hunting or fishing during the period 15 Nov.-31. Jan. No fishing allowed during scheduled waterfowl hunts.

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10.20 On Enoree River, Dunaway, Duncan Creek, Russell Creek and Tyger River Waterfowl Areas data cards are required for hunter access during scheduled waterfowl hunts. Completed data cards must be returned daily upon leaving each of these areas. Hunters may not enter the areas prior to 5:00 am on hunt days.

SUBARTICLE 3

OTHER BIG GAME

123-51. Turkey Hunting Rules and Seasons.

1. Total limit of 5 turkey statewide per person, 2 per day, gobblers only, unless otherwise specified. Total statewide and county bag limits include turkeys harvested on Wildlife Management Areas (WMAs). Small unnamed WMAs in counties indicated are open for turkey hunting. Turkey seasons and limits are as follows:

F. Game Zone 6

10. Tillman Sand Ridge Heritage Preserve WMA

- (a) Apr. 1 - May 1
- (b) Bag Limit 2
- (c) Fri. and Sat. only

11. Victoria Bluff Heritage Preserve WMA

- (a) Apr. 1 - May 1
- (b) Bag Limit 1
- (c) Fri. and Sat. only

12. Botany Bay Plantation WMA

- (a) Apr. 1 - May 1
- (b) Bag Limit 1
- (c) Youth hunting by draw only.

2. The following regulations apply statewide. No turkey hunting permitted on Turkey Restoration Sites which have not been formally opened by the Department.

(a) During the spring turkey hunting season, no game animal may be taken except turkey gobblers (male birds). During the fall turkey season both gobblers and hens may be taken.

(e) Tags must be placed around the bird's leg before leaving the point of kill and the tag must be validated as prescribed by the SCDNR.

123-52. Either-sex Days and Antlerless Deer Limits for Private Lands in Game Zones 1-6.

1. Game Zone 1: The first three Sat. in Nov.

2. Game Zones 2 – 6: Every Sat. from Oct. 1 to the Sat. after Thanksgiving Day inclusive; the last Sat. in Dec. ; and Jan. 1.

3. The daily bag limit on either-sex days is 1 antlerless deer.

4. On special mobility impaired and youth deer hunts sanctioned by the Department and during the statewide youth deer hunt day, participants may take antlerless deer, 1 per day.

5. Individual Deer Tags: Individual Antlerless Deer Tags are not valid in Game Zone 1. Tags are valid in Game Zones 3 – 6 beginning Sept. 15 and in Game Zone 2 beginning Oct. 1. Individual tags are not valid on properties enrolled in the Antlerless Deer Quota Program. Tags do not alter the daily (1 per day) or seasonal limit or change the type of weapons that can be used during special weapons seasons.

Antlerless deer must be tagged immediately after harvest and before it is moved from the point of kill and the tag must be validated as prescribed by SCDNR.

6. Antlerless Deer Limits: Game Zone 1 – Archery and Muzzleloader period 1 per day, 2 Total (muzzleloader is buck only); Gun Hunt Period – 1 per day, Total 5 all methods combined (firearms is buck only except on either-sex days). Game Zone 2 – Archery Only Period 1 per day, Total 2; Archery and Muzzleloader Period 1 per day, Total 2 (muzzleloader is buck only except on either-sex day); Gun Hunt Period 1 per day, 5 Total all methods combined (Firearms is buck only except on either-sex days or with Individual Tags). Game Zones 3 – 6, 1 per day on either-sex days or with individual tags.

123-53. Bear Hunting Rules and Seasons

1. The open season for taking bear by special draw hunt in Georgetown County, Horry County and Williamsburg County on private and WMA land is October 24 – November 5.
2. Legal weapons include archery equipment, muzzleloaders (.36 caliber or greater), centerfire rifles, centerfire handguns and shotguns with slugs or buckshot.
3. The orange permit must be displayed in a visible location on the dash of the vehicle while the person is actively bear hunting.
4. Harvested bear must be reported to SCDNR by telephone within 12 hours of the kill.
5. All persons drawn for the hunt must submit a harvest report, regardless if a bear was harvested or not, no later than 7 days after the close of the season and return the unused tag.

Fiscal Impact Statement:

The amendment of Regulations 123-40, 123-51, 123-52 and addition of Regulation 123-53 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. The deletion of obsolete regulations 123-42.1 and 123-47 will have no impact.

Statement of Rationale:

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 provide 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.

Document No. 4443

DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-96, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210

- 123-40. Wildlife Management Area Regulations
- 123-42.1. Regulations Concerning the Hunting of Wild Turkeys in Game Zone Nine (9)
- 123-47. Designation of Certain Areas and Times of the Year for Wild Turkey Hunting
- 123-50. Crow Hunting Season
- 123-51. Turkey Hunting Rules and Seasons
- 123-52. Either-sex Days for Private Lands in Game Zones 1-6

Synopsis:

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

The Notice of Drafting for this regulation was published on November 22, 2013 in the South Carolina State Register, Volume 37, Issue No. 11.

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Instructions:

Amend Regulations 123-40, 123-50, 123-51, 123-52 and add 123-53 as follows: Included are specific changes, deletions and additions. Unless specifically listed as a change, all other existing regulations remain intact.

123-40

A. Game Zone 1

1. Other WMAs - Delete (a). Change (b) to (a), (a)(i) - change season. Delete (a)(ii). Change (c) to (b). Delete (b)(ii) and (b)(iii). Change (d) to (c). Delete (c)(ii). Change (e) to (d). (d)(ii) add phase and add (d)(iii). Change (f) to (e). (e)(ii) and (e)(iii) - change wording. Change (g) to (f). (f)(i) - change wording and delete (f)(ii). Delete (h) Hogs and Coyotes. Change (i) to (g). (g)(i) change season.

2. Glassy Mountain Archery Only Area - Chestnut Ridge Heritage Preserve - (a)(i) - change season, Delete (a)(ii), and add (b)(i) - small game.

3. Stumphouse WMA - (a) replace phrase in second sentence and delete last sentence. Delete (b). Change (c) to (b). Delete (b)(ii). Change (d) to (c). Delete (c)(ii). Change (e) to (d). (d)(i) - add phrase. Delete (d)(ii).

4. Long Creek Tract - (a) - add phrase.

B. Game Zone 2

1. Other WMAs - delete (a). Change (b) to (a). (a)(i) - change season. Delete (a)(ii). Change (c) to (b). Delete (b)(ii) and (b)(iii). Change (d) to (c). (c)(i) - change season. Delete (c)(ii). Change (e) to (d). (d)(i) - change wording. Delete (f) Hogs and Coyotes. Change (g) to (e). (e)(i) - change season. Delete (e)(ii).

2. Keowee WMA - (a) add phrase. Add (b). Change (b) to (c). (c)(i) - add phrase. Delete (c)(ii). Delete (c) Quail Hunts. Add (d) Raccoon and Opossum. Change (d) to (e). (e)(i) - change wording. (e)(ii) - change wording. Delete (e)(iii). Delete (e) Hogs and Coyotes.

3. Draper WMA - adds (a), (b), (c), and (d). Change (a) to (e). (e)(ii) and (e)(iii) - change wording. Change (b) to (f). (f)(ii) - change wording. Change (c) to (g). (g)(i) - change wording. Delete (g)(ii) and (g)(iii).

4. Fant's Grove WMA - (a) - change wording. (b)(i) - add phrase. Delete (b)(ii). Delete (c) Still Gun Hunts for Deer. Change (d) to (c). (c) and (c)(ii) - change wording. Add (d) Raccoon and Opossum. (e), (e)(i), and (e)(ii) - change wording. Delete (e)(iii). Change (e)(iv) to (e)(iii). Delete (e)(v). Delete (f) Hogs and Coyotes.

5. Rock Hill Blackjacks HP WMA - (a)(i) - change season. Delete (a)(ii).

6. Belfast WMA - (a) - change wording. (b) - change wording. (c)(i) - change season. Delete (d) Archery and Muzzleloader for Deer. Change (e) to (d). (d)(i) - change wording. Delete (f) Hogs and Coyotes. Change (g) to (e). (e)(i) - change season. Delete (e)(iii).

7. Broad River Waterfowl Management Area - (a)(i) - add phrase. Delete (a)(ii). Delete (b) Raccoon Hunts. Change (c) to (b). (b)(i) - change season. (b)(ii) - change wording.

Add 8 - McCalla WMA.

Add 9 - Worth Mountain WMA.

C. Game Zone 3

1. Other WMAs - delete (a). Change (b) to (a). (a) - change wording. (a)(i) - change season. Add (b) - Still Gun Hunts for Deer. (c)(i) - change wording. Delete (c)(ii). Delete (d) Hogs and Coyotes.

2. Crackerneck WMA and Ecological Reserve - (a) - change wording. (b)(ii) - change wording. (c) - change wording. (c)(ii) - change wording. (d) - change wording. (e)(ii) - change wording. (f) - change wording. (g) - change wording. Add (g)(ii).

3. Aiken Gopher Tortoise HP WMA - delete (a). Change (b) to (a). (a)(i) - change season. Delete (a)(ii). Change (c) to (b). Delete (b)(ii). Delete (d) Raccoon and Opossum. Delete (e) Still Gun Hunts for Hogs. Change (f) to (c). (c), (c)(i) and (c)(ii) - change wording.

4. Ditch Pond HP WMA - delete (a). Change (b) to (a). (a)(i) - change season. Delete (a)(ii). Delete (c) Hogs and Coyotes. Change (d) to (b). (b) and (b)(ii) - change wording.

5. Henderson HP WMA - delete (a). Change (b) to (a). (a)(i) - change season. Delete (a)(ii). Delete (c) Hogs and Coyotes.

D. Game Zone 4

1. Other WMAs - delete (a). Change (b) to (a). (a)(i) - change season. Delete (a)(ii). Change (c) to (b). (b)(i) - change season. Delete (b)(ii). Change (d) to (c). (c)(i) - change wording. Delete (c)(ii). Delete (e) Hogs and Coyotes.

2. Marsh WMA - (a) - change wording. (c)(i) - change season. Delete (c)(ii). Delete (d) Archery and Muzzleloader Deer Hunts. Change (e) to (d). (d)(i) - change season. Delete (d)(ii). Change (f) to (e). (e)(i) - change season. Delete (e)(ii) and (e)(iii). Change (g) to (f). (f)(i) - change season. Delete (f)(ii), (f)(iii) and (f)(iv). Change (h) to (g). (g) and (g)(i) - change wording. Delete (g)(ii). Change (i) to (h). (h), (h)(i) and (h)(ii) - change wording. Delete (h)(iii).

3. Sand Hills State Forest WMA - (a) - change wording. (b)(i) - change season. Delete (b)(ii). (c)(i) - change season. Delete (c)(ii). Delete (d) Special Coyote Hunt. Change (e) to (d). (d)(i) - change wording. Delete (d)(ii).

4. McBee WMA - (a)(i) - change season. Delete (a)(ii). (b)(i) - change season. Delete (b)(ii). (c) and (c)(i) - change wording. Change (ii) to (d). Add (d)(i) and (d)(ii). Delete (d)(ii)(1), (d)(ii)(2) and (d)(ii)(3).

5. Pee Dee Station WMA - (a) - change wording. Delete (b). Change (c) to (b). (b)(i) - change season. Delete (b)(ii). Change (d) to (c). (c) - change wording. (c)(i) - change season. Delete (c)(ii). Delete (e) Still Hog Hunts and (f) Raccoon. Change (g) to (d). (d)(i) - change season.

6. Woodbury WMA - (a) and (b) - change wording. (c)(i) - change season. Delete (c)(ii). (d) - change wording. (d)(i) - change season. Delete (d)(ii). (e)(i) - change season. Delete (e)(ii). (f)(i) - change season. Delete (f)(ii) and (f)(iii). (g)(i) - change season. Delete (g)(ii), (g)(iii) and (g)(iv). (h) and (h)(i) - change wording. Delete (h)(ii). (i) and (i)(i) - change wording. Delete (i)(i)(1) and (i)(i)(2). (i)(ii) - change wording. Delete (i)(ii)(1) and (i)(ii)(2). Delete (j) Fox.

Add 7- Little Pee Dee Complex HP WMA.

E. Game Zone 5

1. Other WMAs - (a)(i) - change season. Delete (a)(ii). (b)(i) - change season. Delete (b)(ii). (c)(i) - change wording. Delete (c)(ii). Delete (d) Hogs and Coyotes.

2. Great Pee Dee HP WMA - (a) - change wording. (b) - change wording. (c)(i) - change season. Delete (c)(ii). Delete (d) Archery and Muzzleloader Deer Hunts. Change (e) to (d). (d)(i) - change season. Delete (d)(ii). Change (f) to (e). (e)(i) - change season. Delete (e)(ii) and (e)(iii). Add (f) Hog Hunts with Dogs. (g) and (g)(i) - change wording. Delete (g)(ii). (h) and (h)(i) - change wording. Delete (h)(i)(1) and (h)(i)(2). (h)(ii) - change wording.

3. Longleaf Pine HP WMA - Delete (a). Change (b) to (a). (a)(i) - change season. Delete (a)(ii). Change (c) to (b). (b) change wording. (b)(i) - change season. Delete (b)(ii). Change (d) to (c). Delete (c)(i). Change (c)(ii) to (c)(i). Change (c)(iii) to (c)(ii).

4. Manchester State Forest WMA - (a) - change wording. (b)(i) - change wording. Delete (b)(ii). (c) change wording. Delete (c)(i)(1), (c)(ii) and (c)(ii)(1). (d)(i) and (d)(ii) - change wording. (e) - change wording. Delete (e)(ii). Change (e)(iii) to (e)(ii) and (e)(iv) to (e)(iii). Delete (f) - Hogs and Coyotes. Change (g) to (f). (f) - wording. (f)(i) - change season. (f)(ii) - change wording. Delete (h) Quail. Delete (i) Quail. Delete (j) Squirrel and Rabbit. Add (g) - Hog Hunts with Dogs.

5. Lynchburg Savannah Heritage Preserve WMA - (a)(i) - change wording. Delete (a)(ii).

6. Hickory Top WMA - Delete (b). Change (c) to (b). (b)(i) - change season. Delete (b)(ii). Change (d) to (c). (c) and (c)(i) - change wording. Delete (c)(ii). Delete (e) - Hogs and Coyotes. Delete (f) - Still Hog Hunts. Change (g) to (d). (d)(i) - change season. Delete (d)(ii), (d)(iii) and (d)(iv). Change (h) to (e). (e)(i) - change wording. Delete (e)(ii).

7. Oak Lea WMA - (b)(i) - change season. Delete (b)(ii). Delete (c) Archery and Muzzleloader Deer Hunts. Change (d) to (c). Delete (c)(ii). Change (c)(iii) to (c)(ii). (c)(ii) - change wording. Delete (e) Hogs and Coyotes. Change (f) to (d). Change (g) to (e). (e)(ii) - change wording.

8. Santee Dam WMA - Delete (a). Change (b) to (a). (a)(i) - change season. Delete (a)(ii). Change (c) to (b). (b) - change wording. (b)(i) - change season. Delete (b)(ii). Delete (d) Hog Hunts with Archery and Muzzleloader. Change (e) to (c). (c)(i) - change season. Delete (c)(ii), (c)(iii) and (c)(iv). Change (f) to (d).

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9. Wee Tee WMA - Delete (a) and (b). Change (c) to (a). (a)(i) - change season. Delete (a)(ii). Delete (d) Archery and Muzzleloader Deer Hunts. Change (e) to (b). (b)(i) - change season. Delete (b)(ii). Change (f) to (c). (c)(i) - change season. Delete (c)(ii) and (c)(iii). Change (g) to (d). (d)(i) - change season. Delete (d)(ii), (d)(iii) and (d)(iv). Change (h) to (e). (e) and (e)(i) - change wording. Delete (e)(ii). Change (i) to (f). (f) - change wording. (f)(i) - change season. Delete (j) Gray Squirrels.

10. Santee Delta WMA - (a) - change wording. (a)(i) - change season. Delete (a)(ii). Delete (b) Still Hog Hunts. Change (c) to (b). (b)(i) - change season. Delete (b)(ii), (b)(iii) and (b)(iv).

11. Samworth WMA - (a) - change wording. (a)(i) - change season. Delete (a)(ii). Delete (b) Special Gun Deer Hunts for Youth and (c) Still Hog Hunts. Change (d) to (b). (b)(i) - change season. Delete (b)(ii), (b)(iii) and (b)(iv).

12. Cartwheel Bay HP WMA - Delete (a). Change (b) to (a). (a)(i) - change season. Delete (a)(i)(1), (a)(ii) and (a)(ii)(1). Change (c) to (b). (b) - change wording. (b)(i) - change season. Delete (b)(ii). Change (b)(iii) to (b)(ii).

13. Lewis Ocean Bay HP WMA - (a) - change wording. (b)(i) - change season. Delete (b)(ii). (c) - change wording. (c)(i) - change season. Delete (c)(ii). (d)(i) - change season. Delete (d)(ii). (e)(i) - change season.

14. Little Pee Dee Complex WMA - (a) - change wording. Delete (b). Change (c) to (b). (b)(i) - change season. Delete (b)(i)(1), (b)(ii) and (b)(ii)(1). Change (d) to (c). (c) - change wording. (c)(i) - change season. Delete (c)(i)(1), (c)(ii) and (c)(ii)(1). Change (e) to (d). (d)(i) - change season. Delete (d)(ii). Change (f) to (e). (e)(i) - change season. Delete (e)(ii) and (e)(iii). Change (g) to (f). (f)(i) - change season. Delete (f)(ii), (f)(iii) and (f)(iv). Change (h) to (g). (g) and (g)(i) - change wording. Delete (g)(ii). Change (i) to (h). (h) - change wording.

15. Waccamaw River HP WMA - Delete (a). Change (b) to (a). (a)(i) - change season. Delete (a)(ii). Change (c) to (b). (b) - change wording. (b)(i) - change season. Delete (b)(ii). Change (d) to (c). (c)(i) - change season. Delete (c)(ii). Change (e) to (d). (d)(i) - change season. Delete (d)(ii) and (d)(iii). Change (f) to (e). (e)(i) - change season. Delete (e)(ii), (e)(iii) and (e)(iv). Delete (g) Raccoon. Change (h) to (f). (f) - change wording. Delete (f)(iii).

F. Game Zone 6

1. Francis Marion National Forest - (a) - change wording. (b) and (b)(i) - change wording. (c)(i) - change season. Delete (c)(ii) and (c)(iii). (d)(i)(1) - change season. Delete (d)(i)(2). (d)(ii)(1) - change season. Delete (d)(ii)(2). (d)(iii)(1)(a) - change wording. Delete (d)(iv)(2). Change (d)(iv)(3) to (d)(iv)(2) and change wording. Delete (d)(v) - Hog Hunts with Dogs. Change (d)(vi) to (d)(v). (d)(v)(1) - change wording. Delete (d)(v)(3). (e)(i)(1) - change season. Delete (e)(i)(2). (e)(ii)(1) - change season. Delete (e)(ii)(2). (e)(iii)(1) - change season. Delete (e)(iii)(1)(a), (e)(iii)(2) and (e)(iii)(2)(a). Delete (e)(iv) - Hog Hunts with Dogs. Change (e)(v) to (e)(iv). (e)(iv)(1) - change wording. Delete (e)(iv)(3). (f)(i)(1) - change season. Delete (f)(i)(2). (f)(ii)(1) - change season. Delete (f)(ii)(2). Change (f)(ii)(3) to (f)(ii)(2). (f)(ii)(2) - change wording. (f)(iii)(1) and (f)(iii)(1)(a) - change wording. (f)(iii)(2)(a) and (f)(iii)(2)(b) - change wording. Delete (f)(iv)(2). Change (f)(iv)(3) to (f)(iv)(2) and change wording. (f)(v)(1) and (f)(v)(2) - change wording. Delete (f)(v)(3). Delete (f)(vi) - Hog Hunts with Dogs. Change (f)(vii) to (f)(vi). (f)(vi)(1) - change wording. Delete (f)(vi)(3). (g)(i)(1) - change season. Delete (g)(i)(2). (g)(ii)(1) - change season. Delete (g)(ii)(2). (g)(iii)(1) - change season. (g)(iii)(2) - change limit. (g)(iii)(2)(a) - change limit. (g)(iii)(2)(b) - change wording. (g)(iv)(1) - change season. Delete (g)(iv)(2). Change (g)(iv)(3) to (g)(iv)(2) and change wording. Delete (g)(v) - Hog Hunts with Dogs. Change (g)(vi) to (g)(v). (g)(v)(1) - change wording. Delete (g)(v)(3). (h)(i)(1) - change season. Delete (h)(i)(2). (h)(ii)(1) - change season. Delete (h)(ii)(2). (h)(iii)(1)(a) - change limit. (h)(iii)(2)(a) - change limit. (h)(iii)(2)(b) - change wording. (h)(iv)(1) - change season. Delete (h)(iv)(2). Change (h)(iv)(3) to (h)(iv)(2) and change wording. Delete (h)(v) - Hog Hunts with Dogs. Change (h)(vi) to (h)(v). (h)(v)(1) - change wording. Delete (h)(v)(3).

2. Moultrie - delete (a). Change (b) to (a) and change wording. Change (c) to (b) and change wording. (b)(ii)(1) - change season. Delete (b)(ii)(2). (b)(iii), (b)(iii)(1), (b)(iii)(2) - change wording. Change (d) to (c) and change wording. (c)(i)(1) - change season. Delete (c)(i)(2). (c)(ii), (c)(ii)(1) and (c)(ii)(2) - change wording. Delete (e) - Hall WMA. Change (f) to (d). (d)(i) and (d)(i)(1) - change wording. Add (d)(ii) - Special Gun Hunts for Youth and Women. Delete (d)(iii) and (d)(iv). Change (d)(v) to (d)(iii). (d)(iii),

(d)(iii)(1) and (d)(iii)(2) - change wording. Delete (d)(iii)(3). Change (d)(iii)(4) to (d)(iii)(3). Change (g) to (e) and change wording. (e)(i)(1) - change season. Delete (e)(i)(2). (e)(ii)(2) - change wording. Change (h) to (f).

3. Santee Cooper WMA - (a) - change wording. Delete (b). Change (c) to (b) and change wording. Change (d) to (c). (c)(i) - change season. Delete (c)(ii). Change (e) to (d) and change wording. (d)(i) - change season. Delete (d)(ii). Delete (f) - Raccoon. Delete (g) - Hogs and Coyotes. Change (h) to (e). (e)(i) and (e)(ii) - change wording.

4. Webb WMA - (a) - change wording. Delete (b)(iii) and (b)(iv). Delete (e) - Still Hog Hunts. Change (d) to (c). (c)(i) - change season. Delete (c)(ii), (c)(iii), (c)(iv), (c)(v), and (c)(vi). Change (e) to (d). (d)(ii) - change wording. Change (f) to (e). (e)(i) - change season. Delete (e)(ii). Change (e)(iii) to (e)(ii). Change (g) to (f). (f)(i) - change wording. Delete (f)(ii) and (f)(iii).

5. Bear Island WMA - (a) - change wording. (b)(i) - change season. Delete (b)(ii). Delete (c)(iii). Delete (d)(ii), (d)(iii), (d)(iv) and (d)(v). Delete (f) Raccoon and Opossum and (g) Quail Hunts. Change (h) to (f) and change wording. (f)(i) - change season.

6. Donnelley WMA - (a) - change wording. (b)(i) - change season. Delete (b)(ii) and (b)(iii). (c)(i) - change wording. Delete (c)(iii). Delete (d)(ii), (d)(iii), (d)(iv) and (d)(v). Delete (e) - Raccoon and Opossum. Change (f) to (e). (e)(i) - change season.

7. Hatchery WMA - (a)(i) - change season. Delete (a)(ii) and (a)(iii).

8. Bonneau Ferry WMA - (a) - change wording. Delete (b). Change (c) to (b) and change wording. Change (d) to (c) and change wording. (c)(i)(1) - change season. Delete (c)(i)(2) and (c)(i)(3). Change (e) to (c)(ii). Change (e)(i) to (c)(ii)(1) and change wording. Change (e)(ii) to (c)(ii)(2). Delete (c)(iii) and (c)(iv). Change (e)(v) to (c)(ii)(3) and change wording. Delete (f) Raccoon and Opossum, (g) Quail (Side A), and (h) Quail (Side B). Change (i) to (d) and change wording. Change (j) to (e). (e)(i) - change wording. (e)(vi) - change wording.

9. Santee Coastal Reserve WMA - delete (a). Change (b) to (a). (a)(i) - change season. Delete (a)(ii). Change (a)(iii) to (a)(ii). Delete (a)(iv). Delete (c) - Archery and Muzzleloader Hunts for Deer. Change (d) to (b). (b)(i) - change season. Delete (b)(ii), (b)(iii), (b)(iv), and (b)(v). Change (e) to (c). Delete (f) - Raccoon and Opossum. Change (g) to (d). (d)(i) - change season. Add (d)(ii).

10. Dungannon HP WMA - (a)(i) - change season. Delete (a)(ii). Add (b) - Small Game.

11. Edisto River WMA - delete (a). Change (b) to (a). (a)(i) - change season. Delete (a)(ii). Delete (c) - Archery and Muzzleloader Deer Hunts. Change (d) to (b) and change wording. (b)(i) - change season. Delete (b)(ii). Add (c) - Raccoon and Opossum. Change (e) to (d) and change wording. (d)(i) and (d)(ii) - change wording.

12. Canal WMA - (a)(i) - change season. Delete (a)(ii).

13. Palachucola WMA - (a) - Change wording. Delete (b). Change (c) to (b). (b)(i) change season. Delete (b)(ii). Change (d) to (c). (c)(i) change wording. Delete (e) Still Hog Hunts. Change (f) to (d). (d)(i) - change season. Delete (d)(ii), (d)(iii), (d)(iv), and (d)(v). Change (g) to (e). (e)(ii) - change wording. Change (h) to (f). (f)(i) - change season. Delete (f)(iii).

14. St. Helena Sound HP WMA - (a) - change wording. Delete (b) Otter Island Deer and (c) Otter Island Raccoon. Change (d) to (b) and change wording. (b)(i) - change season. Delete (b)(ii).

Delete 15 - Waccamaw River HP WMA.

Re-number 16 - 21 to become 15 - 20.

15. Tillman Sand Ridge HP WMA - (a)(i) - change season. Delete (a)(ii). Delete (b) Archery and Muzzleloader Hunts for Deer. Change (c) to (b). (b)(i) - change season. Delete (b)(iii).

16. Victoria Bluff HP WMA - (a)(i) - change season. Delete (a)(ii). (b)(i) - change season. Delete (b)(iii). Change (b)(iv) to (b)(iii) and change wording.

17. Hamilton Ridge WMA - (a) - change wording. (b)(i) - change season. Delete (b)(ii). (c)(i) - change wording. Delete (d) Still Hog Hunts. Change (e) to (d). (d)(i) - change season. Delete (d)(ii), (d)(iii), and (d)(iv). Change (f) to (e). (e)(ii) - change bag limit. Change (g) to (f). (f)(i) - change season. (f)(iii) - change wording.

18. Old Island HP WMA - (a)(i) - add phrase. Delete (a)(ii).

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19. Botany Bay Plantation HP WMA - (a) - change wording. (b)(i) - change season. Delete (b)(ii). (c), (c)(i), (c)(ii), and (c)(iii) - change wording. Delete (d) Raccoon and Opossum. Change (e) to (d) and change wording. (d)(i) and (d)(ii) - change wording.

20. Congaree Bluffs HP WMA - (a)(i) - change wording. (a)(ii) - change bag limit. Delete (b) Hogs and Coyotes.

2.2 - change wording

2.8 - delete last sentence.

2.9 - change wording.

2.12 - change wording.

2.14 - change wording.

2.15 - add new regulation.

2.16 - add new regulation.

2.17 - add new regulation.

3.1 - add wording.

3.3 - change wording.

4.1 - change wording.

4.2 - add new regulation.

4.3 - add new regulation.

Re-number old 4.2 to become 4.4

4.4 - change wording.

4.4 (a) and 4.4 (b) - change season.

4.4 (c) - change wording.

4.4 (d) - change limit.

4.5 - add new regulation.

4.6 - add new regulation.

4.7 - add new regulation.

4.8 - add new regulation.

5.2 - change wording.

5.4 - change wording.

10.3 - change wording.

10.6 - change name of Clarks Hill Waterfowl Area to Bordeaux Work Center Area.

Delete 10.7.

Re-number old 10.8 through 10.21 to 10.7 through 10.20.

10.7 - change wording.

10.8 - change wording.

10.9 - change wording. dates of public access on Coastal Waterfowl Areas.

10.10 - Change wording.

10.11 - Change wording.

10.14 - Change wording on 1. - 40.

10.18 - Change wording.

123-42.1 - delete entire section. This regulation was only applicable to Game Zone 9 which no longer exists.

123-47 - delete entire section. This regulation was only applicable to the 1980 turkey season.

123-50

Add 4.

123-51 - Change wording to standardize and clarify turkey bag limits and hunting periods on many WMAs.

A. Game Zone 1

1. and 1.(b) - change wording.

B. Game Zone 2

1. and 1.(b) - change wording. 3.(c) - change wording. 5.(c) - change wording. Add 6. McCalla WMA. C.
Game Zone 3

Delete 1.(b). Change 1.(c) to 1.(b). Add 1.(c). 2.(b) - change limit

D. Game Zone 4

Delete 1.(b). Change 1.(c) to 1.(b). Add 1.(c). 2.(c) - change wording. 4.(c) - change wording. 5., 5.(b) and 5.(c) - change wording. 6.(b) and 6.(c) - change wording. 7.(c) - change wording.

E. Game Zone 5

Delete 1.(b). Change 1.(c) to 1.(b). Add 1.(c). 2.(c) - change wording. 3.(c) - change wording. 4.(c) - change wording. 6.(c) - change wording. 8.(c) - change wording. 9.(c) - change wording. 10.(c) - change wording. 11., 11.(b) and 11.(c) - change wording. 12.(b) and 12.(c) - change wording

F. Game Zone 6

Delete 1.(b). 3.(c) - change wording. 9. and 9.(c) - change wording. Delete 10. - Waccamaw River. Re-number 11 - 13 to 10 - 12. 10.(c) - change wording. 11.(b) and 11.(c) - change wording.

G. Statewide Youth Hunting Day

Change (a) to 1. Change (b) to (a). Change (c) to (b).

2.

(a) - change wording. Add (e).

123-52 - change wording in title.

1. Game Zone 1 - change wording.

2. Game Zones 2 - 6 - change wording.

4. - change limit.

Add 5.

Change 5. to 6. and change limit.

Add 7.

Add 123-53 Bear Hunting Rules and Seasons.

Text:

ARTICLE 3

WILDLIFE AND FRESH WATER FISHERIES DIVISION—HUNTING REGULATIONS

SUBARTICLE 1

HUNTING IN WILDLIFE MANAGEMENT AREAS

123-40. Wildlife Management Area Regulations.

1.1 The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking wildlife, and bag limits for Wildlife Management Areas and special restrictions for use of WMA lands are as follows:

A. Game Zone 1

1. Other WMAs

(a) Archery Hunts for Deer .

(i) Oct. 17 – Oct. 30 either-sex

(b) Primitive Weapons for Deer .

(i) Oct. 1 through Oct. 10

(c) Still Gun Hunts for Deer .

(i) Oct. 11 through Oct. 16; Oct. 31 – Jan. 1.

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(d) Still Gun Hunts for Bear.

(i) Oct. 17 through Oct. 23.

(ii) 1 bear per person, no bears 100 lbs. or less, no sow with cubs at her side.

(iii) All harvested bear must be tagged and reported to the Clemson Wildlife Office @ 864-654-1671 within 24 hours of harvest.

(e) Special Party Dog Hunt for Bear.

(i) Oct. 24 through Oct. 30.

(ii) 1 bear per person, 5 bears per party, no bears 100 lbs. or less, no sow with cubs at her side. Groups hunting together are considered 1 party. Hogs allowed.

(iii) Parties (maximum of 25) must register with SCDNR, 311 Natural Resources Drive, Clemson, SC 29631 by September 1.

(iv) All harvested bear must be tagged and reported to the Clemson Wildlife Office @ 864-654-1671 within 24 hours of harvest.

(f) Small Game

(i) Game Zone 1 seasons and bag limits apply.

(g) Hog Hunts with Dogs.

(i) Jan. 2 – Jan. 10, Mar. 20 - Mar. 28.

2. Glassy Mountain Archery Only Area – Chestnut Ridge Heritage Preserve

(a) Archery Hunts for Deer .

(i) Oct. 1 – Jan. 1, either-sex.

(b) Small Game

(i) Game Zone 1 seasons and bag limits apply.

3. Stumphouse WMA

(a) In order to fish or hunt Stumphouse WMA each adult (21 or older) must have at least one youth 17 or under accompanying them. Senior Citizens over 65 years of age may fish without a youth present. No motorized vehicles or horses allowed on the property except in designated parking areas. Walk in use only.

(b) Primitive Weapons for Deer .

(i) Oct. 1 through Oct. 10

(c) Still Gun Hunts for Deer .

(i) Oct. 11 through Oct. 16; Oct. 31 – Wed. before Thanksgiving.

(d) Small Game

(i) No hunting before Thanksgiving Day or after Mar. 1, otherwise Game Zone 1 seasons and bag limits apply.

4. Long Creek Tract

(a) Game Zone 1 seasons and bag limits, except small game only between Thanksgiving Day and Mar. 1.

B. Game Zone 2

1. Other WMAs

(a) Archery Hunts for Deer .

(i) Sept. 15 – Sept. 30, either-sex .

(b) Primitive Weapons for Deer .

(i) Oct. 1 through Oct. 10

(c) Still Gun Hunts for Deer .

(i) Oct. 11 through Jan. 1.

(d) Small Game

(i) Game Zone 2 seasons and bag limits apply.

(e) Hog Hunts with Dogs.

(i) Jan. 2 - 10, Mar. 20 - 28.

2. Keowee WMA

(a) Designated as a Quality Deer Management Area. No hunting is allowed in research and teaching areas of Keowee WMA posted with white signs except those special hunts for youth or mobility-impaired as conducted by the Department.

(b) North of Hwy 123 and west of the Keowee arm of Lake Hartwell, and west of Hwy 291, small game hunting with shotguns only. All other areas are archery only for small game.

(c) Archery Hunts for Deer

(i) Oct. 15- Dec. 22 either-sex

(d) Raccoon and Opossum

(i) Game Zone 2 seasons and bag limits.

(e) Other Small Game

(i) Game Zone 2 seasons and bag limits apply.

(ii) No small game hunting during archery deer hunts except for waterfowl or designated dove field hunting.

3. Draper WMA

(a) Data cards required for hunter access, except draw dove hunts. Completed data cards must be returned daily before leaving the WMA.

(b) Archery Hunts for Deer

(i) Sept. 15 - Sept. 30, either-sex.

(c) Primitive Weapons for Deer

(i) Oct. 1 - Oct. 10

(d) Still Gun Hunts for Deer

(i) Oct. 11 - Nov. 30

(e) Quail Hunts

(i) 1st and 2nd Sat. in Dec., 3rd and 4th Wed. in Dec., 1st and 2nd Wed. and Sat. in Jan.

(ii) Game Zone 2 bag limit.

(iii) PM Shooting hours end 30 minutes prior to official sunset.

(f) Rabbit Hunts

(i) 1st Wed. after Thanksgiving, Wed. in Dec. prior to the 2nd Sat. in Dec., Wed. and Sat. in Jan. following the last scheduled quail hunt until Mar. 1.

(ii) Game Zone 2 bag limit.

(g) Other Small Game (No fox squirrels)

(i) Zone 2 seasons and bag limits apply.

4. Fants Grove WMA

(a) Designated as a Quality Deer Management Area.

(b) Archery Deer Hunts .

(i) Oct. 15- Dec. 22, either-sex.

(c) Special Gun Hunts for Deer

(i) Hunters selected by drawing.

(ii) Total 2 deer, one antlerless deer per day, no more than one buck.

(d) Raccoon and Opossum

(i) Game Zone 2 seasons and bag limits.

(e) Other Small Game

(i) Game Zone 2 seasons and bag limits apply.

(ii) No small game hunting during archery deer hunts except for waterfowl or designated dove field hunting.

(iii) Waterfowl may be hunted Wed. and Sat. AM only.

5. Rock Hill Blackjacks HP WMA

(a) Archery Deer Hunts

(i) Sept. 15 – Jan. 1, either-sex.

(b) Small Game

(i) No small game hunting.

6. Belfast WMA

(a) All terrain vehicles are prohibited. Fishing is not allowed except through permitted special events. All harvested deer and turkeys must be checked in at the Belfast Check Station. Belfast WMA is open to public access during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) except during special hunts and

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events regulated by DNR. Hunters may not enter the WMA prior to 5:00 AM on designated hunts. Public visitation is not allowed during scheduled deer and turkey hunts. Data cards required for hunter access. Completed data cards must be returned daily upon leaving Belfast WMA. (b) Designated as a Quality Deer Management Area.

- (c) Archery Hunts for Deer .
 - (i) Sept. 15 - Sept. 30 either-sex
- (d) Still Gun Hunts for Deer .
 - (i) Hunters selected by drawing.
- (e) Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 2 bag limits.

7. Broad River Waterfowl Management Area

- (a) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 31 either-sex
- (b) Small Game
 - (i) Feb. 8 – Mar. 1.
 - (ii) Game Zone 2 bag limits.

8. McCalla WMA

- (a) Designated as a Quality Deer Management Area.
- (b) Deer Hunts
 - (i) Game Zone 2 seasons
- (c) Small Game
 - (i) Game Zone 2 seasons and bag limits apply.
- (d) Hog Hunts with Dogs
 - (i) Jan. 2 - 10, Mar. 20 - 28.
- (e) Special Hunt Area for Youth and Mobility Impaired Hunters
 - (i) No open season except for hunters selected by drawing.
 - (ii) 1 deer per day, either-sex.

9. Worth Mountain WMA

- (a) Designated as a Quality Deer Management Area.
- (b) Deer Hunts
 - (i) Game Zone 2 seasons
- (c) Small Game
 - (i) Game Zone 2 seasons and bag limits apply.

C. Game Zone 3

1. Other WMAs

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Sept. 30, either-sex
- (b) Still Gun Hunts for Deer
 - (i) Oct. 1 - Jan. 1
- (c) Small Game
 - (i) Game Zone 3 seasons and bag limits apply.

2. Crackerneck WMA and Ecological Reserve

(a) All individuals must sign in and out at main gate. Designated as a Quality Deer Management Area. Scouting seasons (no weapons), will be Saturdays only during September and March. The gate opens at 6:00am and closes at 8:00pm. On deer hunt days, gates will open as follows: Oct., 4:30am-8:30pm; Nov. - Dec., 4:30am-7:30pm. For special hog hunts in Jan. and Feb., gate will be open from 5:30am-7:00pm. On Saturday night raccoon hunts, raccoon hunters must cease hunting by midnight and exit the gate by 1:00am. On Friday night raccoon hunts, raccoon hunters must cease hunting by 1 hour before official sunrise and exit the gate by official sunrise. All reptiles and amphibians are protected. No turtles, snakes, frogs, toads, salamanders etc. can be captured, removed, killed or harassed.

- (b) Archery Deer Hunts

- (i) 1st Fri. and Sat. in Oct
- (ii) 2 deer, either-sex, no more than 1 buck.
- (c) Primitive Weapons Deer Hunts (no buckshot).
 - (i) 2nd Fri. and Sat. in Oct.
 - (ii) 2 deer, either-sex, no more than 1 buck
- (d) Still Gun Hunts for Deer
 - (i) 3rd Fri. in Oct. – Jan. 1, Fri., Sat. and Thanksgiving Day only except closed Dec. 25.
 - (ii) 5 deer total, 2 per day, buck only except on either-sex days Fri. and Sat. only from the 1st Fri. of gun hunts before Thanksgiving and the 1st Fri. and Sat. after Thanksgiving weekend. Total not to include more than 3 bucks.
- (e) Raccoon and Opossum
 - (i) 3rd Sat. night in Oct. – Jan. 1, Sat. nights only, except closed Dec. 25, 1st Fri. night in Jan. to last Fri. or Sat. night in Feb., Fri. and Sat. nights only.
 - (ii) 3 raccoons per party per night.
- (f) Hog Hunts with Dogs (handguns only)
 - (i) 1st Fri. after Jan. 1 – last Fri. in Feb. Fridays only.
 - (ii) No limit.
- (g) Other Small Game (except no open season on bobcats, foxes, otters or fox squirrels).
 - (i) 3rd Fri. in Oct. – last Fri. or Sat. in Feb. Fri., Sat. and Thanksgiving Day only except closed Dec. 25.
 - (ii) Game Zone 3 bag limits

3. Aiken Gopher Tortoise Heritage Preserve WMA

- (a) Archery Deer Hunts .
 - (i) Sept. 15 - Sept. 30, either-sex
- (b) Still Gun Hunts for Deer .
 - (i) Oct. 1 – Jan. 1.
- (c) Small Game (No fox squirrels).
 - (i) Thanksgiving day – Mar. 1.
 - (ii) Game Zone 3 bag limits.

4. Ditch Pond Heritage Preserve WMA

- (a) Archery Deer Hunts .
 - (i) Sept. 15 – Jan. 1, either-sex.
- (b) Small Game (No fox squirrels).
 - (i) Thanksgiving day – Mar. 1.
 - (ii) Game Zone 3 bag limits.

5. Henderson Heritage Preserve WMA

- (a) Archery Deer Hunts .
 - (i) Sept. 15 – Jan. 1, either-sex.

D. Game Zone 4

1. Other WMAs

- (a) Archery Deer Hunts .
 - (i) Sept. 15 - Oct. 10, either-sex.
- (b) Still Gun Hunts for Deer .
 - (i) Oct. 11 – Jan. 1.
- (c) Small Game
 - (i) Game Zone 4 seasons and bag limits apply.

2. Marsh WMA

- (a) All visitors to Marsh WMA are required to sign in upon entry to the WMA and sign out upon exit from the WMA and provide any additional information requested. No ATVs allowed.
- (b) Special Hunt Area for Youth and Mobility Impaired Hunters
 - (i) No open season except for hunters selected by drawing.
 - (ii) 1 deer per day, either-sex.

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- (c) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 31, either-sex.
- (d) Still Gun Hunts for Deer
 - (i) Nov. 1 - Nov. 30.
- (e) Still Hog Hunts
 - (i) First full week in Mar.
- (f) Hog Hunts with Dogs
 - (i) 3rd full week in Mar. and 3rd full week in May
- (g) Raccoon and Opossum Hunts (i) Game Zone 4 seasons and bag limits
- (h) Small Game (No fox squirrels)
 - (i) Thanksgiving – Mar. 1
 - (ii) Game Zone 4 bag limits.

3. Sand Hills State Forest WMA

(a) Hunting by the general public closed during scheduled field trials on the Sand Hills State Forest Special Field Trial Area. Hunting allowed during permitted field trials on the Sand Hills State Forest Special Field Trial Area in compliance with R. 123-96. No man-drives allowed.

- (b) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10, either-sex
- (c) Still Gun Hunts for Deer .
 - (i) Oct. 11 – Jan. 1
- (d) Small Game
 - (i) Game Zones 4 seasons and bag limits apply. No daytime fox hunting from Sept. 15 – Jan. 1.

4. McBee WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10, either-sex.
- (b) Still Gun Hunts for Deer .
 - (i) Oct. 11 - Saturday before Thanksgiving
- (c) Quail
 - (i) no open season except hunter selected by drawing. Game Zone 4 bag limit.
- (d) Other Small Game (no fox squirrels).
 - (i) Jan. 15 - Mar. 1
 - (ii) Game Zone 4 bag limits

5. Pee Dee Station Site WMA

(a) All visitors are required to sign in upon entry to the WMA and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.

- (b) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 31, either-sex
- (c) Still Gun Hunts for Deer
 - (i) Nov. 1 - Nov. 30
- (d) Small Game (no fox squirrels)
 - (i) Thanksgiving Day - Mar. 1
 - (ii) Game Zone 4 bag limits.

6. Woodbury WMA

(a) All visitors are required to sign in upon entry and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.

- (b) Designated as a Quality Deer Management Area.
- (c) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10, either-sex
- (d) Primitive Weapons Deer Hunts
 - (i) Oct. 11 - Oct. 20
- (e) Still Gun Hunts for Deer
 - (i) Oct. 21 - Jan. 1
- (f) Still Hog Hunts

- (i) First full week in Mar.
- (g) Hog Hunts with Dogs
 - (i) 3rd full week in Mar. and 3rd full week in May
- (h) Raccoon and opossum
 - (i) Game Zone 4 seasons and bag limits
- (i) Other Small Game (no fox squirrels)
 - (i) Thanksgiving Day - Mar. 1
 - (ii) Game Zone 4 bag limits

7. Little Pee Dee Complex WMA

(a) Includes Little Pee Dee River HP, Tilghman HP, Dargan HP and Ward HP in Horry and Marion Counties. This also includes the Upper Gunters Island and Huggins tracts in Horry Co. which are part of Dargan HP.

- (b) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10, either-sex.
- (c) Primitive Weapons Deer Hunts
 - (i) Oct. 11 – Oct. 20.
- (d) Still Gun Hunts for Deer
 - (i) Nov. 6 - Jan. 1.
- (e) Still Hog Hunts
 - (i) First full week in Mar.
- (f) Hog Hunts with Dogs
 - (i) 2nd full week in Mar.
- (g) Raccoon and Opossum
 - (i) Game Zone 4 seasons and bag limits.
- (h) Other Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 4 bag limits.

E. Game Zone 5

1. Other WMAs

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 10, either-sex
- (b) Still Gun Hunts for Deer .
 - (i) Oct. 11 - Jan. 1
- (c) Small Game
 - (i) Game Zone 5 seasons and bag limits apply.

2. Great Pee Dee Heritage Preserve WMA

(a) All visitors are required to sign in upon entry and sign out upon exit and provide any additional information requested on sign in sheets at the kiosk. No ATVs allowed.

(b) For big game hunting, access is restricted from two hours before sunrise to two hours after official sunset.

- (c) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 31, either sex
- (d) Still Gun Hunts for Deer
 - (i) Nov. 1 - Nov. 30
- (e) Still Hog Hunts
 - (i) First full week in Mar.
- (f) Hog Hunts with Dogs
 - (i) 3rd full week in Mar. and 3rd full week in May
- (g) Raccoon and Opossum
 - (i) Game Zone 5 seasons and bag limits
- (h) Other Small Game (no fox squirrels)

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- (i) Thanksgiving Day to Mar. 1
- (ii) Game Zone 5 bag limits.

3. Longleaf Pine Heritage Preserve WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 10, either-sex
- (b) Still Gun Hunts for Deer
 - (i) Oct. 11 - Jan. 1
- (c) Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 5 bag limits.

4. Manchester State Forest WMA

(a) Deer must be checked at designated check stations. Individual antlerless deer tags are not valid during dog hunts for deer.

- (b) Archery Deer Hunts
 - (i) 3rd Mon. in Sept. – the following Sat., either-sex.
- (c) Primitive Weapons Deer Hunts
 - (i) 4th Mon. in Sept. – following Sat.
- (d) Deer Hunts with Dogs
 - (i) Clubs selected by drawing.
 - (ii) 10 antlered deer per day per club, 5 antlerless deer per day per club, 1 deer per person.
- (e) Still Gun Hunts for Deer

(i) 5th Mon. in Sept. – following Sat., 1st Mon. in Oct. – following Sat., 2nd Mon. in Oct. – following Sat., 3rd Tues. in Oct. – following Fri., 4th Tues. in Oct. – following Fri., 5th Tues. in Oct. – following Thurs., 1st Tues. in Nov. – following Fri., 2nd Tues. in Nov. – following Sat., 3rd Tues. in Nov. – following Fri., Mon. – Sat. the week of Thanksgiving, 4th Mon. in Nov. – following Fri., 1st Tues. in Dec. – following Fri., 1st full week following the 1st Tues. in Dec. – following Fri., 2nd full week following the 1st Tues. in Dec. – following Fri., 3rd full week following 1st Tues. in Dec. – following Sat.

(ii) In years when there is a fifth Tues. in Oct., additional deer hunts may be scheduled on Fri. and Sat. during Oct. and Nov.

(iii) In years when there is a fifth Mon. in Dec., additional hunts may be scheduled that week.

- (f) Small Game
 - (i) Thanksgiving Day – Mar. 1.
 - (ii) Game Zone 5 bag limits.
- (g) Hog Hunts with Dogs
 - (i) 2nd full week in Mar.

5. Lynchburg Savanna Heritage Preserve WMA

- (a) Small Game Only (no fox squirrels)
 - (i) Game Zone 5 seasons and bag limits.

6. Hickory Top WMA

(a) Data cards required for hunter access. Completed data cards must be returned daily upon leaving. The Greentree Reservoir is open to hunting during the regular Hickory Top seasons during years when the Greentree Reservoir remains unflooded.

- (b) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 31, either-sex.
- (c) Primitive Weapons Deer Hunts
 - (i) Nov. 1 – Jan. 1.
- (d) Hog Hunts with Dogs
 - (i) 2nd full week in Mar.
- (e) Small Game (no fox squirrels)
 - (i) Game Zone 5 seasons and bag limits apply.

7. Oak Lea WMA

(a) Data cards required for hunter access during archery deer hunts, turkey hunts and small game hunts. Completed data cards must be returned daily upon leaving the WMA.

- (b) Archery Deer Hunts
 - (i) Sept. 15 - 30, either-sex
- (c) Still Gun Hunts for Deer
 - (i) Hunters selected by drawing.
 - (ii) Total 20 deer per hunt party, either-sex.
- (d) Small Game (except quail)
 - (i) Jan. 2 – Mar. 1 except no small game hunting during scheduled quail hunts.
 - (ii) Game Zone 5 bag limits.
- (e) Quail
 - (i) Designated dates within Game Zone 5 season.
 - (ii) Game Zone 5 bag limit.
- 8. Santee Dam WMA**
 - (a) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 31, either-sex.
 - (b) Primitive Weapons Deer Hunts
 - (i) Nov. 1 – Jan. 1
 - (c) Hog Hunts with Dogs
 - (i) 2nd full week in Mar.
 - (d) Small Game (no fox squirrels)
 - (i) Jan. 2 – Mar. 1.
 - (ii) Game Zone 5 bag limits.
- 9. Wee Tee WMA**
 - (a) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10, either-sex.
 - (b) Still Gun Hunts for Deer
 - (i) Oct. 11 – Jan. 1
 - (c) Still Hog Hunts
 - (i) First full week in Mar.
 - (d) Hog Hunts with Dogs
 - (i) 2nd full week in Mar.
 - (e) Raccoon and Opossum
 - (i) Game Zone 5 seasons and bag limits
 - (f) Other Small Game (no fox squirrels, no fox hunting)
 - (i) Thanksgiving Day - Mar. 1.
 - (ii) Game Zone 5 bag limits.
 - (iii) Dogs allowed during small game gun season only.
- 10. Santee Delta WMA**
 - (a) Archery Deer Hunts (impoundments only)
 - (i) Sept. 15 - Oct. 10, either-sex.
 - (b) Hog Hunts with Dogs
 - (i) 2nd full week in Mar. (impoundments only)
- 11. Samworth WMA**
 - (a) Archery Deer Hunts (impoundments only)
 - (i) Sept. 15 - Oct. 10, either-sex.
 - (b) Hog Hunts with Dogs
 - (i) 2nd full week of Mar. (impoundments only)
- 12. Cartwheel Bay Heritage Preserve WMA**
 - (a) Archery Deer Hunts.
 - (i) Sept. 15 – Oct 23, Nov. 6 - Jan. 1, either-sex.
 - (b) Small Game (no fox squirrels).
 - (i) Thanksgiving Day - Mar. 1.
 - (ii) Game Zone 5 bag limits.

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13. Lewis Ocean Bay Heritage Preserve WMA

- (a) All deer hunters must sign in and sign out daily and record harvest at the kiosk.
- (b) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 10, either-sex.
- (c) Primitive Weapons Deer Hunts
 - (i) Oct. 11 - Oct. 20
- (d) Still Gun Hunts for Deer
 - (i) Nov. 6 - Jan. 1.
- (e) Small Game (no fox squirrels).
 - (i) Thanksgiving Day – Mar. 1.
 - (ii) Game Zone 5 bag limits.

14. Little Pee Dee Complex WMA

(a) Includes Little Pee Dee River HP, Tilghman HP, Dargan HP and Ward HP in Horry and Marion Counties. This also includes the Upper Gunters Island and Huggins tracts in Horry Co. which are part of Dargan HP.

- (b) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10, either-sex.
- (c) Primitive Weapons Deer Hunts
 - (i) Oct. 11 – Oct. 20.
- (d) Still Gun Hunts for Deer
 - (i) Nov. 6 - Jan. 1.
- (e) Still Hog Hunts
 - (i) First full week in Mar.
- (f) Hog Hunts with Dogs
 - (i) 2nd full week in Mar.
- (g) Raccoon and Opossum
 - (i) Game Zone 5 seasons and bag limits.
- (h) Other Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1
 - (ii) Game Zone 5 bag limits.

15. Waccamaw River Heritage Preserve WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 10, either-sex.
- (b) Primitive Weapons Deer Hunts
 - (i) Oct. 11 - Oct. 20.
- (c) Still Gun Hunts for Deer
 - (i) Nov. 6 - Jan. 1.
- (d) Still Hog Hunts
 - (i) First full week in Mar.
- (e) Hog Hunts with Dogs
 - (i) 2nd full week in Mar.
- (f) Small Game (no fox squirrels).
 - (i) Thanksgiving Day – Mar. 1.
 - (ii) Game Zone 5 bag limits.

F. Game Zone 6

1. Francis Marion National Forest

(a) During deer hunts when dogs are used, buckshot only is permitted. On either-sex hunts with dogs, all deer must be checked in by one hour after legal sunset. Individual antlerless deer tags are not valid during dog hunts for deer. Tibwin Special Use Area (in Wambaw) is closed to hunting except for Special hunts. On youth deer hunts, only youths 17 and younger may carry a gun and must be accompanied by an adult 21 years old or older. No fox or coyote hunting with dogs on the Francis Marion.

- (b) Hog Hunts with Dogs
 - (i) 3rd full week in Mar., 3rd full week in May
- (c) Still Hog Hunts
 - (i) First full week in Mar.
- (d) Hellhole WMA**
 - (i) Archery Deer Hunts
 - (1) Sept. 15 - Oct. 10, either-sex.
 - (ii) Still Gun Hunts for Deer
 - (1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts.
 - (iii) Deer Hunts with Dogs (shotguns only)
 - (1) 1st Sat. in Nov., 1st Sat. in Dec.
 - (a) 2 deer per day, buck only.
 - (iv) Youth Only Deer Hunt with Dogs
 - (1) Sat. following the 2-day Wambaw buck only hunt in Nov.
 - (2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.
 - (v) Small Game (no open season for fox hunting)
 - (1) Game Zone 6 seasons and bag limits apply.
 - (2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.
- (e) Waterhorn WMA**
 - (i) Archery Deer Hunts
 - (1) Sept. 15 - Oct. 10, either-sex.
 - (ii) Muzzleloader Hunts for Deer
 - (1) Oct. 11 - Oct. 20
 - (iii) Still Gun Hunts for Deer
 - (1) Every Friday and Saturday beginning Nov. 1.
 - (iv) Small Game (no open season for fox hunting)
 - (1) Game Zone 6 seasons and bag limits apply.
 - (2) Dogs allowed during small game gun season only. Closed to small game and waterfowl hunting during scheduled deer hunt periods.
- (f) Wambaw WMA**
 - (i) Archery Deer Hunts
 - (1) Sept. 15 - Oct. 10, either-sex.
 - (ii) Still Gun Hunts for Deer
 - (1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts west of Hwy 17.
 - (2) Still gun hunts only East of Hwy 17. No buckshot.
 - (iii) Deer Hunts with Dogs (shotguns only)
 - (1) Fri. in Sept. before the last Sat. Northampton dog hunt, Wed. and Thurs. before the 3rd Sat. in Nov. and 2nd Sat. in Oct., first 2 days excluding Sunday after Dec. 25.
 - (a) 2 deer per day, buck only
 - (2) 2nd Sat. in Dec.
 - (a) 1 deer per day, either-sex.
 - (b) All deer must be checked in at designated check stations.
 - (iv) Youth Only Deer Hunt with Dogs
 - (1) 4th Sat. in Oct.
 - (2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.
 - (v) Seewee Special Use Area
 - (1) Archery Deer Hunts
 - (2) Sept. 15 – Jan. 1, either-sex.
 - (vi) Small Game (no open season for fox hunting)
 - (1) Game Zone 6 seasons and bag limits apply.

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(2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

(g) Northampton WMA

(i) Archery Deer Hunts

(1) Sept. 15 - Oct. 10, either-sex.

(ii) Still Gun Hunts for Deer

(1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts.

(iii) Deer Hunts with Dogs (shotguns only)

(1) Last Sat. in Sept., Wed. and Thurs. before the 2nd Sat. in Oct., Fri. before the 4th Sat. in Nov., 3rd day excluding Sunday after Dec. 25.

(a) 2 deer per day, buck only.

(2) 2nd Sat. in Dec.

(a) 1 deer per day, either-sex.

(b) All deer must be checked in at designated check stations.

(iv) Youth Only Deer Hunt with Dogs

(1) Last Saturday in Nov.

(2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.

(v) Small Game (no open season for fox hunting)

(1) Game Zone 6 seasons and bag limits apply.

(2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

(h) Santee WMA

(i) Archery Deer Hunts

(1) Sept. 15 - Oct. 10, either-sex.

(ii) Still Gun Hunts for Deer

(1) Oct. 11 – Jan. 1 except during scheduled dog drive hunts.

(iii) Deer Hunts with Dogs (shotguns only)

(1) 2nd Fri. and Sat. in Sept., Wed. and Thurs. before the 4th Sat. in Oct., 1st Fri. in Dec.

(a) 2 deer per day, buck only.

(2) 2nd Sat. in Dec.

(a) 1 deer per day, either-sex.

(b) All deer must be checked in at designated check stations.

(iv) Youth Only Deer Hunt with Dogs

(1) 3rd Sat. in Oct.

(2) Requirements and bag limits for youth are the same as the statewide youth deer hunt day.

(v) Small Game (no open season for fox hunting)

(1) Game Zone 6 seasons and bag limits apply.

(2) Dogs allowed during small game gun season only. Closed during scheduled periods using dogs to hunt deer.

2. Moultrie

(a) No hunting or shooting within fifty feet of the center of any road during gun hunts for deer except for SCDNR draw youth hunts.

(b) Bluefield WMA

(i) Open only to youth 17 years of age or younger who must be accompanied by an adult at least 21 years of age. Youth hunters must carry a firearm and hunt. Adults with youth are allowed to carry a weapon and hunt.

(ii) Still Gun Hunts for Deer

(1) Sept. 15 – Jan. 1, Wed. and Sat. only.

(iii) Small Game (no fox squirrels)

(1) Game Zone 6 seasons and bag limits apply.

(2) No small game hunting during scheduled deer hunts.

(c) Greenfield WMA

(i) Still Gun Hunts for Deer

- (1) Sept. 15 – Jan. 1.
- (ii) Small Game (no fox squirrels)
 - (1) Thanksgiving Day - Mar. 1.
 - (2) Game Zone 6 bag limits .

(d) North Dike WMA

- (i) Still Gun Hunts for Deer
 - (1) Sept. 15 - Oct. 15.
- (ii) Special Gun Hunts for youth and women
 - (1) Hunters selected by drawing.
 - (2) 1 deer per day, either-sex
- (iii) Small Game (no fox squirrels)
 - (1) Jan. 2 - Mar. 1.
 - (2) Game Zone 6 bag limits .
 - (3) Sandy Beach Waterfowl Area open for raccoon hunting Feb. 1 – Mar. 1.

(e) Porcher and Hall WMAs

- (i) Archery Deer Hunts
 - (1) Sept. 15 – Jan. 1, either-sex.
- (ii) Small Game (no fox squirrels) shotguns only
 - (1) Jan. 2 – Mar. 1
 - (2) Game Zone 6 bag limits .

(f) Cross Station Site

- (i) Special Gun Hunts for youth and women
 - (1) No open season except hunters selected by drawing.
 - (2) 1 deer per day, either-sex

3. Santee Cooper WMA

(a) Data cards required for hunter access. Completed data cards must be returned daily upon leaving. Hunters limited to two deer/tree stands which must contain a label with the hunter’s name and address. No stands may be placed on Santee Cooper WMA prior to Sept. 1. Campground is open during scheduled deer hunts only.

- (b) Designated as a Quality Deer Management Area.
- (c) Archery Deer Hunts
 - (i) Sept. 15 - Oct. 31, either-sex.
- (d) Primitive Weapons Deer Hunts
 - (i) Nov. 1 - Monday before Thanksgiving Day.
- (e) Small Game
 - (i) Thanksgiving Day – Mar. 1.
 - (ii) Game Zone 6 bag limits .

4. Webb WMA

(a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving. Designated as a Quality Deer Management Area.

- (b) Still Gun Hunts for Deer
 - (i) Hunters selected by drawing.
 - (ii) 2 deer, either-sex but only 1 buck
- (c) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, 2nd Thurs. – Sat. in Sept.
- (d) Quail Hunts
 - (i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.
 - (ii) Game Zone 6 bag limit.
 - (iii) Shooting hours end 30 minutes prior to official sunset.
- (e) Other Small Game (no fox squirrels)
 - (i) The full week of Thanksgiving, Dec. 15 - Mar. 1.
 - (ii) Game Zone 6 bag limits.

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- (f) Dove Hunting
 - (i) Designated public dove field only on specified days.

5. Bear Island WMA

(a) All hunters must sign in and out at the Bear Island Office. Hunting in designated areas only. Designated as a Quality Deer Management Area.

- (b) Archery Deer Hunts
 - (i) Oct. 1 - Oct. 10, either-sex.
- (c) Still Gun Hunts for Deer
 - (i) Hunters selected by drawing.
 - (ii) 3 deer, either-sex but only 1 buck
- (d) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in Mar.
- (e) Alligator Hunts (Bear Island East and West Units only)
 - (i) Hunters selected by drawing only. Limited season with restricted access.
 - (ii) Limit and size restrictions as prescribed.
- (f) Small Game
 - (i) Feb. 8 - Mar. 1.
 - (ii) Game Zone 6 bag limits.

6. Donnelley WMA

(a) All hunters must sign in and out at the check station. Hunting in designated areas only. Designated as a Quality Deer Management Area.

- (b) Archery Deer Hunts
 - (i) Sept. 15 - Sept. 30, either-sex.
- (c) Still Gun Hunts for Deer
 - (i) Hunters selected by drawing .
 - (ii) 3 deer, either-sex but only 1 buck
- (d) Hog Hunts with Dogs
 - (i) 1st Thurs. – Sat. in Mar.
- (e) Small Game (no fox squirrels)
 - (i) Thanksgiving Day - Mar. 1.
 - (ii) Game Zone 6 bag limits.

7. Hatchery WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Jan. 1, either-sex.

8. Bonneau Ferry WMA

(a) All terrain vehicles prohibited. Hunting access by boat is prohibited. For hunting, the Adult/youth side is open only to youth 17 years old or younger who must be accompanied by only one adult 21 years of age or older. Youth hunters must carry a firearm and hunt. Adults with youth hunters may also carry a firearm and hunt. For deer and small game, regulations for the adult/youth and general use sides of the property will alternate each year as prescribed by the Department. All hunters must sign in and sign out upon entering or leaving. All deer must be checked out at the main entrance. Closed to public access one hour after sunset until one hour before sunrise except for special hunts regulated by DNR. Hunters may not enter WMA prior to 5:00 AM on designated hunts. All impoundments and adjacent posted buffers are closed to all public access Nov. 1 – Mar. 1 except for special draw deer hunts and waterfowl hunts regulated by DNR during the regular waterfowl season. Hunted areas are closed to general public access during scheduled deer, turkey and waterfowl hunts. No fox hunting.

(b) Adult/Youth Side

(i) Still Gun Hunts for Deer

(1) Sept. 15 – Jan. 1, Wed., Fri. and Sat., entire week of Thanksgiving and 5 days before Christmas until Jan. 1.

(c) General Use Side

(i) Archery Deer Hunts

(1) Sept. 15 - Sept. 30, either-sex.

- (ii) Still Gun Hunts for Deer
 - (1) Hunters selected by drawing.
 - (2) Total 3 deer, either-sex except only 1 buck.
 - (3) Hunters are required to have permit in possession and must sign in and out (Name, permit # and deer killed each day).
- (d) Small Game (no fox squirrels or fox)
 - (i) Jan. 2 – Mar. 1
 - (ii) Game Zone 6 bag limits.
 - (iii) Dogs allowed during gun seasons only.
- (e) Bonneau Ferry Fishing Regulations
 - (i) Open to fishing on Thurs. through Sun. from Mar. 2 – Oct. 31 during daylight hours only.
 - (ii) Adult/youth fishing only. Each youth (17 years and under) must be accompanied by no more than two adults 18 years of age or older.
 - (iii) The youth must actively fish.
 - (iv) Fishing is not allowed during scheduled deer and turkey hunts.
 - (v) Only electric motors may be used.
 - (vi) Creel limits per person per day are: largemouth bass – 2, panfish (bluegill, redear, crappie, pumpkinseed, redbreast) – 10, catfish – 5, species not listed – no limit. Grass carp must be released alive immediately.

9. Santee Coastal Reserve WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Jan. 1, either-sex.
 - (ii) Hunting on mainland only.
- (b) Hog Hunts with Dogs
 - (i) 2nd full week in Mar.
- (c) Alligator Hunts
 - (i) Hunters selected by drawing only. Limited season with restricted access.
 - (ii) Limit and size restrictions as prescribed.
- (d) Small Game (no fox squirrels)
 - (i) Thanksgiving Day – Mar. 1.
 - (ii) Game Zone 6 bag limits

10. Dungannon Heritage Preserve WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 - Jan. 1, either-sex.
- (b) Small Game (no fox squirrels)
 - (i) Thanksgiving Day - Jan. 31
 - (ii) Game Zone 6 bag limits

11. Edisto River WMA

- (a) Archery Deer Hunts
 - (i) Sept. 15 – Oct. 10, either-sex.
- (b) Still Gun Hunts for Deer
 - (i) Oct. 11 – Jan. 1.
- (c) Raccoon and Opossum
 - (i) Game Zone 6 seasons and bag limits
- (d) Other Small Game
 - (i) Thanksgiving Day - Mar. 1.
 - (ii) Game Zone 6 bag limits .

12. Canal WMA

- (a) Quail Hunts
 - (i) Game Zone 6 season and bag limit

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13. Palachucola WMA

(a) Data cards are required for hunter access. Completed data cards must be returned daily upon leaving WMA. Designated as a Quality Deer Management Area.

(b) Archery Deer Hunts

(i) Sept. 15 - Oct. 10, either-sex.

(c) Still Gun Hunts for Deer

(i) Hunters selected by drawing.

(ii) 3 deer, either-sex but only 1 buck.

(d) Hog Hunts with Dogs

(i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, 2nd Thurs. – Sat. in Sept.

(e) Quail Hunts

(i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.

(ii) Game Zone 6 bag limit.

(iii) Shooting hours end 30 minutes prior to official sunset.

(f) Other Small Game (no fox squirrels)

(i) The full week of Thanksgiving, Dec. 15 - Mar. 1.

(ii) Game Zone 6 bag limits.

14. St. Helena Sound Heritage Preserve WMA

(a) Deer hunting by permit only obtained at McKenzie Field Station. Camping by special permit only and on Otter Island only. No small game hunting.

(b) Ashe, Beet, Warren, Otter, Big and South Williman Archery Deer Hunts

(i) Sept. 15 – Jan. 1, either-sex.

15. Tillman Sand Ridge Heritage Preserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 - Jan. 1, either-sex.

(b) Small Game (no fox squirrels)

(i) Thanksgiving Day - Mar. 1.

(ii) Game Zone 6 bag limits.

16. Victoria Bluff Heritage Preserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 - Jan. 1, either-sex.

(b) Small Game (no fox squirrels)

(i) Jan. 2 - Mar. 1.

(ii) Game Zone 6 bag limits.

(iii) Shotguns only.

17. Hamilton Ridge WMA

(a) Designated as a Quality Deer Management Area. Horseback riding by permit only. No ATVs allowed. Data cards are required for hunter access. Completed data cards must be returned daily upon leaving the WMA.

(b) Archery Deer Hunts

(i) Sept. 15 - Oct. 10, either-sex.

(c) Still Gun Hunts for Deer

(i) Hunters selected by drawing.

(ii) 3 deer, either-sex but only 1 buck.

(d) Hog Hunts with Dogs

(i) 1st Thurs. – Sat. in Mar., 2nd Thurs. – Sat. in May, 2nd Thurs. – Sat. in Sept.

(e) Quail Hunts

(i) 2nd and 4th Wed. in Jan., 2nd and 4th Sat. in Jan., 1st and 3rd Sat. in Feb., 1st and 3rd Wed. in Feb.

(ii) Game Zone 6 bag limit

(iii) Shooting hours end 30 minutes prior to official sunset.

(f) Other Small Game (no fox squirrels)

(i) The full week of Thanksgiving, Dec. 15 - Mar. 1.

(ii) Game Zone 6 bag limits.

(iii) Dove hunting on designated public dove field only.

18. Old Island Heritage Preserve WMA

(a) Archery Deer Hunts

(i) Sept. 15 – Jan. 1, either-sex.

19. Botany Bay Plantation Heritage Preserve WMA

(a) Designated as a Quality Deer Management Area. All hunters, fishermen and visitors must obtain and complete a day use pass upon entering the area and follow all instructions on the pass. Botany Bay Plantation WMA is open to public access during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset) except during special hunts and events regulated by DNR. Area is closed to general public access during special scheduled hunts. Hunting in designated areas only. Hunting access by boat is prohibited. Fishing in the Jason’s Lake complex and all other ponds is adult/youth catch and release only on designated days. For adult/youth fishing, youth must be accompanied by no more than two adults 18 years old or older. Adult may also fish.

(b) Archery Deer Hunts

(i) Sept. 15 - Oct. 10, Mon. – Sat. during the week of Thanksgiving, Mon. – Sat. during the week of Christmas, either-sex.

(c) Still Gun Hunts for Deer

(i) Hunters selected by drawing.

(ii) Total 3 deer, either-sex. but only 1 buck

(iii) Hunters are required to have permit in possession and must sign in and sign out (Name, permit # and deer killed each day) at the designated check station. All harvested deer must be checked in at the designated check station.

(d) Small Game (no fox squirrels or foxes).

(i) Jan. 2 – Mar. 1 (Wed. through Sat. only)

(ii) Game Zone 6 bag limits.

(iii) Dogs allowed during gun seasons only.

20. Congaree Bluffs Heritage Preserve WMA

(a) Still Gun Hunts for Deer

(i) Hunters selected by drawing.

(ii) Total 1 deer per day, either-sex

GENERAL REGULATIONS

2.1 Except as provided in these regulations, no person may hunt or take wildlife on areas designated by the South Carolina Department of Natural Resources (SCDNR) as Wildlife Management Area (WMA) lands.

2.2 Entry onto WMA land is done wholly and completely at the risk of the individual. Neither the landowners nor the State of South Carolina nor the South Carolina Department of Natural Resources accepts any responsibility for acts, omissions, or activities or conditions on these lands which cause personal injury or property damage.

2.3 Entry onto WMA land constitutes consent to an inspection and search of the person, game bag or creel.

2.4 No person may hunt or take wildlife on WMA land unless an individual is in possession of a valid South Carolina license, a valid WMA permit, and other applicable federal or state permits, stamps or licenses.

2.5 No Sunday hunting is permitted on any WMA lands.

2.6 On all WMA lands, baiting or hunting over a baited area is prohibited. As used in this section, “bait” or “baiting” means the placing, depositing, exposing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat, or other grain or other food stuffs to constitute an attraction, lure, or enticement to, on, or over any area. “Baited area” means an area where bait is directly or indirectly placed, deposited, exposed, distributed, or scattered and the area remains a baited area for ten (10) days following the complete removal of all bait. Salt/minerals are not considered bait.

2.7 On WMA lands, construction or use of tree stands is prohibited if the tree stand is constructed by driving nails or other devices into trees or if wire is wrapped around trees. Other tree stands are permitted provided they are not permanently affixed or embedded in the tree. All stands and temporary climbing devices must be removed by the end of the deer hunting season.

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2.8 On WMA lands, any hunter younger than sixteen (16) years of age must be accompanied by an adult (21 years or older) who is validly licensed and holds applicable permits, licenses or stamps for the use of WMA lands. Sight and voice contact must be maintained.

2.9 Notwithstanding any other provision of these regulations, the Department may permit special hunts on any day during the regular hunting season.

2.10 No person may release or attempt to release any animal onto WMA lands without approval from the Department.

2.11 While participating in a hunt on WMAs, no person may possess, consume or be under the influence of intoxicants, including beer, wine, liquor or drugs.

2.12 On WMA lands, during the designated statewide youth deer hunt day, only still hunting is allowed. The limit is two deer total to include no more than one antlerless deer.

2.13 Taking or destroying timber, other forest products or cutting firewood on WMA lands without written permission from the landowner or his agent is prohibited. Users of WMA lands are prohibited from planting, attempting to plant, burning or otherwise attempting to manipulate crops, natural vegetation or openings without written permission from the landowner or his agent.

2.14 On WMA lands, hunting armadillos and coyotes at night is prohibited. Armadillos and coyotes may be hunted during any open season for game during daylight hours with no bag limit. Weapon(s) used to hunt armadillos and coyotes are limited to the weapon(s) that are allowed for the current open season on WMA.

2.15 On WMA lands during special designated hunts, a WMA may be closed to other public access.

2.16 Still hunting for hogs is permitted on WMAs during any open season for game during daylight hours with only the weapons allowed during the hunting season in progress unless otherwise prohibited. No hog may be transported alive from a WMA. Hogs may not be hunted at night. There is no bag limit on hogs. Hunters must wear a hat, coat, or vest of solid international orange while hog hunting. Buckshot is prohibited. During hog hunts with dogs, no still or stalk hunting is allowed and only handguns are permitted. No hog hunting with dogs is allowed except during special designated seasons.

2.17 Unless otherwise specified, small game hunting seasons and bag limits are the same as Game Zone seasons and bag limits except no hunting before Sept. 1 or after Mar. 1.

WEAPONS

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

3.2 For Special Primitive Weapons Seasons, primitive weapons include bow and arrow, crossbow and muzzle-loading shotguns (20 gauge or larger) and rifles (.36 caliber or larger) with open or peep sights or scopes, which use black powder or a black powder substitute that does not contain nitro-cellulose or nitro-glycerin components as the propellant charge. There are no restrictions on ignition systems (e.g. flintstone, percussion cap, shotgun primer, disk, electronic, etc.). During primitive weapons season, no revolving rifles are permitted.

3.3 On WMA lands big game hunters are not allowed to use military or hard-jacketed bullets or .22 or smaller rimfire. Buckshot is prohibited during still gun hunts for deer on WMA lands in Game Zones 3 - 6.

3.4 On WMAs all firearms transported in vehicles must be unloaded and secured in a weapons case, or in the trunk of a vehicle or in a locked toolbox. On the Francis Marion Hunt Unit during deer hunts with dogs, loaded shotguns may be transported in vehicles. Any shotgun, centerfire rifle, rimfire rifle or pistol with a shell in the chamber or magazine, or a muzzleloader with a cap on the nipple or a flintlock with powder in the flash pan is considered loaded.

3.5 No target practice is permitted on WMA lands except in specifically designated areas.

3.6 On WMA lands during still gun hunts for deer or hogs there shall be no hunting or shooting from, on or across any road open to vehicle traffic. During any deer or hog hunt there shall be no open season for hunting on any designated recreational trail on U.S Forest Service or S.C. Public Service Authority property.

DEER

4.1 On WMA lands with designated check stations, all deer bagged must be checked at a check station. Deer bagged too late for reporting one day must be reported the following day.

4.2 Unless otherwise specified by the Department, only bucks (male deer) may be taken on all WMA lands. Antlered bucks must have antlers visible two (2) inches above the hairline to be legally bagged on "bucks only" hunts. Male deer with visible antlers of less than two (2) inches above the hairline must be taken only on either-sex days or pursuant to permits issued by the Department. A point is any projection at least one inch long and longer than wide at some location at least one inch from the tip of the projection.

4.3 On WMA lands, man drives for deer are permitted between 10:00 a.m. and 2:00 p.m. only, except that no man drives may be conducted on days designated by the Department for taking deer of either sex except on WMA lands in Game Zones 1 and 2, man drives will be permitted on the last two (2) scheduled either-sex days. A man drive is defined as an organized hunting technique involving two (2) or more individuals whereby an attempt is made to drive game animals from cover or habitat for the purpose of shooting, killing, or moving such animals toward other hunters. On WMA lands, drivers participating in man drives are prohibited from carrying or using weapons.

4.4 Deer either-sex days for still gun hunts on WMAs are as follows:

(a) Game Zone 1: The last three Sat. in Nov.

(b) Game Zones 2 – 6: The first three Saturdays in Oct., the last three Saturdays in November, the Saturday after Christmas, and Jan. 1.

(c) In all Game Zones, hunters using archery equipment may take either-sex during all archery only and primitive weapon seasons for deer. Game Zone WMA limits apply.

(d) On special mobility impaired and youth deer hunts sanctioned by the Department and during the statewide youth deer hunt day, participants may take two deer total, to include no more than one antlerless deer.

4.5 For all WMAs combined statewide, the limit for all seasons and methods combined is two deer per day, 5 deer total, no more than two bucks, unless otherwise specified. Antlerless deer limit is one deer per day, unless otherwise specified. Buck only, except either-sex on Game Zone either-sex days. For all WMAs combined, a maximum of two individual antlerless deer tags may be used during primitive weapon or gun deer seasons in Game Zones 2 - 6.

4.6 Individual Deer Tags: Individual Antlerless Deer Tags are not valid in Game Zone 1. Tags are valid in Game Zones 3 – 6 beginning Sept. 15 and in Game Zone 2 beginning Oct. 1. Tags do not alter the daily (1 per day) or seasonal limit or change the type of weapons that can be used during special weapons seasons.

4.7 Except on either-sex days, antlerless deer must be tagged immediately after harvest and before being moved from the point of kill and the tag must be validated as prescribed by the SCDNR.

4.8 For WMAs designated as Quality Deer Management Areas, all antlered bucks must have a minimum 4 points on one side or a minimum 12-inch antler spread except during designated special youth hunts. Antler spread is the greatest outside measurement (main beam or points) on a plane perpendicular to the skull.

DOGS

5.1 On all WMA lands, dogs may be used for small game hunting unless otherwise specified.

5.2 On all WMA lands in Game Zones 1 and 2, dogs may not be used for rabbit hunting during still gun hunts for deer or bear. Dogs may be used for rabbit hunting from the close of the season for deer until the close of the rabbit season. Dogs may be trained for quail and rabbit hunting from September 1 through September 14 (no guns).

5.3 On WMA lands, dogs may be used for hunting foxes, raccoons, bobcats or opossums only between thirty (30) minutes after official sunset and 30 minutes before official sunrise.

5.4 Unless otherwise specified, deer hunting with dogs on WMA lands is prohibited. The Department may permit deer hunting with dogs on WMA lands not located in Game Zones 1 and 2. For the purposes of tracking a wounded deer, a hunter may use one dog which is kept on a leash.

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5.5 Dogs may be used to hunt bear on WMA lands in Game Zone 1 during the special party dog bear season.

5.6 On WMA lands, dogs may be used to hunt hogs only during special designated hog hunts with dogs.

VEHICLES

6.1 On all WMA lands, no hunter may shoot from a vehicle except that mobility impaired hunters may take game from any stationary motor driven land conveyance or trailer which is operated in compliance with these rules. For purposes of this regulation, mobility impaired means individuals who are permanently confined to a wheelchair, permanently require the use of two crutches, permanently require the use of a walker to walk, or persons with single or double leg amputations. Written confirmation of permanent impairment is required from a physician or qualifying agency.

6.2 On WMA lands, motor driven land conveyances must be operated only on designated roads or trails. Unless otherwise specified, roads or trails which are closed by barricades and/or signs, either permanently or temporarily, are off limits to motor-driven land conveyances.

6.3 A person may not obstruct or cause to be obstructed travel routes on WMA lands.

VISIBLE COLOR CLOTHING

7.1 On all WMA lands during any gun and muzzleloader hunting seasons for deer, bear and hogs, all hunters including small game hunters must wear either a hat, coat, or vest of solid visible international orange, except hunters for dove, turkey, ducks, geese and other hunted migratory birds including crows are exempt from this requirement while hunting for those species.

CAMPING

8.1 Camping is not permitted on WMA lands except in designated camp sites.

TRAPPING

9.1 Trapping on WMA lands is not permitted.

WATERFOWL & DOVE REGULATIONS

10.1 Unless specially designated by the Department as a Wildlife Management Area for Waterfowl or a Wildlife Management Area for Dove, all Wildlife Management Areas are open during the regular season for hunting and taking of migratory birds except where restricted to special small game seasons within the regular migratory bird framework.

10.2 The Department may designate sections of Wildlife Management Areas and other lands and waters under the control of the Department as Designated Waterfowl Management Areas or Designated Dove Management Areas. All laws and regulations governing Wildlife Management Areas apply to these special areas. In addition, the Department may set special shooting hours, bag limits, and methods of hunting and taking waterfowl and doves on those areas. All State and Federal migratory bird laws and regulations apply. Regulations pertaining to the use of Dove Management Areas will be filed annually.

10.3 On areas where blinds are not provided, only portable blinds which are removed at the conclusion of the hunt or temporary blinds of native vegetation may be used. Temporary blinds once vacated may be used by other hunters.

10.4 On Designated Waterfowl Areas, no species other than waterfowl may be taken during waterfowl hunts. On Designated Dove Management Areas no species other than doves may be taken during dove hunts. Only dove hunting is allowed at Lake Wallace.

10.5 No fishing is permitted in any Category I Designated Waterfowl Area during scheduled waterfowl hunts.

10.6 The Bordeaux Work Center Area is closed to hunting except for special hunts as designated by the SCDNR.

10.7 Sandy Beach Waterfowl Area and the impoundments on Bonneau Ferry WMA are closed to public access from Nov. 1 - Mar. 1, except for special hunts designated by the Department.

10.8 Broad River Waterfowl Management Area is closed to public access during the period Nov. 1 - Feb. 8 except for special hunts designated by the Department.

10.9 Impoundments on Bear Island, Donnelley, Samworth, Santee Coastal Reserve and Santee Delta WMAs are closed to all public access during the period Nov. 1 - Feb. 8 except during special hunts designated by the Department. All public access during the period Feb. 9 - Oct. 31 is limited to designated areas. On Bear Island WMA, Mathews' Canal is closed to all hunting from Nov. 1 - Feb. 15 beyond a point 0.8 mile from the confluence of Mathews' Canal with the South Edisto River.

10.10 Potato Creek Hatchery Waterfowl Area is closed to hunting access and fishing during the period one week prior to and two weeks after the Federal waterfowl season except for scheduled waterfowl hunts. All hunters must enter and leave the Potato Creek Hatchery Waterfowl Area through the designated public landing on secondary road 260 and complete a data card and deposit card in receptacle prior to leaving the area. No airboats are allowed for hunting or fishing and no hunting from secondary road 260.

10.11 On Hatchery WMA, hunters must leave the area by 1 PM, except on the last Saturday of the waterfowl season when hunters may hunt until sunset. Each hunter is limited to twenty-five Federally-approved nontoxic shot shells per hunt. No airboats are allowed in the Hatchery WMA for hunting or fishing during the period Nov. 15 - Jan. 31. No fishing allowed during scheduled waterfowl hunts.

10.12 On Crackerneck WMA, waterfowl may be hunted only on Fri., Sat. and Thanksgiving Day within the regular migratory bird seasons and no hunting on Dec. 25; Fant's Grove WMA is open AM only on Wednesdays and Saturdays during the regular migratory bird seasons; Palachucola WMA, Tillman Sand Ridge WMA, Hamilton Ridge WMA and Webb WMA are open AM only for waterfowl hunting during the regular migratory bird seasons only on days when small game hunting is allowed.

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

10.14 Category II Designated Waterfowl Areas include Biedler Impoundment, Carr Creek (bounded by Samworth WMA), Little Carr Creek (bounded by Samworth WMA), Lake Cunningham, Russell Creek, Monticello Reservoir, Parr Reservoir, Duncan Creek, Dunaway, Dungannon, Enoree River, Moultrie, Hatchery, Hickory Top, Hickory Top Greentree Reservoir, Lancaster Reservoir, Turtle Island, Little Pee Dee River Complex (including Ervin Dargan, Horace Tilghman), Great Pee Dee River, Potato Creek Hatchery, Sampson Island Unit (Bear Island), Tyger River, Marsh, Wee Tee, Woodbury, Ditch Pond, Waccamaw River Heritage Preserve, Santee Cooper and 40 Acre Rock Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

1. Biedler Impoundment
 - (a) Sat. AM only during regular season
 - (b) State bag limits
2. Bear Island
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
3. Beaverdam
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
4. Bonneau Ferry
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
5. Broad River
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits

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- 6 Carr Creek (bounded by Samworth WMA, no hunting in impoundments)
 - (a) Wed. and Sat. AM only during regular season
 - (b) State bag limits
7. Little Carr Creek (bounded by Samworth WMA, no hunting in impoundments)
 - (a) Wed. and Sat. AM only during regular season
 - (b) State bag limits
8. Clemson
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
9. Ditch Pond
 - (a) Wed. AM only during regular season
 - (b) State bag limits
10. Donnelley
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
11. Dunaway
 - (a) Sat. AM only during regular season
 - (b) State bag limits
12. Duncan Creek
 - (a) Sat. AM only during regular season
 - (b) State bag limits
13. Dungannon
 - (a) Sat. AM only during regular season
 - (b) State bag limits
 - (c) No hunting from the Boardwalk
14. Enoree River
 - (a) Sat. AM only during regular season
 - (b) State bag limits
15. Hatchery
 - (a) Sat. AM only and until sunset on the last Sat. of the regular waterfowl season
 - (b) State bag limits
16. Hickory Top
 - (a) Mon. through Sat. during regular season
 - (b) State bag limits
17. Hickory Top Greentree Reservoir
 - (a) Sat. AM only during regular season
 - (b) State bag limits
 - (c) No hunting from roads and dikes
18. Lake Cunningham
 - (a) Wed. AM only during the regular season
 - (b) State bag limits
19. Lancaster Reservoir
 - (a) Mon. and Fri. AM only during the regular season
 - (b) State bag limits
20. Marsh
 - (a) Wed. and Sat. AM only during regular season
 - (b) State bag limits
21. Monticello Reservoir
 - (a) Wed. and Sat. AM only during regular season
 - (b) State bag limits
22. Moultrie
 - (a) Mon. through Sat. during regular season.
 - (b) State bag limits

- 23. Parr Reservoir
 - (a) Mon. through Sat. during regular season.
 - (b) State bag limits
- 24. Potato Creek Hatchery
 - (a) Wed. and Sat. only during regular season
 - (b) State bag limits
- 25. Russell Creek
 - (a) Wed. and Sat. AM only during regular season
 - (b) State bag limits
- 26. Sampson Island Unit (Bear Island)
 - (a) Thurs. and Sat. AM only during the regular season
 - (b) State bag limits
- 27. Samworth
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
- 28. Sandy Beach
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
- 29. Santee Coastal Reserve
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
- 30. Santee Cooper
 - (a) Sat. AM only during regular season
 - (b) State bag limits
- 31. Santee-Delta
 - (a) Hunters selected by drawing during regular season
 - (b) State bag limits
- 32. Tibwin
 - (a) Special hunts by drawing during regular season
 - (b) State bag limits
- 33. Turtle Island
 - (a) Wed. and Sat. AM only during regular season
 - (b) State bag limits
- 34. Tyger River
 - (a) Sat. AM only during regular season
 - (b) State bag limits
- 35. Wee Tee
 - (a) Wed. and Sat. AM only during regular season
 - (b) State bag limits
- 36. Woodbury
 - (a) Wed. and Sat. AM only during regular season
 - (b) State bag limits
- 37. Great Pee Dee
 - (a) Wed. AM only during regular season
 - (b) State bag limits
- 38. Little Pee Dee River Complex
 - (a) Wed. AM only during regular season
 - (b) State bag limits
- 39. Waccamaw River HP
 - (a) Wed. and Sat. AM only during regular season
 - (b) State bag limits

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40. 40-acre Rock

- (a) Sat. AM only during regular season
- (b) State bag limits

10.15 On Hickory Top WMA public waterfowl hunting without a Wildlife Management Area (WMA) permit is allowed on all land and water below 76.8'. Waterfowl hunting at or above elevation 76.8' requires a WMA permit. A WMA permit is required for waterfowl hunting in the Hickory Top Greentree Reservoir.

10.16 Designated Dove Management Areas include all dove management areas as published by the Department in the annual listing of WMA public dove fields and are subject to regulations filed annually.

10.17 Hickory Top Greentree Reservoir is closed to hunting access November 1 until March 1, except for special hunts designated by SCDNR. All hunters must accurately complete a data card and deposit card in receptacle prior to leaving the area. Hunting hours are from 30 minutes before legal sunrise until 11:00 am. Hunters may not enter the area prior to 5:00 am on hunt days. No open season on roads and dikes. Hunters may only use electric motors on boats.

10.18 On all State-owned, US Forest Service and other Federally-owned Category I and II Waterfowl Management Areas each hunter is limited to 25 Federally-approved non-toxic shells per hunt .

10.19 On Enoree River, Dunaway, Duncan Creek, Russell Creek and Tyger River Waterfowl Areas data cards are required for hunter access during scheduled waterfowl hunts. Completed data cards must be returned daily upon leaving each of these areas.

10.20 Woodbury Waterfowl Management Area includes all SCDNR-owned property south of US Hwy 378 and bounded on the west by the Great Pee Dee River and Bluff Road and to the east by the Little Pee Dee River except no waterfowl hunting allowed in the area known as Hass Pond that is bounded on all sides by Hass Pond Road.

AMPHIBIANS AND REPTILES

11.1 Taking of any amphibian or reptile, except the bullfrog, is prohibited on any Department-owned Wildlife Management Areas without written permission of the Department.

SUBARTICLE 2

CROW HUNTING SEASON

123-50. Crow Hunting Season.

The following rules and regulations shall hereby be provided for the hunting of crows in this State.

1. Crows shall not be hunted from aircraft.
2. The hunting season in this State shall extend from Nov. 1 until Mar. 1 of each year.
3. The penalty for the violation of these rules and regulations is that prescribed by 50-11-10 of the 1976 Code.
4. Crow hunting on WMAs is allowed during the small game season for each WMA. No hunting before Nov. 1 or after Mar. 1.

SUBARTICLE 3

OTHER BIG GAME

123-51. Turkey Hunting Rules and Seasons.

1. Total limit of 5 turkeys statewide per person, 2 per day, gobblers only, unless otherwise specified. Total statewide and county bag limits include turkeys harvested on Wildlife Management Areas (WMAs). Small unnamed WMAs in counties indicated are open for turkey hunting. Turkey seasons and limits are as follows:

A. Game Zone 1

1. Other WMAs

- (a) Apr. 1 – May 1
- (b) Bag limit 3

B. Game Zone 2

1. Other WMAs
 - (a) Apr. 1 – May 1
 - (b) Bag limit 3
2. Keowee WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Shotguns only –north of Hwy 123 and west of the Keowee Arm of Lake Hartwell and west of Hwy 291. Archery only on other sections.
3. Draper WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
4. Belfast WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Hunters by drawing only
5. Worth Mountain WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
6. McCalla WMA
 - (a) April 1 – May 1
 - (b) Bag Limit 2

C. Game Zone 3

1. Other WMAs and Private Land
 - (a) Apr. 1 – May 1
 - (b) Lexington and Richland Counties Bag limit 2
 - (c) Other WMAs, bag limit 2
2. Crackerneck WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 3
 - (c) Fri. and Sat. only
 - (d) Sign in and out at the gate required.
 - (e) Main gate opens at 4:30 am and closes at 1:00 pm.
3. Aiken Gopher Tortoise HP WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2

D. Game Zone 4

1. Other WMAs and Private Land
 - (a) Apr. 1 – May 1
 - (b) Chesterfield, Dillon, Florence, Marion and Marlboro Counties bag limit 2
 - (c) Other WMAs, bag limit 2
2. Marsh WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
 - (d) Sign in and out at the kiosk required.
3. Sand Hills State Forest WMA
 - (a) Apr. 1 – May 1

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- (b) Bag limit 2
- 4. McBee WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 5. Little Pee Dee Complex WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 6. Pee Dee Station Site WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
 - (d) All hunters must sign in and sign out at kiosk.
- 7. Woodbury WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
 - (d) All hunters must sign in and sign out at kiosk.

E. Game Zone 5

- 1. Other WMAs and Private Land
 - (a) Apr. 1 – May 1
 - (b) Darlington, Lee and Sumter counties bag limit 2
 - (c) Other WMAs, bag limit 2
- 2. Great Pee Dee Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
 - (d) All hunters must sign in and sign out at kiosk.
- 3. Longleaf Pine Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 4. Manchester State Forest WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 5. Hickory Top WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
- 6. Oak Lea WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat.
- 7. Santee Dam WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
- 8. Wee Tee WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 9. Cartwheel Bay Heritage Preserve WMA
 - (a) Apr. 1 – May 1

- (b) Bag limit 2
- (c) Thurs through Sat. only
- 10. Lewis Ocean Bay Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 11. Little Pee Dee Complex WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
- 12. Waccamaw River Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only

F. Game Zone 6

- 1. Private Land
 - (a) Mar. 15 – May 1
- 2. Francis Marion National Forest
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Tibwin Special Use Area
 - (1) Apr. 1 – May 1
 - (2) Bag limit 2
 - (3) Special hunts for youth or mobility impaired hunters as published by SCDNR.
- 3. Moultrie
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
 - (d) Bluefield WMA
 - (1) Apr. 1 – May 1
 - (2) Bag limit 2
 - (3) Adult/Youth only
 - (e) Hall WMA
 - (1) Apr. 1 – May 1
 - (2) Bag limit 2
- 4. Santee Cooper WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Hunting by public draw only
- 5. Webb, Palachucola and Hamilton Ridge WMAs
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) All hunters must pick up and return data cards at kiosk and display hangtags on vehicles.
- 6. Donnelley WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Hunting by public draw only
- 7. Bonneau Ferry WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Hunting by public draw only
 - (d) Closed to public access during hunts.

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8. Santee Coastal Reserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Youth or mobility impaired hunting by draw only.
9. Edisto River WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
10. Tillman Sand Ridge Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
11. Victoria Bluff Heritage Preserve WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 2
 - (c) Thurs through Sat. only
12. Botany Bay Plantation WMA
 - (a) Apr. 1 – May 1
 - (b) Bag limit 1
 - (c) Youth hunting by draw only.

G. Statewide Youth Hunting Day

1. Sat. before April 1
 - (a) Bag limit 2
 - (b) Youth Only
2. The following regulations apply statewide. No turkey hunting permitted on Turkey Restoration Sites which have not been formally opened by the Department.
 - (a) During the spring turkey hunting season, only turkey gobblers (male birds) may be taken. During the fall turkey season both gobblers and hens may be taken.
 - (b) Shotguns, muzzleloader shotguns, or archery equipment are permitted. All other weapons and methods of taking are prohibited including rifles, pistols, hard jacketed bullets, buckshot and slugs.
 - (c) Turkeys may not be hunted with dogs.
 - (d) Live decoys are prohibited.
 - (e) A tag issued by the Department must be placed around a harvested bird's leg before the bird is moved from the point of kill and the tag must be validated by the hunter as prescribed by the SCDNR.

123-52. Either-sex Days and Antlerless Deer Limits for Private Lands in Game Zones 1-6.

1. Game Zone 1: The last three Saturdays in Nov.
2. Game Zones 2 – 6: The first three Saturdays in Oct.; the last three Saturdays in Nov.; the last Saturday in Dec; Jan. 1.
3. The daily bag limit on either-sex days is 1 antlerless deer.
4. On special mobility impaired and youth deer hunts sanctioned by the Department and during the statewide youth deer hunt day, participants may take antlerless deer, 1 per day.
5. Hunters using archery equipment may take either-sex during all archery-only and primitive weapons seasons for deer beginning September 15.
6. Individual Deer Tags: Individual Antlerless Deer Tags are not valid in Game Zone 1. Tags are valid in Game Zones 3 – 6 beginning Sept. 15 and in Game Zone 2 beginning Oct. 1. Individual tags are not valid on properties enrolled in the Antlerless Deer Quota Program. Tags do not alter the daily (1 per day) or seasonal limit or change the type of weapons that can be used during special weapons seasons.
7. Except on either-sex days, antlerless deer must be tagged immediately after harvest and before being moved from the point of kill and the tag must be validated as prescribed by the SCDNR.

123.53 Bear Hunting Rules and Seasons

1. The open season for taking bear by special draw hunt in Georgetown County, Horry County and Williamsburg County on private and WMA land is October 24 – November 5.
2. Legal weapons include archery equipment, muzzleloaders (.36 caliber or greater), centerfire rifles, centerfire handguns and shotguns with slugs or buckshot.
3. The permit issued by the Department must be displayed in a visible location on the dash of the vehicle while the person is actively bear hunting.
4. Harvested bear must be reported to SCDNR by telephone within 12 hours of the kill.
5. All harvested bears must be tagged immediately after harvest and before being moved from the point of kill and the tag must be validated as prescribed by the SCDNR.
6. All persons drawn for the hunt must submit a harvest report and return unused tags to the Department no later than 7 days after the close of the season, regardless of whether or not a bear was harvested.

Fiscal Impact Statement:

The amendment of Regulations 123-40, 123-50, 123-51, 123-52 and 123-53 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 Rationale:

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 provide 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.

Document No. 4447
BOARD OF NURSING
 CHAPTER 91

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

91-32. Code of Ethics.

Synopsis:

The South Carolina Board of Nursing proposes to add Regulation 91-32 to establish a code of ethics in regulation in conformance with its practice act.

The Notice of Drafting was published in the *State Register* on August 23, 2013.

Instructions:

The following section of Chapter 91 is added as provided below. All other sections remain unchanged.

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Text:

ARTICLE 5

CODE OF ETHICS

91-32. Code of Ethics.

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

The Board adopts the American Nursing Association's Code of Ethics.

Fiscal Impact Statement:

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

Statement of Rationale:

This regulation is added in conformance with the current Board of Nursing Practice Act.

Document No. 4439

BOARD OF EXAMINERS IN PSYCHOLOGY

CHAPTER 100

Statutory Authority: 1976 Code Sections 40-1-70 and 40-55-40(d)

100-1 through 100-10. Board of Examiners in Psychology

Synopsis:

To satisfy the requirements of licensure in the practice of psychology, Regulations 100-1 through 100-10 and Appendices A and B must be updated in conformance with the current Board of Examiners in Psychology Practice Act.

The Notice of Drafting was published in the *State Register* on May 24, 2013.

Instructions:

The following sections of Chapter 100 are modified as provided below. Delete Appendix B, Ethical Principles of Psychologists.

Text:

100-1. Application for License to Practice Psychology.

A. A candidate for licensure shall furnish the Board with satisfactory evidence that he or she:

(1)(a) has had four years of combined academic training in psychology and qualifying experience including a doctoral degree in psychology from an educational institution which is accredited by a recognized regional accrediting agency of colleges and universities, and whose program is accredited by a recognized national accrediting agency. In lieu of such degree, a candidate may meet criteria established by the Association of State and Provincial Psychology Boards (ASPPB) (See Appendix A).

(b) holds a doctoral degree in a closely allied field from an educational institution which is accredited by a recognized regional accrediting agency of colleges and universities, provided that the Board finds the

training obtained therein is substantially equivalent to that obtained in programs leading to the doctor's degree in psychology that meets ASPPB guidelines;

(2) has not within the preceding six months failed an examination given by the Board;

(3) is competent in psychology as shown by passing such written and oral examinations as the Board deems necessary;

(4) is not engaged in unethical practices; and

(5) has had two years of supervised professional experience, one year of which may be pre-doctoral. The supervisor shall be a psychologist in good standing who is licensed in the State or who holds an equivalent license in good standing from another state. Supervision shall be within the area of the supervisor's competency. There shall be a minimum of one hour per week of face to face supervision as set out in a supervision contractual agreement between the supervisor and supervisee. The Board shall be notified in writing by the supervisor of the details of the supervisory agreement, when applicable, prior to its initiation and at its conclusion. When the Board deems appropriate, the supervised experience may be waived.

B.(1) An educational institution which is accredited by a recognized regional accrediting agency of colleges and universities is defined as an educational institution which satisfies the standards of the following accrediting association in one of the six regions throughout the United States:

(a) Southern Association of Colleges and Schools;

(b) Western Association of Colleges and Schools;

(c) Northwest Association of Schools and Colleges;

(d) North Central Association of Colleges and Schools;

(e) New England Association of Schools and Colleges; or

(f) Middle States Association of Colleges and Schools.

(2) A program which is accredited by a recognized national accrediting agency is defined as a program which is accredited by the American Psychological Association.

C.(1) Each candidate for licensure must file with the Board written application materials on forms which will be furnished upon request. The application forms must be completed in their entirety with all items completed on all pages. To be assured of Board review, applications for review at a meeting of the Board must be complete 30 days prior to that meeting.

(2) Official, terminal transcripts indicating all graduate course work and degree(s) must be sent by the graduate institution(s) to the Board prior to Board review of the application for licensure.

(3) All educational requirements for licensure (including completion of the doctoral program and the internship or pre-doctoral supervision) must have been satisfied on or before the submission date of the application materials to the Board.

(4) If the Board requests additional information from an applicant, the applicant has 90 days to respond. Failure to respond within 90 days may result in denial of the application. Thereafter, the applicant may be required to submit a new application, fee and documentation. This 90 day deadline may be extended at the discretion of the Board.

(5) The Board has no formal agreements with other state boards to license applicants by reciprocity. The Board can consider for licensure by reciprocity only those applicants for licensure who have been previously licensed by a state board whose criteria for licensure are equal to or more stringent than the criteria used by this Board.

(6) The application process consists of the following requirements:

(a) A Preliminary Application for Licensure (the American Association of State Psychology Boards Education and Credentialing Requirements Data Form) which must be approved by the Board prior to continuation with the licensure application process; the Preliminary Application for Licensure must be accompanied by the application fee. The Preliminary Application for Licensure documents graduate course work and training appropriate for licensure; if the applicant has not graduated from a program accredited by the American Psychological Association, then the applicant must attach supporting materials to the Preliminary Application for Licensure (including a description of the graduate program, course descriptions, and program information from a graduate bulletin) to assist Board members in the evaluation of the graduate program.

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(b) Formal Application materials which include, but are not limited to, a Formal Application, Pre-doctoral Supervision Form, Supervision Contract, Supervisor's Report Form, three character references, three professional references and documentation of a passing score on the Examination for the Professional Practice of Psychology.

(7) An applicant must satisfactorily complete all requirements for licensure within three years from the date of Board approval of the Preliminary Application for Licensure or the applicant may be required to submit a new application, fee and documentation. The Board may extend this period upon sufficient proof of hardship submitted to the Board.

(8) An applicant for a Temporary Permit must complete both the Preliminary Application for Licensure and Formal Application materials and submit these materials with the Temporary Permit fee.

D. An applicant may only advertise in a competency for which he or she demonstrates competence, and appropriate education and training as determined by the Board.

100-2. Examinations.

A. Written examination.

(1) The written examination shall be the Examination for the Professional Practice of Psychology. A passing score on this examination shall be any score which falls at or above one half standard deviation below the mean score obtained on that test administration by persons holding the doctoral degree in psychology taking the test for the first time or any score which was equal to or greater than the score which is seventy percent (70%) of the total number of test items on that test administration, whichever is to the benefit of the applicant.

B. Oral examination.

(1) A candidate is examined for knowledge of scope of practice, familiarity with professional ethics and familiarity with issues of jurisprudence by a member of the Board.

(2) Entrance to the oral examination is contingent upon prior approval of the Preliminary Application for Licensure and receipt of all Formal Application materials, including a passing score on the Examination for the Professional Practice of Psychology.

(3) An applicant for licensure must personally appear before the Board for the oral examination. In lieu of a full Board appearance, the Board may delegate the oral examination to an individual Board member for administration of the oral examination.

(4) An applicant who fails the oral examination must wait six months before the oral examination can be attempted again.

100-3. Renewal of Licenses.

A. Licenses shall be renewed biennially, on a date determined by the Board, upon submission of the renewal fee and the Biennial Renewal Form (which includes, but is not limited to, reports of current activities and information regarding any unlicensed personnel who are being supervised in the performance of work of a psychological nature by the licensed psychologist).

B. The renewal fee and the Biennial Renewal Form will be considered late at the end of the biennial licensure period. A late fee will be assessed, in addition to the renewal fee, if renewal materials are received within two months after the license renewal deadline date.

C. A license not renewed within two months after the license renewal deadline date will be considered expired. Except under extraordinary circumstances approved by the Board, an expired license will be reinstated only upon successful completion of a new application for licensure.

D. The Board reserves the right to waive biennial renewal fees for psychologists who have retired from active practice or who document cases of extreme hardship.

100-4. Code of Ethics.

A. Introduction.

(1) Code of ethics. These rules of conduct constitute the code of ethics as adopted by the American Psychological Association ("APA") and as required by the Code of Laws of South Carolina. The Board adopts and incorporates by reference the APA Code of Ethics as the code of ethics for individuals licensed by this Board.

(2) Purpose. The rules of conduct constitute the standards against which the professional conduct of a psychologist is measured. Licensure as a psychologist in the State commits the licensed psychologist to adherence to these rules of conduct.

(3) Scope. The psychologist shall be governed by these rules of conduct whenever providing psychological services in any context. The rules of conduct shall not supersede other state or federal regulations; however, whenever possible, these rules of conduct should be followed along with state and federal law. These rules of conduct shall apply to the conduct of each licensee and each applicant for licensure, including the applicant's conduct during the period of education, training and supervision which is required for licensure. The term "psychologist," as used within these rules of conduct, shall be interpreted accordingly.

(4) Responsibility for own actions. The psychologist shall be fully responsible for his/her own professional decisions and professional actions.

(5) Violations. A violation of these rules of conduct constitutes unprofessional conduct and is sufficient reason for disciplinary action or denial of either original licensure or reinstatement of licensure.

B. Definitions.

(1) Client. "Client" means a receiver of psychological services. A corporate entity or other organization can be a client when the professional contract is to provide services of benefit primarily to the organization rather than to individuals. In the case of individuals with legal guardians, including minors and legally incompetent adults, the legal guardian shall be the client for decision-making purposes, except that the individual receiving services shall be the client for:

(a) Issues directly affecting the physical or emotional safety of the individual, such as sexual or other exploitative dual relationships; and

(b) Issues specifically reserved to the individual and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship.

(2) Confidential information. "Confidential information" means information revealed by an individual or individuals or otherwise obtained by a psychologist, where there is reasonable expectation that, because of the relationship between the individual(s) and the psychologist or the circumstances under which the information was revealed or obtained, the information shall not be disclosed by the psychologist without the informed consent of the individual(s). When a corporation or other organization is the client, rules of confidentiality apply to information pertaining to the organization, including personal information about individuals when obtained in the proper course of that contract. Such information about individuals is subject to confidential control of the organization, not of the individual, and can be made available to the organization, unless there is reasonable expectation by such individual(s) that such information was obtained in a separate professional relationship with the individual(s) and is therefore subject to confidentiality requirements in itself.

(3) Licensed. "Licensed" means licensed by the South Carolina Board of Examiners in Psychology when such term identifies a person whose professional behavior is subject to regulation by the Board.

(4) Professional service. "Professional service" means all actions of the psychologist in the context of a professional relationship with a client.

(5) Supervisee. "Supervisee" means any person who functions under the extended authority of the psychologist to provide, or while in training to provide, psychological services.

C. Competence.

(1) Limits on practice. A psychologist shall limit practice and supervision to the area(s) of competence in which proficiency has been gained through education, training and experience as demonstrated to the Board.

(2) Accurate representation. A psychologist shall accurately represent areas of competence, education, training, experience and professional affiliations of the psychologist to the Board, the public and colleagues.

(3) Maintaining competency. A psychologist shall maintain current competency in the area(s) in which he/she practices through continuing education, consultation and/or other procedures, in conformance with current standards of scientific and professional knowledge.

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(4) Adding new services and techniques. The psychologist, when developing competency in a service or technique that is either new to the psychologist or new to the profession, shall engage in ongoing consultation with other psychologists or relevant professionals and shall seek appropriate education and/or training in the new area. When such competence involves providing direct human services, the psychologist should inform clients of the innovative nature and the known risks associated with the service(s), so that the client can exercise freedom of choice concerning such service(s).

(5) Referral. The psychologist shall make or recommend referral to other professional, technical or administrative resources when such referral is clearly in the best interests of the client(s).

(6) Sufficient professional information. A psychologist rendering a formal professional opinion about a person (for example, about the fitness of a parent in a custody hearing) shall not do so without direct and substantial professional contact with and a formal assessment of that person.

(7) Maintenance and retention of records.

(a) The psychologist rendering professional individual services to a client (or a dependent), or services billed to a third party payor, shall maintain professional records that include:

(i) The presenting problem(s) or purpose or diagnosis;

(ii) The fee arrangement;

(iii) The date and substance of each billed or service-count contact or service;

(iv) Any test results or other evaluative results obtained and any basic test data from which they were derived;

(v) Notation and results of formal consults with other providers; and

(vi) A copy of test or other evaluative reports prepared as part of the professional relationship.

(b) To meet the requirements of these rules, but not necessarily for other legal purposes, the psychologist shall assure that all data entries in the professional records are maintained for a period of not less than five years after the last date that service was rendered. The psychologist shall also abide by other legal requirements for record retention, even if longer periods of retention are required for other purposes.

(c) The psychologist shall store and dispose of written, electronic and other records in such manner as to assure their confidentiality.

(d) For each person professionally supervised, the psychologist shall maintain, for a period of not less than five years after the last date of supervision, a record of each supervisory session that shall include, among other information, the type, place, and general content of the session.

(8) Continuity of care. A psychologist should make appropriate arrangements to deal with emergency needs of his/her client(s) during periods of his/her foreseeable absences from professional availability and inform his/her client(s) of those arrangements.

D. Impaired objectivity and dual relationships.

(1) Impaired psychologist. The psychologist shall not undertake or continue a professional relationship with a client when the psychologist is, or could reasonable be expected by the Board to be, impaired due to mental, emotional, physiologic, pharmacologic, or substance abuse conditions. If such a condition develops after a professional relationship has been initiated, the psychologist shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination, and shall assist the client in obtaining services from another professional.

(2) Dual relationships affecting psychologist's judgment. The psychologist shall not undertake or continue a professional relationship with a client when the objectivity or competency of the psychologist is, or could reasonably be expected by the Board to be, impaired because of the psychologist's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative or legal relationship with the client or a relevant person associated with or related to the client. If such dual relationship develops or is discovered after the professional relationship has been initiated, the psychologist shall terminate the professional relationship in an appropriate manner, shall notify the client in writing of this termination, and shall assist the client in obtaining services from another professional.

(3) Prohibited dual relationships.

(a) The psychologist, in interacting with any current human services client or with a person to whom the psychologist has at any time within the previous 24 months rendered counseling, psychotherapeutic, or other professional psychological services for the treatment or amelioration of emotional distress or behavioral inadequacy, shall not:

(i) Engage in any verbal or physical behavior toward him/her which is sexually seductive, demeaning, or harassing; or

(ii) Engage in sexual intercourse or other physical intimacies with him/her; or

(iii) Enter into a financial or other potentially exploitative relationship with him/her.

(b) The prohibitions set out in (a) above shall not be subject to the 24 month limitation and shall extend indefinitely if the client is proven to be clearly vulnerable, by reason of emotional or cognitive disorder, to exploitative influence by the psychologist.

(4) Supervisees. A psychologist shall not initiate or continue a relationship involving the supervision of professional activities with an employee/supervisee when the objectivity or competency of the psychologist is, or could be expected by the Board to be, impaired because of the psychologist's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative or legal relationship with the client or a relevant person associated with or related to the employee/supervisee.

E. Client welfare.

(1) Providing explanation of procedures. A psychologist shall give, subject to professional judgment, a truthful, understandable, and complete account of the client's condition to the client or those responsible for the care of the client. The psychologist shall keep the client fully informed as to the purpose and nature of any evaluation, treatment or other procedures and of the client's right to freedom of choice regarding services provided.

(2) Termination of services. Whenever professional services are terminated, the psychologist shall offer to help locate alternative sources of professional services or assistance, if indicated. The psychologist shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the relationship and shall prepare the client appropriately for such termination.

(3) Stereotyping. The psychologist shall not impose on the client any stereotypes of behavior, values or roles related to age, gender, religion, race, disability, nationality or sexual preference or diagnosis which would interfere with the objective provision of psychological services to the client.

(4) Sexual or other dual relations with a client. The psychologist shall not enter into a sexual or other dual relationship with a client, as specified in Section (D) of these rules of conduct.

(5) Solicitation of business by clients. The psychologist providing human services to a client shall not induce that client to solicit business on behalf of the psychologist.

(6) Referrals on request. The psychologist providing human services to a client shall make an appropriate referral of the client to another professional when requested to do so by the client.

F. Welfare of supervisees and research subjects.

(1) Welfare of supervisees. The psychologist shall not exploit a supervisee in any way - sexually, financially or otherwise.

(2) Welfare of research subjects. The psychologist shall respect the dignity and protect the welfare of his/her research subjects and shall comply with all relevant statutes and administrative rules concerning treatment of research subjects.

G. Protecting confidentiality of clients.

(1) In general. The psychologist shall safeguard the confidential information obtained in the course of practice, teaching, research or other professional duties. With the exceptions set forth below, the psychologist shall disclose confidential information to others only with the informed written consent of the client.

(2) Disclosure without informed written consent. The psychologist may disclose confidential information without the informed written consent of the psychologist when the psychologist judges that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client or another person. In such case, the psychologist shall limit disclosure of the otherwise confidential information to only those persons and only that content which would be consistent with the standards of the profession in addressing such problems. When the client is an organization, disclosure shall be made only after the psychologist has made a reasonable and unsuccessful attempt to have the problems corrected within the organization.

(3) Services involving more than one interested party. In a situation in which more than one party has an appropriate interest in the professional services rendered by the psychologist to a recipient or recipients, the psychologist shall, to the extent possible, clarify to all parties prior to rendering the professional services the

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dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services. Such clarification is specifically indicated, among other circumstances, when the client is an organization.

(4) Multiple clients. When service is rendered to more than one client during a joint session, the psychologist shall at the beginning of the professional relationship clarify to all parties the manner in which confidentiality will be handled. All parties shall be given opportunity to discuss and to accept whatever limitations to confidentiality adhere in the situation.

(5) Legally dependent clients. At the beginning of a professional relationship, to the extent that the client can understand, the psychologist shall inform a client who is below the age of majority or who has a legal guardian of the limit the law imposes on the right of confidentiality with respect to his/her communications with the psychologist.

(6) Limited access to client records. The psychologist shall limit access to client records to preserve their confidentiality and shall assure that all persons working under the psychologist's authority comply with the requirements for confidentiality of client material.

(7) Release of confidential information. The psychologist may release confidential information in compliance with the Code of Laws of South Carolina or to conform to other state or federal law, rule or regulation.

(8) Reporting of abuse of children and vulnerable adults. The psychologist shall be familiar with any relevant law concerning the reporting of abuse of children and vulnerable adults and shall comply with such law.

(9) Discussion of client information among professionals. When rendering professional services as part of a team or when interacting with other appropriate professionals concerning the welfare of the client, the psychologist may share confidential information about the client to the extent permitted by the Code of Laws of South Carolina, provided the psychologist takes reasonable steps to assure that all persons receiving the information are informed about the confidential nature of the information and abide by the rules of confidentiality.

(10) Disguising confidential information. When case reports or other clinical materials are used as the basis of teaching, research or other published reports, the psychologist shall exercise reasonable care to insure that the reported material is appropriately disguised to prevent client identification.

(11) Observation and electronic recording. The psychologist shall ensure that diagnostic interviews or therapeutic sessions with a client are observed or electronically recorded only with the informed consent of the client.

(12) Confidentiality after termination of professional relationship. The psychologist shall continue to treat as confidential information regarding a client after the professional relationship between the psychologist and the client has ceased.

H. Representation of services.

(1) Display of license. The psychologist shall display prominently on the premises of the professional practice the psychologist's license to practice psychology in the State.

(2) Misrepresentation of qualifications. The psychologist shall not misrepresent directly or by implication his/her professional qualifications such as education, experience or areas of competence.

(3) Misrepresentation of affiliations. The psychologist shall not misrepresent directly or by implication his/her affiliations or the purposes or characteristics of institutions and organizations with which the psychologist is associated.

(4) False or misleading information. The psychologist shall not include false or misleading information in public statements concerning psychological services offered.

(5) Misrepresentation of services or products. The psychologist shall not associate with or permit his/her name to be used in connection with any services or products in such a way as to misrepresent:

(a) The services or products;

(b) The degree of his/her responsibility for the services or products; or

(c) The nature of his/her association with the services or products.

(6) Correction of misrepresentation by others. The psychologist shall correct others who misrepresent the psychologist's professional qualifications or affiliations.

I. Fees and statements.

(1) Disclosure of cost of services. The psychologist shall not mislead or withhold from the client, prospective client or third-party payor, information about the cost of his/her professional services.

(2) Reasonableness of fees. The psychologist shall not exploit the client or responsible payor by charging a fee that is excessive for the services performed or by entering into an exploitative bartering arrangement in lieu of a fee.

(3) Itemized fee statement. The psychologist shall itemize fees for all services for which the client or a third party payor is billed and ensure that the itemized statement is available to the client. The statement shall identify the date on which the service was performed, the nature of the service, the name of the individual providing the service and the name of the individual who is professionally responsible for the service.

(4) No misrepresentation. The psychologist shall not misrepresent directly or by implication to the client or to a third party payor billed for services the nature of services, the identity of the person who provided the services or the individual who is professionally responsible for the services provided.

(5) Fees to be claimed only by the provider. The psychologist shall not claim a fee for services unless the psychologist is the direct provider of the services or the individual who is professionally responsible for the provision of the services and under whose direction the services were provided.

(6) No remuneration for referrals. No commission, rebate or other form of remuneration may be given or received by a psychologist for the referral of clients for psychological services.

J. Assessment procedures and reports.

(1) Confidential information. A psychologist shall treat an assessment result or interpretation regarding an individual as confidential information.

(2) Communication of results. The psychologist should accompany, subject to professional judgment, communication of results of assessment procedures to the client, parents, legal guardians or other agents of the client by adequate interpretive aids or explanations.

(3) Reservations concerning results. The psychologist shall include in his/her report of the results of an assessment procedure any deficiencies of the assessment norms for the individual assessed and any relevant reservations or qualifications which affect the validity, reliability or other interpretations of results.

(4) Protection of integrity of assessment procedures. The psychologist shall not reproduce or describe in popular publications, lectures or public presentations psychological tests or other assessment devices in ways that might invalidate them.

(5) Information for professional users. A psychologist offering an assessment procedure or automated interpretation service to other professionals shall accompany this offering by a manual or other printed material which fully describes the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population. The psychologist shall explicitly state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. The psychologist shall ensure that advertisements for the assessment procedure or interpretative service are factual and descriptive.

K. Violations of law.

(1) Violation of applicable statutes. The psychologist shall not violate any applicable statute or administrative rule regulating the practice of psychology.

(2) Use of fraud, misrepresentation or deception. The psychologist shall not use fraud, misrepresentation or deception in obtaining a psychology license, in passing a psychology licensing examination, in assisting another to obtain a psychology license or to pass a psychology licensing examination, in billing clients or third party payers, in providing psychological service(s), in reporting the results of psychological evaluations or services or in conducting any other activity related to the practice of psychology.

L. Aiding illegal practice.

(1) Aiding unauthorized practice. A psychologist shall not aid or abet another person in misrepresenting his/her professional credentials or in illegally engaging in the practice of psychology.

(2) Delegating professional authority. A psychologist shall not delegate responsibilities to a person not appropriately credentialed or otherwise appropriately qualified to provide such services.

(3) Providing supervision. A psychologist shall exercise appropriate supervision over supervisees, as set forth in the rules and regulations of the Board.

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(4) Reporting of violations to Board. The psychologist who has substantial reason to believe that there has been a violation of the statutes or rules of the Board shall so inform the Board in writing on forms provided by the Board, except that, when the information regarding such violation is obtained in a professional relationship with a client, the psychologist shall report it only with the written permission of the client. Nothing in this code shall relieve a psychologist of the duty to file any report required by applicable statutes.

M. Any other rules as promulgated by the American Psychological Association are also adopted and incorporated by reference.

100-6. Advertising.

A. Public statements, announcements of services, advertising, and promotional activities of psychologists serve the purpose of helping the public make informed judgments and choices. Psychologists represent accurately and objectively their professional qualifications, affiliations, and functions, as well as those of the institutions or organizations with which they or the statements may be associated. In public statements providing psychological information or professional opinions or providing information about the availability of psychological products, publications, and services, psychologists must base their statements on scientifically acceptable psychological findings and techniques with full recognition of the limits and uncertainties of such evidence.

1. When announcing or advertising professional services, psychologists may list the following information to describe the provider and services provided: name, highest relevant academic degree earned from a regionally accredited institution, date, type and level of certification or licensure, diplomat status, APA membership status, address, telephone number, office hours, a brief listing of the type of psychological services offered, an appropriate presentation of fee information, foreign language spoken, and policy with regard to third-party payments. Additional relevant or consumer information may be included if not prohibited by other sections of these Ethical Principles.

2. In announcing or advertising the availability of psychological products, publications, or services, psychologists must not present their affiliation with any organization in a manner that falsely implies sponsorship or certification by that organization. In particular and for example, psychologists may not state APA membership or fellow status in a way to suggest that such status implies specialized professional competence or qualifications. Public statements include, but are not limited to, communication by means of periodical, book, list, directory, television, radio, or motion picture. They may not contain (i) a false fraudulent, misleading deceptive, or unfair statement; (ii) a misinterpretation of fact or a statement likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts; (iii) a statement intended or likely to create false or unjustified expectations of favorable results; (iv) a statement implying unusual, unique, or one-of-a-kind abilities.

100-7. Fees.

The following nonrefundable fees shall be proscribed and assessed by the Board within the following limits:

A. Application (including both the Preliminary Application for Licensure and Formal Application materials): Not to exceed \$500.00.

B. Written Examination: Examination for the Professional Practice of Psychology; set by and paid to Professional Examination Service.

C. Biennial Renewal of License: Not to exceed \$500.00.

D. Temporary Permit: Not to exceed \$250.00.

E. Miscellaneous administrative charges:

(1) Replacement of lost/stolen license: Not to exceed \$50.00.

(2) Return of incomplete Biennial Renewal Form: Not to exceed \$30.00.

(3) Late fee: Not to exceed \$75.00.

(4) Fee for second and each subsequent oral examination: Not to exceed \$200.00.

(5) Fee for returned checks: \$30.00 (or amount specified by law; see S.C. Code § 34-11-70).

(6) Fee for name change: Not to exceed \$50.00.

(7) Fee for supervised employee biennial registration: Not to exceed \$300.00.

100-8. Guidelines for the Employment and Supervision of Unlicensed Persons Providing Psychological Services.

A. Qualifications. The supervising psychologist shall be licensed for the practice of psychology and have adequate training, knowledge and skill to render competently any psychological service which his/her supervisee undertakes.

B. Qualifications of unlicensed persons providing psychological services. The unlicensed service provider must have background, training and experience appropriate to the functions performed. The licensed supervising psychologist is responsible, subject to Board review, for determining the adequacy of preparation of the unlicensed service provider and the designation of his/her title in accordance with the Code of Laws of South Carolina.

C. Conditions for utilization of unlicensed persons providing psychological services.

(1) The licensed psychologist must register the following information, and any other information deemed necessary by the Board, with the Board at the time of biennial license renewal:

- (a) The name of the unlicensed person rendering the psychological service;
- (b) The nature of the psychological services rendered;
- (c) The qualifying academic training and experience of the unlicensed person;
- (d) The nature of the continuing supervision provided by the licensed psychologist.

(2) The person providing psychological services who is not licensed by the Board must be under the direct and continuing administrative and professional supervision of a psychologist licensed by the Board.

(3) The licensed psychologist must be vested with administrative control over the functioning of the unlicensed person in order to maintain ultimate responsibility for the welfare of every client. When the employer is other than the licensed psychologist, the licensed psychologist must have direct input into administrative matters.

(4) The licensed psychologist shall have sufficient knowledge of all clients, including face-to-face contact when necessary, in order to plan effective service delivery procedures. The progress of the work shall be monitored through such means as will insure that full legal and professional responsibility can be accepted by the supervising psychologist for all services rendered. Supervising psychologists shall also be available for emergency consultation and intervention.

(5) Work assignments shall be commensurate with the skills of the unlicensed person. All procedures shall be planned in consultation with the supervising psychologist.

(6) The unlicensed employee shall work in the same physical setting as the supervising psychologist, unless other individual arrangements have been approved, in advance, by the Board.

(7) Public announcement of services and fees and contact with the lay or professional community shall be offered only in the name of the supervising licensed psychologist. The title of the unlicensed person must clearly indicate his/her supervised status.

(8) Users of the unlicensed person's services shall be informed of his/her status and shall be given specific information as to his/her qualifications and functions.

(9) Clients shall be informed of the possibility of periodic meetings with the supervising psychologist at their, the service provider's, or the supervising psychologist's request.

(10) Setting and receipt of payment shall remain the sole domain of the employing agency or supervising psychologist.

(11) The supervising psychologist shall establish and maintain a level of supervisory contact consistent with established professional standards and be fully accountable in the event that professional, ethical or legal issues are raised.

(12) No more than the equivalent of three (3) full-time supervisees may be registered for any one supervising licensed psychologist.

D. Conduct of supervision. It is recognized that the variability in the preparation for practice of all personnel will require individually tailored supervision. The range and content of supervision will have to be arranged between the individual supervising psychologist and the unlicensed person. A detailed job description in which functions are designated at varying levels of difficulty, requiring increased levels of training, skill and

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experience should be available. This job description shall be made available to the Board and service recipients, upon request.

(1) Employment of a person who provides psychological services and who is not licensed by the Board requires the supervision of a licensed psychologist.

(2) The licensed psychologist may not be in the employ of his/her supervisee.

(3) The supervising psychologist is responsible for the planning, course and outcome of the psychological services performed by the supervisee. The conduct of supervision shall insure the professional, ethical and legal protection of the client and of the unlicensed person.

(4) An ongoing record of supervision shall be maintained which details the types of activities in which the unlicensed person is engaged, the level of competence in each activity and the outcome of all procedures.

(5) All written reports and communications shall be reviewed, approved and countersigned as by the supervising licensed psychologist.

100-9. Organization of the Board.

A. Officers.

(1) The officers of the Board shall be the Chair and the Vice-Chair who shall be elected annually and serve a one year term or until his/her successor shall have been elected.

(2) The Chair shall preside at all meetings and shall perform other duties as the Board may direct. In his/her absence, the next senior officer of the Board will preside.

B. Meetings.

(1) At least one meeting shall be held each year.

(2) Other meetings will be arranged as the need is determined by members of the Board.

(3) Special meetings may be held upon the call of the Chair upon five days written notice.

(4) Call meetings may be held at the written request of any two members of the Board.

(5) Telephone conference meetings may be held at the request of the Chair of the Board to initiate any action which requires consideration before a regular meeting of the Board.

C. Board Actions.

Official actions of the Board are those actions approved by official vote of the Board. Unofficial statements made by an individual Board member or staff member are not binding on the Board.

100-10. Continuing Education Credits.

A. Number of credits. Each licensed psychologist shall earn a minimum of twenty-four (24) approved continuing education credits during each two year biennial licensure period.

B. Types of credit. A minimum of twelve (12) continuing education credits must be accumulated from Category A offerings and a maximum of twelve (12) continuing education credits can be accumulated from Category B offerings. Psychologists can elect to earn all of their continuing education credits from Category A offerings.

(1) Category A experiences generally include formal activities wherein direct contact hours can be exchanged for continuing education credits on a one to one basis. Each offering under Category A should have a mechanism by which to measure the exchange of information, and, with respect to item (e) below, these offerings must be relevant to psychologist's area(s) of practice. It is the responsibility of the licensed psychologist to confirm completion of each educational experience completed below. Category A generally includes, but is not limited to:

(a) Successful completion of a three (3) hour graduate course in psychology at a regionally accredited institution of higher learning; content of the course must be relevant to area(s) in which the psychologist practices;

(b) Offerings by regionally accredited institutions of higher learning;

(c) Offerings by the American Psychological Association approved internship training programs;

(d) Offerings by the American Psychological Association, by American Psychological Association approved sponsors, and/or by state or regional psychological associations;

(e) Teaching a graduate course designed for the education of psychologists the first time it is taught;

(f) Offerings by sponsors approved by other national professional organizations that are relevant to specialty area of licensure;

(g) Publishing a scholarly work of a psychological nature in a refereed publication.

(2) For offerings (a) and (g) under Category A, a maximum of twelve (12) continuing education credits can be earned per year.

(3) Category B usually involves more informal offerings than Category A and includes, but is not limited to:

(a) Peer review or supervision by another licensed psychologist or another mental health professional;

(b) Consultation with another licensed psychologist or another mental health professional;

(c) Publishing a scholarly work of a psychological nature in a non-refereed publication;

(d) Attendance or presentation at professional, educational, or scientific meetings, seminars, workshops, etc. of local, state, regional, or national professional organizations or agencies; or

(e) Reading of professional journals and listening to/viewing self study tapes and courses of a psychological nature.

C. No carryover of continuing education credits. Under no circumstances will a licensed psychologist who earns more than the minimum number of continuing education credits in the twenty-four (24) month licensure period be permitted to carry over the excess credits to the following licensure period.

D. Reporting of credits. Each licensed psychologist shall report, on a form provided by the Board, completion of a minimum of twenty-four (24) approved continuing education credits in the twenty-four (24) month licensure period at the time of licensure renewal.

E. Monitoring of credits. The Board will request written documentation of completion of a minimum of twenty-four (24) approved continuing education credits during the previous twenty-four (24) month licensure period from a randomly selected sample of licensed psychologists.

F. Penalties. When a licensed psychologist is unable to provide the Board with written documentation of completion of a minimum of twenty-four (24) approved continuing education credits during the previous twenty-four (24) month licensure period, a penalty will be determined by the Board on an individual basis.

APPENDIX A. ASSOCIATION OF STATE AND PROVINCIAL PSYCHOLOGY BOARDS CRITERIA

Principle: The foundation of professional practice in psychology is the evolving body of knowledge in the discipline of psychology.

The following criteria will be used to identify and designate educational programs as psychology programs:

1. Programs that are accredited by the American Psychological Association are recognized as meeting the definition of a professional psychology program. The criteria for accreditation serve as a model for professional training.

2. Training in professional psychology is doctoral training offered in a regionally accredited institution of higher learning.

3. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.

4. The psychology program must stand as a recognizable, coherent organizational entity within the institution.

5. There must be clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

6. The program must be an organized sequence of study planned by those responsible for the training program to provide an integrated educational sequence appropriate to the professional practice of psychology.

7. There must be an identifiable psychology faculty and a psychologist responsible for the program.

8. The program must have an identifiable body of students who are matriculated in that program for a degree. Since the quality of any educational program is partially dependent on the quality of students, careful attention must be given that students meet appropriate standards of educational preparation and ability for admission.

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9. The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology.

10. The curriculum shall encompass a minimum of three academic years of full-time graduate study. The doctoral program shall involve one continuous academic year of full-time residency at the university at which the degree is granted. In addition to instruction in scientific and professional ethics and standards, history and systems, research design methodology, statistics and psychometrics, the core program shall require each student to demonstrate competence in each of the following substantive content areas. This typically will be met by including a minimum of six or more graduate semester hours (nine or more graduate quarter hours) in each of these four substantive content areas:

- a. Biological bases of behavior, e.g., physiological psychology, comparative psychology.
- b. Cognitive-affective bases of behavior, e.g., learning, thinking, motivation, emotion.
- c. Social bases of behavior, e.g., social psychology, group processes, organization and systems theory.
- d. Individual differences, e.g., personality theory, human development, abnormal psychology.

Note: Item 10 identifies the core psychology program. In addition to these criteria, all professional education programs in psychology will include course requirements in specialty areas. The above curriculum requirements, then, represent the necessary, but not the sufficient number of graduate hours for a degree in professional psychology.

Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions in complying with the proposed regulations.

Statement of Rationale:

These regulations are updated in conformance with the current Board of Examiners in Psychology Practice Act.

Document No. 4426

REAL ESTATE APPRAISERS BOARD

CHAPTER 137

Statutory Authority: 1976 Code Sections 40-1-70 and 40-60-10(I)(3)

137-100 through 137-900.09. Real Estate Appraisers Board

Synopsis:

To satisfy the requirements of licensure in the real estate appraisal, Regulations 137-100 through 137-900.09 must be updated in conformance with the Real Estate Appraisers Board Practice Act.

The Notice of Drafting was published in the *State Register* on February 22, 2013.

Instructions:

The following sections of Chapter 137 are modified as provided below.

Text:

137-100. Definitions.

(1) "Asynchronous" means communication that does not take place at the same time. It is characterized by as needed, intermittent communication.

(2) "Distance Education" means the process of delivering instruction when the instructors and the students are separated by distance.

(3) "Synchronous" means communication in which the interaction is simultaneous. It is characterized by live two-way communication.

137-100.01. Appraisal Experience Point System.

A point system may be utilized by the Board to evaluate the appraisal experience of applicants. The evaluation method converts hours spent in appraisal activity to points earned for appraisal experience.

137-100.02. Qualifications.

(A) In order to qualify as a state apprentice, licensed or certified appraiser, an applicant must meet the requirements set forth below, as well as any requirements established by the Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB) of the Appraisal Foundation, as subsequently endorsed by the Appraisal Subcommittee pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(B) In order to qualify as an apprentice appraiser, an applicant:

(1) must have received 75 hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty (30) hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, and fifteen (15) hours in National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB;

(2) must attend a trainee/supervisor orientation conducted in compliance with AQB requirements.

(C) In order to qualify to become a state licensed real estate appraiser, an applicant:

(1) must have received one hundred fifty (150) hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty (30) hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, fifteen (15) hour National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB, fifteen (15) hours in Residential Market Analysis and Highest and Best Use, fifteen (15) hours in Residential Appraiser Site Valuation and Cost Approach, thirty (30) hours in Residential Sales Comparison and Income Approaches, and fifteen (15) hours in Residential Report Writing and Case Studies.

(2) Applicants for the Licensed appraiser classification must hold an Associate degree or higher, from an accredited college, community college, or university. In lieu of the Associate degree, an applicant for the Licensed appraiser credential shall successfully pass the following collegiate level subject matter courses from an accredited college, junior college, community college or university:

- (a) English Composition;
- (b) Micro Economics;
- (c) Macro Economics;
- (d) Finance;
- (e) Algebra, Geometry, or higher mathematics;
- (f) Statistics;
- (g) Introduction to Computers-Word processing / spreadsheets;
- (h) Business or Real Estate Law; and
- (i) Two elective courses in accounting, geography, agricultural economics, business management, or real estate.

Total credits are the total hours of equivalent college courses in lieu of an Associate degree or 30 semester credit hours for the Licensed appraiser. If an accredited college or university accepts the College-Level Examination Program (CLEP) examination(s) and issues a transcript for the exam, showing its approval, it will be considered as credit for the college course.

(3) must have earned a minimum of two thousand hours of appraisal experience, which equates to two hundred fifty (250) experience points in appraising either residential or nonresidential properties in no fewer than 24 months; however, the maximum number of points which an applicant can earn in review (field,

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documentary, or desk) appraisal experience is limited to one hundred twenty-five (125) points. Qualifying experience must be obtained after January 1, 1992, be in appraisal work conforming to USPAP Standards where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), reporting conclusions, and be of a variety sufficient to demonstrate competency in all USPAP recognized approaches to value; and

(4) must have at least twenty-four (24) months of real estate appraisal experience commencing as of the date that the first assignment is completed; and

(5) must stand for and pass an exam administered or approved by the Board. An applicant who does not become licensed within two years after passing the examination must retake the examination.

(D) In order to qualify to become a state certified residential real estate appraiser, an applicant:

(1) must have received two hundred (200) hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, fifteen (15) hour National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB, fifteen (15) hours in Residential Market Analysis and Highest and Best Use, fifteen (15) hours in Residential Appraiser Site Valuation and Cost Approach, thirty (30) hours in Residential Sales Comparison and Income Approaches, fifteen (15) hours in Residential Report Writing and Case Studies, fifteen (15) hours in Statistics, Modeling, and Finance, fifteen (15) hours in Advanced Residential Applications and Case Studies, and twenty (20) hours in appraisal subject matter electives;

(2) must hold a Bachelor's degree or higher, from an accredited college, community college, or university;

(3) must have earned a minimum of two thousand five hundred hours of appraisal experience, which equates to three hundred twelve and one-half (312.5) experience points in appraising either residential or nonresidential properties; however, the maximum number of points which an applicant can earn in review (field, documentary, or desk) appraisal experience is limited to one hundred fifty six and one quarter (156.25) points. Qualifying experience must be obtained after January 1, 1992, be in appraisal work conforming to USPAP Standards where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), reporting conclusions, and be of a variety sufficient to demonstrate competency in all USPAP recognized approaches to value;

(4) must have at least twenty-four (24) months of real estate appraisal experience commencing as of the date that the first assignment is completed; and

(5) must stand for and pass an exam administered or approved by the Board. An applicant who does not become certified within two years after passing the examination must retake the examination to qualify for residential certification.

(E) In order to qualify to become a state certified general real estate appraiser, an applicant:

(1) must have received three hundred (300) hours of Core Curriculum prescribed by the AQB in qualifying education covering thirty (30) hours in Basic Appraisal Principles, thirty (30) hours in Basic Appraisal Procedures, fifteen (15) hour National Uniform Standards of Professional Appraisal Practice or its equivalent as determined by the AQB, thirty (30) hours in General Appraiser Market Analysis and Highest and Best Use, fifteen (15) hours in Statistics, Modeling, and Finance, thirty (30) hours in General Appraiser Sales Comparison Approach, at least thirty (30) hours in General Appraiser Site Valuation and Cost Approach, sixty (60) hours in General Appraiser Income Approach, thirty (30) hours in General Appraiser Report Writing and Case Studies, and thirty (30) hours in appraisal subject matter electives;

(2) must hold a Bachelors degree or higher from an accredited college or university;

(3) must have earned a minimum of three thousand hours of appraisal experience, which equates to three hundred seventy-five (375) experience points, fifty (50%) percent of which must come from appraising nonresidential properties. The maximum number of points which an applicant can earn in review (field, documentary, or desk) appraisal experience is limited to one hundred eighty-seven and one-half (187.50) points. Qualifying experience must be obtained after January 1, 1992, be in appraisal work conforming to USPAP Standards where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), reporting conclusions, and be of a variety sufficient to demonstrate competency in all USPAP recognized approaches to value;

(4) must have at least thirty (30) months of real estate appraisal experience commencing as of the date that the first assignment is completed; and

(5) must stand for and pass an exam administered or approved by the Board. An applicant who does not become certified within two years after passing the examination must retake the examination to qualify for general certification.

(F) Courses taken in satisfying the qualifying education requirements should not be repetitive in nature. Each course credited toward the required number of qualifying education hours should represent a progression in which the appraiser’s knowledge is increased.

(G) The Board may waive the examination requirements for those applicants who are currently licensed or certified in another state upon proof that the applicant has successfully passed an Appraisal Qualifications Board approved exam which served as a requirement for licensure or certification in the state where he is currently licensed or certified.

137-100.03. Residential Appraisal Categories.

The following categories pertain to various forms of appraiser involvement and the point values which may be awarded by the Board when evaluating residential appraisal experience:

Category	Points Assigned
(A) Sole Appraiser - refers to appraisal reports which were completed and signed by only one person.	1.0
(B) Co-Appraiser--refers to appraisal reports in which more than one appraiser worked on the report. To qualify for this category, applicants must have performed more than fifty percent (50%) of the work on an appraisal. Applicants may receive experience credit for the appraisal even if this work was reviewed by a supervising appraiser who signed the appraisal report. However, in those instances where an applicant has not signed an appraisal report and claims experience credit, the applicant must submit with the application a written statement from the supervising appraiser which verifies that the applicant performed more than fifty percent (50%) of the work on specified appraisal assignments. In addition, the name of the individual providing significant professional assistance must be acknowledged in the appraisal report.	.75
(C) Field Review--refers to a review of an appraisal. In order to qualify for field review experience credit, the applicant must have conducted a physical inspection of the property, as well as verified the data and checked the calculations contained in the appraisal under review. In addition, in order to qualify for experience credit in this category, an applicant must have prepared a written report recommending the acceptance, revision, or rejection of the appraisal under review.	.50
(D) Documentary or Desk Review - refers to a review of an appraisal performed by another person (including a person under the applicant’s supervision) but does not include a physical inspection of the subject property. In order to qualify for experience credit in this category, an applicant must have thoroughly and critically reviewed all portions of the appraisal report and recommended the acceptance, revision, or rejection of the appraisal under review.	.25
(E) Condemnation Partial Acquisition - refers to appraisals performed on properties involved in condemnation proceedings. In order to qualify for experience credit in this category, a partial acquisition appraisal must be performed and an evalu-	1.25

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ation of both the before and after value must be given. A total acquisition under condemnation proceedings would not fall under this category.

137-100.04. Residential Point Values.

The following point values may be awarded by the Board concerning property types when evaluating residential appraisal experience:

Type of Appraisal	Points Assigned
1. Appraisal of Single-Family (one unit dwelling)	1.0
2. Appraisal of Multi-Family (two-four units)	2.0
3. Appraisal of Vacant Residential Lot	.5
4. Appraisal of Rural Residential Land (10-50 acres)	2.0

137-100.05. Nonresidential Point Values.

The following point values may be awarded by the Board concerning property types when evaluating nonresidential appraisal experience:

Type of Appraisal	Points Assigned
A. Vacant Land: (Undeveloped nonresidential tracts, residential multi-family sites, commercial sites, industrial sites, lands in transition, etc.)	2.5
B. Rural/Agricultural: (51 to 250 acres)	2.5
(more than 250 acres)	4.0
C. Residential Multi-Family (5-12 units): (apartments, condominiums, townhouses, mobile home parks, etc.)	5.0
D. Residential Multi-Family (13 units or more): (Apartments, condominiums, townhouses, mobile home parks, etc.) [Add 1 point for proposed project projections.]	7.0
E. Commercial Single-Tenant: (Office building, retail store, restaurant, service station, bank, day-care center, etc.)	5.0
F. Commercial Multi-Tenant: (Office building, shopping center, hotel/motel, etc.) [Add 1 point for proposed projections.]	8.0
G. Industrial: (Warehouse, manufacturing plant, etc.)	
Under 20,000 square feet	5.0
20,000 square feet or more	9.0
H. Institutional: (Nursing home, hospital, school, church, government building, etc.)	7.0

137-100.06. Nonresidential Appraisal Categories.

The following categories pertain to various forms of appraiser involvement and the point values which may be awarded by the Board when evaluating nonresidential appraisal experience:

Type of Appraisal	Points Assigned
A. Sole Appraiser--refers to appraisal reports which were completed and signed by only one person.	1.0
B. Co-Appraiser--refers to appraisal reports in which more than one appraiser worked on the report. To qualify for this category, applicants must have performed more than fifty percent (50%) of the work on an appraisal. Applicants may receive experience credit for the appraisal even if this work was reviewed by a supervising appraiser who signed the appraisal report. However, in those instances where an applicant has not signed an appraisal report and claims experience credit, the applicant must submit with the application a written statement from the supervising appraiser which verifies that the applicant performed more than fifty percent (50%) of the work on specified appraisal assignments.	.75
C. Field Review--refers to a review of an appraisal. In order to qualify for field review experience credit, the applicant must have conducted a physical inspection of the property, as well as verified the data and checked the calculations contained in the appraisal under review. In addition, in order to qualify for experience credit in this category, an applicant must have prepared a written report recommending the acceptance, revision, or rejection of the appraisal under review.	.50
D. Documentary or Desk Review - refers to a review of an appraisal performed by another person but does not require a physical inspection of the subject property. In order to qualify for experience credit in this category, an applicant must have thoroughly and critically reviewed all portions of the appraisal report and recommended the acceptance, revision, or rejection of the appraisal under review.	.25
E. Condemnation Partial Acquisition - refers to appraisals performed on properties involved in condemnation proceeding. In order to qualify for experience credit in this category, a partial acquisition appraisal must be performed and an evaluation of both the before and after value must be given. A total acquisition under condemnation proceedings would not fall under this category.	1.25

137-100.07. Other Appraisal Experience.

(A) Applicants may receive credit for appraisals of other types of real property not listed in these Regulations. The Board may, on an individual basis, determine the amount of credit to be awarded for such appraisals based on information provided to the Board by the applicant.

(B) Experience credit may be awarded for mass appraisal activity provided such activity is in compliance with the standards set forth in the Uniform Standards of Professional Appraisal Practice. However, the

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maximum number of experience points an applicant will be awarded for mass appraisal activity is forty percent (40%), of which no more than fifty (50) points may be earned through review appraisals.

(C) Mass appraisal experience will not be awarded for activity performed by individuals commonly referred to as "listers." The duties these individuals perform are typically limited to the location of real property, measurement of improvements relative to such things as number of bedrooms and bathrooms, siding, decks, or other miscellaneous information. Such activity does not, in and of itself, apply the methods and techniques utilized in the appraisal process and consequently will not be credited as appraisal experience.

(D) Duties performed by listers are not considered regulated appraisal activity and therefore listers are not required to become licensed or certified under the South Carolina Real Estate Appraiser License and Certification Act.

137-200.01. Mass Appraisal Activity.

(A) Appraisal experience may be obtained through mass appraisal activity when applicants can demonstrate that after receiving information supplied by the lister the person claiming mass appraisal experience credit inspected the subject property, determined the quality or classification of the property, estimated the depreciation of the improvements, determined the land or lot value based on market sales of comparable properties adjusted to the subject property, and reviewed the estimated value of the property against comparable sales in order to ensure the value estimate approximated market value.

(B) Ad valorem appraisal experience may be obtained through individual property appraisals utilizing the entire appraisal process.

137-200.02. Residential Mass Appraisals.

The following categories pertain to various forms of appraiser involvement and the point values which may be awarded by the Board when evaluating residential mass appraisal experience:

(A) Sole Appraiser - refers to appraisals which were completed by only one person.

Type of Appraisal		Points Assigned
1. Single-Family	New	.25
(one-unit dwelling)	Update	.05
2. Multi-Family	New	.25
(two-four units)	Update	.067
3. Residential Lots	New	.02
(4 lots or less)	Update	.02
4. Rural Residential Land	New	.167
(50 acres or less)	Update	.10

(B) Co-Appraiser refers to appraisals in which more than one appraiser worked as a team. To qualify for this category, applicants must have performed at least fifty percent (50%) of the work on an appraisal.

Type of Appraisal		Points Assigned
1. Single-Family	New	.188
(one unit dwelling)	Update	.038
2. Multi-Family	New	.188
(two-four units)	Update	.05
3. Residential Lots	New	.015
(4 lots or less)	Update	.015
4. Rural Residential Land	New	.125
(50 acres or less)	Update	.075

137-200.03. Nonresidential Mass Appraisals.

The following categories pertain to various forms of appraiser involvement and the point values which may be awarded by the Board when evaluating nonresidential mass appraisal experience:

(A) Sole Appraiser refers to an appraisal which was completed by only one person.

Type of Appraisal		Points Assigned
1. Vacant Land	New	.067
	Update	.04
2. Rural Agricultural (51 acres to 250 acres)	New	.167
	Update	.10
3. Rural Agricultural (more than 250 acres)	New	.20
	Update	.125
4. Multi-Family (5-12 units)	New	1.0
	Update	.25
5. Multi-Family (13 or more units)	New	1.5
	Update	.33
6. Commercial (single tenant)	New	1.0
	Update	.25
7. Commercial (multi-tenant)	New	2.0
	Update	1.0
8. Industrial (under 20,000 square feet)	New	1.0
	Update	.75
9. Industrial (more than 20,000 square feet)	New	1.5
	Update	1.0
10. Institutional	New	1.5
	Update	.33

(B) Co-Appraiser refers to an appraisal in which two or more appraisers worked together as a team. To qualify for this category, applicants must have performed at least fifty percent (50%) of the work on an appraisal.

Type of Appraisal		Points Assigned
1. Vacant Land	New	.05
	Update	.03
2. Rural Agricultural (51 acres to 250 acres)	New	.125
	Update	.075
3. Rural Agricultural (more than 250 acres)	New	.150
	Update	.094
4. Multi-Family (5-12 units)	New	.75
	Update	.188
5. Multi-Family (13 or more units)	New	1.125
	Update	.248
6. Commercial (single tenant)	New	.75
	Update	.188
7. Commercial (multi-tenant)	New	1.5
	Update	.75
8. Industrial (under 20,000 square feet)	New	.75
	Update	.563
9. Industrial (more than 20,000 square feet)	New	1.125
	Update	.75
10. Institutional	New	1.125
	Update	.248

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137-200.04. Mass Appraisal Experience Verification.

Persons claiming mass appraisal experience must provide a statement of verification of the experience claimed. This verification should be completed by the applicant's supervisor or employer where the mass appraisal experience was required. The experience claimed by the applicant must be reported on a log in compliance with 137-300.01(A)(2).

137-300.01. Responsibilities of an Apprentice Appraiser.

(A) The holder of an apprentice appraiser permit issued by the Board must comply with the following:

(1) The apprentice shall perform appraisal assignments only under the direct supervision of a state certified residential or state certified general real estate appraiser.

(2) The apprentice and supervisor are required to complete a course that is oriented toward the requirements and responsibilities of supervisory appraisers and expectations for trainee appraisers prior to obtaining an apprentice credential.

(3) The apprentice shall maintain a log which shall contain the following for each appraisal assignment:

(a) Date of appraisal.

(b) Address of appraised property.

(c) Description of work performed.

(d) Type of property.

(e) Number of points claimed for the assignment.

(f) Name and address of the client.

(g) Name, signature and certification number of supervising appraiser.

(4) The apprentice shall maintain copies or have access to all appraisals.

(5) The apprentice shall make the log and all appraisals available at all times for inspection by the Board.

(6) When performing appraisal assignments, the apprentice shall have in his or her possession the permit issued by the Board.

(7) The apprentice is eligible to take the appraisal licensing or certification examinations after completing the requisite Board-approved AQB Core Curriculum and experience required for the Licensed or Certified appraiser classification.

137-300.02. Responsibilities of a Supervising Appraiser.

(A) With respect to an apprentice appraiser employed or retained by or associated with a state certified appraiser:

(1) For purposes of this section, "direct supervision" means to personally review an appraisal report prepared by an apprentice and to sign and certify the report as being independently and impartially prepared and in compliance with the Uniform Standards of Professional Appraisal Practice, these regulations, and applicable statutory requirements.

(2) A state certified appraiser having direct supervisory authority over the apprentice appraiser shall make reasonable efforts to ensure that the apprentice's conduct is compatible with the professional standards of the supervising appraiser.

(3) A supervising appraiser shall be responsible for conduct of an apprentice appraiser that would be a violation of the Uniform Standards of Professional Appraisal Practice if:

(a) the supervising appraiser orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(b) the supervising appraiser has direct supervisory authority over the apprentice, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(B) A supervising appraiser of an apprentice appraiser shall also:

(1) The supervisor and apprentice are required to complete a course that is oriented toward the requirements and responsibilities of supervisory appraisers and expectations for trainee appraisers prior to obtaining an apprentice credential.

(2) Acknowledge in the appraisal certification the professional contribution of the apprentice in accordance with the Uniform Standards of Professional Appraisal Practice; and

(3) Provide the apprentice with a copy or allow access of any final appraisal document in which the apprentice participated.

(4) Personally accompany each apprentice on appraisal assignments until the apprentice documents seventy-five (75) experience points.

(5) Jointly maintain with the apprentice appraiser an experience log as established in Section 137-300.01(A)(2).

(6) Must be certified for a minimum of three years prior to being eligible to become a supervisory appraiser.

(7) Be in good standing with the Board and not subject to any disciplinary action within the last three years that affects the supervisor's legal eligibility to engage in the practice of appraising.

137-400.01. Temporary Practice.

A. The Board shall grant a temporary permit to practice as a state licensed, state certified residential, or state certified general appraiser to persons who are licensed or certified to perform appraisals in another state. A person desiring a temporary practice permit must file an application as prescribed by the Board.

B. The temporary practice permit shall be effective for one specific appraisal assignment. The application for temporary practice must state the specific appraisal assignment to which it will apply.

C. If the appraisal assignment is not completed within six (6) months from the date of the permit, the Board may request that the appraiser show cause why the assignment is not complete. The Board may grant a six (6) month extension upon request of the appraiser.

D. A temporary practice permit issued by the Board must bear a number assigned by the Board. When signing an appraisal report while practicing under a temporary practice permit in this State, the holder thereof shall place the following notation: "Practicing in the State of South Carolina under Temporary Practice Permit No. . . . ". The notation must be used in all statements of qualification, contracts, or other instruments used by the appraiser when reference is made to his authority to perform appraisal activity in this State.

137-500.01. Continuing Education.

(A) All appraisers, including apprentice appraisers, prior to their first and all subsequent renewals of their authorization to engage in real estate appraisal activity, must complete the continuing education requirement of at least twenty-eight (28) classroom hours of approved instruction biennially.

(B) Continuing education is to be reported on a form approved by the Board and must have all supporting documentation attached. To ensure that it is recorded prior to the renewal deadline of June 30 and does not delay an appraiser's renewal, it should be received by the Board no later than June 1. The Board cannot guarantee that a renewal will be processed prior to the expiration date of June 30 if forms are received after June 1. Any continuing education reports submitted after August 31 will be subject to a late fee.

(C) Approved qualifying courses may be used to meet the continuing education requirement provided that the following conditions are met:

(1) Qualifying courses taken after July 1, 1992, must be on the approved list.

(2) The level of the course must be above the appraiser's current status [e.g. a licensed appraiser may receive continuing education credit for taking a Certified Residential or Certified General Level Course].

(3) Credit will not be given for the same category course taken within a two (2) year period.

(4) The current 7-hour National Uniform Standards of Professional Appraiser Practice Update Course must be taken by all appraisers prior to each renewal.

(D) Appraisers may request that they receive credit for continuing education for a course taken that has not been approved by the Board. Appraisers may use qualifying courses for continuing education credit provided that the content is substantially different from their previously completed qualifying courses. Credit will be granted only if the appraiser provides satisfactory proof of course completion and the Board finds that the course meets the criteria set for continuing education courses with regard to subject matter, course length,

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instructor qualification and student attendance. Requests for continuing education credit for non-approved courses must be made on a form approved by the Board and must be submitted along with a nonrefundable fee.

(E) Appraisers who received their authority to engage in real estate appraisal activity in South Carolina through either a reciprocal agreement with their state of residence or as a non-resident South Carolina appraiser may meet the continuing education requirements by providing evidence that they have met the continuing education requirements of their state of residence. Such real estate appraisal requirements must meet South Carolina's minimum hour requirements and be approved by the regulatory agency in their state.

(F) Submission of false or misleading information is grounds for immediate revocation of the appraiser's authority to practice and other disciplinary actions.

(G) Approved instructors may receive up to one-half of their continuing education credit for teaching continuing education courses, subject to Board approval. Credit will not be given for the same continuing education course more than once during a continuing education cycle.

137-600.01. Member Request for Investigation.

If a member of the Board files a complaint or requires an investigation, such complaint or request shall serve to disqualify the member from participating in any hearing or a consent agreement regarding the matter. That member shall be prohibited from discussing the issue with other members, except as a witness or party, until after final agency action and the time for appeal has lapsed or appeal rights have been exhausted.

137-600.02. Ex Parte Communications.

(A) A member shall not discuss an issue of fact or law concerning a case or pending appeal which comes before the Board without notice and opportunity for participation by all parties.

(B) This Regulation shall not be construed to limit the members at Board meetings from discussion among themselves or communications with the attorney and staff for the Board concerning closed matters, investigations in general, inquiries regarding the status of a specific case, or other matters not relating to issues of fact to law concerning a specific case.

137-600.03. Disciplinary Actions.

(A) The Board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, investigate the activities of an applicant or a person permitted, licensed, or certified under this chapter and may deny, suspend, revoke, or otherwise restrict a permit, license, or certification and/or impose a public reprimand, other discipline, and/or a fine not to exceed one thousand dollars per occurrence with a total fine not to exceed ten thousand dollars, if the Board finds an applicant, State apprentice appraiser, licensed appraiser, or certified appraiser has violated any provision of the South Carolina Real Estate Appraiser License and Certification Act or these regulations.

(B) When an appraiser has previously been sanctioned by the Board or by any other state's real estate appraiser regulatory authority, the Board may consider these prior sanctions in determining the severity of a new sanction which may be imposed upon a finding that an appraiser has violated a provision of this chapter or any of the regulations of the Board. The failure of an appraiser to comply with or to obey a final order of the Board may be cause for suspension or revocation of the individual's permit, license, or certification after opportunity for a hearing.

(C) In a disciplinary proceeding based upon a civil judgment, an appraiser must be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment.

(D) The Board may fine and reprimand a provider or instructor or deny, revoke, suspend or otherwise withdraw the approval of any provider or instructor upon finding that the provider or instructor:

(1) Fails to meet the criteria for approval referenced by these Regulations or no longer meets the standards established by the Board; or

(2) Provides false or materially inaccurate information to the Board when making application for approval; or

- (3) Fails to provide information requested by the Board; or
- (4) Falsifies official documents or reports; or
- (5) Otherwise violates or fails to satisfy the provisions of the South Carolina Real Estate Appraiser License and Certification Act and the regulations pertaining thereto or any other applicable professional licensing laws and regulations.

(E) Before any sanction is imposed upon a provider or instructor, the provider or instructor shall be entitled to a hearing. The hearing must be at a time and place designated by the Board and in accordance with the State Administrative Procedures Act.

137-700.01. Hearings.

The Chairman, or an alternate designated by the Board, shall preside at a hearing in a manner affording consideration of fair play and compliance with the constitutional requirements of due process. The Chairman or an alternate designated by the Board to preside at a hearing shall also have authority to:

- 1. Hold a conference for the simplification of issue;
- 2. Issue subpoenas reasonably requested by the parties;
- 3. Place witnesses under oath;
- 4. Take action necessary to maintain order in a hearing;
- 5. Rule on motions and procedural questions arising during the hearing; and
- 6. Prescribe and enforce general rules of conduct and decorum.

137-700.02. Role of Board Members.

The members collectively shall be responsible for reviewing evidence and hearing testimony and argument in order to:

- (1) Determine whether or not the alleged conduct was supported by the evidence;
- (2) Determine whether or not the conduct was a violation of the South Carolina Real Estate Appraiser License and Certification Act and/or related regulations;
- (3) Determine and impose appropriate sanctions.

137-700.03. Failure to Appear.

The failure of a protesting party to appear at a scheduled hearing shall be deemed a default and a waiver of all rights except the right to be served with a copy of the order of the Board. Upon a showing of good cause, the Board may grant a request for hearing reinstatement if such request is filed within ten (10) days after the scheduled hearing. In such cases, the hearing may be rescheduled. If the hearing is not reinstated, the protesting party in default may be charged with the costs of the hearing in the amount of five hundred (\$500) dollars.

137-800.01. Payment of Fees.

Fees associated with an initial application (including the examination fee) to become a permitted, registered, licensed or certified real estate appraiser must be paid by certified check, cashiers check or money order.

137-800.02. Bad Checks.

Checks issued by an applicant or an appraiser which are returned for insufficient funds or not honored for any cause are considered prima facie evidence of untrustworthiness or incompetency in such a manner as to endanger the interest of the public and may subject the applicant or appraiser to disciplinary action.

A. If the check is in payment of a fee for which authority to engage in real estate appraisal has been issued, that authority may be immediately cancelled or revoked.

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B. 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 that effect from the bank or depository will be required before such appraisal authority will be reissued.

137-800.03. Biennial Fee Schedule.

The following biennial fee schedule may be adjusted, but shall not exceed amounts specified:

Type	Fee
(1) Apprentice appraiser permit	400.00
(2) Apprentice appraiser permit renewal	400.00
(3) Mass appraiser renewal	400.00
(4) Appraiser license/certification examination fee (per application)	100.00
(5) Appraiser license/certification	400.00
(6) Appraiser license/certification renewal	400.00
(7) Late penalty for renewal of license/certification/inactive status:	
(a) July 1 through July 31	75.00
(b) August 1 through August 31	100.00
(c) After August 31 and before next renewal period	150.00
(8) Late penalty for submission of continuing education credit	50.00 after July 31
(9) Permit/license/certification replacement fee (per application)	25.00
(10) Personal name change (per application)	15.00
(11) Inactive status	200.00
(12) Reinstatement from inactive licensed or certified appraiser	400.00
(13) Attestation of license/certification (per request)	20.00
(14) Course approval (under 15 hours) (per application)	100.00
(15) Course approval (15 hours or more) (per application)	200.00
(16) Course approval renewal	100.00
(17) Penalty for late course renewal	50.00
(18) Instructor approval (per application)	200.00
(19) Instructor approval renewal	150.00
(20) Penalty for late instructor renewal	50.00
(21) Appraisers roster (per request)	40.00
(22) Appraiser mailing labels (per request)	50.00
(23) Diskette of appraisers roster (per request)	50.00
(24) Change in appraiser classification (per application)	75.00
(25) Appraiser equivalent continuing education approval (per application)	50.00
(26) Bad check charge (per occurrence)	30.00 (or amount specified by law; see Section 34-11-70)
(27) Temporary practice permit (per application)	50.00

(28) In addition to the fees listed above, an annual Federal Registry Transmittal fee of 80.00 established by Public Law 101-73, Title XI, Real Estate Appraisal Reform Amendments will be charged for all licenses and certifications.

137-800.04. Permit, License and Certification Renewals.

All appraiser permits, licenses, and certifications expire biennially on June 30, except those appraisers who first become permitted, licensed or certified in the last quarter of the fiscal year (April 1 to June 30) are not required to renew until the end of the following fiscal year.

137-800.05. Expired Permit, License or Certificate.

(A) Expired real estate appraiser permits, licenses and certificates may be reinstated within 12 months after expiration upon proper application, payment to the Board of the renewal fee as established in Section 137-800.03, plus a late fee as established in Section 137-800.03, and proof of having obtained the continuing education that would have been required had the permit, license or certificate been continuously renewed.

(B) Permits, licenses and certificates expired for more than twelve (12) months will be cancelled. Such cancelled permits, licenses and certificates may be considered for reinstatement upon proper application, payment of the original license or certificate fee as established in Section 137-800.03, payment of the late fee as established in Section 137-800.03, and proof of having obtained continuing education equal to the total number of classroom hours that would have been required had the permit, license or certificate been continuously renewed including the most recent 7-hour National Uniform Standards of Professional Appraisal Practice Update Course. Such applications will be reviewed by the Board to determine whether an examination and/or additional real estate appraisal education will be required.

137-800.06. Disclosure of Appraiser Classification and Number.

(A) When signing an appraisal report, an appraiser shall, adjacent to his or her signature, print or type his or her appraiser classification and number assigned by the Board.

(B) When an individual holds himself out as an appraiser either in any advertisement, statement of qualifications, contract or other instrument used by the appraiser, the appraiser shall print or type his or her name, appraiser classification, and number assigned by the Board. If the appraiser signs such document or advertisement, the appraiser shall, adjacent to his or her signature, print or type his or her appraiser classification and number assigned by the Board.

137-900.01. Educational Providers - Approval Required.

(A) Providers seeking approval to offer and conduct appraiser qualifying instruction (prelicensing/precertification) and/or continuing education instruction must make application on a form approved by the Board. Upon approval, the South Carolina Appraisers Board will issue a Certificate of Approval prior to the commencement of any instruction.

(B) Providers teaching courses prior to being approved by the Board will not have their Certificates of Completion recognized by the Board.

137-900.02. Exemption from Regulation.

Courses offered as part of a degree program by an accredited college or university or a technical, community, or junior college may be deemed approved by the Board if they are equivalent in hours and subject matter to those specified by the Board. These providers are exempt from regulation by the Board, and original transcripts or other proof of course completion with a passing grade may be recognized and accepted as a prerequisite for examination or for meeting the requirements for continuing education.

137-900.03. Providers of Courses.

(A) Courses offered by an accredited college or university or a technical, community, or junior college but which are not part of a degree program, may be approved if they comply with the regulations of the Board with regard to curriculum, instructors, classroom facilities, hours of attendance, texts, examinations and Certificates of Completion as well as comply with the policies and procedures of the appropriate department of the institution.

(B) Courses offered by other providers may be approved if they comply with the regulations of the Board with regard to curriculum, instructors, classroom facilities, hours of attendance, texts, examinations, Certificates of Completion and if the policies and procedures of the provider are also approved by the Board.

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137-900.04. Application for Provider Approval.

(A) Providers of courses must furnish to the Board a completed application and all supporting documentation as required by the Board at least sixty (60) days prior to offering course. Applicable fees must accompany the application.

(B) Other information not submitted with the application, but which is information deemed important to the consideration thereof, may be required by the Board.

(C) If the application is disapproved, reason(s) for disapproval will be detailed and the provider may be given thirty (30) days to cure any deficiencies found. If deficiencies are cured, the application will be approved.

137-900.05. Curriculum and Attendance.

(A) Topics for qualifying courses referenced in the South Carolina Real Estate Appraiser License and Certification Act must be broad in scope and must cover various principles, concepts, standards, practices and/or methods that are applicable to the performance of a wide range of appraisal assignments that will commonly be encountered by licenses or certified appraisers in connection with appraisals in federally-related transactions. The courses must be at least fifteen (15) hours and must include an examination pertinent to that educational offering. Prelicense appraisal courses must be in modules which require a specified number of education hours at each credential level as established by the Appraiser Qualifications Board (AQB) of The Appraisal Foundation.

(B) The seventy-five (75) hours required for qualifying as a real estate apprentice appraiser must emphasize appraisal of one-to four-unit residential properties and must include content on the following course modules:

1. Basic Appraisal Principles (30 hours);
2. Basic Appraisal Procedures (30 hours);
3. National USPAP Course or its equivalent as determined by the AQB (15 hours).

(C) The one hundred fifty (150) hours required for a state licensed real estate appraiser must include content from the Basic Appraisal Principles (30 hours), Basic Appraisal Procedures (30 hours) and the National USPAP Course or its equivalent as determined by the AQB (15 hours) in addition to the following course modules:

1. Residential Market Analysis And Highest And Best Use (15 hours);
2. Residential Appraiser Site Valuation And Cost Approach (15 hours);
3. Residential Sales Comparison And Income Approaches (30 hours);
4. Residential Report Writing And Case Studies (15 hours).

(D) The two hundred (200) hours required for a state certified residential real estate appraiser must include content from the Basic Appraisal Principles (30 hours), Basic Appraisal Procedures (30 hours), National USPAP Course or its equivalent as determined by the AQB (15 hours), Residential Market Analysis And Highest And Best Use (15 hours), Residential Appraiser Site Valuation And Cost Approach (15 hours), Residential Sales Comparison And Income Approaches (30 hours), and Residential Report Writing And Case Studies (15 hours) in addition to the following course modules:

1. Statistics, Modeling And Finance (15 hours);
2. Advanced Residential Applications And Case Studies (15 hours);
3. Appraisal Subject Matter Electives (20 hours and may include hours over the minimum in other modules).

(E) The three hundred (300) hours required for a state certified general real estate appraiser must include content from the Basic Appraisal Principles (30 hours), Basic Appraisal Procedures (30 hours), National USPAP Course or its equivalent as determined by the AQB (15 hours), Statistics, Modeling And Finance (15 hours) in addition to the following course modules:

1. General Appraiser Market Analysis And Highest And Best Use (30 hours);
2. General Appraiser Sales Comparison Approach (30 hours);
3. General Appraiser Site Valuation And Cost Approach (30 hours);
4. General Appraiser Income Approach (60 hours);
5. General Appraiser Report Writing And Case Studies (30 hours);

6. Appraisal Subject Matter Electives (30 hours and may include hours over the minimum in other modules).

(F) Topics for continuing education courses must contribute to the goal of maintaining or increasing the knowledge, skill and competence of real estate appraisers with regard to the performance of real estate appraisals in a manner that best serves the public interest and must be a minimum of two (2) classroom hours in length.

(G) Learning objectives and detailed lesson plans reflecting the course content with time allotments must be furnished to the Board at the time of application for approval, along with copies of all quizzes and examinations for qualifying courses. Examinations and the criteria for such examinations and final grade determination may be developed by each provider based on its individual concepts. The Board may, however, direct alterations in examinations procedures, criteria for passing, and administration whenever deemed necessary.

(H) Providers must identify to the Board the texts to be used in any approved course of instruction. The Board may direct that the school withdraw texts and may require additional instructional materials.

(I) For qualifying courses, providers must establish uniform testing and grading procedures for their quizzes and examinations and must use approved instructors for administering and monitoring all such tests. No proprietor, instructor or any other individual may arbitrarily alter a student's grade or offer to students any re-examination of the same test previously administered. Retake examinations must contain at least eighty percent (80%) new material.

(J) Class meetings must be limited to a maximum of eight (8) hours in any given day. Students must be allowed one ten (10) minute break each hour and must be allowed at least one thirty minute break for classes that exceed four (4) hours. Providers must require strict attendance of all classroom hours required by law and must maintain records indicating all student absences.

(K) Providers may offer students failing to meet the minimum-hour requirement make-up sessions as follows:

1. a make-up session offered by the provider consisting of the content covered in the session or hours missed; or
2. a video tape of the class session missed, supervised by the instructor, if not more than twenty percent (20%) of the classroom hours are missed; or
3. attendance of the same class session offered by the provider at a future date.

(L) Each provider shall, upon request by the Board, provide the Board with a roster of students in attendance at an approved course. The roster shall list the course identification number assigned by the Board, provider's name, instructor's name, title, location and dates of course; full legal name, address, phone number, permit/license/certificate number, if applicable, of each student, along with the number of hours in attendance and final grade, if applicable. Rosters must be verified by an authorized official of the provider.

(M) A Certificate of Completion prescribed by the Board shall be awarded to each course graduate, signed and dated by the authorized official of the provider, and must contain the course identification number assigned by the Board, provider's name and address, title, location, dates and number of hours of the course, full legal name, and license number, if applicable, of the student.

137-900.06. Provider, Instructor and Course Renewals.

All provider, course, and instructor approvals expire biennially on August 31 of even-numbered years. If issued in odd-numbered years, they shall be renewed the following year and then biennially thereafter. Renewal forms will be mailed to all approved providers and instructors, and completed forms must be received in the Board's office not later than August 15 to insure renewal by August 31. Renewal fees must accompany the form and a late fee will be charged if received after August 31.

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137-900.07. Enrollment Agreement Policies and Procedures.

(A) An enrollment agreement must be signed by the provider and student prior to the commencement of classes. A copy of the enrollment agreement containing all policies and procedures must be furnished to the student.

(B) The enrollment agreement must contain, at a minimum the following:

1. The name and address of provider and student;
2. Name of course;
3. Tuition and methods of payment, along with terms of any refund policy. If the provider has no policy for refunding fees, it must so state in writing;
4. Provider's policy for cancellation of scheduled courses;
5. The grade required for passing, methods for testing and final grade determination, if applicable;
6. Total hours of attendance required;
7. Scheduled meeting time, dates and location of course; for absences and for re-taking a failed examination, if applicable; and
8. Statement of non-discrimination in admittance requirements.

137-900.08. Other Operating Procedures.

(A) Teaching methods.

Courses must be taught by Board-approved instructors and presented using traditional classroom teaching methods. Correspondence courses will not be approved. Nothing in this section, however, shall prohibit the use of video equipment as a teaching supplement.

(B) Distance Education Courses may be acceptable for qualifying and continuing education provided that the following has been met:

1. The course is presented to an organized group in an instructional setting with a person qualified and available to answer questions, provide information, and monitor student attendance;
2. Asynchronous and synchronous courses have received approval of the International Distance Education Certification Center (IDECC) for the course design and delivery mechanism and the South Carolina Real Estate Appraisers Board for course content;
3. For qualifying and continuing education, the student must successfully complete the course mechanisms required for accreditation which demonstrates mastery and fluency of the content. Incremental student assessments must be present throughout asynchronous continuing education courses in order to be acceptable.

(C) Facilities and equipment.

1. All facilities must meet the appropriate building, health and fire codes, must be maintained in a safe and sanitary condition at all times and are subject to inspection and approval by a representative of the Board.
2. Classrooms must be of sufficient size to accommodate comfortably all students enrolled in a course, shall have adequate light, heat, cooling and ventilation, and shall be free of distractions which would disrupt class sessions.
3. Classrooms must contain a chalkboard or other audio-visual aid and desks or worktables sufficient to accommodate all students enrolled in a course.

(D) Advertising.

1. "Advertising" includes any form of public notice, however disseminated. This definition includes all publications and promotional items and efforts which could normally be expected to be seen or heard by prospective students. Examples include but are not limited to: catalogs, flyers, signs, mailing pieces, radio, television, audio-visual, newspaper or any other form of public notice designed to aid in the provider's recruiting and promotional activities. Advertising also includes oral communications.

2. Each provider must maintain high standards in the conduct of its operations, solicitation of its students and in its advertising and promotional material. The use of any unfair or deceptive practice or the making or causing to be made of any false, misleading or deceptive statement in any advertising or promotional material which has the tendency or capacity to mislead or deceive students, prospective students, or the public shall be cause for disciplinary action.

3. The name of the provider must be disclosed in each advertising offering.

4. A provider may not advertise or imply that it is “recommended” or “endorsed” by the South Carolina Real Estate Appraisers Board.

(E) Audit and record keeping.

1. Providers must keep copies of all enrollment agreements, advertising, rosters and attendance records. Such records must be kept for five (5) years and be made available to a representative of the Board upon request.

2. Providers must permit periodic inspections and auditing by a representative of the Board for the purpose of evaluating facilities, course content, instructor performance of any other relevant aspect of the administration and conduct of such course.

(F) Changes.

Proposed changes to name, course content and/or length, texts, instructors, operating policies and procedures must be submitted to and approved by the Board prior to implementation.

(G) Complaints.

Providers must post in a conspicuous place a notice which states the following: “Any complaint concerning a Board-approved real estate appraiser course or instructor should be directed to the South Carolina Real Estate Appraisers Board at (the Board’s current address).”

137-900.09. Instructors.

(A) Approved courses held in this state must be taught by Board-approved instructors. Instructors teaching courses which are part of a degree program offered by an accredited college, university, technical college, community college or junior college may be deemed approved by the Board.

(B) Applicants for instructor approval must submit an application form along with supporting documentation as proof of knowledge of subject matter and the ability to teach effectively.

1. As proof of knowledge of the subject matter to be taught, one or more of the following will be considered:

(a) For License and Certified Residential Level Courses, an active state certified residential or certified general appraiser certificate issued by the Board or other authority acceptable to the Board, and at least three (3) years of appraisal experience; or

(b) For Certified General Level Courses, an active state certified general appraiser certificate issued by the Board or other authority acceptable to the Board, and at least three (3) years of nonresidential appraisal experience; or

(c) A college degree in an academic area directly related to the course; or

(d) Previous employment by a state or federal agency performing appraisal work for at least five (5) years immediately preceding application; or

(e) Past experience and/or education acceptable to the Board in a subject area directly related to the course.

2. For continuing education courses acceptable proof of knowledge would also include:

(a) Three (3) years of experience within the past five (5) years directly related to subject matter to be taught; or

(b) Three (3) years of experience within the past five (5) years teaching the subject matter to be taught.

3. As proof of the ability to teach effectively, one or more of the following will be considered:

(a) A current teaching certificate issued by any state department of education (or an equivalent agency);

(b) A four-year undergraduate degree in education; or

(c) Previous experience teaching in schools, seminars or in an equivalent setting for three (3) years within the past five (5) years; or

(d) Serving as a trainee or assistant instructor under the direct supervision of a Board approved instructor for at least sixty (60) hours; or

(e) Past experience acceptable to the Board in the area of education.

(C) Instructors of the 15-hour National USPAP Course and the 7-hour USPAP Update Course must be AQB Certified USPAP Instructors who are also certified appraisers.

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(D) Instructors may be approved by the Board to teach one or more specific subjects or courses as outlined in the South Carolina Real Estate Appraiser License and Certification Act.

(E) An instructor may teach approved courses at locations throughout the State of South Carolina but must notify the Board in advance and record his name on the provider's roster.

(F) A fee must accompany the application for each instructor approval.

(G) Other information not submitted with the application, but which is deemed important to the consideration thereof, may be required by the Board.

(H) If the application is disapproved, reason(s) for disapproval will be detailed and the instructor will be given an opportunity to cure any deficiencies found within thirty (30) days. If deficiencies are cured, the application will be approved.

(I) Each instructor must prominently display in the classroom where an approved course is being offered, a copy of Certificate of Approval.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are amended in conformance with the current Real Estate Appraisers Board Practice Act.

Document No. 4389

BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY CHAPTER 115

Statutory Authority: 1976 Code Sections 40-1-70 and 40-67-70

- 115-1. General Licensing Provisions
- 115-2. Speech-Language Pathology Assistants
- 115-3. Supervised Professional Employment (SPE)
- 115-4. Audiology License - Hearing Aid Dispensing
- 115-5. Telepractice
- 115-6. Continuing Education
- 115-7. Code of Ethics

Synopsis:

To satisfy the requirements of licensure in the field of speech-language pathology and audiology, Regulations 115-1 through 115-7 must be updated in conformance with the current Board of Speech-Language Pathology and Audiology Practice Act.

The Notice of Drafting was published in the *State Register* on November 23, 2012.

Instructions:

The following sections of Chapter 115 are modified as provided below. Delete original Regulation 115-1, Definitions.

Text:

ARTICLE 1

LICENSING PROVISIONS

115-1. General Licensing Provisions.

Each applicant for a license must submit a notarized application form to the board office. The appropriate fee must be received before the application may be evaluated.

(A) An applicant for active licensure in Speech-Language Pathology or Audiology must submit or cause to be submitted documented evidence of the following:

(1) a post-graduate degree in speech-language pathology or audiology from a school or program with regional accreditation determined by the board to be equivalent to those accredited by the Council of Academic Accreditation (CAA) for Audiology and Speech-Language Pathology of the American Speech-Language Hearing Association (ASHA) or other board approved authority;

(2) a passing score on a national examination as approved by the board; and

(3)(a) completed supervised professional employment (SPE); or

(b) meets ASHA's standards for Certificate of Clinical Competence or its equivalent as approved by the board, in Speech-Language Pathology or Audiology in effect at the time of application; or

(c) have a current ASHA Certificate of Clinical Competence or its equivalent as approved by the board.

(B) An applicant for active licensure in Audiology with a Masters in Audiology before January 1, 2007, must submit or cause to be submitted documented evidence of the following:

(1) at least a masters degree in audiology or its equivalent from a school or program determined by the board to be equivalent to those accredited by the Council of Academic Accreditation (CAA) for Audiology and Speech-Language Pathology of the American Speech-Language Hearing Association (ASHA);

(2) successful completion of a supervised clinical practicum approved by the board; and

(3) successful completion of postgraduate professional experience approved by the board; or

(4) meets ASHA's standards for Certificate of Clinical Competence or its equivalent as approved by the board.

(C) An applicant for active licensure in Audiology with a Doctorate in Audiology after January 1, 2007, must submit or cause to be submitted documented evidence of the following:

(1) a doctoral degree in audiology from a school or educational institution with regional accreditation determined by the board to be equivalent to those accredited by the Council of Academic Accreditation (CAA) for Audiology and Speech-Language Pathology of the American Speech-Language Hearing Association (ASHA); or

(2) meets ASHA's standards for Certificate of Clinical Competence or its equivalent as approved by the board.

(D) An applicant for a speech-language pathology or audiology intern license must submit or cause to be submitted documented evidence of having satisfied the requirement of (A)(1).

(1) A speech-language pathology or audiology intern license must be issued to an applicant who has satisfied the requirement of subsection (A)(1) but who has not passed the examination required by subsection (A)(2) or who lacks the supervised professional employment as required by subsection (A)(3), or both.

(2) A person who has been issued a license as an intern who has not met the requirement of subsection (A)(2) must pass an examination approved by the board within twelve months of the issuance of the intern license.

115-2. Speech-Language Pathology Assistants.

(A) To be licensed as a Speech-Language Pathology Assistant an applicant must:

(1) submit an application on forms approved by the board;

(2) submit an application fee as prescribed by the board;

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(3) present evidence of a bachelor's degree in Speech-Language Pathology from a regionally accredited institution.

(B) A bachelor's degree in Speech-Language Pathology from a regionally accredited institution must include as a minimum the following core curriculum of 36 semester hours and not less than 100 clock hours of direct client contact/clinical practicum, excluding observation hours.

(C) Specialized Preparation: 36 Semester Hours

(1) Directed Teaching in Speech-Language Therapy (6 Semester Hours)

100 clock hours of supervised clinical practicum in not less than two different sites with direct client contact/clinical practicum, excluding observation hours.

(2) Basic Area

Anatomy, physiology, mechanics, and function of the ear and vocal mechanism.

Phonetics

Semantics

Speech and Voice Science

Psychology of Speech

Experimental Phonetics

(3) Speech-Language Pathology Courses (12 Semester Hours)

Stuttering

Articulation

Voice Disorders

Cleft Palate

Aphasia

Cerebral Palsy

Speech-Language Disorders

(4) Audiology (3 Semester Hours)

Testing of Hearing

Introduction of Audiology

Auditory Training

Speechreading

Speech for the Deaf or Hard of Hearing

(5) Psychology (6 Semester Hours)

Human Growth and Development

Psychology of Adjustment or

Abnormal Psychology

(6) Basic Course in Public Speaking (3 Semester Hours)

(D) General Guidelines

(1) No speech-language pathology assistant may begin working in direct contact with clients/patients without the board's written approval of the supervisory agreement and on the job training plan.

(2) Only a speech-language pathologist with an active license in good standing and a minimum of three years of work experience may supervise speech-language pathology assistants.

(3) A speech-language pathologist shall supervise no more than two full-time or three part-time speech-language pathology assistants, not to exceed more than three speech-language pathology assistants whether part-time or full-time. Full time is defined as a minimum of 30 work hours per week.

(4) If, for any reason, there is a change in supervising speech-language pathologist, it is the responsibility of the supervising speech-language pathologist to notify the board in writing within seven (7) working days that the supervisory agreement has been discontinued.

(5) The assistant's license shall become void when the authorized supervisor is no longer available for supervision. The license will be reactivated upon receipt and approval by the board of a new supervisory agreement and the change in supervising speech-language pathologist fee specified in Section 40-67-50.

(6) At the time of license renewal, supervising speech-language pathologists are to list the names of all those speech-language pathology assistants they are supervising.

(7) A speech-language pathology assistant may work part-time for more than one supervising speech-language pathologist provided that the board has approved supervisory agreements for each supervising speech-language pathologist.

(8) A licensed speech-language pathologist who supervises any speech-language pathology assistant must provide each speech-language pathology assistant with on the job training and must maintain responsibility for all services performed or omitted by such speech-language pathology assistant(s).

(E) On-the-Job Training (OJT)

At a minimum, on-the-job training (OJT) must include step-by-step instruction of each and every service or task the speech-language pathology assistant is to perform and continuous visual observation by the supervising speech-language pathologist of the speech-language pathology assistant's performance of each service or task until the supervising speech-language pathologist establishes the speech-language pathology assistant's competence. The supervising speech-language pathologist must maintain a written record of each service or task indicating the activity, date, time, and location of the training demonstration and observations. This record must be signed by both the supervising speech-language pathologist and the speech-language pathology assistant and a copy must be provided to the speech-language pathology assistant. The supervising speech-language pathologist and the speech-language pathology assistant must maintain such records for a period of four (4) years and such records must be made available to the director or the designee upon request.

(F) Supervision - General.

Supervising speech-language pathologists are responsible for all the clinical services provided or omitted by the speech-language pathology assistant(s). When speech-language pathology assistants provide direct services, the supervising speech-language pathologist is responsible for informing, in writing, all the clients (or their legal guardians), referring agencies, and third-party payers. Further, it is the supervisor's responsibility to ensure that the assistant is clearly identified at all times as an assistant by means of a name tag or similar identification. At no time may a speech-language pathology assistant perform tasks when the supervising speech-language pathologist cannot be reached by personal contact, phone, e-mail, pager, or other immediate or electronic means. The supervisor must make provisions, in writing, for emergency situations including designation of another licensed speech-language pathologist who has agreed to be available on an as needed basis to provide supervision and consultation to the assistant when the supervisor is not available. If for any reason (i.e., maternity leave, illness, change of job) a supervisor is not able to provide the level of supervision stipulated, the assistant may not perform client contact tasks.

(G) Direct Supervision.

Following initial OJT, direct supervision of each speech-language pathology assistant must consist of a minimum of 15% (e.g., 6 hours per 40 hour work week) or one of every seven visits per patient of direct, visual supervision of client contact to include a sampling of each assigned service or task. This direct supervision must be documented in writing. This documentation must be maintained by the supervising speech-language pathologist for a period of four years and must be made available to the director or the designee upon request.

(H) Indirect Supervision.

In addition to direct supervision, indirect supervision is required a minimum of 5% (e.g., 2 hours per 40 hour work week) and must include review of written records and may include demonstrations, review and evaluation of audio- or video- taped sessions, and/or supervisory conferences.

(I) Quarterly Reviews.

In addition to direct and indirect supervision, the supervising speech-language pathologist must conduct quarterly performance reviews of each speech-language pathology assistant's performance of each assigned service or task. Such quarterly reviews must document, on a form approved by the board, direct observation of each task or service assigned to the speech-language pathology assistant. These reviews must be signed by both the supervising speech-language pathologist and the speech-language pathology assistant and must be maintained by the supervising speech-language pathologist for a period of four (4) years and must be made available to the director or the designee upon request.

(J) Scope of Practice.

The supervising speech-language pathologist accepts full and complete responsibility for all services and tasks performed or omitted by the speech-language pathology assistant. Provided that education, training,

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supervision and documentation are consistent with that defined in this chapter, the following tasks may be designated to the speech-language pathology assistant:

- (1) Conduct speech-language or hearing screenings (without interpretation) following specified screening protocols developed by the supervising speech-language pathologist.
- (2) Provide direct treatment assistance to patients/clients identified by the supervising speech-language pathologist.
- (3) Follow documented treatment plans or protocols developed by the supervising speech-language pathologist.
- (4) Document patient/client progress toward meeting established objectives as stated in the treatment plan.
- (5) Assist the supervising speech-language pathologist during assessment of patients/clients.
- (6) Assist with tallying patient/client responses, prepare therapy materials, schedule activities, prepare charts and assist with other clerical tasks as directed by the supervising speech-language pathologist.
- (7) Perform checks and maintenance of equipment on a regular basis, and calibration at least annually on audiometric equipment.
- (8) Assist the supervising speech-language pathologist in research projects, in-service training and public relations programs.
- (9) Sign treatment notes which must be reviewed and co-signed by the supervising speech-language pathologist.
- (10) Discuss with the client, the guardian or family members specifically observed behaviors that have occurred during treatment when such behaviors are supported by documented objective data.

(K) Prohibited Activities.

The speech-language pathology assistant must not:

- (1) Perform diagnostic tests of any kind, formal or informal evaluations, or interpret test results.
- (2) Participate in parent conferences, case conferences, or any interdisciplinary team meetings where diagnostic information is interpreted or treatment plans developed without the presence of the supervising speech-language pathologist or designated licensed speech-language pathologist.
- (3) Provide patient/client or family counseling.
- (4) Write, develop, or modify a patient/client's treatment plan in any way.
- (5) Assist with patients/clients without following a documented treatment plan which has been prepared by a licensed speech-language pathologist and for which the speech-language pathology assistant has not received appropriately documented OJT.
- (6) Sign any formal documents (e.g., treatment plans, reimbursement forms or reports) without the signature of the supervising speech-language pathologist.
- (7) Select patients/clients for services.
- (8) Discharge patients/clients from services.
- (9) Disclose clinical or confidential information either orally or in writing to any one not designated in writing by the supervising speech-language pathologist.
- (10) Make referrals for additional services.
- (11) Provide any interpretation or elaboration of information that is contained in reports written by any licensed speech-language pathologist.
- (12) Represent oneself to be a speech-language pathologist.
- (13) Make advertisement or public announcement of services independent of the supervising speech-language pathologist.

115-3. Supervised Professional Employment (SPE).

(A) Supervised professional employment (SPE), as required by the board, means direct clinical work with patients, consultations, record keeping, or any other duties relevant to a bona fide program of clinical work. It is expected, however, that a significant amount of clinical experience will be in direct clinical contact with persons who have communication disorders. Time spent in supervision of students, academic teaching, and research, as well as any administrative activity that does not deal directly with management programs of specific patients or clients will not count toward completion of the SPE.

(B) The SPE is defined as not fewer than nine (9) months of full-time professional employment, whether or not for wages or other compensation. Full-time employment means a minimum of thirty (30) clock hours of work per week. This requirement may also be met by part-time employment as follows:

- (1) fifteen (15) to nineteen (19) hours of work per week over a period of eighteen (18) months;
- (2) twenty (20) to twenty-four (24) hours of work per week over a period of fifteen (15) months; or
- (3) twenty-five (25) to twenty-nine (29) hours of work per week over a period of twelve (12) months.

In the event that part-time employment is used to fulfill a portion of the SPE, one hundred (100%) percent of the minimum hour requirements for part-time work must be spent in direct professional employment as defined above.

(C) SPE supervision must entail the personal and direct involvement of the supervisor in observations of diagnostic and therapeutic procedures that will permit the SPE supervisor to monitor, improve and evaluate the intern's performance in professional clinical employment. The supervision must include on-site observations of the intern. Other monitoring activities such as conferences with the intern, evaluation of written reports, and evaluation by professional colleagues may be executed by correspondence. The intern's supervisor must base the total evaluation on no fewer than thirty-six (36) monitored activities (a minimum of four hours per month). The monitoring activities must include at least eighteen (18) on-site observations (a minimum of two hours each month). Should a supervisor suspect at any time during the SPE that an intern will not meet the requirements of this section, the supervisor must counsel the intern both orally and in writing and maintain carefully written records of all contacts and conferences in the ensuing months.

(D) Within one month of completion of the SPE, the supervisor must conduct a formal evaluation of the intern's performance and submit the evaluation to the board. Such evaluation must be completed on a form approved by the board, must be signed and dated by both the intern and the supervisor, and must include a recommendation by the supervisor that in his opinion the intern either is or is not qualified for full licensure.

(E) The SPE supervisor shall only supervise three interns at a time.

115-4. Audiology License - Hearing Aid Dispensing.

(A) An audiologist may determine through a comprehensive hearing assessment, inquiry, actual observation, or review of any other available information that a prospective hearing aid user has a condition of the ear or auditory system that would benefit from medical evaluation or intervention. An audiologist who fits and/or sells hearing aids must advise a prospective hearing aid user, or parent or guardian, if the prospective user is not 18 years old or older, that the best health interest would be served if there was a medical evaluation by a licensed physician (preferably a physician who specializes in diseases of the ear) before purchasing a hearing aid. The prospective user may waive the medical evaluation by signing a statement which indicates that the prospective user has been informed of the best health interest and does not wish to have a medical evaluation before purchasing a hearing aid.

(B) An audiologist must have a record of a comprehensive hearing assessment performed within the previous six months before fitting or selling a hearing aid to any person. This restriction does not apply to replacing a lost or damaged hearing aid that has a replacement warranty or insurance.

(C) If no waiver of medical evaluation has been signed by the prospective user, or if the prospective user is not 18 years old or older, by his or her parent or guardian, a written statement must be presented to the audiologist, signed by a licensed physician, stating that the patient's hearing loss has been medically evaluated within the previous six months and that the patient may be considered a candidate for a hearing aid.

(D) An audiologist who fits and sells hearing aids must provide in writing to each purchaser at the time of purchase a purchase agreement which clearly states all warranty terms and warranty periods, return privileges, refund information, payment schedule, hearing aid mode, and manufacturer, serial number, date of sale, the audiologist's license number, signatures of purchaser and seller, and in the case of a reconditioned hearing aid, a statement that the hearing aid being purchased is reconditioned. If the hearing aid is being fit through a state or federal program and the prospective user is not making a purchase then no purchase agreement is required.

(E) All audiometers used by an audiologist must be calibrated at least annually. Records of such calibration must be maintained by the audiologist for a period of four years, and must be made available to the Director or the designee upon request.

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ARTICLE 2

CONTINUING EDUCATION

115-6. Continuing Education.

(A) Courses used to meet the continuing education requirement must meet at least one of the following conditions:

(1) Courses offered by an American Speech-Language Hearing Association (ASHA) or American Academy of Audiology (AAA) Continuing Education Sponsor.

(2) Courses offered by one of the following organizations: South Carolina Academy of Audiology, South Carolina Speech-Language-Hearing Association, National Institute of Hearing Instruments Studies (NIHIS), Academy of Rehabilitative Audiology, American Auditory Society, Academy of Dispensing Audiology, or other organization approved by the board.

(3) Graduate level courses offered by a regionally accredited college or university within scope of practice (1 semester hour equals 15 hours for 1.5 CEUs).

(4) Courses offered by a state or federal agency provided the courses are within scope of practice.

(B) At least one-half of the continuing education requirement must pertain to clinical practice in the area of licensure.

(C) Not more than two (2) hours of the continuing education requirement may be met by independent study. All independent study must receive prior approval by the board sixty (60) days prior to implementation. Independent study is developing a plan encompassing a variety of activities, such as reading journal articles, observing a master clinician, or reviewing case files. The study shall include the licensee writing a critical review stating how the licensee will incorporate the newly acquired skills and knowledge into practice.

(D) Continuing education requirements may be met by online or electronic courses.

(E) Instructors may receive continuing education credit, equivalent to that received by participants, for preparing and teaching courses, including online and electronic courses, within the scope of practice, subject to once per course.

(F) Submission of false or misleading continuing education information is grounds for immediate revocation of the license to practice and such other disciplinary actions as the board deems appropriate.

(G) Required documentation and audit process:

(1) each licensee shall attest to completion of the required continuing education at the time of license renewal;

(2) each licensee shall maintain records of continuing education hours earned for a period of four (4) years, and such records must be made available to the director or the designee upon request.

ARTICLE 3

CODE OF ETHICS

115-7. Code of Ethics.

PRINCIPLE 1: Individuals shall provide professional services with honesty and compassion, and shall respect the dignity, worth and rights of those served.

Rule 1a: Individuals shall not limit the delivery of professional services on any basis that is unjustifiable or irrelevant to the need for the potential benefit from such services.

Rule 1b: Individuals shall not discriminate in the provision of services to individuals on the basis of gender, race, religion, national origin, sexual orientation, or general health.

Rule 1c: Individuals shall not engage in sexual activity with a patient or client or with a person who has been a patient or client to whom services were provided within the past two (2) years.

PRINCIPLE 2: Individuals shall maintain high standards of professional competence in rendering services, providing only those professional services for which they are qualified by education and experience.

Rule 2a: Individuals shall use available resources including referrals to other specialists, and shall not accept benefits or items of personal value for receiving or making referral.

Rule 2b: Individuals shall exercise all reasonable precautions to avoid injury to persons in the delivery of professional services.

Rule 2c: Individuals shall not provide services except in a professional relationship.

Rule 2d: Individuals shall provide appropriate supervision and assume full responsibility for services delegated to supportive personnel. Individuals shall not delegate any service requiring professional competence to unqualified persons.

Rule 2e: Individuals shall not permit personnel to engage in any practice that is a violation of the Code of Ethics.

Rule 2f: Individuals shall maintain professional competence, including participation in continuing education.

PRINCIPLE 3: Individuals shall maintain the confidentiality of the information and records of those receiving services.

Rule 3a: Individuals shall not reveal to unauthorized persons any professional or personal information obtained from the person served professionally, unless required by law.

PRINCIPLE 4: Individuals shall honor their responsibility to the public by promoting public understanding of the profession, by supporting the development of services designed to fulfill the unmet needs of the public, and by providing accurate information in all communication involving any aspect of the professions.

Rule 4a: Individuals shall not misrepresent their credentials, competence, education, training, or experience.

Rule 4b: Individuals shall not participate in professional activities that constitute a conflict of interest.

Rule 4c: Individuals shall not misrepresent diagnostic information, services rendered, or products dispensed or engage in any scheme or artifice to defraud in connection with obtaining payment or reimbursement for such services or products.

Rule 4d: Individuals' statements to the public shall provide accurate information about the nature and management of communication disorders, about the professions, and about professional services.

Rule 4e: Individuals' statements to the public - advertising, announcing, and marketing their professional services, reporting research results, and promoting products - shall adhere to prevailing professional standards and shall not contain misrepresentations.

PRINCIPLE 5: Individuals shall provide accurate information about the nature and management of communicative disorders and about the services and products offered.

Rule 5a: Individuals shall provide persons served with the information a reasonable person would want to know about the nature and possible effects of services rendered, or products provided.

Rule 5b: Individuals may make a statement of prognosis, but shall not guarantee results, mislead, or misinform persons served.

Rule 5c: Individuals shall not carry out teaching or research activities in a manner that constitutes an invasion of privacy, or that fails to inform persons fully about the nature and possible effects of these activities, affording all persons informed free choice of participation.

Rule 5d: Individuals shall maintain documentation of professional services rendered.

PRINCIPLE 6: Individuals shall honor their responsibilities to the professions and their relationships with colleagues, students, and members of allied professions, maintain harmonious interprofessional and intra professional relationships and adopt the professions' self-imposed standards.

Rule 6a: Individuals shall prohibit anyone under their supervision from engaging in any practice that violates the Code of Ethics.

Rule 6b: Individuals shall not engage in dishonesty, fraud, deceit misrepresentation, or any form of conduct that adversely reflects on the professions or on the individual's fitness to serve persons professionally.

Rule 6c: Individuals shall assign credit only to those who have contributed to a publication, presentation or product. Credit shall be assigned in proportion to the contribution and only with the contributors consent.

Rule 6d: Individuals' statements to colleagues about professional services, research results, and products shall adhere to prevailing professional standards and shall contain no misrepresentations.

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Rule 6e: Individuals shall not discriminate in their relationships with colleagues, students and members of the allied professions on the basis of race or ethnicity, gender, age, religion, national origin, sexual orientation or disability.

Rule 6f: Individuals who have reason to believe that the Code of Ethics has been violated shall inform the board.

Rule 6g: Individuals shall cooperate fully with the board in its investigation and adjudication of matters related to the Code of Ethics.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are updated in conformance with the current Board of Examiners in Speech-Language Pathology and Audiology Examiners Practice Act.

Document No. 4399

WORKERS' COMPENSATION COMMISSION

CHAPTER 67

Statutory Authority: 1976 Code Sections 42-3-30 and 42-9-301

67-1605. Lump Sum Payment.

Synopsis:

The South Carolina Workers' Compensation Commission proposes to amend Regulation, R.67-1605, Lump Sum Payment. The Notice of Drafting regarding this regulation was published on June 28, 2013 in the *State Register*. The language of the proposed regulation, notice of comment period and notice of public hearing was published in the *State Register* on September 27, 2013. A public hearing was held on October 29, 2013 to receive comments on the proposed regulation. At the regular business meeting on August 12, 2013, the Commission approved the language of the proposed regulation.

Section-by-Section Discussion

The Commission is proposing to amend Regulation 67-1605 to include the following provisions:

Installments yet to accrue of one- hundred one through five-hundred weeks shall be discounted at the yield-to-maturity rate of the Five Year U.S. Treasury Note as published by the United States Treasury Department on the first business day after January 1st each year, but in no case shall the discount rate exceed six percent or be less than two percent;

The Commission shall publish a present value table showing the conversion factors for weeks one-hundred and one through five-hundred on the first business day following January 1st of each year;

The present value table for weeks one-hundred and one through five-hundred published on the first business day following January 1st shall apply to all awards made during the year until a new present value table is published the following year;

The present value of the commutable weeks shall be determined based on the present value tables in effect on the date of the award or settlement.

In the event the Commission makes an award of a partial lump sum in excess of five-hundred weeks in accordance with § 42-9-10(C) and § 42-9-10(D), the discount rate shall be determined on a case by case basis.

Instructions:

Print the regulation as shown below.

Text:

67-1605. Lump Sum Payment.

A. The employer's representative shall pay, in lump sum, a settlement or award which is less than one hundred weeks. When a settlement or award is more than one hundred weeks, the Hearing Commissioner may order a lump sum payment or the claimant may request a lump sum payment by filing a Form 24, Application for Lump Sum Payment.

B. If the claimant is not represented by an attorney, the claimant may request lump sum payment by filing a Form 24 with the Commission's Claims Department. The department will contact the employer's representative to inquire if it consents to payment in lump sum.

C. An attorney for the claimant must request the employer's consent to payment in lump sum payment prior to filing a Form 24.

(1) If the parties agree to payment in lump sum, the claimant's attorney may file with the Claims Department a Form 24 and attach to the Form 24 a signed agreement for payment in lump sum.

(2) If the employer's representative does not consent to payment in lump sum, the claimant's attorney may file a Form 24 with the Claims Department and attach a letter stating that the insurance carrier does not consent to the lump sum payment.

(3) The Commission will automatically set a hearing. The parties will be notified according to R.67-607.

D. If the employer's representative consents to payment by lump sum, the Claims Department forwards the Form 24 to the original Hearing Commissioner who reviews the Form 24 and may approve the Form 24 without the appearance of the parties.

(1) If the Commissioner approves the Form 24, he or she signs the Form 24 and the Claims Department commutes the award or settlement to present day value as provided in E below.

(2) The employer's representative is notified of the amount of the lump sum payment.

(3) If the Commissioner does not approve the Form 24, a hearing will be set automatically and the parties notified according to R.67-607.

E. Unless a Commissioner orders otherwise, or unless the settlement or award is less than ten weeks, the insurance carrier receives a discount for payment in lump sum.

(1) To determine the discount, the Commission subtracts the number of weeks already paid from the total number of weeks as awarded.

(2) Weeks that have accrued but are not paid at the time of the commutation are not included in the calculation.

(3) Three weeks of compensation are accrued into the future to allow for processing the Form 24 and issuing the check to the claimant.

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(4) The number of accrued weeks are deducted from the total number of weeks due the claimant, resulting in the number of weeks commuted.

(5) The present worth of the remaining weeks is determined according to the discount tables designated by the Commission.

(a) Each installment yet to accrue of the first one-hundred weeks of the award shall be discounted at a rate of two percent. The Commission shall publish a present value table showing the conversion factors for zero through one-hundred weeks.

(b) Each installment yet to accrue of weeks one-hundred and one through five-hundred shall be discounted at the yield-to-maturity rate of the Five Year U.S. Treasury Note as published on the first business day after January 1st each year, but in no case shall the discount rate exceed six percent or be less than two percent. The Commission shall publish a present value table showing the conversion factors for weeks one-hundred and one through five-hundred on the first business day following January 1st of each year. The present value table for weeks one-hundred and one through five-hundred published on the first business day following January 1st shall apply to all awards made during the year and until a new present value table is published the following year. The present value of the commutable weeks shall be determined based on the present value tables in effect on the date of the award or settlement.

(c) In the event the Commission makes an award of a partial lump sum in excess of five-hundred weeks in accordance with S.C. Code § 42-9-10(C) and § 42-9-10(D), the discount rate shall be determined on a case by case basis.

(6) Multiplying the present worth of the weeks by the claimant's compensation rate results in the commuted value of the remaining weeks.

(7) Adding the value of the accrued weeks to the commuted value of the remaining weeks results in the total amount due the claimant.

F. The dollar value of a lump sum payment may be requested by writing the Claims Department.

Fiscal Impact Statement:

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

Statement of Rationale:

The Commission is proposing to amend Regulation 67-1605 to ensure the fairness of the methodology used to calculate the net present value of lump sum payments.