**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3197**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Lucas and E.H. Pitts

Document Path: l:\council\bills\ggs\22181ab09.docx

Introduced in the House on January 13, 2009

Currently residing in the House Committee on **Judiciary**

Summary: DHEC

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/16/2008 House Prefiled

12/16/2008 House Referred to Committee on **Judiciary**

1/13/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑86

1/13/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑86

1/28/2009 House Member(s) request name added as sponsor: E.H.Pitts

**VERSIONS OF THIS BILL**

[12/16/2008](file:///p:\pprever\2009-10\3197_20081216.docx)

**A** **BILL**

TO AMEND SECTION 44‑1‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SUPERVISION OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL BY THE BOARD OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO DELETE REFERENCES TO THE BOARD AND INSTEAD PROVIDE THE DEPARTMENT MUST BE MANAGED AND OPERATED BY A DIRECTOR APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE AND SUBJECT TO REMOVAL BY THE GOVERNOR; TO AMEND SECTIONS 44‑1‑40, 44‑1‑50, AS AMENDED, 44‑1‑60, 44‑1‑70, 44‑1‑80, AS AMENDED, 44‑1‑280, 44‑2‑130, AS AMENDED, 44‑7‑130, 44‑7‑150, 44‑7‑180, 44‑7‑190, 44‑7‑200, 44‑7‑210, 44‑7‑220, 44‑7‑230, 44‑7‑320, 44‑7‑370, 44‑29‑150, 44‑29‑210, 44‑53‑280, 44‑53‑290, 44‑53‑310, 44‑53‑360, AS AMENDED, 44‑53‑740, 44‑55‑20, 44‑55‑30, 44‑55‑40, 44‑55‑45, 44‑55‑50, 44‑55‑60, 44‑55‑70, 44‑55‑120, AS AMENDED, 44‑55‑2320, 44‑55‑2360, 44‑56‑20, 44‑56‑30, 44‑56‑100, 44‑56‑130, 44‑56‑440, AS AMENDED, 44‑61‑20, AS AMENDED, 44‑61‑30, AS AMENDED, 44‑61‑40, AS AMENDED, 44‑61‑50, AS AMENDED, 44‑61‑60, AS AMENDED, 44‑61‑70, AS AMENDED, 44‑61‑80, AS AMENDED, 44‑61‑130, AS AMENDED, 44‑61‑150, AS AMENDED, 44‑63‑110, 44‑67‑30, 44‑67‑40, 44‑67‑120, 44‑69‑20, 44‑69‑30, 44‑69‑50, 44‑71‑20, 44‑75‑20, 44‑75‑30, 44‑75‑40, 44‑89‑30, 44‑93‑20, 44‑93‑150, 44‑96‑100, 44‑96‑440, 44‑96‑450, 48‑2‑340, 48‑18‑20, 48‑39‑280, 48‑43‑10, 48‑43‑30, 48‑43‑50, 48‑43‑60, 48‑43‑510, AND 48‑55‑10, ALL RELATING TO VARIOUS DEPARTMENT PROVISIONS, SO AS TO CONFORM THEM TO THE REPLACEMENT OF THE BOARD WITH THE DIRECTOR.

Be it enacted by the General Assembly of the State of South Carolina:

Part I

Replacement of the Board of Health and Environmental Control with the Director of the Department of Health

and Environmental Control

SECTION 1. Section 41‑1‑20 of the 1976 Code is amended to read:

“Section 44‑1‑20. There is hereby created the South Carolina Department of Health and Environmental Control which ~~shall be administered under the supervision of the South Carolina Board of Health and Environmental Control. The board shall consist of seven members, one from each congressional district, and one from the State at large to be appointed by the Governor, upon the advice and consent of the Senate. The member who is appointed at large shall serve as the chairman of the board. The Governor may remove the chairman of the board pursuant to Section 1‑3‑240(B); however, the Governor may only remove the other board members pursuant to Section 1‑3‑240(C). The terms of the members shall be for four years and until their successors are appointed and qualify, except that of the original appointees, three shall be appointed for two years and four shall be appointed for four years. All vacancies shall be filled in the manner of the original appointment for the unexpired portion of the term only. In making these appointments, race, gender, and other demographic factors should be considered to ensure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed~~ must be managed and operated by a director appointed by the Governor upon the advice and consent of the Senate. The director is subject to removal by the Governor as provided in Section 1‑3‑240(B).”

PART II

Conforming and Miscellaneous Amendments

SECTION 2. Section 44‑1‑40 of the 1976 Code is amended to read:

“Section 44‑1‑40. ~~There is hereby created the South Carolina Department of Health and Environmental Control which shall be administered under the supervision of the South Carolina Board of Health and Environmental Control. The board shall consist of seven members, one from each congressional district, and one from the State at large to be appointed by the Governor, upon the advice and consent of the Senate. The member who is appointed at large shall serve as the chairman of the board. The Governor may remove the chairman of the board pursuant to Section 1‑3‑240(B); however, the Governor may only remove the other board members pursuant to Section 1‑3‑240(C). The terms of the members shall be for four years and until their successors are appointed and qualify, except that of the original appointees, three shall be appointed for two years and four shall be appointed for four years. All vacancies shall be filled in the manner of the original appointment for the unexpired portion of the term only. In making these appointments, race, gender, and other demographic factors should be considered to ensure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed~~ The director or his designee shall receive annual compensation as provided by the General Assembly and official expenses as provided by law for executing the duties and functions of the department.”

SECTION 3. Section 44‑1‑50 of the 1976 Code, as last amended by Act 387 of 2006, is further amended to read:

“Section 44‑1‑50. The ~~board~~ director may conduct such administrative reviews as may be required by law, as considered necessary by the ~~board~~ director to render a final agency determination in matters involving the issuance, denial, renewal or revocation of permits, licenses, or other actions of the department which may give rise to a contested case pursuant to Chapter 23 of Title 1.

The ~~board~~ director shall provide for the administrative organization of the department and shall consolidate and merge existing duties, functions, and officers of the former agencies as may be necessary for economic and efficient administration. Provided, however, that the ~~board~~ director may appoint such advisory boards as it considers necessary to carry out the functions of Sections 44‑1‑10 to 44‑1‑70, and there ~~shall be~~ must provided a compensation for their services as provided by the law for members of boards and commissions.”

SECTION 4. Section 44‑1‑60 of the 1976 Code, as added by Act 387 of 2006, is further amended to read:

“Section 44‑1‑60. (A) All department decisions involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, or other actions of the department which may give rise to a contested case ~~shall~~ must be made using the procedures set forth in this section.

(B) The department staff shall comply with all requirements for public notice, receipt of public comments and public hearings before making a department decision. To the maximum extent possible, the department shall use a uniform system of public notice of permit applications, opportunity for public comment and public hearings.

(C) The initial decision involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, or other action of the department ~~shall be~~ is a staff decision.

(D) In making a staff decision on ~~any~~ a permit, license, certification or other approval, the department staff shall take into consideration all material comments received in response to the public notice in determining whether to issue, deny or condition such permit, license, certification or other approval. At the time that such staff decision is made, the department shall issue a department decision, and shall base its department decision on the administrative record which shall consist of the application and supporting exhibits, all public comments and submissions, and other documents contained in the supporting file for the permit, license, certification or other approval. The administrative record may also include material readily available at the department, or published materials which are generally available and need not be physically included in the same file as the rest of the record as long as such materials are specifically referred to in the department decision. The department decision need not be issued for routine permits for which no adverse public comments have been received.

(E) Notice of the department decision must be sent to the applicant, permittee, licensee, and affected persons who have asked to be notified by certified mail, return receipt requested. The department decision becomes the final agency decision fifteen days after notice of the department decision has been mailed to the applicant, unless a written request for final review is filed with the department by the applicant, permittee, licensee, or affected person.

(F) No later than sixty days after the date of receipt of a request for final review, a final review conference must be conducted by the ~~board, its designee, or a committee of three members of the board appointed by the chair~~ director or his designee. If a final review conference is not conducted within sixty days, the department decision becomes the final agency decision, and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act, within thirty days after the deadline for the final review conference. The department shall set the place, date, and time for the conference; give the applicant and affected persons at least ten days’ written notice of the conference; and advise the applicant that evidence may be presented at the conference. The final review conference must be held as follows:

(1) Final review conferences are open to the public; however, the officers conducting the conference may meet in closed session to deliberate on the evidence presented at the conference. The burden of proof in a conference is upon the moving party. During the course of the final review conference, the department must explain the department decision and the materials relied upon in the administrative record to support the department decision. The applicant or affected party shall state the reasons for protesting the department decision and may provide evidence to support amending, modifying, or rescinding the department decision. The department may rebut information and arguments presented by the applicant or affected party and the applicant or affected party may rebut information and arguments presented by the department. Any final review conference officer may request additional information and may question the applicant or affected party, the department, and anyone else providing information at the conference.

(2) After the administrative review, the ~~board, its designee, or a committee of three members of the board appointed by the chair~~ director or his designee, shall issue a written final agency decision based upon the evidence presented. The decision may be announced orally at the conclusion of the administrative review or it may be reserved for consideration. The written decision must explain the bases for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court. In either event, the written decision must be mailed to the parties no later than thirty days after the date of the administrative review. Within thirty days after the receipt of the decision an applicant, permittee, licensee, or affected person desiring to contest the final agency decision may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act. The court shall give consideration to the provisions of Section 1‑23‑330 regarding the department’s specialized knowledge.

(3) Prior to the initiation of the final conference, an applicant, permittee, licensee, or affected person must be notified of their right to request a transcript of the proceedings of the final conference. If a transcript is requested, the applicant, permittee, licensee, or affected person making the request must be responsible for all costs.

(G) Applicants, permittees, licensees, and affected persons are encouraged to engage in mediation during the final agency review process.

(H) The department may promulgate regulations providing for procedures for final administrative reviews.

(I) Any statutory deadlines applicable to permitting and licensing programs administered by the department shall be extended to allow for this final review process.”

SECTION 5. Section 44‑1‑70 of the 1976 Code is amended to read:

“Section 44‑1‑70. All rules and regulations promulgated by the ~~Board shall be~~ department are null and void unless approved by a concurrent resolution of the General Assembly at the session of the General Assembly following their promulgation.”

SECTION 6. Section 44‑1‑80 of the 1976 Code is amended to read:

“Section 44‑1‑80. (A) The ~~Board of Health and Environmental Control~~ director or ~~its~~ his designated ~~agents~~ agent must investigate the reported causes of communicable or epidemic disease and must enforce or prescribe these preventive measures as may be needed to suppress or prevent the spread of these diseases by proper quarantine or other measures of prevention, as may be necessary to protect the citizens of the State. The ~~Board of Health and Environmental Control or its~~ director or his designated ~~agents~~ agent shall declare, when the facts justify it, ~~any~~ a place as infected and, in case of hydrophobia or other diseases transmitted from animals to man, must declare such animal or animals quarantined, and must place all such restrictions upon ingress and egress of persons or animals ~~therefrom~~ from a place as may be, in its judgment, necessary to prevent the spread of disease from the infected locality.

(B)(1) Whenever the ~~board~~ director learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that it reasonably believes has the potential to cause a public health emergency, as defined in Section 44‑4‑130, ~~it~~ he is authorized to notify the appropriate public safety authority, tribal authorities, and federal health and public safety authorities.

(2) The sharing of information on reportable illnesses, health conditions, unusual clusters, or suspicious events between authorized personnel must be restricted to information necessary for the treatment, control, investigation, and prevention of a public health emergency. Restriction of access to this information to those authorized personnel for the protection of public health ensures compliance with all state and federal health information privacy laws.

(3) The ~~board~~ director and ~~its agents~~ his agent must have full access to medical records and nonmedical records when necessary to investigate the causes, character, and means of preventing the spread of a qualifying health event or public health emergency. For purposes of this item, ‘nonmedical records’ mean records of entities, including businesses, health facilities, and pharmacies, which are needed to adequately identify and locate persons believed to have been potentially exposed or known to have been infected with a contagious disease.

(4) An order of the ~~board~~ director given to effectuate the purposes of this subsection is enforceable immediately by the public safety authority.

(5) For purposes of this subsection, the terms qualifying health event, public health emergency, and public safety authority have the same meanings as provided in Section 44‑4‑130.”

SECTION 7. Section 44‑1‑280 of the 1976 Code is amended to read:

“Section 44‑1‑280. The ~~Board and Department of Health and Environmental Control~~ director in establishing priorities and funding for programs and services ~~which~~ that impact on children and families during the first years of a child’s life, within the powers and duties granted to ~~it~~ the department, must support, as appropriate, the South Carolina First Steps to School Readiness initiative, as established in Title 59, Chapter 152, at the state and local levels.”

SECTION 8. Section 44‑2‑130(E) of the 1976 Code is amended to read:

“(E)(1) An owner or operator of an underground storage tank or his agent seeking to qualify for compensation from the Superb Account for site rehabilitation shall submit a written application to the department. The written application must be on a form specified by the department and include certification that site rehabilitation is necessary, the tanks at the site have been registered in compliance with applicable law and regulations, and all registration fees have been paid. The department shall accept certification that the release at the site is in need of rehabilitation if the certification is provided jointly by the owner or operator and a South Carolina registered professional geologist or engineer, and if the certification is supported with geotechnical data which reasonably justifies the claim. Upon final determination the department shall provide written notice to the applicant of its findings including detailed reasons for any denial. Any denial of an application must be appealable to the ~~Board~~ Director of the Department of Health and Environmental Control. The department is exempt from this time frame for applications ~~which~~ that are received within three months of the close of the grace period allowed in Section 44‑2‑110.

(2) The owner or operator responsible for conducting the site rehabilitation or his agents shall keep and preserve suitable records of hydrological and other site assessments, site plans, contracts, accounts, invoices, or other transactions related to the cleanup and rehabilitation and the records must be accessible to the department during regular business hours.”

SECTION 9. Section 44‑7‑130(3) of the 1976 Code is amended to read:

“(3) ‘Board’ means the ~~State Board~~ Director of the Department of Health and Environmental Control.”

SECTION 10. Section 44‑7‑150 of the 1976 Code is amended to read:

“Section 44‑7‑150. In carrying out the purposes of this article, the department shall:

(1) require reports and make inspections and investigations as considered necessary;

(2) to the extent that is necessary to effectuate the purposes of this article, enter into agreements with other departments, commissions, agencies, and institutions, public or private;

(3) adopt in accordance with Article I of the Administrative Procedures Act substantive and procedural regulations considered necessary by the department and approved by the ~~board~~ director to carry out the department’s licensure and Certificate of Need duties under this article, including regulations to deal with competing applications;

(4) accept on behalf of the State and deposit with the State Treasurer, ~~any~~ a grant, gift, or contribution made to assist in meeting the cost of carrying out the purpose of this article and expend it for that purpose;

(5) The department may adopt a filing fee for Certificate of Need applications. The fee must be approved by the ~~board~~ director. ~~Any~~ A fee collected pursuant to this section must be deposited into the general fund of the State. The fee must be collected prior to review of the application. A fee may not be increased beyond the cost of administration of the Certificate of Need program.”

SECTION 11. Section 44‑7‑180 of the 1976 Code is amended to read:

“Section 44‑7‑180. (A) There is created a health planning committee comprised of fourteen members. The Governor shall appoint twelve members, at least one member from each congressional district. Each of the following groups must be equally represented among the Governor’s appointees: health care consumers, health care financiers to include business and insurance, and health care providers. The ~~chairman of the board~~ director shall appoint one member. The South Carolina Consumer Advocate or the Consumer Advocate’s designee is an ex officio nonvoting member. Members are appointed for four‑year terms, may serve only two consecutive terms, and are allowed the usual mileage and subsistence as provided for members of boards, committees, and commissions.

(B) With the advice of the health planning committee, the department shall prepare a State Health Plan for use in the administration of the Certificate of Need program provided in this article. The plan at a minimum must include:

(1) an inventory of existing health care facilities, beds, specified health services, and equipment;

(2) projections of need for additional health care facilities, beds, health services, and equipment;

(3) standards for distribution of health care facilities, beds, specified health services, and equipment, including scope of services to be provided, utilization, and occupancy rates, travel time, regionalization, other factors relating to proper placement of services, and proper planning of health care facilities; and

(4) a general statement as to the project review criteria considered most important in evaluating Certificate of Need applications for each type of facility, service, and equipment, including a finding as to whether the benefits of improved accessibility to each such type of facility, service, and equipment may outweigh the adverse affects caused by the duplication of any existing facility, service, or equipment.

The State Health Plan must address and include projections and standards for specified health services and equipment ~~which~~ that have a potential to substantially impact health care cost and accessibility. Nothing in this provision ~~shall~~ must be construed as requiring the department to approve ~~any~~ a project which is inconsistent with the State Health Plan.

(C) Upon approval by the health planning committee, the State Health Plan must be submitted at least once every two years to the ~~board~~ director for final revision and adoption. Once adopted by the ~~board~~ director, the plan ~~may~~ later may be revised through the same planning and approval process. The department shall adopt by regulation a procedure to allow public review and comment, including regional public hearings, before adoption or revision of the plan.

(D) The Department of Health and Environmental Control may charge and collect fees to cover the cost of operating the Certificate of Need program. Upon submission of a complete Certificate of Need application, the applicant must pay a fee of five hundred dollars plus five‑tenths of one percent of the project cost for review of the project, not to exceed seven thousand, five hundred dollars; however, for an applicant whose review fee would exceed seven thousand, five hundred dollars an additional fee of seven thousand, five hundred dollars is imposed if the applicant is awarded a Certificate of Need, which must be paid at the time of the award. Fees paid pursuant to this subsection must be deposited to the credit of the general fund of the State.”

SECTION 12. Section 44‑7‑190 of the 1976 Code is amended to read:

“Section 44‑7‑190. The department shall adopt, upon approval of the ~~board~~ director, Project Review Criteria ~~which~~ that, at a minimum, must provide for the determination of need for health care facilities, beds, services and equipment, to include demographic needs, appropriate distribution, and utilization; accessibility to underserved groups; availability of facilities and services without regard to ability to pay; absence of less costly and more effective alternatives; appropriate financial considerations to include method of financing, financial feasibility, and cost containment; consideration of impact on health systems resources; site and building suitability; consideration of quality of care; and relevant special considerations as may be appropriate. The Project Review Criteria must be adopted as a regulation pursuant to the Administrative Procedures Act.”

SECTION 13. Section 44‑7‑200(C) of the 1976 Code is amended to read:

“(C) Upon publication of this notice and until a contested case hearing is requested pursuant to Section 44‑7‑210:

(1) ~~members of the board~~ the director and persons appointed by the ~~board~~ director to hear appeals from department staff decisions may not communicate directly or indirectly with any person in connection with the application; and

(2) no person shall communicate, or cause another to communicate, as to the merits of the application with ~~members of the board~~ the director and persons appointed by the ~~board~~ director to hear appeals from department staff decisions.

A person who violates this subsection is subject to the penalties provided in Section 1‑23‑360.”

SECTION 14. Section 44‑7‑210(D) and (E) of the 1976 Code is amended to read:

“(D) On the basis of staff review of the application, the staff of the department shall make a proposed decision to grant or deny the Certificate of Need. Notice of the proposed decision must be sent to the applicant and affected persons who have asked to be notified. The proposed decision becomes the final agency decision within ten days after the receipt of a notice of the proposed decision by the applicant unless:

(1) a reconsideration by the staff of the department is requested in writing within the ten‑day period by an affected person showing good cause for reconsideration of the proposed decision; or

(2) a contested case hearing before the ~~board~~ director, or ~~its~~ his designee, regarding the grant or denial of the Certificate of Need is requested in writing within the ten‑day period by the applicant or other affected person with standing to contest the grant or denial of the application.

Reconsideration by the staff must occur within thirty days from receipt of the request.

(E) The department’s proposed decision is not final until the completion of reconsideration or contested case proceedings. The burden of proof in a reconsideration or contested case hearing must be upon the moving party. The contested case hearing before the ~~board~~ director or ~~its~~ his designee is conducted as a contested case under the Administrative Procedures Act. The issues considered at the contested case hearing are limited to those presented or considered during the staff review and decision process.”

SECTION 15. Section 44‑7‑220 of the 1976 Code is amended to read:

“Section 44‑7‑220. After the contested case hearing is concluded and a final ~~board~~ decision by the director is made, a party who participated in the contested case hearing and who is affected adversely by the ~~board’s~~ director’s decision may obtain judicial review of the decision in the circuit court pursuant to the Administrative Procedures Act. An appeal taken to the circuit court from a decision of the ~~board~~ director on a Certificate of Need application has precedence on the court’s calendar and must be heard not later than forty‑five days from the date the petition is filed.

An applicant whose Certificate of Need application is denied by the ~~board~~ director in favor of a competing application or a party adversely affected by the ~~board’s~~ director’s decision shall deposit a bond with the clerk of court for the circuit court before the filing of a petition to appeal a final decision of the ~~board~~ director granting or denying a Certificate of Need. The bond must be secured by cash or a surety authorized to do business in this State in an amount equal to five percent of the total cost of the project or twenty thousand dollars, whichever is greater. If the court affirms the decision of the ~~board~~ director or dismisses the appeal, the court may award to the applicant approved for the Certificate of Need who is a party to the appeal all or a portion of the bond and may award reasonable attorney’s fees and costs incurred in the appeal. If an applicant appeals only the denial of his Certificate of Need application and there is no competing application involved in the appeal, the applicant is not required to deposit a bond with the circuit court.

If, at any stage of the appeal process involving the grant or denial of a Certificate of Need, the court finds that the appeal was frivolous, the court may award damages to the applicant approved for the Certificate of Need in addition to awarding the approved applicant single or double costs incurred in the appeal. In the case of a frivolous appeal of a denial of a Certificate of Need which does not involve a competing application, the court may award costs incurred in the appeal to the department.

As used in this section, ‘frivolous appeal’ means any one of the following:

(1) an appeal taken solely for purposes of delay or harassment;

(2) where no question of law is involved; or

(3) where the appeal is without merit.”

SECTION 16. Section 44‑7‑230(D) of the 1976 Code is amended to read:

“(D) A Certificate of Need is valid for six months from the date of issuance except for projects involving construction or replacement of, or major renovations or additions to, an acute care hospital. For these projects the Certificate of Need is valid for one year from the date of issuance. A Certificate of Need must be issued with a timetable submitted by the applicant and approved by the department to be followed for completion of the project. The holder of the Certificate of Need shall submit periodic progress reports on meeting the timetable as may be required by the department. Failure to meet the timetable results in the revocation of the Certificate of Need by the department unless the department determines that extenuating circumstances beyond the control of the holder of the Certificate of Need are the cause of the delay. The department may grant two extensions of up to six months each upon evidence that substantial progress has been made in accordance with procedures set forth in regulations. The ~~board~~ director may grant further extensions of up to six months each only if it determines that substantial progress has been made in accordance with the procedures set forth in regulations.”

SECTION 17. Section 44‑7‑320(B) of the 1976 Code is amended to read:

“(B) Should the department determine to assess a penalty, deny, suspend, or revoke a license, it shall send to the appropriate person or facility, by certified mail, a notice setting forth the particular reasons for the determination. The determination becomes final thirty days after the mailing of the notice, unless the person or facility, within ~~such~~ the thirty‑day period, requests in writing a contested case hearing before the ~~board~~ director, or ~~its~~ his designee, pursuant to the Administrative Procedures Act. On the basis of the contested case hearing, the determination involved must be affirmed, modified, or set aside. Judicial review may be sought in accordance with the Administrative Procedures Act.”

SECTION 18. Section 44‑7‑370(B) of the 1976 Code is amended to read:

“(B) The Department of Health and Environmental Control shall appoint a Renal Dialysis Advisory Council to advise the department regarding licensing and inspection of renal dialysis centers. The council must be consulted and have the opportunity to review all regulations promulgated by the ~~board~~ department affecting renal dialysis prior to submission of the proposed regulations to the General Assembly.

(1) The council is composed of a minimum of fourteen persons, one member recommended by the Palmetto Chapter of the American Nephrology Nurses Association; one member recommended by the South Carolina Chapter of the National Association of Patients on Hemodialysis and Transplants; three physicians specializing in nephrology recommended by the South Carolina Renal Physicians Association; two administrators of facilities certified for dialysis treatment or kidney transplant services; one member recommended by the South Carolina Kidney Foundation; one member recommended by the South Carolina Hospital Association; one member recommended by the South Carolina Medical Association; one member of the general public; one member representing technicians working in renal dialysis facilities; one member recommended by the Council of Nephrology Social Workers; and one member recommended by the Council of Renal Nutritionists. The directors of dialysis programs at the Medical School of the University of South Carolina and the Medical University of South Carolina, or their designees, are ex officio members of the council.

(2) Members shall serve four‑year terms and until their successors are appointed and qualify. No member of council shall serve more than two consecutive terms. The council shall meet as frequently as the ~~board~~ director considers necessary, but not less than twice each year. Members shall serve without compensation.”

SECTION 19. Section 44‑29‑150 of the 1976 Code is amended to read:

“Section 44‑29‑150. ~~No~~ A person will not be initially hired to work in ~~any~~ a public or private school, kindergarten, nursery or day care center for infants and children until appropriately evaluated for tuberculosis according to guidelines approved by the ~~Board~~ Director of Health and Environmental Control. Re‑evaluation will not be required for employment in consecutive years unless otherwise indicated by ~~such~~ these guidelines.”

SECTION 20. Section 44‑29‑210 of the 1976 Code is amended to read:

“Section 44‑29‑210. (a) Whenever the ~~Board~~ Director of the Department of Health and Environmental Control ~~or the Director of the Department of Health and Environmental Control~~ approves in writing a mass immunization project to be administered in any part of this State in cooperation with an official or volunteer medical or health agency, ~~any~~ an authorized employee of the agency, ~~any~~ a physician who does not receive compensation for his services in the project, and ~~any~~ a registered nurse who participates in the project, except as provided in subsection (b), is not liable to ~~any~~ a person for illness, reaction, or adverse effect arising from or out of the use of ~~any~~ a drug or vaccine administered in the project by the employee, physician, or nurse. ~~Neither the board nor~~ The director may not approve the project unless ~~either~~ it finds that the project conforms to good medical and public health practice.

For purposes of this section, a person is considered to be an authorized employee of an official or volunteer medical or health agency if he has received the necessary training for and approval of the Director of the Bureau of Preventive Health Services of the department for participation in the project.

(b) Nothing in this section exempts ~~any~~ a physician, registered nurse, or authorized public health employee participating in ~~any~~ a mass immunization project from liability for gross negligence nor do the provisions of this section exempt ~~any~~ a drug manufacturer from ~~any~~ liability for ~~any~~ a drug or vaccine used in the project.”

SECTION 21. Section 44‑53‑280 of the 1976 Code is amended to read:

“Section 44‑53‑280. (A) The department may promulgate regulations and may charge reasonable fees relating to the license and control of the manufacture, distribution, and dispensing of controlled substances.

(B) No person engaged in a profession or occupation for which a license is required by law may be registered under this article unless the person holds a valid license of that profession or occupation.

(C) A class 20‑28 registration, as provided for by the ~~board~~ department in regulation, expires October first of each year. A registrant who fails to renew by October thirty‑first must be penalized twenty‑five dollars. If failure to renew continues beyond October thirty‑first, the registrant must be notified, by certified mail return receipt requested, sent to the registrant’s last known address, that continued failure to renew will result in the cancellation of the registration. The registration of a registrant who fails to renew by December thirty‑first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.

(D) All registrations other than class 20‑28, as provided for by the ~~board~~ department in regulation, expire on April first of each year. A registrant who fails to renew by April thirtieth must be penalized twenty‑five dollars. If failure to renew continues beyond April thirtieth, the registrant must be notified, by certified mail return receipt requested, sent to the registrant’s last known address, that continued failure to renew will result in cancellation of the registration. The registration of a registrant who fails to renew by June thirtieth is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.

(E) Refusal by the department to reinstate a canceled registration after payment of the renewal fee and penalty and presentation of an explanation constitutes a refusal to renew and the procedures under Section 44‑53‑320 apply.

(F) For class 20‑28 registrants, initial registrations issued before July first expire October first of that same year, and initial registrations issued on or after July first expire October first of the following year. For classes other than class 20‑28, initial registrations issued before January first expire April first of the following year, and initial registrations issued on or after January first expire April first of the following year.”

SECTION 22. Section 44‑53‑290(i) of the 1976 Code is amended to read:

“(i) Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The ~~Board~~ department shall register an applicant to dispense but not prescribe narcotic drugs to individuals for maintenance treatment or detoxification treatment, or both,

(1) if the applicant is a practitioner who is otherwise qualified to be registered under the provisions of this article to engage in the treatment with respect to which registration has been sought;

(2) if the ~~Board~~ director determines that the applicant will comply with standards established by the ~~Board~~ director respecting security of stocks of narcotic drugs for such treatment, and the maintenance of records in accordance with Section 44‑53‑340 and the rules issued by the ~~Board~~ director on such drugs; and

(3) if the ~~Board~~ director determines that the applicant will comply with standards established by the ~~Board~~ director

after consultation with the South Carolina Methadone Council respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.”

SECTION 23. Section 44‑53‑310(a) of the 1976 Code is amended to read:

“(a) An application for a registration or a registration granted pursuant to Section 44‑53‑300 to manufacture, distribute, or dispense a controlled substance, may be denied, suspended, or revoked by the ~~Board~~ director upon a finding that the registrant has:

(1) ~~Has~~ materially falsified ~~any~~ an application filed pursuant to this article;

(2) ~~Has~~ been convicted of a felony or misdemeanor under ~~any~~ a State or Federal law relating to ~~any~~ a controlled substance;

(3) ~~Has~~ had ~~his Federal registration~~ suspended or revoked his Federal registration to manufacture, distribute, or dispense controlled substances; or

(4) ~~Has~~ failed to comply with ~~any~~ a standard referred to in Section 44‑53‑290(i).”

SECTION 24. Section 44‑53‑360(g) of the 1976 Code is amended to read:

“(g) The ~~Board~~ director shall, by rules and regulations, specify the manner by which prescriptions are filed.”

SECTION 25. Section 44‑53‑740 of the 1976 Code is amended to read:

“Section 44‑53‑740. The ~~Board~~ Director of the Department of Health and Environmental Control shall promulgate regulations necessary to carry out the provisions of this article.”

SECTION 26. Section 44‑55‑20 of the 1976 Code is amended to read:

“Section 44‑55‑20. As used in this article:

(1) ~~“Board” means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Safe Drinking Water Act.~~

~~(2)~~ ~~“Commissioner” means the commissioner of the department or his authorized agent.~~

~~(3)~~ ~~‘~~Community water systems’ means a public water system which serves at least fifteen service connections used by year‑round residents or regularly serves at least twenty‑five year‑round residents. This may include, but is not limited to, subdivisions, municipalities, mobile home parks, and apartments.

~~(4)~~(2) ‘Construction permit’ means a permit issued by the department authorizing the construction of a new public water system or the expansion or modification of an existing public water system.

~~(5)~~(3) ‘Contamination’ means the adulteration or alteration of the quality of the water of a public water system by the addition or deletion of any substance, matter, or constituent except as authorized pursuant to this article.

~~(6)~~(4) ‘Cross‑connection’ means ~~any~~ an actual or potential connection or structural arrangement between a public water system and ~~any other~~ another source or system through which it is possible to introduce into ~~any~~ a part of the potable system any used water, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross‑connections.

(5) ‘Director’ means the director of the department or his designee;

~~(7)~~(6) ‘Department’ means the South Carolina Department of Health and Environmental Control, which is charged with responsibility for implementation of the Safe Drinking Water Act, including personnel authorized and empowered to act on behalf of the department or ~~board~~ director.

~~(8)~~(7) ‘Human consumption’ means water used for drinking, bathing, cooking, dish washing, and maintaining oral hygiene or other similar uses.

~~(9)~~(8) ‘Noncommunity water system’ means a public water system which serves at least fifteen service connections or regularly serves an average of at least twenty‑five individuals daily at least sixty days out of the year and does not meet the definition of a community water system.

~~(10)~~(9) ‘Nontransient noncommunity water system’ means a public water system that is not a community water system and that regularly serves at least twenty‑five of the same persons over six months per year.

~~(11)~~ (10) ‘Operating permit’ means a permit issued by the department that outlines the requirements and conditions under which a person must operate a public water system.

~~(12)~~(11) ‘Person’ means an individual, partnership, copartnership, cooperative, firm, company, public or private corporation, political subdivision, government agency, trust, estate, joint structure company, or any other legal entity or its legal representative, agent, or assigns.

~~(13)~~(12) ‘Public water system’ means:

(a) any publicly or privately owned waterworks system which provides water, whether bottled, piped, or delivered through some other constructed conveyance for human consumption, including the source of supply whether the source of supply is of surface or subsurface origin;

(b) all structures and appurtenances used for the collection, treatment, storage, or distribution of water delivered to point of meter of consumer or owner connection;

(c) any part or portion of the system, including any water treatment facility, which in any way alters the physical, chemical, radiological, or bacteriological characteristics of the water; however, a public water system does not include a water system serving a single private residence or dwelling. A separately owned system with its source of supply from another waterworks system must be a separate public water system. A connection to a system that delivers water by a constructed conveyance other than a pipe must not be considered a connection if the:

(i) ~~the~~ water is used exclusively for purposes other than residential uses consisting of drinking, bathing, and cooking or other similar uses;

(ii) ~~the~~ department determines that alternative water to achieve the equivalent level of public health protection provided by the applicable State Primary Drinking Water Regulations is provided for residential or similar uses for drinking and cooking; or

(iii) ~~the~~ department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass‑through entity, or the user to achieve the equivalent level of protection provided by the applicable State Primary Drinking Water Regulations.

~~(14)~~(13) ‘State water system’ means any water system that serves less than fifteen service connections or regularly serves an average of less than twenty‑five individuals daily.

~~(15)~~(14) ‘Transient noncommunity water system’ means a noncommunity water system that does not regularly serve at least twenty‑five of the same persons over six months a year.

~~(16)~~(15) ‘Well’ means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension, from which water is extracted or injected. This includes, but is not limited to, wells used for water supply for irrigation, industrial and manufacturing processes, or drinking water, wells used for underground injection of waste for disposal, storage, or drainage disposal, wells used in mineral or geothermal recovery, and any other special process wells.

~~(17)~~(16) ‘Well driller’ means an individual, corporation, partnership, association, political subdivision, or public agency of this State who is licensed with the South Carolina Department of Labor, Licensing and Regulation for constructing wells and is in immediate supervision of and responsible for the construction, development, drilling, testing, maintenance, repair, or abandonment of any well as defined by this chapter. This term does include owners constructing or abandoning wells on their own property for their own personal use only, except that these owners are not required to be licensed by the Department of Labor, Licensing and Regulation for construction wells.”

SECTION 27. Section 44‑55‑30 of the 1976 Code is amended to read:

“Section 44‑55‑30. In general, the design and construction of ~~any~~ a public water system must be in accord with modern engineering practices for these installations. The ~~board~~ director shall establish regulations, procedures, or standards as ~~may be~~ necessary to protect the health of the public and to ensure proper operation and function of public water systems. These regulations may prescribe minimum design criteria~~,~~; ~~the~~ requirements for the issuance of construction and operation permits~~,~~; operation and maintenance standards~~,~~; ~~and~~ bacteriological, chemical, radiological, and physical standards for public water systems~~,~~; and other appropriate regulations.”

SECTION 28. Section 44‑55‑40(G), (K), (L), and (O) of the 1976 Code are amended to read:

“(G) The department may authorize variances or exemptions from the regulations issued pursuant to this section under conditions and in such manner as the ~~board~~ director considers necessary and desirable; however, these variances or exemptions must be permitted under conditions and in a manner which is not less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the Federal Safe Drinking Water Act.

(K) The ~~Commissioner of the Department of Health and Environmental Control~~ director shall classify all public water system treatment facilities giving due regard to the size, type, complexity, physical condition, source of supply, and treatment process employed by the public water system treatment facility and the skill, knowledge, and experience necessary for the operation of these facilities. Each treatment facility must be classified at the highest applicable level of the following classification system, with Group VII Treatment being the highest classification level:

Group I Treatment. A facility which provides disinfection treatment using a sodium hypochlorite or calcium hypochlorite solution as the disinfectant.

Group II Treatment. A facility which provides disinfection treatment using gaseous chlorine or chloramine disinfection or includes sequestering, fluoridation, or corrosion control treatment.

Group III Treatment. A facility treating a groundwater source which is not under the direct influence of surface water, utilizing aeration, coagulation, sedimentation, lime softening, filtration, chlorine dioxide, ozone, ultra‑violet light disinfection, powdered activated carbon addition, granular activated carbon filtration or ion exchange, or membrane technology or that includes sludge storage or a sludge dewatering process.

Group IV Treatment. A facility treating a surface water source or a groundwater source which is under the direct influence of surface water, utilizing aeration, coagulation, clarification with a minimum detention time of two hours in the clarification unit, lime softening, rapid rate gravity filtration (up to four gallons per minute per square foot), slow sand filtration, chlorine dioxide, powdered activated carbon addition, or granular activated carbon filtration or ion exchange or that includes sludge storage or a sludge dewatering process. This classification also includes any treatment facility which does not provide filtration for a surface water source or a groundwater source which is under the direct influence of surface water.

Group V Treatment. A facility treating a surface water source or a groundwater source which is under the direct influence of surface water, utilizing high rate gravity filtration (greater than four gallons per minute per square foot), clarification with a detention time of less than two hours in the clarification unit, diatomaceous earth filtration, or ultraviolet light disinfection.

Group VI Treatment. A facility treating a surface water source or a groundwater source which is under the direct influence of surface water, utilizing direct filtration, membrane technology, or ozone.

Group VII Treatment. Drinking water dispensing stations and vending machines which utilize water from an approved public water system or bottled water plants which treat water from the distribution system of a public water system or from a groundwater source which is not under the direct influence of surface water.

(L) The ~~Commissioner of the Department of Health and Environmental Control~~ director shall classify all public water distribution systems giving due regard to the size, type, and complexity of the public water distribution system and the skill, knowledge, and experience necessary for the operation of these systems. The classification must be based on:

Group I Distribution. Distribution systems associated with state and transient noncommunity water systems.

Group II Distribution. Distribution systems associated with community and nontransient noncommunity public water systems which have a reliable production capacity not greater than six hundred thousand gallons a day and which do not provide fire protection.

Group III Distribution. Distribution systems associated with community and nontransient noncommunity water systems which have a reliable production capacity greater than six hundred thousand gallons a day but not greater than six million gallons a day (MGD) or have a reliable production capacity not greater than six hundred thousand gallons a day and provide fire protection.

Group IV Distribution. Distribution systems associated with community and nontransient noncommunity water systems which have a reliable production capacity than six MGD, but not greater than twenty MGD.

Group V Distribution. Distribution systems associated with community and nontransient noncommunity water systems which have a reliable production capacity greater than twenty MGD.

(O) The ~~board~~ director, to ensure that underground sources of drinking water are not contaminated by improper well construction and operation, may promulgate regulations as developed by the Advisory Committee established pursuant to Section 44‑55‑45, setting standards for the construction, maintenance, operation, and abandonment of any well except for wells where well construction, maintenance, and abandonment are regulated by the Groundwater Use Act of 1969, Sections 49‑5‑10 et seq.; the Oil and Gas Exploration, Drilling, Transportation, and Production Act, Sections 48‑43‑10 et seq.; or the Water Use Reporting and Coordination Act, Section 49‑4‑10 et seq. For these excepted wells, the ~~board~~ director may promulgate regulations. The ~~board~~ director shall further ensure that all wells are constructed in accordance with the standards. The ~~board~~ director shall make available educational training on the standards to well drillers who desire this training.”

SECTION 29. Section 44‑55‑45 of the 1976 Code is amended to read:

“Section 44‑55‑45. An advisory committee to the ~~board~~ director must be appointed for the purpose of advising the ~~board~~ director during development or subsequent amendment of regulatory standards for the construction, maintenance, operation, and abandonment of wells subject to the jurisdiction of the ~~board~~ department. The Advisory Committee is composed of eight members appointed by the ~~board~~ director. Five members must be active well drillers; one member must be a registered professional engineer with experience in well design and construction; one member must be a consulting hydrogeologist with experience in well design and construction; and one member must be engaged in farming and shall represent the public at large. Three ex officio members shall also serve on the Advisory Committee, one of whom must be an employee of the ~~Department of Health and Environmental Control,~~ department and appointed by the ~~commissioner~~ director; and two of whom must be employees of the South Carolina Department of Natural Resources and appointed by the director of that department.

The term of office of members of the Advisory Committee is for four years and until their successors are appointed and qualify. ~~No~~ A member may not serve more than two consecutive terms. The initial terms of office must be staggered and ~~any~~ a member may be removed for cause after proper notification and an opportunity to be heard.”

SECTION 30. Section 44‑55‑50 of the 1976 Code is amended to read:

“Section 44‑55‑50. (A) In establishing regulations, procedures, and standards under Section 44‑55‑30 and in exercising supervisory powers under Section 44‑55‑40 the ~~board~~ director or department ~~must~~ may not prohibit or fail to include provisions for recreational activities including boating, water skiing, fishing, and swimming in ~~any~~ a reservoir without first making and publishing specific findings that these recreational activities would be injurious to the public health and assigning with particularity the factual basis and reasons for these decisions.

(B) If the ~~board~~ director or department determines that these recreational activities would be injurious to the public health it shall ~~cause to have published~~ publish at least once a week for six consecutive weeks in a newspaper of general circulation in the county or area affected a summary of its findings. ~~Any~~ A citizen of this State who objects to the findings of the ~~board~~ director or department is entitled to request a public hearing, which the ~~board~~ director or department shall conduct within thirty days after the request. The public hearing must be a formal evidentiary hearing where testimony must be recorded. After the hearing, the ~~board~~ director or department shall review its initial findings and shall within thirty days after the hearing affirm or reevaluate its findings in writing and give notice to known interested parties. The findings of the ~~board~~ director or department may be appealed to the circuit court, which is empowered to modify or overrule the findings if the court determines the findings to be arbitrary or unsupported by the evidence. Notice of intention to appeal must be served on the ~~board~~ director or department within fifteen days after it has affirmed or reevaluated its initial findings and copies also must be served on known interested parties.

(C) A public water system ~~utilizing~~ using a fully owned and protected watershed as its water supply is exempt from this section.”

SECTION 31. Section 44‑55‑60 of the 1976 Code is amended to read:

“Section 44‑55‑60. (A) An imminent hazard is considered to exist when in the judgment of the ~~commissioner~~ director there is a condition which may result in a serious immediate risk to public health in a public water system.

(B) In order to eliminate an imminent hazard, the ~~commissioner~~ director ~~may~~, without notice or hearing, may issue an emergency order requiring the water system to immediately take ~~such~~ the action ~~as~~ that is required under the circumstances to protect the public health. A copy of the emergency order must be served by certified mail or other appropriate means. An emergency order issued by the ~~commissioner~~ director must be effected immediately and binding until the order is reviewed and ~~modified by the board or~~ modified or rescinded by a court of competent jurisdiction.”

SECTION 32. Section 44‑55‑70 of the 1976 Code is amended to read:

“Section 44‑55‑70. A public water system shall, as soon as practicable, give public notice if it:

(1) is not in compliance with the State Primary Drinking Water Regulations;

(2) fails to perform required monitoring;

(3) is granted a variance for an inability to meet a maximum contaminant level requirement;

(4) is granted an exemption; or

(5) fails to comply with the requirements prescribed by a variance or exemption.

The ~~board~~ director shall prescribe procedures for the public notice, including procedures for notification by publication in a newspaper of general circulation, notification to be given in the water bills of the systems, as long as a condition of violation exists, and other notification as is considered appropriate by the ~~board~~ director.”

SECTION 33. Section 44‑55‑120(C) of the 1976 Code, as last amended by Act 318 of 2006, is further amended to read:

“(C) There is established a Safe Drinking Water Advisory Committee for the purpose of advising and providing an annual review to the department and General Assembly on the fee schedule and the use of revenues deposited in the Drinking Water Trust Fund. The Governor shall appoint the advisory committee which must be composed of one member representing water systems with fifty thousand or more service connections, one member representing water systems with at least twenty‑five thousand but fewer than fifty thousand service connections, one member representing water systems with at least ten thousand but fewer than twenty‑five thousand water service connections, one member representing water systems with at least one thousand but fewer than ten thousand service connections, one member representing water systems with fewer than one thousand service connections, and the Executive Director of the Office of Regulatory Staff and the ~~Commissioner~~ Director of the Department of Health and Environmental Control, or a designee.”

SECTION 34. Section 44‑55‑2320 of the 1976 Code is amended to read:

“Section 44‑55‑2320. As used in this article:

(1) ~~‘Board’ means the Board of Health and Environmental Control.~~

~~(2)~~ ‘Director’ means the director of the department or his authorized agent.

~~(3)~~(2) ‘Department’ means the Department of Health and Environmental Control.

~~(4)~~(3) ‘Person’ means an individual, public or private corporation, political subdivision, governmental agency, municipality, industry, copartnership, association, firm, trust, estate, or any other legal entity. ‘Person’ does not mean a church, synagogue, or religious organization.

~~(5)~~(4) ‘Public swimming pool’ means an artificial structure used to impound water 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 and the use of which is not confined to the family of the residence and its private guests, or which is not owned, constructed, operated, or maintained by a church, synagogue, or religious organization.”

SECTION 35. Section 44‑55‑2360 of the 1976 Code is amended to read:

“Section 44‑55‑2360. It is unlawful for a person to fail to comply with the requirements of this article and regulations promulgated by the department including a permit or order issued by the ~~board,~~ director or department.”

SECTION 36. Section 44‑56‑20 of the 1976 Code is amended to read:

“Section 44‑56‑20. ~~Definitions~~ As used in this chapter:

(1) ~~‘Board’ means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Hazardous Waste Management Act.~~

~~(2)~~ ‘Director’ means the director of the department or his authorized agent.

~~(3)~~(2) ‘Department’ means the Department of Health and Environmental Control, which is charged with responsibility for implementation of the Hazardous Waste Management Act, including personnel thereof authorized by the ~~board~~ director to act on behalf of the department ~~or board~~.

~~(4)~~(3) ‘Disposal’ means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such substance or any constituent ~~thereof~~ of that substance may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

~~(5)~~(4) ‘Generation’ means the act or process of producing waste materials.

~~(6)~~(5) ‘Hazardous waste’ means any waste, or combination of wastes, of a solid, liquid, contained gaseous, or semisolid form which because of its quantity, concentration, or physical, chemical, or infectious characteristics may in the judgment of the department:

(a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Such wastes may include, but are not limited to, those which are toxic, corrosive, flammable, irritants, strong sensitizers, persistent in nature, assimilated, or concentrated in tissue, or which generate pressure through decomposition, heat, or other means. The term does not include solid or dissolved materials in domestic sewage, or solid dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to NPDES permits under the Federal Water Pollution Control Act or the Pollution Control Act of South Carolina or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954.

~~(7)~~(6) ‘Hazardous waste management’ means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

~~(8)~~(7) ‘Manifest’ means the form used for identifying the quantity, composition, or origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

~~(9)~~(8) ‘Permit’ means the process by which the department can ensure cognizance of, as well as control over the management of hazardous wastes.

~~(10)~~(9) ‘Storage’ means the actual or intended containment of wastes, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such hazardous wastes.

~~(11)~~(10) ‘Transport’ means the movement of hazardous wastes from the point of generation to any intermediate points and finally to the point of ultimate treatment, storage or disposal.

~~(12)~~(11) ‘Treatment’ means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste, so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, reduced in volume, or suitable for final disposal.

~~(13)~~(12) ‘Uncontrolled hazardous waste site’ means ~~any~~ a site where hazardous wastes or other hazardous substances have been released, abandoned, or otherwise improperly managed so that governmental response action is deemed necessary to remedy actual or potential damages to public health, the public welfare, or the environment.

For the purpose of this item the term ‘hazardous waste’ does not include petroleum, including crude oil or fraction thereof; natural gas; natural gas liquids; liquified natural gas; synthetic gas usable for fuel; or mixtures of natural gas and such synthetic gas.

~~(14)~~(13) ‘Response action’ is any cleanup, containment, inspection, or closure of a site ordered by the director as necessary to remedy actual or potential damages to public health, the public welfare, or the environment.”

SECTION 37. Section 44‑56‑30 of the 1976 Code is amended to read:

“Section 44‑56‑30. The ~~board~~ director shall promulgate ~~such~~ regulations, procedures or standards as ~~may be~~ necessary to protect the health and safety of the public, the health of living organisms and the environment from the effects of improper, inadequate, or unsound management of hazardous wastes. ~~Such~~ The regulations may prescribe contingency plans; ~~the~~ criteria for the determination of whether ~~any~~ waste or a combination of wastes is hazardous; ~~the~~ requirements for the issuance of permits required by this chapter; standards for the transportation, containerization, and labeling of hazardous wastes consistent with those issued by the United States Department of Transportation; operation and maintenance standards; reporting and record keeping requirements; and other appropriate regulations.”

SECTION 38. Section 44‑56‑100 of the 1976 Code is amended to read:

“Section 44‑56‑100. The ~~board~~ director may issue, modify, or revoke ~~any~~ an order to prevent ~~any~~ a violation of this chapter.”

SECTION 39. Section 44‑56‑130 of the 1976 Code is amended to read:

“Section 44‑56‑130. After the promulgation of the regulations required under Section 44‑56‑30, it is unlawful for a person:

(1) ~~It shall be unlawful for any person~~ to generate, store, transport, treat, or dispose of hazardous ~~wastes~~ waste in this State without reporting ~~such~~ the activity to the department as required by ~~such~~ these regulations~~.~~;

(2) ~~It shall be unlawful for any person~~ to generate, store, transport, treat, or dispose of hazardous ~~wastes~~ waste in this State without complying with the procedures described in ~~such~~ these regulations~~.~~;

(3) ~~It shall be unlawful for any person~~ to fail to comply with this chapter and rules and regulations promulgated pursuant to this chapter; to fail to comply with ~~any~~ a permit issued under this chapter; or to fail to comply with ~~any~~ an order issued by the ~~board,~~ director~~,~~ or department~~.~~;

(4) ~~It is unlawful for any person~~ who owns or operates a waste treatment facility within this State to accept ~~any~~ hazardous waste generated in ~~any~~ a jurisdiction ~~which~~ that prohibits by law the treatment of that hazardous waste within that jurisdiction or which has not entered into an interstate or regional agreement for the safe treatment of hazardous waste pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Written documentation demonstrating compliance with this item must be submitted to the department before the transportation of ~~any~~ hazardous waste into the State for treatment~~.~~;

(5) ~~It is unlawful for any person~~ who owns or operates a waste storage facility within this State to accept ~~any~~ hazardous waste generated in ~~any~~ a jurisdiction ~~which~~ that prohibits by law the storage of that hazardous waste within that jurisdiction or which has not entered into an interstate or regional agreement for the safe storage of hazardous waste pursuant to ~~the federal Comprehensive Environmental Response, Compensation and Liability Act~~ CERCLA. Written documentation demonstrating compliance with this item must be submitted to the department before the transportation of ~~any~~ hazardous waste into the State for storage~~.~~; or

(6) ~~It is unlawful for any person~~ who owns or operates a waste disposal facility within this State to accept ~~any~~ hazardous waste generated in ~~any~~ a jurisdiction ~~which~~ that prohibits by law the disposal of that hazardous waste within that jurisdiction or ~~which~~ that has not entered into an interstate or regional agreement for the safe disposal of hazardous waste pursuant to ~~the federal Comprehensive Environmental Response, Compensation and Liability Act~~ CERCLA. Written documentation demonstrating compliance with this item must be submitted to the department before the transportation of ~~any~~ hazardous waste into the State for disposal.”

SECTION 40. Section 44‑56‑440(A) of the 1976 Code, as last amended by Act 237 of 2004, is further amended to read:

“(A) The ~~Board~~ Director of the Department of Health and Environmental Control shall establish a moratorium on administrative and judicial actions by the department concerning drycleaning facilities and wholesale supply facilities resulting from the discharge of drycleaning solvents to soil or waters of the State. This moratorium applies only to those facilities ~~deemed~~ considered eligible as defined in this section. The ~~board~~ director may review and determine the appropriateness of the moratorium at least annually. This review ~~shall~~ must include, but is not limited to, consideration of these factors:

(1) the solvency of the fund as described in Section 44‑56‑420;

(2) prioritization of the sites;

(3) public health concerns related to the sites;

(4) eligibility of the sites; and

(5)corrective action plans submitted to the department.

After review, the ~~board~~ director may suspend all or a portion of the moratorium if necessary.”

SECTION 41. Section 44‑61‑20(i) of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“(i) ~~‘Board’~~ ‘Director’ means the ~~governing body~~ Director of the Department of Health and Environmental Control or its designated representative.”

SECTION 42. Section 44‑61‑30(c) of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“(c) An Emergency Medical Services Advisory Council must be established composed of representatives of the Department of Health and Environmental Control, the South Carolina Medical Association, the South Carolina Committee on Trauma, the South Carolina Hospital Association, the South Carolina Heart Association, Medical University of South Carolina, University of South Carolina School of Medicine, South Carolina College of Emergency Physicians, South Carolina Emergency Nurses Association, Emergency Management Division of the Office of the Adjutant General, South Carolina Emergency Medical Services Association, State Board for Technical and Comprehensive Education, Governor’s Office of Highway Safety, Department of Health and Human Services, four regional Emergency Medical Services councils, and one EMT first responder agency. Membership on the council must be by appointment by the ~~board~~ director. Three members of the advisory council must be members of organized rescue squads operating in this State, three members shall represent the private emergency services systems, and three members shall represent the county emergency medical services systems.”

SECTION 43. Section 44‑61‑40(b) of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“(b) Applicants shall file license applications with the appropriate official of the department having authority over emergency services. At a minimum, license applications shall contain evidence of ability to conform to the standards and regulations established by the ~~board~~ director and ~~such~~ other information as ~~may be~~ required by the department. If the application is approved, the license will be issued. If the application is disapproved, the applicant may appeal in a manner pursuant to the Administrative Procedures Act beginning at Section 1‑23‑310.”

SECTION 44. Section 44‑61‑50 of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“Section 44‑61‑50. A vehicle ~~must~~ may not be operated as an ambulance, unless its licensed owner applies for and receives an ambulance permit issued by the department for that vehicle. ~~Prior to~~  Before issuing an original permit for an ambulance, the vehicle for which the permit is issued ~~shall~~ must meet all requirements as to vehicle design, construction, staffing, medical and communication equipment and supplies, and sanitation as set forth in this article or in the standards and regulations established by the ~~board~~ director. Absent revocation or suspension permits issued for ambulances are valid for a period not to exceed two years.”

SECTION 45. Section 44‑61‑60 of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“Section 44‑61‑60. (a) ~~Such~~ Equipment as ~~deemed~~ considered necessary by the department must be required of ~~organizations~~ an organization applying for an ambulance ~~permits~~ permit. ~~Each~~ A licensee of an ambulance shall comply with regulations ~~as may be~~ promulgated by the ~~board~~ director and shall maintain in each ambulance~~, when it is in use as such, all~~ equipment as ~~may be~~ prescribed by the ~~board~~ director.

(b) The transportation of ~~patients~~ a patient and the provision of an emergency medical ~~services shall~~ service must conform to standards adopted by the ~~board~~ director.”

SECTION 46. Section 44‑61‑70(c) of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“(c) ~~Whoever~~ A person who hinders, obstructs, or interferes with a duly authorized agent of the department while in the performance of his duties or violates a provision of this article or rule or regulation of the ~~board~~ department promulgated pursuant to this article is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than five hundred dollars and not more than five thousand dollars or by imprisonment for not less than ten days nor more than six months for each offense. Information pertaining to the license or permit is admissible in evidence in ~~all prosecutions~~ a prosecution under this article if it is consistent with applicable statutory provisions.”

SECTION 47. Section 44‑61‑80(g) of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“(g) ~~All instructors~~ An instructor of an emergency medical technician training ~~courses~~ course must be certified by the department pursuant to requirements established by the ~~board;~~ director and ~~all such~~ this training ~~courses shall~~ course must be supervised by a certified ~~instructors~~ instructor.”

SECTION 48. Section 44‑61‑130 of the 1976 Code, as last amended by Act 320 of 2006, is further amended to read:

“Section 44‑61‑130. A certified emergency medical technician may perform ~~any~~ a function consistent with his certification, according to guidelines and regulations that the ~~board~~ department may prescribe. ~~Emergency~~ An emergency medical ~~technicians~~ technician, trained to provide advanced life support and possessing current Department of Health and Environmental Control certification while on duty with a licensed service, a~~re authorized to~~ may possess a limited ~~quantities~~ quantity of drugs, including controlled substances, as ~~may be~~ approved by the ~~Department of Health and Environmental Control~~ department for administration to patients during the regular course of duties of emergency medical technicians, pursuant to the written or verbal order of a physician possessing a valid license to practice medicine in this State~~; however,~~ if the physician ~~must be~~ is registered pursuant to state and federal laws pertaining to controlled substances.”

SECTION 49. Section 44‑61‑150 of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“Section 44‑61‑150. ~~All rules and regulations~~ A rule or regulation promulgated by the ~~board shall~~ department must be filed with the Secretary of State.”

SECTION 50. Section 44‑63‑110 of the 1976 Code is amended to read:

“Section 44‑63‑110. For making, furnishing, or certifying any card, certificate, or certified copy of the record, for filing a record amendment according to the provisions of Section 44‑63‑60, 44‑63‑80, 44‑63‑90 or 44‑63‑100, or for searching the record, when no card, certificate, or certified copy is made, a fee in an amount as determined by the ~~Board~~ Director of the Department of Health and Environmental Control must be paid by the applicant, except that the Department of Social Services or its designee is not required to pay a fee when the information is needed for the purpose of establishing paternity or establishing, modifying, or enforcing a child support obligation. The amount of the fee established by the ~~board~~ director may not exceed the cost of the services performed and to the extent possible must be charged on a uniform basis throughout the State. When verification of the facts contained in these records is needed for Veterans Administration purposes in connection with a claim, it must be furnished without charge to the Veterans Affairs Division of the Governor’s Office or to a county veterans affairs officer upon request and upon the furnishing of satisfactory evidence that the request is for the purpose authorized in this chapter.”

SECTION 51. Section 44‑67‑30(13) of the 1976 Code is amended to read:

“~~(13)~~ ~~‘Board’ means the South Carolina Board of Health and Environmental Control.~~”

SECTION 52. Section 44‑67‑40 of the 1976 Code is amended to read:

“Section 44‑67‑40. The ~~Board~~ director is authorized to promulgate rules and regulations necessary to carry out the provisions, purposes and intent of this chapter; provided, however, that until July 1, 1979, any contracts entered into pursuant to the provisions of this chapter ~~shall~~ must not be subject to procedural rules and regulations of ~~any~~ a state agency.”

SECTION 53. Section 44‑67‑120 of the 1976 Code is amended to read:

“Section 44‑67‑120. The department shall contract with as many counties as funding permits for litter removal along public roads and beaches using prison inmates subsidized by the State on a per mile or per square mile basis. Participation by the counties shall be entirely voluntary. The rate of subsidy per mile or per square mile shall be negotiated between the department and the counties, if necessary, taking into account specified varying conditions that affect the cost of litter removal. The rates established ~~shall~~ may not exceed the cost of doing the same work with civilian labor. The department shall contract initially with no more than three counties for a period of at least six months in a carefully designed and monitored experiment to determine the costs of litter removal under varying conditions. Upon completion of these experiments, the ~~board~~ director shall issue a written statement of the factors to be incorporated in determining the per mile or per square mile rate of subsidy and, subject to published alterations in this statement, shall negotiate all subsequent contracts on the basis of the factors specified in the statement.”

SECTION 54. Section 44‑69‑20(1) of the 1976 Code is amended to read:

“(1) ~~‘Board’ shall mean~~ ‘Director’ means the ~~South Carolina Board~~ Director of the Department of Health and Environmental Control.”

SECTION 55. Section 44‑69‑30 of the 1976 Code is amended to read:

“Section 44‑69‑30. ~~No~~ (A) A person, private or public organization, political subdivision, or other governmental agency ~~shall~~ may not establish, conduct, or maintain a home health agency or represent itself as providing home health services without first obtaining a license from the Department of Health and Environmental Control. This license is effective for a twelve‑month period following the date of issue. A license issued under this chapter is not assignable or transferable and is subject to suspension or revocation at any time for failure to comply with this act. Subunits of parent home health agencies must be separately licensed.

(B) The department may enter into public and private joint partnerships or enter into other appropriate cooperative agreements or arrangements or negotiate and effect these partnerships and agreements to include the sale of the entity and/or the transfer of licenses held by the department or its subdivisions to other qualified providers, if appropriate, when doing so would result in continued high quality patient care, continued provision of services to indigent patients, assurance of the employment of the department’s home health employees, and provision of home care services adequate to meet the needs of the State. The department may facilitate the negotiation, contracting, or transfer of these activities through licensure and without requirement of a Certificate of Need as set out in Section 44‑69‑75 and without regard to the Procurement Code, Section 11‑35‑10, et. seq. However, a sale of the entity is subject to the provisions of the Procurement Code.

(C) At least thirty days before entering ~~any~~ negotiations regarding a contractual agreement or a public/private partnership concerning the provision of home health services, the department shall place a public notice in a newspaper of general circulation for a period of no less than three consecutive days within the area where the services will be performed.

(D) The department may establish requirements and conditions upon those entities joined in partnership or receiving transfer of the home care services, licensing, and Certificate of Need including, but not limited to, transfer of employees, coverage of indigent patients, and payments or contributions to the department to continue the provision of basic public health services as determined by the department. ~~All agreements~~ An agreement must be reviewed and approved by the ~~board of the department~~ director. The department may monitor and enforce the contract or partnership provisions ~~and/or~~ and conditions of transfer or ~~any~~ other conditions or requirements of agreements entered ~~into~~ pursuant to this section.

(E) ~~All funds~~ Funds paid to or received by the department pursuant to this section must be deposited in an account separate and distinct from the general fund entitled the Public Health Fund (PHF). The funds deposited in this fund must be used solely by the department to support basic public health services determined to be necessary by the department. The appropriation of the funds must be through the General Appropriations Act.

(F) Notwithstanding ~~any of~~ the provisions of this section, the department may continue to provide public health services in the clinic, the home, and the community necessary to ensure the protection and promotion of the public’s health.”

SECTION 56. Section 44‑69‑50 of the 1976 Code is amended to read:

“Section 44‑69‑50. Reasonable fees shall be established by the ~~Board~~ director. ~~Such~~ These fees ~~shall~~ must be paid ~~into~~ to the State Treasury or refunded to the applicant if ~~the~~ a license is denied. ~~Governmental~~ A governmental home health ~~agencies are~~ agency is exempt from payment of a license ~~fees~~ fee.”

SECTION 57. Section 44‑71‑20 of the 1976 Code is amended to read:

“Section 44‑71‑20. As used in this chapter:

(1) ~~‘Board’ means the South Carolina Board of Health and Environmental Control.~~

~~(2)~~ ‘Department’ means the South Carolina Department of Health and Environmental Control.

~~(3)~~(2) ‘Hospice’ means a centrally administered, interdisciplinary health care program. This program must provide a continuum of medically supervised palliative and supportive care for the terminally ill patient and the family including, but not limited to, outpatient and inpatient services provided directly or through written agreement. Inpatient services include, but are not limited to, services provided by a hospice in a licensed hospice facility.

Admission to a hospice program of care is based on the voluntary request of the hospice patient alone or in conjunction with designated family members.

~~(4)~~(3) ‘Hospice facility’ means an institution, place, or building in which a licensed hospice provides room, board, and appropriate hospice services on a twenty‑four‑hour basis to individuals requiring hospice care pursuant to the orders of a physician.

~~(5)~~(4) ‘Licensee’ means the individual, corporation, or public entity with whom rests the ultimate responsibility for maintaining approved standards for the hospice or hospice facility.”

SECTION 58. Section 44‑75‑20(d) of the 1976 Code is amended to read:

“(d) ~~‘Board’~~ ‘Director’ means the ~~Board~~ Director of Health and Environmental Control.”

SECTION 59. Section 44‑75‑30(b) of the 1976 Code is amended to read:

“(b) An Athletic Trainers’ Advisory Committee is created consisting of nine members appointed by the ~~board~~ director. Two members must be from the department, one must be from the State Board of Medical Examiners, four must be certified athletic trainers, and two must be from the general public who are not certified or licensed in any health care field and are not connected in any way with athletic trainers.

Membership on the committee is by appointment by the ~~board~~ director. The terms of the members are for four years or until successors are appointed except that of those first appointed four are appointed to a term of two years.”

SECTION 60. Section 44‑75‑40(e) of the 1976 Code is amended to read:

“(e) ~~Any~~ A person whose application is denied, suspended, or revoked is entitled to a hearing before the ~~board~~ director or his designee if he submits a written request to the ~~board~~ director. Proceedings for denial, revocation, or suspension of a certificate must be conducted consistent with Act 176 of 1977 (Administrative Procedures Act).”

SECTION 61. Section 44‑89‑30 of the 1976 Code is amended to read:

“Section 44‑89‑30. As used in this chapter:

(1) ‘Birthing center’ means a facility or other place where human births are planned to occur. This does not include the usual residence of the mother or any facility which is licensed as a hospital.

(2) ~~‘Board’ means the South Carolina Board of Health and Environmental Control.~~

~~(3)~~ ‘Certified Nurse‑Midwife (CNM)’ means a person educated in the discipline of nursing and midwifery, certified by examination by the American College of Nurse‑Midwives, and licensed by the State Board of Nursing as a Registered Nurse.

~~(4)~~(3) ‘Department’ means the South Carolina Department of Health and Environmental Control.

~~(5)~~(4) ‘Lay midwife’ means an individual so licensed by the department.

~~(6)~~(5) ‘Low risk’ means normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal, uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health.

~~(7)~~(6) ‘Midwifery’ means the application of scientific principles in the care of “with woman” care during uncomplicated pregnancy, birth, and puerperium including care of the newborn, support of the family unit, and gynecologic health care.

~~(8)~~(7) ‘Person’ means a natural individual, private or public organization, political subdivision, or other governmental agency.

~~(9)~~(8) ‘Physician’ means a doctor of medicine or osteopathy with training in obstetrics or midwifery and licensed by the South Carolina State Board of Medical Examiners to practice medicine.”

SECTION 62. Section 44‑93‑20 of the 1976 Code is amended to read:

“Section 44‑93‑20. (A) ‘Infectious waste’ or ‘waste’ means:

(1) sharps;

(2) cultures and stocks of infectious agents and associated biologicals;

(3) human blood and blood products;

(4) pathological waste;

(5) contaminated animal carcasses, body parts, and bedding of animals intentionally exposed to pathogens; and

(6) isolation waste pursuant to the “Guidelines for Isolation Precautions in Hospitals”, Centers for Disease Control.

Nothing in this chapter prohibits a generator of infectious wastes from designating and managing wastes in addition to those listed above as infectious wastes.

(B) ‘Infectious waste management’ means the systematic control of the collection, source separation, storage, transportation, treatment, and disposal of infectious wastes.

(C) ~~‘Board’ means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Infectious Waste Management Act.~~

~~(D)~~ ‘Director’ means the director of the department or his authorized agent.

~~(E)~~(D) ‘Containment’ means the packaging of infectious waste or the containers in which infectious waste is placed.

~~(F)~~(E) ‘Department’ means the Department of Health and Environmental Control, which is charged with responsibility for implementing the Infectious Waste Management Act, including personnel of the department authorized by the ~~board~~ director to act on behalf of the department or ~~board~~ director.

~~(G)~~(F) ‘Dispose’ means to discharge, deposit, inject, dump, spill, leak, or place any infectious waste into or on any land or water including groundwater so that the substance may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

~~(H)~~(G) ‘Facility’ means a location or site within which infectious waste is treated, stored, or disposed of.

~~(I)~~(H) ‘Generator’ means the person producing infectious waste except waste produced in a private residence.

~~(J)~~(I) ‘Generator facility’ means a facility that treats infectious waste that is owned or operated by a combination or association of generators, a nonprofit professional association representing generators or a nonprofit corporation controlled by generators, nonprofit foundation of hospitals, or nonprofit corporations wholly owned by hospitals, if the waste is generated in this State and treatment is provided on a nonprofit basis.

~~(K)~~(J) ‘Person’ means an individual, partnership, co‑partnership, cooperative, firm, company, public or private corporation, political subdivision, agency of the State, county, or local government, trust, estate, joint structure company, or any other legal entity or its legal representative, agent, or assigns.

~~(L)~~(K) ‘Storage’ means the actual or intended holding of infectious wastes, either on a temporary basis or for a period of time, in the manner as not to constitute disposing of the wastes.

~~(M)~~(L) ‘Transport’ means the movement of infectious waste from the generation site to a facility or site for intermediate storage.

~~(N)~~(M) ‘Treatment’ means a method, technique, or process designed to change the physical, chemical, or biological character or composition of infectious waste so as to sufficiently reduce or eliminate the infectious nature of the waste.

~~(O)~~(N) ‘Expand’ means an increase in the capacity of the facility or an increase in the quantity of infectious waste received by a facility that exceeds a permit condition.”

SECTION 63. Section 44‑93‑150(A) of the 1976 Code is amended to read:

“(A) ~~Whenever~~ When the department finds ~~tha~~t a ~~person is in~~ violation of a permit, regulation, standard, or requirement under this chapter, the department may issue an order requiring the ~~person~~ violator to comply with the permit, regulation, standard, or requirement ~~or the department may;~~, bring civil action for injunctive relief in the appropriate court~~;~~, or~~, the department may~~ request that the Attorney General bring civil or criminal enforcement action under subsection (B) or (C) of this section. Violation of a court order issued pursuant to this section is contempt of the issuing court and punishable as provided by law. The department also may invoke civil penalties as provided in this section for violations of the provisions of this chapter, including an order, permit, regulation, or standard. After exhaustion of administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision of the department or ~~board~~ director to the Court of Common Pleas.”

SECTION 64. Section 44‑96‑100(A) of the 1976 Code is amended to read:

“(A) ~~Whenever~~ When the department determines ~~that a person is in~~ a violation of a regulation promulgated pursuant to this article regarding Sections 44‑96‑160(X) (Used Oil), 44‑96‑170(H) (Waste Tires), or 44‑96‑190(A) (Yard trash, compost), the department may issue an order requiring the ~~person~~ violator to comply with the regulation ~~or the department may~~, bring civil action for injunctive relief in the appropriate court, or ~~the department may~~ request that the Attorney General bring civil or criminal enforcement action under this section. The department also may impose reasonable civil penalties not to exceed ten thousand dollars, for each day of violation, for violations of the regulations promulgated pursuant to this article regarding Sections 44‑96‑160(X), 44‑96‑170(H), or 44‑96‑190(A). After exhaustion of administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision of the department or ~~board of~~ director to the court of common pleas, pursuant to the Administrative Procedures Act.”

SECTION 65. Section 44‑96‑440 of the 1976 Code is amended to read:

“Section 44‑96‑440. (A) It ~~shall be~~ is unlawful for ~~any~~ a person to manage solid wastes in this State without reporting ~~such~~ that activity to the department as required by regulation.

(B) It ~~shall be~~ is unlawful for ~~any~~ a person to manage solid wastes in this State without complying with the standards and procedures set forth in ~~such~~ applicable regulations of the department.

(C) It ~~shall be~~ is unlawful for ~~any~~ a person to fail to comply with this article and ~~any~~ regulations promulgated pursuant to this article, ~~or to fail to comply with any~~ a permit issued under this article, or ~~to fail to comply with any~~ an order issued by the ~~board, commissioner,~~ director or department.”

SECTION 66. Section 44‑96‑450(A) of the 1976 Code is amended to read:

“(A) ~~Whenever~~ When the department finds that a ~~person is in~~ violation of a permit, regulation, standard, or requirement under this article, the department may issue an order requiring the ~~person~~ violator to comply with the permit, regulation, standard, or requirement~~,~~; ~~or the department may~~ bring civil action for injunctive relief in the appropriate court~~,~~; or ~~the department may~~ request that the Attorney General bring civil or criminal enforcement action under this section. The department also may impose reasonable civil penalties established by regulation, not to exceed ten thousand dollars for each day of violation, for violations of the provisions of this article, including ~~any~~ an order, permit, regulation, or standard. After exhaustion of administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision of the department or ~~board~~ director to the court of common pleas.”

SECTION 67. Section 48‑2‑340(A) of the 1976 Code is amended to read:

“(A) The department, through the commissioner or the commissioner’s designee, shall certify that funding for a specific emergency was necessary to protect the environment or public health, or both. Annually, the department shall prepare an independent accounting of all revenue in the fund. The report must be submitted to the ~~chairman of the Board~~ Director of the Department of Health and Environmental Control and must be made available to the public upon request.”

SECTION 68. Section 48‑18‑20(11) of the 1976 Code is amended to read:

“(11) ‘~~Board~~ Director’ means the ~~board~~ director of the department.”

SECTION 69. Section 48‑39‑10(W) of the 1976 Code is amended to read:

“(W) ‘~~Board~~ Director’ means the ~~board~~ director of the department.”

SECTION 70. Section 48‑39‑280(E) of the 1976 Code, as last amended by Act 387 of 2006, is further amended to read:

“(E) A landowner claiming ownership of property affected who feels that the final or revised setback line, baseline, or erosion rate as adopted is in error, upon submittal of substantiating evidence, must be granted a review of the setback line, baseline, or erosion rate, or a review of all three. The requests must be forwarded to the department ~~board~~ director in accordance with Section 44‑1‑60 and the final decision of the ~~board~~ director may be appealed to the Administrative Law Court as provided in Chapter 23 of Title 1.”

SECTION 71. Section 48‑43‑10(X) of the 1976 Code is amended to read:

“(X) ‘~~Board~~ Director’ means ~~board~~ director of the department.”

SECTION 72. Section 48‑43‑30(B)(5) of the 1976 Code is amended to read:

“(5) To promulgate, after hearing and notice as ~~hereinafter~~ provided in this chapter, ~~such~~ rules and regulations~~,~~ and issue ~~such~~ orders reasonably necessary to prevent waste and oil discharges from drilling and production platforms, pipelines, gathering systems, processing facilities, storage facilities, refineries, port facilities, tankers and other facilities and vessels that may be a source of oil spills and to protect correlative rights, to govern the practice and procedure before the ~~board~~ department and to fulfill its duties and the purposes of this chapter.”

SECTION 73. Section 48‑43‑50 of the 1976 Code is amended to read:

“Section 48‑43‑50. (A) The ~~board~~ director or an Administrative Law Judge ~~shall have the power to~~ may conduct hearings~~,~~; ~~to~~ summon witnesses, ~~to~~ administer oaths; and ~~to~~ require the production of records, books and documents for examination at ~~any~~ a hearing or investigation.

(B) Upon failure or refusal on the part of ~~any~~ a person to comply with a subpoena issued by the ~~board~~ director pursuant to this section, or upon the refusal of any witness to testify as to any matter regarding which he may be interrogated and which is pertinent to the hearing or investigation, any circuit court in the State, upon the application of the ~~board~~ director, may issue an order to compel such person to comply with such subpoena, and to attend before the ~~board~~ director and produce such records, books, and documents for examination, and to give his testimony. ~~Such~~ This court ~~shall have the power to~~ may punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify ~~therein~~ in the proceedings.”

SECTION 74. Section 48‑43‑60 of the 1976 Code is amended to read:

“Section 48‑43‑60. ~~Any~~ A person~~,~~ who is aggrieved and has a direct interest in the subject matter of ~~any~~ a final order issued by the ~~board,~~ department may appeal ~~such~~ the order to the circuit court.”

SECTION 75. Section 48‑43‑510 of the 1976 Code is amended to read:

“Section 48‑43‑510. When used in this article unless the context clearly requires otherwise:

(1) ‘Department’ means the Department of Health and Environmental Control.

(2) ‘Director’ means the director of the department.

(3) ‘Barrel’ means 42 U. S. gallons at 60° Fahrenheit.

(4) ‘Other measurements’ means measurements set by the department for products transferred at terminals which are other than fluid or which are not commonly measured by the barrel.

(5) ‘Discharge’ ~~shall include~~ includes, but is not ~~be~~ limited to, any spilling, leaking, seeping, pouring, emitting, emptying, or dumping which occurs within the territorial limits of the State or outside of the territorial limits of the State and affects lands and waters within the territorial limits of the State.

(6) ‘Pollutants’ ~~shall include~~ includes oil of any kind and in any form, gasoline, pesticides, ammonia, chlorine, and derivatives thereof.

(7) ‘Pollution’ means the presence in the outdoor atmosphere or waters of the States of any one or more substances or pollutants, in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(8) ‘Terminal facility’ means ~~any~~ a waterfront or offshore facility ~~of any kind~~, other than vessels not owned or operated by such facility, and directly associated waterfront or offshore appurtenances including pipelines located on land, including submerged lands, or on or under the surface of any kind of water, which facility and related appurtenances are used or capable of being used for the purpose of drilling for, pumping, storing, handling, transferring, processing, or refining pollutants, including, but not limited to, any such facility and related appurtenances owned or operated by a public utility or a governmental or quasi‑governmental body. A vessel ~~shall~~ must be considered a terminal facility only in the event of a ship‑to‑ship transfer of pollutants, and only that vessel going to or coming from the place of transfer and the terminal facility. For the purposes of this article ‘terminal facility’ ~~shall~~ may not be construed to include waterfront facilities owned and operated by governmental entities acting as agents of public convenience for operators engaged in the drilling for or pumping, storing, handling, transferring, processing, or refining of, pollutants; however, each operator engaged in the drilling for or pumping, storing, handling, transferring, processing, or refining of pollutants through a waterfront facility owned and operated by such governmental entity shall be construed as a terminal facility.

(9) ‘Owner’ means ~~any~~ a person owning a terminal facility; ‘operator’ means ~~any~~ a person operating a terminal facility, whether by lease, contract, or other form of agreement.

(10) ‘Transfer’ or ‘transferred’ includes onloading or offloading between terminal facility and vessel, vessel and vessel, or terminal facility and terminal facility.

(11) ‘Vessel’ includes every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water, whether self‑propelled or otherwise, and includes barges and tugs.

(12) ‘Discharge cleanup organization’ means ~~any~~ a group, incorporated or unincorporated, of owners or operators of waterfront terminal facilities in any port or harbor of the State, and any other person who may elect to join, organized for the purpose of containing and cleaning up discharges of pollutants through cooperative efforts and shared equipment and facilities.

(13) ~~‘Board’ means the Department of Health and Environmental Control.~~

~~(14)~~ ‘Person’ means ~~any~~ an individual, partnership, joint venture, corporation~~;~~, ~~any~~ or a group of ~~the foregoing~~ them, organized or united for a business purpose~~;~~, or ~~any~~ a governmental entity.

~~(15)~~(14) ‘Registrant’ is a terminal facility required to possess a valid registration certificate to operate as a terminal facility.”

SECTION 76. Section 48‑55‑10(A) of the 1976 Code is amended to read:

“(A) The South Carolina Environmental Awareness Award must be presented annually by a committee of two members appointed from each of the following:

(1) South Carolina Department of Health and Environmental Control by its ~~commissioner~~ director;

(2) State Commission of Forestry by its chairman;

(3) South Carolina Sea Grant Consortium by its executive director;

(4) Water Resources Division of the Department of Natural Resources by the department’s director;

(5) Wildlife and Freshwater Fish Division of the Department of Natural Resources by the department’s director;

(6) Land Resources and Conservation Districts Division of the Department of Natural Resources by the department’s director; and

(7) Coastal Division of the Department of Health and Environmental Control by the department’s director;

(8) Marine Resources Division of the Department of Natural Resources by the department’s director.”

SECTION 77. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 78. This act takes effect upon the approval of the Governor.

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