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# SOUTH CAROLINA STATE REGISTER

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

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

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

# ***THE SOUTH CAROLINA STATE REGISTER***

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

## **STYLE AND FORMAT OF THE SOUTH CAROLINA STATE REGISTER**

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

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

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

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

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

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

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

**Executive Orders** are actions issued and taken by the Governor.

## **2001 PUBLICATION SCHEDULE**

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the Standards Manual for Drafting and Filing Regulations.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/12	2/9	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/26	2/23	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

## **REPRODUCING OFFICIAL DOCUMENTS**

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## **PUBLIC INSPECTION OF DOCUMENTS**

A copy of each document filed with the Office of the State Register is available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 734-2145.

## **CERTIFICATE**

Pursuant to Section 1-23-20, Code of Laws of South Carolina, 1976, this issue contains all previously unpublished documents required to be published and filed before the closing date of the issue.

Lynn P. Bartlett  
Editor

## **ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS**

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

## **EMERGENCY REGULATIONS**

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

## REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with Federal Law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

## EFFECTIVE DATE OF REGULATIONS

**Final Regulations** take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

**Emergency Regulations** take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be renewable once.

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## SUBSCRIPTIONS

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1984	SR25-1		Principal Evaluation	1 12 01	Board of Education
2481	SR25-2		School Transportation	1 24 01	Board of Education
2504	SR25-2		Environmental Protection Fees	1 27 01	Department of Health and Envir Control
2502	SR25-2		Public Pupil Transportation Services	2 04 01	Board of Education
2485	SR25-3		(Repeal) Credit and Discount Plans	2 20 01	Department of Insurance
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DOC NO.	DATE	SUBJECT	AGENCY
2248	4 14 99	Primary and Substantial Portion (Video Game Machines)	Department of Revenue

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2518	1 25 01	Perinatal Care	Department of Health and Envir Control
2533	2 21 01	Criminal Justice Information System	Law Enforcement Division

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**WITHDRAWN:**

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## No. 2001-07

**WHEREAS**, South Carolina continues to identify more clearly the critical importance of strengthening resources for programs designed to serve the needs of our citizens with disabilities; and

**WHEREAS**, the State must make the most effective use of its resources to meet such needs, and to do so the State must continue to develop, implement, and evaluate realistic policies, plans and programs; and

**WHEREAS**, the well-being of citizens of South Carolina with substantial disabilities is a priority and responsibility of state government.

**NOW, THEREFORE**, pursuant to the powers conferred upon me by the Constitution and Laws of the State, I hereby reestablish the South Carolina Developmental Disabilities Council which is the State's forum for matters pertaining to developmental disabilities and will serve as an advocate for persons with those disabilities defined herein.

This Council is also established in accordance with the Federal Developmental Disabilities Act of 2000 (Public Law 106-402). The Act defines the term developmental disability as a severe, chronic disability of a person which is attributable to a mental or physical impairment or combination of mental and physical impairments; is manifested before the person attains age twenty-two; is likely to continue indefinitely; results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic sufficiency; and reflects the person's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

The Council shall at all times include in its membership representatives of the principal state governmental agencies which administer and/or provide services to persons with developmental disabilities, higher education institutions and programs, as well as other related state and local governmental agencies and organizations.

The Governor hereby appoints the directors of the following public agencies and programs:

- South Carolina Department of Education
- South Carolina Department of Health and Environmental Control
- South Carolina Department of Mental Health
- South Carolina Department of Disabilities and Special Needs
- South Carolina Department of Social Services
- South Carolina Vocational Rehabilitation Department
- South Carolina School for the Deaf and the Blind
- South Carolina Commission for the Blind
- South Carolina Commission on Higher Education
- South Carolina Department of Health and Human Services-Office of Senior Services

The directors referenced above may designate representatives to act on behalf of their respective agencies and programs in the Council's deliberations.

Additionally, in order to provide a continuum to its advocacy efforts, the Council shall include representation of non-governmental agencies and organizations concerned with the developmentally disabled. The chief administrative officer or his/her designated representative who act on behalf of the organization in any and all deliberations of the Council shall represent these private organizations and programs.

No less than sixty percent of the total Council membership shall consist of consumer representatives who are not officers or have ownership or controlling interest of any entity, or who are not employees of any state

#### 4 EXECUTIVE ORDERS

agency which receives funds and provides services under the Developmental Disabilities Act. Of the consumer members, at least one-third shall be persons with developmental disabilities; and one-third shall be immediate relatives or guardians of persons who have mentally impairing developmental disabilities with at least one of these having a family member in an institution; the remaining one-third shall be representatives from any developmental disabilities consumer category.

The consumer members of the Council shall be appointed by the Governor from the residents of the state to serve at his pleasure on a rotating basis. Terms of office shall be four years and no member shall serve more than two consecutive terms.

The Chairperson of the Council shall be appointed by the Governor for a term of two years with a limit of one successive term. The active consumer members of the existing Council shall select the Chairperson. For purposes of appointment, consumer members may not be providers of services. The Council shall submit its recommendations of persons to the Governor for his consideration. The Council membership shall elect all other officers of the Council and election shall not be limited to consumers.

The Council Chairperson, with the advice and consent of the Executive Committee, may appoint representatives of other agencies and organizations or individuals who deal with persons with developmental disabilities to serve in an *ex officio* capacity to complement the Council's efforts.

The Council shall promulgate by-laws for the orderly conduct of its business, and in discharging its responsibilities, the Council shall:

- Develop jointly with the designated administering agency the Developmental Disabilities State Plan, and approve the State Plan for the provision of services for persons with developmental disabilities.
- Monitor, review, and evaluate the implementation of such state plan and the state program.
- Formulate its program and recommendations in accordance with the Act upon review and comment of all state plans and other activities in the State, which relate to the developmentally disabled population.
- Submit to the Secretary of the United States Department of Health and Human Services, through the Governor, such periodic reports on its activities as may reasonably be requested, and keep such records and afford access thereto as the Secretary finds necessary to verify such reports.
- In support of the Council, the Governor shall house the Council staff within the Office of the Governor and shall provide, as appropriate, the support of the Office of Executive Policy and Programs.

State agencies to administer the state programs shall be designated by the Governor and described in the state plan.

This Executive Order shall take effect immediately, and shall supersede Executive Order 95-04.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE  
STATE OF SOUTH CAROLINA, THIS 8th DAY OF MARCH,  
2001**

**JIM HODGES**  
Governor

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication, March, 23, 2001, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 737-7200.

Affecting Charleston County

Purchase of a fixed Magnetic Resonance Imaging (MRI) unit to replace leased mobile MRI services Bon Secours St. Francis Hospital.

Charleston, South Carolina

Project Cost: \$1,958,145

Renovation and expansion of the existing ambulatory surgery center with the addition of three (3) new endoscopy rooms resulting in a total of four (4) operating rooms and three (3) endoscopy rooms.

HealthSouth Surgery Center of Charleston

Charleston, South Carolina

Project Cost: \$1,800,571

Construction of an ambulatory surgery center for the relocation and replacement of Roper West Ashley Surgery Center, consisting of four (4) operating rooms.

Lowcountry Surgery Center, LLC

Charleston, South Carolina

\$4,864,698

Establishment of a freestanding ambulatory surgery center with two (2) endoscopy rooms restricted to gastroenterology procedures only.

Palmetto Digestive Disease Endoscopy Center

Charleston, South Carolina

Project Cost: \$1,657,387

Purchase of an open Magnetic Resonance Imaging (MRI) unit for the Medical Arts Building for a total of three fixed MRI units on the campus of Trident Medical Center.

Trident Medical Center

Charleston, South Carolina

Project Cost: \$1,787,106

Affecting Georgetown County

Replacement of a Computed Tomography (CT) Scanner and minor renovation.

Georgetown Memorial Hospital

Georgetown, South Carolina

Project Cost: \$1,656,100

## 6 NOTICES

### Affecting Greenville County

Conversion of 24 long-term psychiatric beds to 24 Residential Treatment Facility (RTF) beds for children and adolescents resulting in a total of 20 long-term psychiatric beds and 68 RTF beds for children and adolescents.

SpringBrook Behavioral Health System

Travelers Rest, South Carolina

Project Cost: \$54,700

### Affecting Lancaster County

Renovation of existing space for the addition of a fixed cardiac catheterization laboratory to replace mobile catheterization services.

Springs Memorial Hospital

Lancaster, South Carolina

Project Cost: \$2,586,900

### Affecting Newberry County

Establishment of a Magnetic Resonance Imaging (MRI) service through the use of a mobile MRI unit.

Newberry County Memorial Hospital

Newberry, South Carolina

Project Cost: \$643,800

### Affecting Richland County

Construction of a replacement facility for the two existing Ambulatory Care Centers to house the Family Practice and Preventive Medicine Department; relocation of the Children's Hospital Outpatient Clinic to Fourteen Medical Park; relocation of the Dental Clinic, satellite pharmacy and laboratory to Ten Medical Park.

Palmetto Richland Memorial Hospital

Columbia, South Carolina

Project Cost: \$6,517,351

### Affecting Union County

Replacement of an existing mobile MRI service with a fixed 1.5 Tesla unit using a modular building addition to the hospital.

Wallace Thomson Hospital

Union, South Carolina

Project Cost: \$1,525,139

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning March 23, 2001. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, SC 29201. For further information call (803) 737-7200.

### Affecting Georgetown County

Replacement of a Computed Tomographic (CT) Scanner and minor renovation.

Georgetown Memorial Hospital

Georgetown, South Carolina

Project Cost: \$1,656,100

Affecting Horry County

Construction of an ambulatory surgery center with two (2) operating rooms, one (1) cystoscopy room, and two (2) procedures rooms which will not be licensed as operating rooms.  
Coastal Carolina Center of Urology & Surgery, LLC  
Conway, South Carolina  
Project Cost: \$4,408,980

Lease of a mobile Positron Emission Tomography (PET) Scanner.  
Grand Strand Regional Medical Center  
Myrtle Beach, South Carolina  
Project Cost: \$746,660

Affecting Richland County

Construction of a replacement facility for the two existing Ambulatory Care Centers to house the Family Practice and Preventive Medicine Department; relocation of the Children’s Hospital Outpatient Clinic to Fourteen Medical Park; relocation of the Dental Clinic, satellite pharmacy and laboratory to Ten Medical Park.  
Palmetto Richland Memorial Hospital  
Columbia, South Carolina  
Project Cost: \$6,517,351

Affecting Union County

Replacement of an existing mobile MRI service with a fixed 1.5 Tesla unit using a modular building addition to the hospital.  
Wallace Thomson Hospital  
Union, South Carolina  
Project Cost: \$1,525,139

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
NOTICE OF GENERAL PUBLIC INTEREST**

**The following Emergency Order was issued by the Department on February 16, 2001:**

STATE OF SOUTH CAROLINA  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In the matter of the destruction of            )  
the records of patients of closed            )  
facilities formerly owned by                )  
Charter Behavioral Health Systems,        )           EMERGENCY ORDER  
LLC    )

TO:    CHARTER BEHAVIORAL HEALTH SYSTEMS, LLC, 5664 PEACHTREE PARKWAY, SUITE D,  
      NORCROSS, GA 30092

## 8 NOTICES

The Department of Health and Environmental Control (the Department or DHEC) states the following:

### JURISDICTION

The Department is the state agency directed and authorized, through its division of Health Licensing, to ensure that health care facilities licensed pursuant to S.C. Code Ann. § 44-7-260 (Supp. 2000) comply with the laws and regulations applicable to the health care facility.

In the matter of patient records, a health care facility operating pursuant to 24A S.C. Code Ann. Regs. 61-16, *Minimum Standards for Licensing Hospitals and Institutional General Infirmaries*, is required to store medical records of patients for no less than ten years in an environment which prevents unauthorized access and deterioration. In the event of a facility closing, the facility is required to arrange for preservation of the medical records. See 24A S.C. Code Ann. Regs. 61-16, Section 601.7 (A) and (D).

One measure afforded to the Department is the authority to make orders necessary to meet any public health emergency. S.C. Code Ann. § 44-1-110 (Supp. 2000); S.C. Code Ann. § 44-1-140; see also *Carter v. South Carolina Coastal Council*, 281 S.C. 201, 314 S.E.2d 327 (1984) (the State may exercise its police power to prohibit the use of land in such a way that it endangers the public health).

An Emergency Order issued by the Department may include the demand that a health care facility which is closed and has obtained a court order to destroy its records must transfer its records to the Department to ensure that South Carolina residents who are former patients of a closed facility are protected from the adverse consequences of destruction of the records.

### FACTS OF THE CASE

On October 5, 2000, Charter Behavioral Health Systems, LLC (Charter), a debtor in bankruptcy, obtained a court order (Order) from the United States Bankruptcy Court for the District of Delaware authorizing Charter to abandon or destroy any and all of their records, files, electronic data and any other written material. In South Carolina, all but one facility formerly owned by Charter was sold and the records transferred to the new owners. The facility which did not sell was Charter Sands, a/k/a Charter Conway Behavioral Systems, LLC, a/k/a Coastal Carolina Hospital Building 300 & 400. Charter Sands closed on May 8, 2000.

The Order provided that any party which did not request medical records on or before December 1, 2000, waived his or her right to any or all of the records in the possession of Charter. However, many former Charter patients did not timely request their individual records. Patients need access to their medical records in order that their subsequent medical treatment is not harmed by a physician's lack of knowledge due to the destruction of prior medical records. A substantial number of former Charter patients have either substance abuse or mental disability problems and may not have independent recollections of previous treatment. The disabilities of the former patients of the closed Charter facilities should not be a basis for subjecting them to the adverse consequences accompanying destruction of an individual's medical records.

Because of this, the Department, on behalf of South Carolina residents who were patients of closed Charter facilities, filed a timely request pursuant to the Order for the past ten years of records of Charter Sands a/k/a Charter Conway a/k/a Coastal Carolina Hospital to be transferred to the Department. Charter responded that an order authorizing these records to be transferred to the Department was necessary for the records to be transferred.

The Department intends to warehouse these records in accordance with the retention policies governing the archiving of DHEC medical records. DHEC recognizes that these records contain federally protected patient information. In accordance with state and federal law, these medical records of former Charter patients will be

accorded the confidential status authorized by law, and shall be released only upon written consent of the patient specific to the release of these records or in accordance with controlling state or federal law.

Whereas there is a need for patients to have access to their medical records; whereas the disabilities of a patient should not adversely affect the quality of subsequent medical treatment; whereas Charter has an Order permitting it to abandon or destroy medical records of former patients; and whereas the destruction of records is imminent, an emergency does exist whereby it is necessary for the Department to issue this order for transfer of the records as hereby ordered:

THEREFORE, IT IS ORDERED THAT Charter Behavioral Health Systems, LLC, transfer to the Department the past ten years of records for Charter Sands a/k/a Charter Conway a/k/a Coastal Carolina Hospital as required for retention of patient records pursuant to 24A S.C. Code Ann. Regs. 61-16.

IT IS FURTHER ORDERED THAT the transfer of the records occur prior to destruction of any DHEC requested records and that Charter cooperate fully with the Department in facilitating this transfer.

IT IS FURTHER ORDERED that any persons affected by this order may request a hearing by submitting a request to the Board of Health and Environmental control, attention, Clerk of the Board, 2600 Bull Street, Columbia, South Carolina 29201; (803) 898-3309, within fifteen (15) days of this order. However, such a request shall not stay the requirements of this Order.

AND IT IS SO ORDERED.

Douglas E. Bryant, Commissioner  
South Carolina Department of Health  
and Environmental Control

Columbia, South Carolina  
February 16, 2001

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**Public Notice**

Pursuant to S.C. Code Section 49-21-30 and R. 121-12.7 of the Interbasin Transfer of Water Regulations, the South Carolina Department of Health and Environmental Control gives notice that Easley Combined Utilities (ECU) has filed a Class I Interbasin Transfer Permit Application to transfer water from the Saluda River Basin to the Upper Savannah River Basin. The Interbasin Transfer Permit Application includes the expansion of the existing Saluda Water Treatment Plant to meet the future demands of their coverage area. The raw water supply for the water treatment facility will be withdrawn from Saluda Lake. The wastewater generated by ECU will be transported to the following wastewater treatment facilities: Georges Creek Wastewater Treatment Plant, Middle Branch Wastewater Treatment Plant, Golden Creek Wastewater Treatment Plant, Eighteen Mile Upper Regional Wastewater Treatment Plant, and Eighteen Mile Middle Regional Wastewater Treatment Plant. The Golden Creek, Eighteen Mile Upper Regional and Eighteen Mile Middle Regional Wastewater Treatment Plants ultimately discharge into the Upper Savannah River. The requested duration of the permit is for forty years to transfer a maximum volume of thirty-six million gallons of water per day, and increase from nine million gallons per day.

Any person may request a copy of the application by submitting a statement to the address below. Any person may submit comments on the application. The Department must receive comments by the close of business on



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August 2, 2001 to be considered. Any person wishing to receive notification of the permit decision should submit a request for such notification (which may be included with your comments) to the address below.

Comments should be directed to:

Jeremy S. Ritchie, P.E.  
SCDHEC  
Bureau of Water  
2600 Bull Street  
Columbia, SC 29201  
(803) 898-4202

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL NOTICE OF TERMINATION OF PROPOSED REGULATION

Document No. 2594  
Proposed Amendment of R.30-1 Statement of Policy,  
R.30-2, Applying for a Permit, and R.30-12,  
Specific Project Standards for Tidelands and Coastal Area

Effective upon publication, the Office of Ocean and Coastal Resource Management of the Department of Health and Environmental Control is terminating proposed amendment of Regulations 30-1, 30-2, and 30-12 published as Document 2594 in the State on December 22, 2000. The Department has published in the State Register under separate Document No. 2614 on February 23, 2001, a second Notice of Proposed Regulation, which supersedes Document 2594. Proposed changes to Regulations 30-1 and 30-2 will remain the same; however, Regulation 30-12 will be revised to include five additional changes in addition to those proposed on December 22, 2000.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL PUBLIC NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act. Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and individuals listed below, please submit your comments in writing, no later than April 23, 2001 to:

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

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

#### Class I

Advent Environmental, Inc. – Charlotte  
Palmetto Environmental Group, Inc.

#### Class II

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

In accordance with S.C. Code Ann. Section 1-23-40 (1986), notice is hereby given that the State Board of Medical Examiners for South Carolina has adopted the following statement as guidance for physicians in the practice of medicine under the South Carolina Medical Practice Act and the Principles of Medical Ethics as adopted by the Board.

**Determination of Medical Necessity; Unlicensed Practice**

It is the position of the State Board of Medical Examiners for South Carolina that the act of determining medical necessity or appropriateness of proposed medical care, so as to affect the diagnosis or treatment of a patient located in South Carolina, is the practice of medicine, as defined by Section 40-47-40 of the 1976 Code of Laws of South Carolina, as amended, and must be made by a physician licensed to practice medicine in this State. Making determinations of medical necessity or appropriateness of medical care requires independent medical judgment that is reserved to physicians, especially determinations to deny, reduce, or terminate health care services or to deny payment for a health care service because that service is not medically necessary. To engage in such determinations so as to affect the diagnosis or treatment of a patient in South Carolina requires a South Carolina medical license.

A person physically located in this or another jurisdiction who, through any medium, performs an act that is part of patient service initiated in this State so as to affect the diagnosis or treatment of a patient in South Carolina is engaged in the practice of medicine so as to require a South Carolina medical license. As in all physician-patient interactions, medical decisions must be in accordance with the prevailing and usually accepted standards of practice in South Carolina and documented in an adequate medical record which includes the rationale for the medical decision.

An individual or entity which makes the determination of medical necessity or appropriateness of any medical evaluation or care, so as to affect the diagnosis or treatment of a patient in South Carolina, and who does not possess a South Carolina medical license or other authorization to practice medicine in this State, may be engaged in the unauthorized practice of medicine in violation of the South Carolina Medical Practice Act. Participants in such misconduct are subject to further investigation and injunctive action by the Board. An individual who engages in the unauthorized practice of medicine in South Carolina without a license may also be referred for criminal prosecution and be fined not more than one thousand dollars or imprisoned for a period of not more than two years, or both, in the discretion of the court for each offense, and when available, disciplinary action.

South Carolina Physicians are encouraged to report to the Board in writing the unlicensed practice of medicine. To avoid a violation of the law regarding unlicensed practice, reviewers, insurers, medical directors, and managed care gatekeepers should all be particularly conscientious in allowing physician providers to exercise independent medical judgment to the greatest extent possible.

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### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: S.C. Code Sections 13-7-10 et seq.; 13-7-40

#### Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R. 61-63, Radioactive Materials (Title A). Interested persons may submit comments to Pearce O'Kelley, Chief, Bureau of Radiological Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, comments must be received by 5 p.m. on April 23, 2001.

#### Synopsis:

The Nuclear Regulatory Commission continually updates regulations, and state regulations are amended regularly to incorporate federal updates. The Department plans to adopt into regulation the Nuclear Regulatory Commission updates as an item of compatibility. Section 274 of the Atomic Energy Act of 1954, as amended, requires that the states adopt federal regulations for compatibility. The Department intends to make changes to R. 61-63 to this extent. The intended action makes minor correcting and clarifying changes to the requirements in Part III which address standards for protection against radiation. Additional changes will conform Parts IV, VIII, and XI to the revised Part III. Subjects include Part III, Conditions Requiring Individual Monitoring of External and Internal Occupational Dose; Exceptions to Posting Requirements; Notification of Incidents; Part IV, Modification of Teletherapy Unit or Room; Part VIII, Radiation Survey Instruments (Well logging); Surveillance of Operations; Part XI, Access Control (Irradiators). Additional amendments in Part V, Industrial Radiography, are solely administrative in that they correct and clarify the text of an existing regulation and do not result in any essential change. Subjects dealt with in Part V clarify implementation dates for certain training requirements. Proposed regulations will comply with 10 CFR Parts 20, 34, 35, and 36, Final Rules, published in the Federal Register on July 9, 1998 and October 26, 1998. Legislative review will not be required.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

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

#### Notice of Drafting:

The Department of Health and Environmental Control proposes to revise Regulation 61-9, *Water Pollution Control Permits*. This notice is an amendment to and supersedes the Notice of Drafting published in the State Register on July 28, 2000, related to changes which are discretionary to the Department. Interested persons may submit their comments in writing to Mr. Andrew Yasinsac, Jr., Senior Technical Advisor, Industrial, Agricultural, and Stormwater Permitting Division, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. To be considered, all comments must be received no later than May 23, 2001, the close of the drafting comment period. Comments received from the former notice, as well as this current notice, will be considered.

#### Synopsis:

The Department intends to make changes to the regulation to modify existing sections and requirements that will clarify and improve the regulation. The Department proposes to amend the regulation and is considering several revisions or requirements that will address, but will not necessarily be limited to, the following:

1. Change the storm water discharge requirements to provide the consolidation of control criteria for sediment and erosion control. This will be done in conjunction with other changes which result from the promulgation of Federal round II regulations (Federal Register [FR] December 8, 1999). For the other changes, referred to as

Federal, a public hearing before the Board of Health and Environmental Control has been scheduled for May 17, 2001;

2. Methods and procedures for making permit calculations and related activities in regard to chemical specific and whole effluent toxicity permit limitations and other biological monitoring requirements in permits;
3. Requirements to enhance the viability of wastewater facilities;
4. Requirements for standard NPDES language and/or conditions;
5. Requirements related to operation and maintenance of wastewater facilities (such as attendance of operators and staffing issues at wastewater treatment facilities and operating permits for collection systems);
6. Clarification of the application of fecal coliform limits for land application and/or surface waters;
7. Requirements or discussion of monitoring frequencies;
8. Miscellaneous administrative changes such as minor permit modifications, revision to permit-transfer provisions, authorization of a permit reopener;
9. Requirements to reflect any other state regulation requirements published since the June 28, 1996, State Register amendment of R.61-9 that may require appropriate changes, modifications, additions, or deletions to this regulation;
10. Miscellaneous changes such as renumbering, relocation, or revision of the existing regulation to reflect the changes resulting from the appropriate revised requirements.

Proposed revisions will require legislative review.

**COMMISSION ON HIGHER EDUCATION**  
**CHAPTER 62**

Statutory Authority: 1976 Code Sections 59-58-10 through 110

**Notice of Drafting:**

The South Carolina Commission on Higher Education is considering amendments to the regulations concerning nonpublic postsecondary institution licensing. Interested persons should submit their views in writing to Renea H. Eshleman, Coordinator, Nonpublic Postsecondary Institution Licensing, Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, South Carolina 29201. To be considered, all comments must be received no later than May 3, 2001, at 10:00 AM.

**Synopsis:**

The General Assembly passed the "Nonpublic Postsecondary Institution License Act" (Section 59-58-10 through 140) that established a South Carolina Commission on Higher Education administered program for the licensure of certain nonpublic postsecondary institutions operating or soliciting in South Carolina. The South Carolina Commission on Higher Education administers the Act under its Regulations 62-1 through 28.

The proposed changes to the regulations will address issues that have evolved since the adoption of the regulations relative to issuance of amendments for new programs or sites, learning resources, character and reputation of owners and directors, distance education, financial resources, curricula content, disclosures to

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students, cancellation and refund policy, student records, fees, deceptive trade or sales practices, advertising guidelines, student complaints, and probation status.

### COMMISSION ON HIGHER EDUCATION

#### CHAPTER 62

Statutory Authority: Act 512, Part 2 Section 9

Division 2, Subdivision C, Subpart 1(6)

Act of Joint Resolution of South Carolina, 1984

Article 2, South Carolina Student Loan Corporation

#### Notice of Drafting:

The Commission on Higher Education proposes to amend regulations that address the South Carolina Teacher Loan Program. Interested persons should submit comments to Mr. Michael Fox, South Carolina Student Loan Corporation, P. O. Box 210219, Columbia, S.C. 29221. To be considered, comments must be received no later than 5:00 p.m. on April 12, 2001, the close of the drafting period.

#### Synopsis:

The South Carolina Commission on Higher Education proposes to amend these regulations to reflect changes made by the South Carolina Legislature. The changes will expand the eligibility criteria for cancellation of outstanding South Carolina Teacher Loan Program obligations. Current regulations allow recipients cancellation eligibility when they teach in a subject area designated as critical at the time the loan is made. The proposed change will allow recipients cancellation eligibility when they teach in a subject area designated as critical at the time the loan is made or subsequently. The rate of cancellation will be amended. Currently a percentage of the debt is cancelled regardless of the amount of the debt. The amended regulation will allow the greater of the percentage of the debt or a set dollar amount to be cancelled for teaching service. In addition the changes will allow individuals changing careers to enter the teaching profession and individuals participating in the South Carolina Critical Needs Certification Program to receive loan assistance. These regulations propose eligibility criteria and administrative changes for these two groups.

Legislative review of this proposal will be required.

### DEPARTMENT OF REVENUE

#### CHAPTER 117

Statutory Authority: Section 12-4-320 of the 1976 Code

#### Notice of Drafting:

The South Carolina Department of Revenue is proposing to adopt a regulation which will provide for a definition for real and personal property. The regulation will be used by the department and other assessing officials in connection with the assessment of property. Interested persons may submit comments to Mr. Meredith Cleland, South Carolina Department of Revenue, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 pm on April 27, 2001, the close of the drafting comment period.

#### Synopsis:

Personal property is typically identified as all property that has not been classified as real property. Frequently, it is difficult to draw a fine line between what is treated as real property and what is treated as personal property for ad valorem tax purposes. In many cases, the appraiser must rely on the owner's statement of intent. Items that may appear to be permanently attached to realty may not be appraised as realty and should be classified as

personal. Frequently the appraiser must examine leases and other documents to determine the intent of the owner of the property. In addition, the appraiser may have to determine how the property is affixed to the realty and also whether the property is there for the benefit of the process or for the benefit of the employees. Generally, machinery and equipment used primarily as part of a manufacturing process is taken as personal property. The department will provide a list of miscellaneous items which will be classified as to whether they are real or personal property. The list is not intended to be all inclusive.

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Document No. 2623

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

Statutory Authority: Section 44-32-10, *et seq.*, South Carolina Code of Laws, 1976, as amended (2000)

#### R.61- , Standards For Permitting Body Piercing

##### **Preamble:**

The South Carolina General Assembly enacted the Body Piercing Act (Act 249), codified at South Carolina Code Section 44-32-10 *et seq.*, that became effective May 1, 2000. This Act established requirements and procedures for body piercing in the State of South Carolina, including provisions for, among other things, the issuance of permits and the promulgation of regulations by the Department of Health and Environmental Control, payment of fees, conducting of inspections, and criminal offenses and penalties.

Pursuant to the Act, the Department is proposing a new regulation, *Standards for Permitting Body Piercing*, to establish standards for the permitting and inspection of body piercing establishments and body piercing technicians. See Discussion of Proposed Regulation below and Statement of Need and Reasonableness herein.

A Notice of Drafting for this proposed amendment was published in the *State Register* on June 23, 2000.

#### **Discussion of Proposed New Regulation**

The title is: "Standards For Permitting Body Piercing"

Section 100 of the proposed new regulation addresses definitions, a reference listing of Departmental and non-Departmental publications, facility permitting requirements, and exceptions.

Section 200 addresses methods used in enforcing the regulations, *i.e.*, investigations, inspections, probation, consultations.

Section 300 addresses reference to the types of enforcement actions that may be taken by the Department, and the classifications of violations and the appeal process.

Section 400 directs that policies and procedures be developed, implemented, and revised appropriately with an established time frame for review.

Section 500 addresses staff training and qualifications to comply with applicable federal, state, and local laws in accordance with professional organizational standards, and personnel requirements.

Section 600 addresses reporting requirements to the Department for accidents or incidents, fire/disasters, administrator change, and facility closure.

Section 700 addresses client record content and maintenance.

Section 800 addresses client procedures and services provided, including procedures for minors.

Section 900 addresses informed consent and client rights to include informed consent for treatment, grievance procedures, confidentiality of client records, freedom from abuse, and privacy during piercing procedures.

Section 1000 directs the facility be maintained to perform the functions for which it is designed, and be free from fire hazards.

Section 1100 addresses infection control and housekeeping, including hepatitis B screening.

Section 1200 addresses emergency procedures.

Section 1300 addresses fire prevention requirements, including arrangements for fire department response, inspections, and fire response training.

Section 1400 addresses facility accommodations to include that a facility shall have a room for the purpose of disinfecting and sterilization of equipment that shall be physically separate from the room used for body piercing procedures to avoid cross-contamination of equipment.

Section 1500 requires mobile units to meet the current and existing standards of the state, federal and local department of transportation for permitting and safe operation of the vehicle.

Section 1600 adds a severability clause.

Section 1700 addresses conditions that have not been covered in these regulations.

**Notice of Staff Informational Forum:**

The staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a Staff Informational Forum on April 24, 2001, at 1:30 p.m., in the second floor conference room in the Heritage Building at 1777 St. Julian Place, Columbia, S.C. The purpose of this forum is to receive comments from interested persons on the proposed regulation. Comments received shall be considered by the staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for Public Hearing scheduled pursuant to S.C. Code Section 1-23-110 and - 111 as noticed below.

Interested persons are also provided an opportunity to submit written comments to the forum by writing to Jerry L. Paul, Director, Division of Health Licensing, DHEC, 2600 Bull Street, Columbia, S.C. 29201. To be considered, written comments for the forum and comment period must be received no later than 4:00 p.m. on April 24, 2001.

Oral and written comments received during the forum comment period shall be considered by the staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for Public Hearing on May 17, 2001, as noticed below. Comments received by the deadline date shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the Public Hearing.

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

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a Public Hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled Board meeting on May 17, 2001. The Public Hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The agenda is published by the Department ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record.



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Interested persons may also submit written comments during the public comment period by writing to Mr. Jerry L. Paul, Director, Division of Health Licensing, DHEC, 2600 Bull St., Columbia, S.C. 29201: Telephone number (803) 737-7370; Fax number (803) 737-7212. To be considered, written comments must be received before 4:00 p.m. on April 24, 2000. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for Public Hearing on May 17, 2001, as noticed above. Comments received shall be submitted in a Summary of Public Comments and Department Responses for the Board Public Hearing noticed above. s consideration

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

### **Preliminary Fiscal Impact Statement:**

The Department estimates that the State and its political subdivisions will incur a fiscal impact of \$155,000 plus \$21,000 in non-recurring funds by the promulgation of these regulations. Cost of implementation will be met, in part, by permitting fees imposed by the proposed regulation. There will be costs to the regulated community. See Statement of Need and Reasonableness below.

### **Statement of Need and Reasonableness**

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

DESCRIPTION OF REGULATION: Proposed new Regulation 61-\_\_\_\_, Standards for Permitting Body Piercing.

Purpose of the Regulation: Promulgation of this regulation satisfies a legislative mandate requiring the Department to develop regulations to set standards for the permitting and inspection of facilities that provide body piercing. See Preamble and Discussion of Proposed Regulation above.

Legal Authority: The legal authority for this proposed new regulation is Section 44-32-10, *et seq*, South Carolina Code of Laws, 1976, as amended (2000).

Plan for Implementation: The proposed amendment will take effect upon publication in the *State Register* following approval by the Board of Health and Environmental Control and the South Carolina General Assembly. The proposed amendment will be implemented by providing the regulated community with copies of the regulation.

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

This regulation is needed and reasonable because its development will satisfy a legislative mandate pursuant to the South Carolina Code, Section 44-32-10. See Preamble above.

The regulation is needed and reasonable because it will promote public health by providing standards for body piercing thereby reducing the likelihood of adverse outcomes as a result of unsafe procedural conditions.

DETERMINATION OF COSTS AND BENEFITS: See Preliminary Fiscal Impact Statement above for cost to the state and its political subdivisions. There will be costs to the regulated community.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect on the environment. The revision will promote public health by providing standards for body piercing thereby reducing the likelihood of adverse outcomes as a result of unsafe procedural conditions.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION AMENDMENT IS NOT IMPLEMENTED: There will be an adverse effect on the public health if the revision is not implemented, since the implementation of uniform, comprehensive standards based on effective established sanitary and infection control procedures and practices would not be realized, thus denying the public these protections thereby increasing the potential that the public may be harmed. In addition, failure to implement will deny compliance to the statutory mandate for DHEC to promulgate these standards.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: [www.scstatehouse.net](http://www.scstatehouse.net) If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2622  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
CHAPTER 61  
Statutory Authority: S.C. Code Section 48-1-50

*Regulation 61-62.1, Definitions and General Requirements*

**Preamble:**

The Department proposes to amend Regulation 61-62.1, *Definitions and General Requirements*, and the *South Carolina Air Quality Implementation Plan (SIP)* to address “Credible Evidence.” This amendment will ensure that owners or operators of facilities with air pollutant emissions may use enhanced monitoring (or other monitoring approved for the source pursuant to Regulation 61-62.70) and any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, for compliance certification purposes. This proposed amendment would also ensure that data from this monitoring, along with any other credible evidence, may be used as evidence of a violation of an applicable plan or standard.

This action is to conform to Federal regulations pursuant to the requirements of the “Credible Evidence Revisions” (62 FR 8314) promulgated in the *Federal Register* on February 24, 1997.

A Notice of Drafting for the proposed amendment was published in the South Carolina State Register on October 27, 2000. See Discussion and Statement of Need and Reasonableness herein.

Discussion of Proposed Amendment:

SECTION CITATION:	EXPLANATION OF CHANGE:
R. 61-62.1	Add New “Section V - Credible Evidence”

**Notice of Staff Informational Forum:**

Staff of the Department of Health and Environmental Control invite interested members of the public to attend a staff-conducted informational forum to be held on April 23, 2001, at 10:00 a.m. in room 2380 at the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to

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receive comments from interested persons on the proposed amendment to *Regulation 61-62.1, Definitions and General Requirements*.

Interested persons are also provided an opportunity to submit written comments to Dennis Camit at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on April 23, 2001. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses.

Copies of the proposed amendment to *Regulation 61-62.1, Definitions and General Requirements* for public notice and comment may be obtained by contacting Dennis Camit at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4284.

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

Interested members of the public and regulated community are invited to comment on the proposed amendment to *Regulation 61-62.1, Definitions and General Requirements* at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on May 17, 2001. The public hearing is to be held in room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit comments on the proposed amendments to Dennis Camit at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, Division of Air Planning, Development and Outreach, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on April 23, 2001. Comments received shall be considered by the staff in formulating the final proposed amendment to *Regulation 61-62.1, Definitions and General Requirements* for public hearing on May 17, 2001, as noticed above. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses.

### **Statement of Need and Reasonableness:**

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

### **DESCRIPTION OF REGULATION:**

Purpose: The Department proposes to amend *Regulation 61-62.1, Definitions and General Requirements* and the *South Carolina Air Quality Implementation Plan (SIP)* to ensure that owners or operators of facilities with air pollutant emissions may use enhanced monitoring (or other monitoring approved for the source pursuant to Regulation 61-62.70) and any credible evidence or information relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, for compliance certification purposes. This proposed amendment to *Regulation 61-62.1, Definitions and General Requirements* would also ensure that data from this monitoring, along with any other credible evidence, may be used as evidence of a violation of an applicable plan or standard. This amendment will satisfy a federal mandate to amend the *South Carolina Air Quality Implementation Plan* to conform to federal regulations.

Legal Authority: The legal authority for *Regulation 61-62.1, Definitions and General Requirements* and the *South Carolina Air Quality Implementation Plan* is section 48-1-50, S.C. Code of Laws.

Plan for Implementation: The proposed amendments will take effect upon publication in the *South Carolina State Register*.

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

On October 22, 1993 the United States Environmental Protection Agency (USEPA) published a *Federal Register* notice proposing an “Enhanced Monitoring Program Rule” (58 FR 54648). The USEPA solicited public comment on a proposal to amend 40 CFR Parts 51, 52, 60 and 61 to eliminate language that has been read to provide for exclusive reliance on reference test methods as the means of demonstrating compliance with various emission limits under the Clean Air Act (CAA). These proposed revisions, generally referred to as the “credible evidence” revisions, were designed to clarify that non-reference test data can be used in enforcement actions, and to remove any potential ambiguity regarding this data’s use for compliance certifications under Section 114 and Title V of the CAA.

On May 23, 1994, the USEPA issued a SIP Call to all states pursuant to Section 110(k)(5) of the CAA, requiring each state to revise its SIP on the basis that it is substantially inadequate to comply with the requirements of sections 110(a)(2)(A), (C) and (F), 113(a) and (e) and 114(a)(3) of the CAA. The SIP Call was issued based on the statute since the enhanced monitoring rules had not yet been finalized. The purpose of the SIP Call was to require each state to revise its SIP to allow for the use of “enhanced monitoring” as a means of establishing compliance and “any credible evidence” to prove violations. The USEPA believes that the existing *South Carolina Air Quality Implementation Plan* is inadequate because it may be interpreted to limit the types of testing or monitoring data that may be used for determining compliance and for establishing violations.

In response to comments received, the USEPA decided to suspend development of the original Enhanced Monitoring Program Rule and separated the proposed rule into two parts, the “compliance assurance monitoring” (CAM) rule and the “any credible evidence” rule, to serve the same statutory goals as the original proposal. On February 24, 1997, the USEPA promulgated a final rule in the *Federal Register*, “Credible Evidence Revisions” (62 FR 8314), to clarify statutory authority whereby various kinds of information already available and utilized for other purposes may be used to demonstrate compliance or noncompliance with emission standards. The USEPA, upon promulgation of this final rule, initiated action to continue the SIP Call.

The Department submitted a letter to the USEPA on March 15, 1994, referencing regulations in the approved SIP that provide for the utilization of alternate testing and monitoring methods for determining compliance and for establishing violations of the underlying emission limit or standard. In a reply dated May 6, 1998, the USEPA stated that the *South Carolina Air Pollution Control Regulations and Standards* contain some flexibility to allow the utilization of alternate test methods, but questioned whether the regulations contained the necessary level of specificity to allow these test methods to be used to generate “any credible evidence” for either compliance certification or for enforcement purposes. In a letter dated April 12, 2000, the USEPA stated that credible evidence language proposed by the Department in earlier correspondence would be acceptable if certain amendments to “South Carolina’s Environmental Audit Privilege and Voluntary Disclosure Act of 1996” (Audit Law) were approved by the State Legislature. The USEPA recommended that the State delay making a decision regarding the SIP amendment until the status of the Audit Law became certain. The amendments to the Audit Law were approved by State Legislature on April 20, 2000 and signed by the governor on May 1, 2000.

The Department proposes to amend *Regulation 61-62.1, Definitions and General Requirements* to resolve this question. This action is to conform to Federal regulations.

DETERMINATION OF COSTS AND BENEFITS:

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There will be no increased cost to the State or its political subdivisions resulting from these amendments. There will be no increased cost to the regulated community as a result of these amendments.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed amendment of Regulation 61-62.1 would clarify statutory authority whereby various kinds of information already available and utilized for other purposes may be used to demonstrate compliance or noncompliance with emission standards, without causing any deterioration of the ambient air quality in South Carolina.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: None. The credible evidence revisions merely address an evidentiary issue and will not serve to affect the stringency of existing emission standards.

### **Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: [www.scstatehouse.net](http://www.scstatehouse.net) If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2619  
**DEPARTMENT OF INSURANCE**  
CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110(2), 1-23-110, et seq., 38-71-2060.

69-59. External Reviews of Adverse Determinations by Health Carriers

### **Preamble:**

The Department of Insurance is drafting Regulation 69-59, External Reviews of Adverse Determinations by Health Carriers, to prescribe the external review process in South Carolina.

**Preliminary Fiscal Impact Statement:** No additional state funding is requested.

### **Notice of Public Hearing:**

The Administrative Law Judge Division will conduct a public hearing for the purpose of receiving oral comments on Monday, April 23, 2001 at 9:30 a.m. in the Administrative Law Judge Division hearing room, 1205 Pendleton Street, Suite 224, Columbia, South Carolina. Interested persons should submit their views in writing to: T. Douglas Concannon, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105 on or before April 12, 2001.

### **Statement of Need and Reasonableness:**

This regulation is to provide additional detail to the requirements of 2000 S.C. Act 380. The Regulation proscribes the procedures for a covered person to request an external review and the obligations of a health carrier when such a request has been made. This regulation also establishes licensing and oversight standards for independent review organizations and provisions to minimize conflicts of interest.

### **Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: [www.scstatehouse.net](http://www.scstatehouse.net) If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2620  
**DEPARTMENT OF INSURANCE**  
CHAPTER 69

Statutory Authority: S.C. Code Sections 38-3-110; 38-73-70; 1-23-110 et seq.

69-56. Percentage Named Storm or Wind/Hail Deductible

**Preamble:**

Under S. C. Code Section 38-73-70 (1976), the Department of Insurance may make reasonable regulations for the enforcement of Chapter 73 entitled "Property, Casualty, Inland Marine and Surety Rates and Rate-making Organizations." The Department proposes to amend regulation 69-56. The amendment will clarify the process for insurers to inform policyholders who purchase property policies insuring the peril of wind/hail that contains wind/hail deductibles and will require the signature of the policyholder prior to changing the amount of the wind/hail deductible. This regulation will not apply to commercial lines or surplus lines.

**Notice of Public Hearing:**

The Administrative Law Judge Division will conduct a public hearing for the purpose of receiving oral comments on Monday, April 23, 2001 at 11:30 a.m. in the Administrative Law Judge Division hearing room, 1205 Pendleton Street, Suite 224, Columbia, South Carolina. Interested persons should submit their views in writing to: T. Douglas Concannon, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105 on or before April 12, 2001.

**Preliminary Fiscal Impact Statement:**

No additional state funding is requested.

**Statement of Need and Reasonableness:**

Under S. C. Code Section 38-73-70 (1976), the Department of Insurance may make reasonable regulations for the enforcement of Chapter 73 entitled "Property, Casualty, Inland Marine and Surety Rates and Rate-making Organizations." The Department proposes to amend regulation 69-56. The amendment will clarify the process for insurers to inform policyholders who purchase property policies insuring the peril of wind/hail that contains wind/hail deductibles and will require the signature of the policyholder prior to changing the amount of the wind/hail deductible. This regulation will not apply to commercial lines or surplus lines.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: [www.scstatehouse.net](http://www.scstatehouse.net) If you do not have access to the Internet, the text may be obtained from the promulgating agency.

## 24 PROPOSED REGULATIONS

Document No. 2621

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**MANUFACTURED HOUSING BOARD**  
**CHAPTER 19**

Statutory Authority: 1976 Code Section 40-1-50, 40-29-50 and 40-29-100

### **Preamble:**

The South Carolina Manufactured Housing Board is proposing a new regulation that will clarify the activities of retail managers and set the requirement that retail managers must be licensed as manufactured home retail salespersons.

Regulation 19-425.44.                      Retail Managers; Finance Managers.  
Establish guidelines for retail managers.

### **Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended such hearing will be conducted at the Administrative Law Judge Division at 9 a.m. on Tuesday, May 8, 2001. Written comments may be directed to Gary F. Wiggins, Administrator, Manufactured Housing Board, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, not later than 5:00 p.m., April 23, 2001.

**Preliminary Fiscal Impact Statement:** There will be no cost incurred by the State or any political subdivision.

### **Statement of Need and Reasonableness:**

#### DESCRIPTION OF REGULATION:

Purpose: Establish guidelines for retail managers.

Legal Authority: Statutory Authority: 1976 Code Title 40, Chapter 1, Section 50; Title 40, Chapter 29, Section 50; and Title 40, Chapter 29, Section 100.

Plan for Implementation: Administratively, the Board will notify licensees through written communication and newsletters.

**DETERMINATION OF NEED AND REASONABLENESS ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:** The need to establish this regulation is the result of confusion in the industry regarding the licensing requirements for retail managers and finance managers. Although the Board considers managers to be retail salespersons, ambiguity in the statute has allowed disciplined salespersons to continue working in manufactured home sales to consumers by simply changing their title or job description.

**DETERMINATION OF COSTS AND BENEFITS:** There will be no additional cost incurred by the State or any political subdivision.

**UNCERTAINTIES OF ESTIMATES:** There are no uncertainties of estimates concerning this regulation.

**EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:** This regulation will have no effect on the environment and public health of this State.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:** There will be no detrimental effect on the environment and public health if this regulation is not implemented in this State.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: [www.scstatehouse.net](http://www.scstatehouse.net) If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2618  
**DEPARTMENT OF NATURAL RESOURCES**  
 CHAPTER 123  
 Statutory Authority: 1976 Code Section 50-11-2200

**Preamble:**

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

- 1.2(NN) Sandy Island WMA
  - clarifies daily and seasonal bag limits for deer
- 1.2(SS) Oak Lea WMA
  - establishes a new WMA on Forestry Commission property in Clarendon County
- 2.8 - clarifies current Sunday hunting regulations in Game Zones 1, 2 and 4
- 3.1 - clarifies archery equipment for small game hunters
- 3.6 - adds road hunting restriction on WMA lands in Game Zones 5, 6, 7, 8 and 10
- 5.2 - clarifies use of beagles for small game hunting during gun hunts for deer in the Mountain Hunt Unit
- 10.4 - clarifies hunt status of Lake Wallace
- 10.16 - adds Oak Lea as a Category II Waterfowl Area
  - changes hunt day on Biedler Impoundment to Sat. am only

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at 1000 Assembly Street on April 24, 2001, at 10:00 am in room 335, third floor, Rembert C. Dennis Building. Written comments may be directed to William S. McTeer, Deputy Director, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

**Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

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

**1. DESCRIPTION OF THE REGULATION:**



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Purpose: The proposed regulation sets seasons, bag limits and methods of hunting and taking of wildlife on existing and additional Wildlife Management Areas.

Legal Authority: Under Section 50-11-2200 of the S.C. Code of Laws, the Department of Natural Resources has jurisdiction over all Wildlife Management Areas to establish open and closed seasons, bag limits and methods for taking game.

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

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

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

### 3. DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state or to the sporting community. There are no significant new costs imposed by the addition of new WMAs since the funding of leasing WMAs is provided through the existing WMA permit program. Clarification of several existing regulations will improve enforcement ability and therefore reduce staff time in handling prosecution of offenses. This amendment of Regulation 123.40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

### 9. UNCERTAINTIES OF ESTIMATES:

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

### 10. EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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

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

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

**Summary of Preliminary Assessment Report:** The proposed regulation does not require an assessment report.

#### **Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: [www.scstatehouse.net](http://www.scstatehouse.net) If you do not have access to the Internet, the text may be obtained from the promulgating agency.

**Filed: February 15, 2001, 3:45 pm**

Document No. 2617  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61

Statutory Authority: S.C. Code Sections 48-1-10 et seq.,  
 48-39-10 et seq., and 1-23-130

**Emergency Situation:**

South Carolina Department of Health and Environmental Control  
 Emergency Regulation on Wetlands  
 Statement of Situation Requiring Immediate Promulgation

On January 9, 2001, the U.S. Supreme Court issued a decision in *Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers (Corps)* (Slip Opinion No. 99-1178) that held that the jurisdiction of the U.S. Army Corps of Engineers' regulatory permitting program does not extend to isolated waters. National experts have estimated that this decision removes much of the protection of the Clean Water Act for 30% to 60% of the nation's wetlands.

The Department of Health and Environmental Control (Department) has historically reviewed Corps permits for activities in South Carolina that alter wetlands, including isolated wetlands, pursuant to R. 61-101 and S. C. Code Section 48-39-10, et seq. Prior to the SWANCC decision, such permits could not proceed unless the Department certified that the activity would not cause a violation of state water quality standards and, in the coastal counties, that the activity was consistent with the Coastal Zone Management Program. The SWANCC decision held that the Corps does not have jurisdiction over isolated wetlands and therefore removed the Department's opportunity to issue water quality and coastal zone consistency certifications for activities in those areas.

Wetlands provide many valuable functions including water purification, hydrological buffering and food chain production. Additionally, they provide groundwater recharge, flood water storage, erosion control, and habitat for many species, including rare, threatened and endangered species. The state is currently in danger of uncontrolled loss of isolated wetlands resulting from the SWANCC decision.

The emergency regulation is needed in order to prevent such loss of wetlands. The regulation is a reasonable means for the Department to continue to review projects that alter wetlands. The regulation does not create a new permit, but insures that the review historically given to projects altering isolated wetlands continues by means of water quality and coastal zone consistency certifications.

The Department is a natural resources related agency and hereby finds that abnormal and unusual conditions, immediate need and the state's best interest require immediate promulgation of an emergency regulation to protect and manage natural resources. The following emergency regulation is hereby issued pursuant to S.C. Code Ann. Section 1-23-130 (Supp. 2000).

**Text:**

South Carolina Department of Health and Environmental Control  
 Emergency Regulation on Wetlands

Section 1.

No person may conduct an activity for which a state permit issued by the Department is required and which will alter land that meets the definition of wetlands as set forth in the 1987 interim-final draft *AWetlands Identification and Delineation Manual*≡ without first obtaining certification from the Department that the activity will not cause

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a violation of state water quality standards and, if the activity will be located in the coastal zone, is consistent with the Coastal Zone Management Plan.

### Section 2.

Alter shall include, but not be limited to, dumping, discharging, filling, or other deposition of materials; discharge of stormwater or discharge from land disturbing activities.

### Section 3.

(a) Applications for certification of water quality pursuant to this regulation must be submitted in accordance with the procedures of R.61-101. Certification decisions will be made in accordance with the procedures and criteria set forth in R.61-101, sections A(7), A(8), A(9), B, C, F and H.

(b) If public notice of a proposed permit decision is required apart from this regulation, the Department will incorporate notice of the proposed certification decision into the public notice of the permit decision and will not issue an additional public notice pursuant to this regulation. Public notice is not currently required for land disturbing activities for which a stormwater permit is required under R.72-307 or when general NPDES stormwater coverage is granted pursuant to R.61-9.122.26 and R.61-9.122.28, and it is not required pursuant to this regulation. In all other cases, the Department will follow the public notice procedures set forth in R.61-101, sections D and G, for water quality certifications pursuant to this regulation.

(c) The appeal procedures contained in R.61-101, section G, apply to water quality certification decisions made pursuant to this regulation.

### Section 4.

In the eight counties that make up the coastal zone, Coastal Zone consistency determinations made pursuant to this regulation will follow application and review procedures, review criteria, and public notice and appeal procedures as set forth in the Coastal Zone Management Plan.

### Section 5.

This regulation does not apply to activities for which a permit is required pursuant to Section 404 of the Federal Clean Water Act.

Document No. 2503  
**DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
 CHAPTER 126  
 Statutory Authority: 1976 Code Section 44-6-90

ARTICLE 9  
 Optional State Supplementation Program

- 126-910. Program Definitions.  
 126-920. Eligibility.  
 126-930. Termination, Suspension or Reduction of Benefits.  
 126-940. Program Administration.

**Synopsis:**

The state budget proviso establishing the Optional State Supplementation (OSS) Program transferred responsibility for the program from the Department of Social Services to the Department of Health and Human Services, effective for the state's fiscal year 1997-1998. These regulations will formalize certain aspects of the OSS Program as it is currently administered. The regulations are needed in order to provide a more formal framework for the administration of the Optional State Supplementation Program, and to provide guidance to applicants, recipients, and facility providers about the basic parameters of the program. These regulations by the Department of Health and Human Services will supplant the Department of Social Services' OSS Program regulations, which are no longer in effect as the result of the transfer of program responsibility.

These regulations are based heavily upon the provisions of the budget proviso that authorizes the Optional State Supplementation Program (1999 Act No. 100 , Part IB., proviso 8.13), as well as the facility participation agreement and related policy and procedure materials that have been in effect for the program since its transfer to the Department of Health and Human Services effective for the state's fiscal year 1997-98. The Department of Social Services regulations that governed the Optional State Supplementation Program when it was administered by that agency also provided a framework for these regulations.

A Notice of Drafting was published on November 26, 1999 in the *State Register* (Vol. 23, Issue No. 11, page 19). Publication as Proposed Regulations was accomplished on January 28, 2000 in the *State Register* (Vol. 24, Issue No. 1, pages 26-28).

**Instructions:** These are new regulations to be added to Chapter 126, where they will form a new "Article 9" entitled "Optional State Supplementation Program."

**Text:**

ARTICLE 9  
 Optional State Supplementation Program

- 126-910. Program Definitions.  
 126-920. Eligibility.  
 126-930. Termination, Suspension or Reduction of Benefits.  
 126-940. Program Administration.

**126-910. Program Definitions.**

A. Optional State Supplementation (OSS) Program — a State-funded program that provides a cash benefit payment that supplements an eligible individual's countable income up to the net income limitation. This supplementation, in conjunction with the individual's countable income (less any program allowances or deductions) is intended to permit the individual to pay for services provided by a licensed community residential

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care facility that participates in the OSS Program, with the charges for such services being subject to the applicable OSS facility rate.

B. OSS Facility Rate — the maximum rate established by the South Carolina legislative budgetary process that a community residential care facility participating in the OSS Program may charge an OSS recipient. This rate is intended to cover the full scope of services required to be provided under the community residential care facility licensing requirements established by the South Carolina Department of Health and Environmental Control.

C. Community Residential Care Facility (CRCF) — a facility licensed by the South Carolina Department of Health and Environmental Control as a “Community Residential Care Facility.”

D. Net Income Limitation — the maximum monthly countable income which an individual may have in order to qualify for OSS benefits, as such limit (cap) has been established by the South Carolina legislative budgetary process.

E. Countable Income — an individual’s gross income less those exclusions of income allowed under the provisions of the federal Supplemental Security Income (SSI) Program.

F. Countable Resources — an individual’s available assets as determined under the provisions of the federal Supplemental Security Income (SSI) Program.

G. Supplemental Security Income (SSI) Program — Title XVI of the Social Security Act.

H. Personal Needs Allowance — the specific dollar amount of countable income set by the South Carolina legislative budgetary process that an OSS recipient is allowed to retain for that individual’s personal needs.

#### 126-920. Eligibility.

A. An individual must meet the following requirements in order to be eligible for OSS benefits:

- (1) Be a resident of the State of South Carolina;
- (2) Has been determined by the Social Security Administration (SSA) or by the State in accordance with applicable SSA criteria to be aged, blind, or disabled;
- (3) Has countable resources that do not exceed the eligibility limitations for resources set by the federal Supplemental Security Income (SSI) Program;
- (4) Meets one of the following four conditions with respect to countable income:
  - (a) Receives an SSI payment, which when combined with other countable income gives the individual total countable income that is less than the applicable net income limitation of the OSS Program; or
  - (b) Receives countable income that exceeds the SSI payment standard, but is less than the applicable net income limitation of the OSS Program; or
  - (c) Receives countable income that is less than the SSI payment standard and has applied for SSI benefits; or
  - (d) Receives countable income that is less than the SSI payment standard, but has not applied for SSI benefits or has been denied SSI benefits for the sole reason that the community residential care facility in which the applicant resides is considered by the SSI Program to be a public institution;
- (5) Meets all other eligibility criteria to receive benefits under the SSI Program, with the allowable exception of meeting a condition described in (4)(b) or (4)(d) above;
- (6) Resides in a community residential care facility that has executed a “Facility Participation Agreement for the South Carolina Optional State Supplementation (OSS) Program” with the Department of Health and Human Services; AND
- (7) Has applied for all benefits, public or private, to which he or she may be legally entitled.

B. When both members of a couple reside or wish to reside in a community residential care facility and apply for benefits from the OSS Program, the eligibility determination process shall treat both members as individuals beginning in the month of admission to the community residential care facility, even if both members occupy the same room.

C. Under the terms of a contract between the Department of Health and Human Services and the Department of Social Services (DSS), determinations of OSS Program eligibility are conducted by the county DSS offices. An individual seeking OSS benefits must file an application with his or her county DSS office. Changes that might affect the eligibility of an individual or a couple must also be reported to the county Department of Social Services.

D. OSS Program eligibility shall be re-established every twelve (12) months, or more frequently as may be necessary.

E. Changes that might affect the eligibility of an individual or a couple must be reported to the Department of Social Services within ten (10) days of the change. When such a change is reported, a redetermination of eligibility and benefit payments shall be made promptly.

F. The OSS Program is not part of the South Carolina Medicaid Program, but all OSS recipients are eligible for Medicaid because of their participation in the OSS Program.

G. A community residential care facility participating in the OSS Program may not charge an OSS recipient or the recipient's family any additional amount for services included in the OSS facility rate. Failure to adhere to this requirement may subject the OSS recipient to a loss or reduction of OSS benefits and/or a loss of Medicaid eligibility because such additional payment is considered to be additional countable income. The imposition of additional charges for services included in the OSS facility rate also constitutes grounds for termination of the facility's OSS participation.

H. OSS recipients who lose their OSS eligibility as the result of cost-of-living increases in Social Security Title II benefits [Retirement, Survivors, or Disability Insurance (RSDI)] may continue to be eligible for Medicaid through a pass along category of eligibility (Category 16).

**126-930. Termination, Suspension or Reduction of Benefits.**

Eligibility for further OSS payments shall be terminated as soon as information indicating ineligibility is reported.

**126-940. Program Administration.**

A. Subject to the availability of funding, the OSS Program will supplement the income of eligible individuals for whom an OSS slot request has been approved.

B. The Department of Health and Human Services will establish the maximum number of OSS recipients that can be funded with the appropriations made available through the South Carolina legislative budgetary process, and will develop and administer appropriate waiting lists as may be necessary to ensure that the OSS Program is administered within the scope of the available funding.

C. OSS benefits will be paid monthly by the Department of Health and Human Services through the issuance of a single check to each participating community residential care facility that includes the OSS benefit payments for all OSS recipients residing in that facility during the month for which the payment is being made. This check will be accompanied by a schedule of the individuals covered and the amount of the OSS benefit payment for each individual.

D. Community residential care facilities participating in the OSS Program must maintain adequate records of the OSS benefit payments received by the facility on behalf of each OSS recipient, and the facility must be able to accurately account for its disposition of each resident's funds.

E. Cost-of-living adjustments in benefit payments made by the federal government will result in adjustments in the OSS Program as directed by the South Carolina General Assembly in the legislative budgetary process. In the event that no specific direction is provided for the treatment of a federal cost-of-living adjustment, such adjustment will result in no change to the OSS net income limitation, the OSS facility rate, or the personal needs allowance; OSS benefit payment amounts will be adjusted to reflect the changes in recipients' countable income.

F. Community residential care facilities who choose to participate in the OSS Program are required to comply with the policies and procedures of the OSS Program as may be issued by the Department of Health and Human Services in handbooks, manuals, program bulletins, notices, or regulations. Non-compliance may result in the termination of a facility's OSS participation.

G. A community residential care facility participating in the OSS Program may not charge an OSS recipient or the recipient's family any additional amount for services included in the OSS facility rate. The imposition of additional charges for services included in the OSS facility rate constitutes grounds for termination of the facility's OSS participation.

H. Individuals who seek or receive benefits from the OSS Program are required to comply with the policies and procedures of the OSS Program as may be issued by the Department of Health and Human Services in handbooks, manuals, program bulletins, notices, or regulations. Non-compliance may result in the denial or termination of an individual's eligibility and benefit payments under the OSS Program.

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### **Fiscal Impact Statement:**

The Department of Health and Human Services estimates that no additional costs will be incurred as a result of the promulgation of these regulations, and no additional state funding is requested.

### **Summary of Assessment Report:**

Not applicable.

Document No. 2507  
**COMMISSION ON HIGHER EDUCATION**  
CHAPTER 62  
Statutory Authority: Act 512, Part 2 Section 9  
Division 2, Subdivision C, Subpart 1(6)  
Act of Joint Resolution of South Carolina, 1984  
Article 2, South Carolina Student Loan Corporation

62-132 Repayment

### **Synopsis:**

The South Carolina Commission on Higher Education proposes to amend 62-132, Repayment. The changes will expand the eligibility criteria for cancellation of outstanding South Carolina Teacher Loan Program obligations. Current regulations allow recipients cancellation eligibility when they teach in a subject area designated as critical at the time the loan is made. The proposed change will allow recipients cancellation eligibility when they teach in a subject area designated as critical at the time the loan is made or at the time the teaching service is provided.

### **Instructions:**

Delete the current 62-132 (A)(1) and replace with the new 62-132 (A)(1) provided below.

### **Text:**

62-132 (A)(1) Upon employment in an eligible subject area, as defined by the Board at the time of loan application or subsequently, the borrower will be entitled to cancellation of all loans received under this program

### **Fiscal Impact Statement:**

No additional state funding is requested.

Document No. 2485  
**DEPARTMENT OF INSURANCE**  
CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-73-730; 38-73-735; 38-73-760; 1-23-10, *et seq.*  
Automobile Insurance Credit and Discount Plans

**Synopsis:**

The Department proposes to repeal Regulation 13.2. The basis for this proposal is that there is no longer a need for uniform credit and discount plans because insurers can now establish their own plans in South Carolina as a result of the passage of 1997 Act 154. Act 154 established the new automobile insurance system effective March 1, 1999.

**Instructions:** R.69-13.2 is repealed in its entirety.

**Fiscal Impact Statement:**

The South Carolina Department of Insurance estimates that it will not incur any additional cost as a result of repealing this Regulation.

**Summary of Assessment Report:**

The proposed repeal of this regulation should not result in a substantial economic impact.

Document No. 2487  
**DEPARTMENT OF INSURANCE**  
CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-73-730; 38-73-735; 38-73-760; 1-23-10, *et seq.*  
South Carolina Merit Rating Plan

**Synopsis:**

The Department proposes to repeal Regulation 13.1. The basis for this proposal is that there is no longer a need for a uniform merit rating plan because insurers can now establish their own merit rating plans as a result of the passage of 1997 Act 154. Act 154 established the new automobile insurance system effective March 1, 1999.

**Instructions:** R.69-13.1 is repealed in its entirety.

**Fiscal Impact Statement:**

The South Carolina Department of Insurance estimates that it will not incur any additional cost as a result of repealing this Regulation.

**Summary of Assessment Report:**

The proposed repeal of this regulation should not result in a substantial economic impact.



## 34 FINAL REGULATIONS

Document No. 2486  
**DEPARTMENT OF INSURANCE**  
CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-73-730; 38-73-735; 38-73-760; 1-23-10, *et seq.*  
Refusal To Write, Nonrenewal and Cancellation of Insurance on Motor Vehicles

### **Synopsis:**

The Department proposes to repeal Regulation 13. The basis for this proposal is that the issues of refusing to write, nonrenewing and canceling insurance on motor vehicles have been addressed with the passage of 1997 Act 154. Act 154 established the new automobile insurance system effective March 1, 1999.

**Instructions:** R.69-13 is repealed in its entirety.

### **Fiscal Impact Statement:**

The South Carolina Department of Insurance estimates that it will not incur any additional cost as a result of repealing this Regulation.

### **Summary of Assessment Report:**

The proposed repeal of this regulation should not result in a substantial economic impact.

Document 2511  
**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123  
Statutory Authority: 1976 Code Section 50-11-2200

### **Synopsis:**

This amended regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas. Amendments are needed to add additional WMA's.

**Instructions:** Amend Regulation 123-40 to include additional WMA's.

123-40 Hunt Units and Wildlife Management Area Regulations

### **1.2(B) Game Zone 2 - Western Piedmont Hunt Unit**

#### **Fants Grove WMA**

Quality Deer Management Area - bucks must have at least 4 points on one side. A point must be at least one inch long. Hunters must sign in at the Clemson DNR Office check point. Hunting in designated areas only. The Clemson DNR check point will open 2 hours before official sunrise for deer hunts. Hunters are required to wear a hat, coat or vest of international orange while hunting.

Still Gun Hunts (No dogs)	Designated days or periods between Oct. 1 and Jan. 1. Hunters selected by computer drawing.	As prescribed by the Dept.
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**1.2 (C) Crackerneck WMA and Ecological Reserve**

All individuals must sign in and out at main gate. Scouting days (no weapons), will be Saturdays only during September, March & May. The gate opens at 6:00am and closes at 8:00pm. On deer hunt days, gates will open as follows: Oct., 4:30am-8:30pm; Nov. - Dec., 4:30am-7:30pm. For special hog hunts in Jan. and Feb., gate will be open from 5:30am-7:00pm. Hog hunters are required to wear either a hat, coat or vest of international orange. Hogs may NOT be taken from Crackerneck alive and hogs must be shown at check station gate. No more than 4 bay or catch dogs per party. Raccoon hunters must cease hunting by midnight and exit the gate by 1:00am. All reptiles and amphibians are protected. No turtles, snakes, frogs, toads, salamanders etc. can be captured, removed, killed or harassed.

Deer

Archery (No dogs)	Designated days or periods between Sept. 1 and Jan. 1	2 deer , either-sex no more than 1 buck, no limit on hogs.
Primitive Weapons (No buckshot)	Designated days or periods between Sept. 1 and Jan. 1	2 deer, either-sex, no more than 1 buck, no limit on hogs.
Still Gun Hunts (No buckshot)	Designated days or periods between Sept.1 and Jan. 1	5 deer total, 2 per day, buck only except on either-sex days as prescribed by the Dept. Total not to include more than 3 bucks.
Hog hunts with dogs		Designated days or periods. Limits as prescribed by the Dept
Small Game(except Bobcats, foxes, otters and fox squirrels may not be hunted).	Designated days or periods within Game Zone 3 seasons. No hunting before Sept. 1 or after Mar. 1.	Game Zone 3 bag limits.
Raccoon & Opossum	Saturday nights only during specified dates.	3 raccoons per party per per night. No limit on Opossums.

**1.2(G) Francis Marion National Forest**

Special Feral Hog Hunts with Dogs	Designated days Saturday mornings only	No limit
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No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party (buckshot only). Sidearms permitted. Hog hunters must have a hunting license and WMA permit, and are required to wear a hat, coat or vest of solid international orange color while hunting. Hogs may not be transported alive. Hogs taken must be brought to the check station and a data card completed.

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### 1.2(H) Moultrie

Cross Station Site

Special Gun Hunts  
for youth, women  
and mobility impaired.

Designated days or periods  
between Aug. 15 and Jan. 1.

Limits as prescribed.

### 1.2(K) Tillman Sand Ridge WMA

Primitive Weapons

8 hunting days beginning  
the 2<sup>nd</sup> Fri. in Dec.

2 deer, buck only  
except on either-sex  
days as announced.

### 1.2(R) Santee Coastal Reserve

Deer Hunts  
(No dogs)

2 deer per day, either-sex.

Archery  
(No dogs)

Designated days or periods  
between Aug. 15 and Jan. 1

2 deer per day, either-sex

### 1.2(DD) Palachucola WMA

Feral Hog Hunts  
Still & Stalk Hunts  
(No Dogs)

Designated days or periods.

As prescribed.

Hog Hunts with Dogs  
(Sidearms only)

Designated days or periods.  
No more than 4 bay or catch  
dogs per hunting party.

As prescribed.

### 1.2(QQ) Santee Dam WMA

Deer

Total of 5 deer per season,  
buck only, except on either-sex  
days as prescribed.

Archery  
(No dogs)

Designated days or periods  
between Aug. 15 and Jan. 1

2 deer per day, buck only,  
except on either-sex days  
as prescribed by the Dept.

Primitive Weapons  
(No buckshot)

Designated days or periods  
between Aug. 15 and Jan. 1

2 deer per day, buck only,  
except on either-sex days  
as prescribed by the Dept.

Still Gun Hunts  
(No buckshot)

Designated days or periods  
between Aug. 15 and Jan. 1

2 deer per day, buck only,  
except on either-sex days  
as prescribed by the Dept.

Small Game (No Fox Squirrels, shotguns only).	Designated days or periods within Game Zone 9 seasons. No hunting before Sept. 1 or after Mar. 1. No hunting during scheduled deer hunt periods.	Game Zone 9 bag limits.
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**1.2(RR) Rock Hill Blackjack HP WMA**

Deer		Total of 3 deer per season, buck only, except on either-sex days as prescribed.
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Archery (No dogs)	Designated days or periods between Sept. 15 and Jan. 1	2 deer per day, either-sex
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Primitive Weapons (No buckshot)	Designated days or periods between Sept. 15 and Jan. 1	2 deer per day, buck only, except on either-sex days as prescribed by the Dept.
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Still Gun Hunts (No buckshot)	Designated days or periods between Sept. 15 and Jan. 1	2 deer per day, buck only, except on either-sex days as prescribed by the Dept.
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Small Game No Fox Squirrels	Designated days or periods within Game Zone 4 seasons. No hunting before Sept. 1 or after Mar. 1. No hunting during scheduled deer hunt periods.	Game Zone 4 bag limits.
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3.2 For Special Primitive Weapons Seasons, primitive weapons include bow and arrow and muzzle-loading shotguns (20 gauge or larger) and rifles (.36 caliber or larger) with open or peep sights or scopes, which use black powder or Pyrodex only as the propellant charge; ignition at the breech must be by the old type percussion cap which fits on a nipple or by flintstone striking frizzen. The use of in-line muzzleloaders and muzzleloaders utilizing a shotgun primer in a “disk” type ignition system is permitted. During primitive weapons season, no revolvers, pistols or revolving rifles are permitted. Crossbows are legal for use on WMA and private land statewide during any open season for deer, turkey or bear by a person with an **upper limb disability** provided the person, while hunting, has in their immediate possession a written statement certifying the disability. The statement, based on a physical examination by the certifying neurologist or orthopedist, shall describe the physical disability and shall state the person is not capable of operating conventional bow. A copy of the statement must be provided to the Department prior to hunting with a crossbow. Without a disability exemption crossbows may be used on WMA lands only during firearms and muzzleloader seasons for deer and bear.

3.4 On all WMA lands, during anytime when hunting is not permitted, all weapons must be unloaded and secured in a weapons case, or in the trunk of a vehicle, or in a locked toolbox. During periods when hunting is permitted center fire rifles must be unloaded on roads open to vehicles, and all firearms transported in vehicles must be unloaded except on the Francis Marion Hunt Unit during deer hunts with dogs. Any shotgun, centerfire or rimfire rifle or pistol with a shell in the chamber or magazine or muzzleloader with a cap on the nipple or flintlock with powder in the flash pan is considered loaded.

3.6 On WMA lands within the Mountain, Western Piedmont, Central Piedmont, and Francis Marion Hunt Units, Manchester State Forest WMA and S.C. Public Service Authority property of Moultrie WMA, during still gun hunts for deer or hogs there shall be no hunting or shooting from, on or across any road open to vehicle traffic. During any deer or hog hunt there shall be no shooting from, on or across any railroad right-of-way or designated

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recreational trail on U.S Forest Service or S.C. Public Service Authority property and all guns must be unloaded when on the railroad right-of-way or trail.

4.1 On WMA lands with designated check stations, all deer bagged must be checked at a check station. Deer bagged too late for reporting one day must be reported the following day. Unless otherwise specified by the Department, only bucks (male deer) may be taken on all hunt units. Male deer must have antlers visible two (2) inches above the hairline to be legally bagged on "bucks only" hunts. Male deer with visible antlers of less than two (2) inches above the hairline and female deer (doe) are considered antlerless deer and must be taken only on either-sex days or pursuant to permits issued by the Department. On WMA lands, man drives for deer are permitted between 10:00 a.m. and 2:00 p.m. only, except that no man drives may be conducted on days designated by the Department for taking deer of either sex. On WMA lands, drivers participating in man drives are prohibited from carrying or using weapons. In the Central Piedmont and Western Piedmont Hunt Units, man drives will be permitted on the last four (4) scheduled either-sex days. A man drive is defined as an organized hunting technique involving two (2) or more individuals whereby an attempt is made to drive game animals from cover or habitat for the purpose of shooting, killing, or moving such animals toward other hunters.

6.2 On WMA lands, motor driven land conveyances must be operated only on designated roads or trails. Designated roads and trails on Forest Service lands are those designated with either a name and/or numbered sign. On Forest Service land ATV's can be used only on designated ATV or motorcycle trails. Unless otherwise specified, roads or trails which are closed by barricades and/or signs, either permanently or temporarily, are off limits to motor-driven land conveyances.

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

#### CATEGORY II WATERFOWL MANAGEMENT AREAS

Biedler Impoundment	Wednesdays and Saturdays during Federal waterfowl season. From legal shooting hours until 12:00 noon.	Federal Limits
Marsh WMA	Wednesdays and Saturdays during Federal waterfowl season. From legal shooting hours until 12:00 noon.	Federal Limits

#### **Fiscal Impact Statement:**

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