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# SOUTH CAROLINA STATE REGISTER

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

# ***SOUTH CAROLINA STATE REGISTER***

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

## **STYLE AND FORMAT**

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

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

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

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

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

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

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

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

## **2002 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	1/11	2/8	3/8	4/12	5/10	6/14	7/12	8/9	9/13	10/11	11/8	12/13
Publishing Date	1/25	2/22	3/22	4/26	5/24	6/28	7/26	8/23	9/27	10/25	11/22	12/27

## **REPRODUCING OFFICIAL DOCUMENTS**

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

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

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

## **EMERGENCY REGULATIONS**

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

## **REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW**

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

## **EFFECTIVE DATE OF REGULATIONS**

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

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

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# REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date  
 The history, status, and full text of these regulations are available on the  
 South Carolina General Assembly Home Page: [www.scstatehouse.net](http://www.scstatehouse.net)

DOC NO.	RAT FINAL NO. ISSUE	SUBJECT	EXP. DATE	AGENCY
2610		In Car Camera Videotaping Equipment	1-23-03	Department of Public Safety
2629		Specific Project Stds for Tidelands & Coastal Waters	1-31-03	Department of Health and Envir Control
2663		Bonds for Water and Wastewater Utilities	2-09-03	Public Service Commission
2711		Foster Care	2-17-03	Department of Social Services
2726		School Incentive Reward Program	2-23-03	Board of Education
2709		Nonpublic Postsecondary Institutions	2-25-03	Commission on Higher Education
2712		Residential Group Care Organizations for Children	3-30-03	Department of Social Services
2729		Fees	4-02-03	LLR: Board of Pharmacy
2731		Diseases and Health documentation	4-15-03	Clemson University
2727		Witchweed Quarantine	4-15-03	Clemson University
2733		Examination	4-21-03	LLR: Board of Chiropractic Examiners
2732		Advertising and Solicitation	4-21-03	LLR: Board of Chiropractic Examiners
2730		Criminal Justice Academy Training Regulations	5-06-03	Department of Public Safety
2728		Transfer of Duties and Responsibilities	5-23-03	LLR: Board for Barrier Free Design
2738		Examination Fees	5-23-03	LLR: Board of Accountancy
2739		Professional Practices	5-23-03	LLR: Board of Chiropractic Examiners
2718		Certification of Need for Health Facilities and Services	5-23-03	Department of Health and Envir Control
2734		Hazardous Waste Management	5-23-03	Department of Health and Envir Control
2740		Elevator Certification, Construction and Inspection Fees	5-23-03	LLR:Office of Elevator and Amusement Ride
Safety				

**WITHDRAWN:**

DOC NO	DATE	SUBJECT		AGENCY
2360	8 16 02	LIFE Scholarship	1-15-03	Higher Education, Commission on



## **2 EXECUTIVE ORDERS**

### **2002-29**

**WHEREAS**, Berkeley County Council Member Henry Richardson resigned from his position representing District Eight on August 5, 2002, leaving an unexpired term ending on the second Tuesday in January 2003; and

**WHEREAS**, Henry Richardson withdrew as a candidate for reelection as Berkeley County Council Member for a term beginning in 2003, leaving a vacancy on the ballot for the November general election; and

**WHEREAS**, pursuant to Section 4-9-90 of the South Carolina Code of Laws (1976), as amended (Supp. 2001), a special primary election was held for the new term of office beginning in January 2003; and

**WHEREAS**, Steve C. Davis won the special primary election, and faces no opposition for the general election to be held on November 5, 2002; and

**WHEREAS**, the Governor is authorized to fill a vacancy of a county office pursuant to Section 4-11-20 until the general election is held and the winner takes office.

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Steve C. Davis to fill the vacant unexpired term of Berkeley County Council, District Eight, until he is elected and qualifies to hold office in January 2003.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 17th DAY OF SEPTEMBER 2002.**

**JIM HODGES**  
**Governor**

### **2002-30**

**WHEREAS**, the State of South Carolina recognizes that workplace violence is a growing problem that must be addressed; and

**WHEREAS**, the State is committed to providing its employees a safe and healthy working environment, reasonably free from intimidation, harassment, threats, or violence; and

**WHEREAS**, domestic violence costs employers at least three to five billion dollars a year nationally in absenteeism, lower productivity, employee turnover, and health and safety costs; and

**WHEREAS**, several leading employers in South Carolina, including Blue Cross/Blue Shield of South Carolina, Verizon Wireless, and BMW, have established workplace policies to help prevent domestic violence and assist victims of abuse.

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of this State, I encourage all state agencies to establish policies to prevent and address workplace domestic violence and to provide information and assistance to their employees who are struggling to overcome the problem of domestic violence.

Furthermore, I hereby order and direct all departments within the executive branch of state government, as set forth in S.C. Code § 1-30-10, to adopt and enforce a "zero tolerance" policy for workplace violence, with the following standards:

- Each agency has a responsibility to provide reasonable protection for their employees and visitors. Management must assess the current level of security and related human resource policy and procedures, including but not limited to, management training, counseling and referral services, leave and benefit policies, and employee education or training programs to create a safe workplace for victims of domestic violence.
- All forms of workplace violence are prohibited, to include but not limited to: use of force in order to harm, threats of intent to inflict injury, harassment, and intentional damage to property owned by the state, employees, visitors or vendors.
- Any employee who feels subjected to or has witnessed violent, threatening or harassing behavior in the workplace must immediately report the incident to their supervisor, manager or human resources office. Any employee who believes that there is a serious threat to their safety or the safety of others that requires immediate attention must notify proper law enforcement authorities and his or her manager or supervisor. Any manager or supervisor receiving such a report shall immediately contact their human resource office to evaluate, investigate and take appropriate action.
- Visitors and employees must be advised that the State will strictly enforce the provisions of §§ 16-23-240 and 16-23-460, which prohibit carrying or displaying firearms or carrying concealed weapons in public buildings and adjacent areas. There is no reasonable expectation of privacy with respect to these items in the workplace and any such weapon or firearm will be confiscated.
- In addition to the above mandates, agencies shall refer to the S.C. Budget & Control Board, Office of Human Resources Model Policy as a guide for further actions or considerations. Each agency must prominently post the policy and all managers and supervisors must clearly communicate this policy to all employees.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE  
STATE OF SOUTH CAROLINA, THIS 8th DAY OF OCTOBER  
2002.**

**JIM HODGES**  
Governor

## 4 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication October 25, 2002, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

#### Affecting Anderson County

Construction of a 72 bed women and children's hospital on the AnMed Health campus with the transfer of existing licensed beds which will result in 423 general acute care beds, 38 psychiatric beds and 12 nursing home beds remaining at Anderson Area Medical Center.

AnMed Women and Children's Center  
Anderson, South Carolina  
Project Cost: \$71,295,897

#### Affecting Calhoun and Orangeburg County

Relocation of the Healthplex outpatient PT and Wellness Center into a new building and consolidation of all rehabilitation services.

The Regional Medical center of Orangeburg & Calhoun Counties  
Orangeburg, South Carolina  
Project Cost: \$2,222,131

#### Affecting Colleton County

Conversion of 15 nursing home beds to 15 general acute care beds, for a total of 131 acute care hospital beds.

Colleton Medical center  
Walterboro, South Carolina  
Project Cost: \$-0-

Establishment of a mobile cardiac catheterization service one (1) day per week.

Colleton Medical Center  
Walterboro, South Carolina  
Project Cost: \$115,000

#### Affecting Florence County

Convert 18 nursing home beds to 18 comprehensive rehabilitation beds for a total of 42 rehabilitation beds, 26 nursing home beds, and 22 substance abuse beds.

Carolina Hospital System – Cedar Tower  
Florence, South Carolina  
Project Cost: \$30,960

#### Affecting Georgetown County

Expansion of Waccamaw Community Hospital by incorporating the existing Waccamaw Same Day Surgery space.

Waccamaw Community Hospital  
Murrells Inlet, South Carolina  
\$6,074,417

Relocation and replacement of the Waccamaw Same Day Surgery ambulatory surgery center with two (2) operating rooms and one (1) endoscopy suite on the property adjacent to Waccamaw Community Hospital.

Waccamaw Same Day Surgery  
Murrells Inlet, South Carolina  
Project Cost: \$7,915,263

Affecting Greenville County

Construction for the addition of 51 beds at St. Francis Hospital and transfer of 31 beds to St. Francis Women's & Family Hospital resulting in 226 acute care beds and 19 rehabilitation beds at St. Francis Hospital and 93 acute care beds at St. Francis Women's and Family Hospital.

Bon Secours St. Francis Health System, Inc.  
Greenville, South Carolina  
Project cost: \$37,069,827

Construction of a 72 bed general acute care hospital with 24 non licensed observation beds (transfer of 50 acute care beds from the bed need generated by the Greenville Hospital System, the conversion of 19 psychiatric beds and 3 nursing home beds at Greenville Memorial to acute care beds) resulting in 710 acute care beds, 44 psychiatric beds, 18 nursing home beds, 53 rehabilitation beds and 22 residential treatment facility beds for children and adolescents at Greenville Memorial Hospital.

Greenville Hospital System at Patewood  
Greenville, South Carolina  
Project Cost: \$61,725,000

Affecting Horry County

Establish an outpatient Narcotic treatment Program.  
Palmetto Behavioral Treatment Center, LLC  
Myrtle Beach, South Carolina  
Project Cost: \$448,009

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning October 25, 2002. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Beaufort County

Construction of a free-standing ambulatory surgery center with two (2) operating rooms and two (2) endoscopy rooms.

The Outpatient Surgery Center of Hilton Head, LLC  
Hilton Head, South Carolina  
Project Cost: \$9,550,092

## 6 NOTICES

### Affecting Berkeley County

Addition of 9 nursing home beds that do not participate in the Medicaid (Title XIX) Program for a total of 105 nursing home beds.

Heartland Health Care Center of Charleston  
Hanahan, South Carolina  
Project Cost: \$790,000

### Affecting Calhoun and Orangeburg Counties

Replacement of the existing CT scanner with a multi-slice CT scanner.

The Regional Medical Center of Orangeburg & Calhoun Counties.

Orangeburg, South Carolina  
Project Cost: \$1,108,265

### Affecting Florence County

Conversion of 18 nursing home beds to 18 comprehensive rehabilitation beds for a total of 42 rehabilitation beds, 26 nursing home beds and 22 substance abuse beds.

Carolinas Hospital System – Cedar Towers  
Florence, South Carolina  
Project Cost: \$30,860

### Affecting Georgetown County

Expansion of Waccamaw Community Hospital by incorporating the existing Waccamaw Same Day Surgery space.

Waccamaw Community Hospital  
Murrells Inlet, South Carolina  
Project Cost: \$6,074,417

### Affecting Georgetown County

Relocation and replacement of the Waccamaw Same Day Surgery ambulatory surgery center with two (2) operating rooms and one (1) endoscopy suite on the property adjacent to Waccamaw Community Hospital.

Waccamaw Same Day Surgery  
Murrells Inlet, South Carolina  
Project Cost: \$7,915,263

### Affecting Horry County

Establish an outpatient Narcotic Treatment Program.

Palmetto Behavioral Treatment Center, LLC  
Myrtle Beach, South Carolina  
Project Cost: \$448,009

### Affecting Lancaster County

Replacement of existing single slice CT scanner with a multi-slice CT scanner.

Springs Memorial Hospital  
Lancaster, South Carolina  
Project Cost: \$1,016,241

Affecting Spartanburg County

Renovation for the addition of two (2) endoscopy rooms to the existing ASC for a total of seven (7) operating rooms and two (2) endoscopy rooms.

The Ambulatory Surgery Center of Spartanburg  
Spartanburg, South Carolina  
Project Cost: \$320,149

Construction and renovation for the addition of four (4) inpatient operating rooms with no change in the licensed bed capacity of the hospital.

Mary Black Memorial Hospital  
Spartanburg, South Carolina  
Project Cost: \$4,821,000

Affecting Spartanburg County

Conversion of thirty-two (32) residential care beds to 32 nursing home beds that do not participate in the Medicaid Program, for a total of 75 nursing home beds.

Rose Crest Nursing Center  
Inman, South Carolina  
Project Cost: \$92,706

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING FOR R.61-69, CLASSIFIED WATERS State Register Document No.2743

The Department of Health and Environmental Control issued a Notice of Proposed Regulation for revision of R.61-69, Classified Waters in the June 28, 2002 issue of the *State Register*, identified as Document No. 2743. The Notice originally scheduled a Public Hearing before the DHEC Board on September 12, 2002. On August 23, 2002, the Department noticed a rescheduling of the public hearing for November 14, 2002. In order to provide further review of a recently submitted study plan and to provide for adequate consideration of all comments received, the Department is rescheduling the Public Hearing before the DHEC Board. All comments received shall be submitted to the Board for consideration at the Public Hearing in a Summary of Public Comments and Departmental Responses.

The Public Hearing to be conducted by the DHEC Board for this proposed revision to the regulation has been rescheduled for December 12, 2002. The hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building, 2600 Bull Street, Columbia, South Carolina. The meeting commences at 10:00 at which time the DHEC Board will consider items on its agenda in the order presented. Interested persons are invited to make oral or written comments on the proposed revisions at the Public Hearing. Persons desiring to make oral comments at the hearing are requested to limit their statements to five (5) minutes and, as a courtesy, to provide written copies of their presentation for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the regulation.

## 8 NOTICES

### 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 November 25, 2002 to:

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

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

#### Class I

Mill Creek Environmental Services, Inc.  
Fuss & O'Neill, Inc.

#### Class II

**STATE BOARD OF EDUCATION**

## CHAPTER 43

Statutory Authority: S.C. Code Ann. Section 59-5-71 (to be codified at Supp. 2002)

**Notice of Drafting:**

The State Department of Education is considering drafting a new regulation(s) that addresses a uniform school start date. Interested persons may submit comments to Ms. Molly M. Spearman, Deputy Superintendent for Governmental Affairs, State Department of Education, 1429 Senate Street, Columbia, South Carolina. To be considered, comments must be received no later than 5:00 p.m. on November 8, 2002.

**Synopsis:**

The General Assembly mandated that a uniform beginning date for the annual school term be developed and adopted by the State Board of Education (Board). The task force was established and recommendations will be made to the Board. The Board will review the recommendations and may develop regulations.

**STATE BOARD OF EDUCATION**

## CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-65 (Supp. 2001) and 59-65-90 (1990)

**Notice of Drafting**

The State Department of Education proposes to amend Regulation 43-274, Student Attendance. Interested persons may submit comments to Calvin W. Jackson, Deputy Superintendent, Division of District and Community Services, 1429 Senate Street, Columbia, South Carolina 29201. To be considered, comments must be received no later than 5:00 P.M. on November 8, 2002, the close of the drafting comment period.

**Synopsis:**

In an effort to create a uniform measurement and monitoring system to track the truancy rates in South Carolina, the South Carolina Department of Education is proposing to amend Regulation 43-274 to include more definitive wording and guidance to assist local school districts in developing and implementing appropriate intervention plans to improve student attendance and attendance referrals to Family Court.

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

## CHAPTER 61

Statutory Authority: 1976 Code Section 44-56-30

**R. 61-79 HAZARDOUS WASTE MANAGEMENT REGULATIONS****Notice of Drafting:**

The Department of Health and Environmental Control proposes to amend R.61-79, Hazardous Waste Management Regulations, to adopt federal amendments through June 30, 2002. Interested persons are invited to present their views in writing to John Litton, Director of the Division of Waste Management, Bureau of Land and Waste Management, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by 5:00 p.m. on November 29, 2002.



## 10 DRAFTING

### Synopsis:

The United States Environmental Protection Agency (USEPA) promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year. Recent amendments include: a clarifying revision to the Mixture and Derived-From Rules; new listings for three inorganic chemical manufacturing wastes including additional toxic constituents and treatment standards for the wastes; amendments to the Corrective Action Management Unit rule to facilitate cleanup; and deletion of regulatory language vacated by two federal court actions for some mineral processing secondary materials and the application of the Toxicity Characteristic Leaching Procedure to manufactured gas plant wastes. In addition, the bureau will make amendments to the Hazardous Air Pollutant Standards for Combustors. In September 2000 the bureau began the adoption process for the Hazardous Air Pollutant Standards for Combustors. However, a federal appeals court struck down the EPA standards on July 24, 2001. At the September 13, 2001 Board meeting, staff recommended that those portions of the proposed federal compliance standards regarding combustion not be adopted. The board concurred. On February 13, 2002, EPA developed interim standards and will develop final standards by June 14, 2005. The bureau proposes to adopt the interim standards and those portions of the combustor standards that have not been vacated. Minor errors will be corrected to achieve conformity with federal regulations. These rules and other amendments have been published in the Federal Register between November 19, 1999, and June 30, 2002.

The department intends to amend R.61-79 to maintain conformity with federal requirements and ensure compliance with federal standards. No preliminary assessment report, fiscal impact statement, nor legislative review of this amendment will be required.

### DEPARTMENT OF REVENUE

#### Chapter 117

Statutory Authority: 1976 Code Section 12-4-320

### Notice of Drafting:

The South Carolina Department of Revenue is considering amending SC Regulation 117-302.5 to add information concerning material handling machinery and/or mechanical conveyors. This additional information will incorporate the provisions of former SC Regulation 117-174.134, which were inadvertently deleted during the drafting process last year of SC Regulation 117-302.5. However, the provisions of this former regulation will be modified by the requirement of Hercules Contractors and Engineers, Inc. v. S. C. Tax Commission, 280 S.C. 426, 313 S.E.2d 300 (Ct. App. 1984) that a machine must be substantially used in manufacturing tangible personal property for sale in order to qualify for the exemption at Code Section 12-36-2120(17) and to address recent legislation concerning material handling systems (Code Section 12-36-2120(51)). This additional information will state the following:

The general rule with reference to material handling machinery and/or mechanical conveyors is that such machinery is subject to the tax up to the point where the materials go into process. The machine feeding the first processing machine(s) is exempt. The last machine to come within the exemption is that machine which discharges the finished product from the last machine used in the process. Material handling machinery used for transporting (in process) material from one process stage to another comes within the exemption. Warehouse machinery used only for warehouse purposes, loading and unloading, storing, transporting raw materials and finished products, etc., is subject to the tax, unless exempt under the provisions of Code Section 12-36-2120(51). If material handling machinery is customarily used for a dual purpose, that is partly for an exempt purpose and partly for a taxable purpose, and is not otherwise exempt under the provisions of Code Section 12-36-2120(51), the machinery may be purchased free of the tax under the machine exemption (Code Section 12-36-2120(17)) provided the exempt use represents a substantial portion of its use.

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of

Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on November 26, 2002.

**Synopsis:**

The South Carolina Department of Revenue is considering amending SC Regulation 117-302.5 to add information concerning material handling machinery and/or mechanical conveyors. This additional information will incorporate the provisions of former SC Regulation 117-174.134, which were inadvertently deleted during the drafting process last year of SC Regulation 117-302.5. However, the provisions of this former regulation will be modified by the requirement of Hercules Contractors and Engineers, Inc. v. S. C. Tax Commission, 280 S.C. 426, 313 S.E.2d 300 (Ct. App. 1984) that a machine must be substantially used in manufacturing tangible personal property for sale in order to qualify for the exemption at Code Section 12-36-2120(17) and to address recent legislation concerning material handling systems (Code Section 12-36-2120(51)).

**DEPARTMENT OF SOCIAL SERVICES**

**CHAPTER 114**

Statutory Authority: 1976 Code Section 43-1-80

**Notice of Drafting:**

The South Carolina Department of Social Services is considering revising regulations concerning the Food Stamp Program. Interested persons should submit their comments in writing to Ms. Gwen G. Kuhns, Director of the Division of Family Independence, South Carolina Department of Social Services, Post Office Box 1520, Columbia, South Carolina 29202-1520. To be considered, comments must be received not later than 5:00 p.m., November 22, 2002.

**Synopsis:**

Provisions in the United States Code, Title 7, Agriculture, Chapter 51 - Food Stamp Program, permit South Carolina to adopt certain options in the administration of the Food Stamp Program. The department proposes to develop new regulations and amend current regulations that will set forth the following options: (a) exclusion of income and resources consistent with exclusions in the State's Temporary Assistance for Needy Families or Medicaid programs; (b) acting on changes in deductions for households subject to ten-day reporting only at recertification; (c) the use of a standard deduction from income for self-employed households that incur allowable costs of doing business; and (d) the option to use standard deduction amounts for child care, medical and shelter deductions upon approval by the Food and Nutrition Service through waiver authority.

In addition, Federal Regulations allow the State to request waivers to these regulations. The Department proposes the following waivers: (a) conducting all recertification interviews by telephone; and (b) allowing households subject to 6-month reporting to report increases that are greater than 130% of poverty within the first 10 days of the month after the change occurs.

Legislative review of these additions and changes will be required.

## 12 PROPOSED REGULATIONS

Document No. 2787  
**DEPARTMENT OF ARCHIVES AND HISTORY**  
CHAPTER 12  
Statutory Authority: 1976 Code Section 30-1-90(B)

12-601 through 12-611.7 General Retention Schedules for Municipal Records

### **Preamble:**

The Department of Archives and History proposes to amend Regulation 12-601 through 12-611.7 General Retention Schedules for Municipal Records. The proposed changes will simplify the procedure municipal offices and departments will use to document destruction of records through use of the general schedules; amend sections concerning records which require better description and more appropriate retention periods; and add new records series and retention statements to cover more of the records generated by municipal offices/departments.

The notice of drafting for the proposed amendment was published in the State Register on August 23, 2002.

### Section-by-Section Discussion

12-601 Introduction and general matters; application of schedules.

The Department is proposing new text to indicate the general schedules cover information on all types of media. This additional wording is consistent with the definition of public records in the Freedom of Information Act (Section 30-4-20C) and the Public Records Act (Section 30-1-10A). The department is also proposing to change the process municipal offices will use to destroy records through use of the general schedules. The process is being simplified for municipal offices. Offices will no longer be required to submit a request to use the general schedule form to the department and have it reviewed and approved before being authorized to use the schedules to destroy their records. The new process will allow municipal offices to use the schedules and report destruction to the department after records are destroyed. This new process for using the general schedules will be the same process municipal offices currently use when implementing schedules approved specifically for their offices or departments. This change will allow offices to use one form to report destruction through use of both general and specific schedules.

### Subarticle 1 – Administrative

12-601.13. Description is being changed to eliminate reference to copies of several financial records since the record copy is scheduled in the finance department.

Two new series are being added (12-601.14 and 12-601.15) to make it easier for municipalities to manage these records.

### Subarticle 2 – Building Inspections/Planning/Zoning

Three new series are being added (12-602.10 through 12-602.12) to make it easier for municipalities to manage these records.

### Subarticle 6 – Fire

12-606.6. Series title and description are being amended to be more inclusive. Retention is being changed to match federal retention requirements.

Four new series are being added (12-606.7 through 12-606.10) to make it easier for municipalities to manage these records.

Subarticle 7 – Personnel

12-607.4. Series title is being changed to make it more accurate and to eliminate reference to form number that has been changed. Retention is being changed to match federal retention requirements.

12-607.13. Retention is being changed to match retention of related series.

Two new series are being added (12-607.15 and 12-607.16) to make it easier for municipalities to manage these records.

Subarticle 8 – Police

12-608.11. Description is being changed to update reference to Department of Public Safety.

12-608.19. Retention is being changed to match federal retention requirements.

One new series is being added (12-608.20) to make it easier for municipalities to manage these records.

Subarticle 11 – Utilities

Four new series are being added (12-611.8 through 12-611.11) to make it easier for municipalities to manage these records.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code of Laws of South Carolina, as amended, such hearing will be conducted by the Archives and History Commission at its regularly scheduled meeting on December 13, 2002 at 11:00 a.m. The meeting will be held at the South Carolina Archives and History Center, 8301 Parklane Road, Columbia, SC.

Written comments and inquiries may be directed to Richard Harris, Manager of Records Services, South Carolina Department of Archives and History, 8301 Parklane Road, Columbia, SC 29223. Comments must be received no later than 5:00 p.m. on November 26, 2002.

**Preliminary Fiscal Impact Statement:**

The Department of Archives and History estimates that there will be no additional costs incurred by the State or its political subdivisions.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: 12-601 through 12-611.7 General Retention Schedules for Municipal Records.

Purpose: The proposed amendments will simplify the use of the general retention schedules for municipal offices and departments and will make additional records series available allowing them to better manage their records.

Legal Authority: Code of Laws of South Carolina, 1976, as amended, section 30-1-90(B).

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Plan for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. The Department of Archives and History will provide training to municipal records personnel in the use of the general schedules.

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

By identifying records of permanent value and providing a legal means for disposing of records that are no longer needed, the proposed amendments will allow municipal offices and departments to manage their records more effectively.

### DETERMINATION OF COSTS AND BENEFITS:

There will be no additional cost incurred by the State or its political subdivisions. Municipal offices and departments will benefit through the use of these records retention schedules. Permanent records can be identified and records of no further value can be legally disposed.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: None.

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

### Text:

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

Document No. 2788  
**DEPARTMENT OF ARCHIVES AND HISTORY**  
CHAPTER 12  
Statutory Authority: 1976 Code Section 30-1-90(B)

12-901 through 12-906.6 General Retention Schedules for School District Records

### Preamble:

The department of Archives and History proposes to amend Regulation 12-901 through 12-906.6 General Retention Schedules for School District Records. The proposed changes will simplify the procedure school district offices and departments will use to document destruction of records through use of the general schedules; update series title and descriptions; and add new records series and retention statements to cover more of the records generated by school district offices/departments.

The notice of drafting for the proposed amendment was published in the *State Register* on August 23, 2002.

### Section-by-Section Discussion

12-901. Introduction and general matters; application of schedules.

The department is proposing new text to indicate the general schedules cover information on all types of media. This additional wording is consistent with the definition of public records in the Freedom of Information Act (Section 30-4-20C) and the Public Records Act (Section 30-1-10A). The department is also proposing to

change the process school district offices will use to destroy records through use of the general schedules. The process is being simplified for school district offices. Offices will no longer be required to submit a request to use the general schedule form to the Department and have it reviewed and approved before being authorized to use the schedules to destroy their records. The new process will allow school district offices to use the schedules and report destruction to the Department after records are destroyed. This new process for using the general schedules will be the same process school district offices currently use when implementing schedules approved specifically for their offices or departments. This change will allow offices to use one form to report destruction through use of both general and specific schedules.

**Subarticle 1 – Administrative**

12-901.7. Series title and description are being changed to make them more inclusive.

12-901.8. Description is being changed to eliminate reference to copies of several financial records since the record copy is scheduled in Finance.

Three new series are being added (12-901.9 through 12-901.11) to make it easier for school districts to manage these records.

**Subarticle 2 – Finance**

Five new series are being added (12-902.23 through 12-902.27) to make it easier for school districts to manage these records.

**Subarticle 4 – Payroll**

12-904.2. Typo is being corrected in description.

One new series is being added (12-904.12) to make it easier for school districts to manage these records.

**Subarticle 5 – Personnel**

Two new series are being added (12-905.12 and 12-905.13) to make it easier for school districts to manage these records.

**Subarticle 6 – Student Records**

Ten new series are being added (12-906.7 through 12-906.16) to make it easier for school districts to manage these records.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code of Laws of South Carolina, as amended, such hearing will be conducted by the Archives and History Commission at its regularly scheduled meeting on December 13, 2002, at 11:00 a.m. The meeting will be held at the South Carolina Archives and History Center, 8301 Parklane Road, Columbia, SC.

Written comments and inquiries may be directed to Richard Harris, Manager of Records Services, South Carolina Department of Archives and History, 8301 Parklane Road, Columbia, SC 29223. Comments must be received no later than 5:00 p.m. on November 26, 2002.

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

The Department of Archives and History estimates that there will be no additional costs incurred by the State or its political subdivisions.

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

DESCRIPTION OF REGULATION: 12-901 through 12-906.6 General Retention Schedules for School District Records.

Purpose: The proposed amendments will simplify the use of the general retention schedules for school district offices and departments and will make additional records series available allowing them to better manage their records.

Legal Authority: Code of Laws of South Carolina, 1976, as amended, section 30-1-90(B).

Plan for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. The Department of Archives and History will provide training to school district records personnel in the use of the general schedules.

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

By identifying records of permanent value and providing a legal means for disposing of records that are no longer needed, the proposed amendments will allow school district offices and departments to manage their records more effectively.

### **DETERMINATION OF COSTS AND BENEFITS:**

There will be no additional cost incurred by the State or its political subdivisions. School district offices and departments will benefit through the use of these records retention schedules. Permanent records can be identified and records of no further value can be legally disposed.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: None.

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

### **Text:**

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

Document No. 2789  
**DEPARTMENT OF ARCHIVES AND HISTORY**  
 CHAPTER 12  
 Statutory Authority: 1976 Code Section 30-1-90(B)

12-800 through 12-813.10 General Retention Schedule for State Colleges and Universities

**Preamble:**

The department of Archives and History proposes to amend Regulation 12-800 through 12-813.10 General Retention Schedule for State Colleges and Universities. The proposed changes will simplify the procedure state college and university offices and departments will use to document destruction of records through use of the general schedule; amend sections concerning records which require better description and more appropriate retention periods; repeal sections concerning records which are no longer created; and add new records series and retention statements to cover more of the records generated by state college and university offices/departments.

The notice of drafting for the proposed amendment was published in the State Register on August 23, 2002.

Section-by-Section Discussion

12-800 Introduction and general matters; application of schedule.

The Department is proposing new text to indicate the general schedule covers information on all types of media. This additional wording is consistent with the definition of public records in the Freedom of Information Act (Section 30-4-20C) and the Public Records Act (Section 30-1-10A). The department is also proposing to change the process state college and university offices will use to destroy records through use of the general schedule. The process is being simplified for state college and university offices. Offices will no longer be required to submit a request to use the general schedule form to the department and have it reviewed and approved before being authorized to use the schedule to destroy their records. The new process will allow state college and university offices to use the schedule and report destruction to the department after records are destroyed. This new process for using the general schedule will be the same process state colleges and universities currently use when implementing schedules approved specifically for their offices or departments. This change will allow offices to use one form to report destruction through use of both general and specific schedules.

Subarticle 2 – President

12-802.7. Description is being changed to make it more accurate.

Subarticle 4 – Administrative Services

Subarticle title is being changed to make this subarticle more functional and inclusive.

12-804.6. Series title and description are being changed to make them more inclusive.

12-804.10. Description is being changed to clarify the basis for the permanent retention of these records through the Attorney General's Office.

12-804.16. Description is being changed to eliminate reference to record copy being scheduled through the State Budget and Control Board.

12-804.18. Non-Executive Levels is being added to series title to distinguish this series from correspondence in subarticles 2 and 3. Description is being changed to make it more inclusive.



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Retention is being shortened to allow offices more flexibility in managing this series.

12-804.19. Description is being changed to update reference to the State Budget and Control Board's Office of Research and Statistics and to clarify the basis for the permanent retention of this series through that office.

12-804.22. Description is being changed to eliminate reference to portions of series being kept permanently through the Attorney General's office. Retention is being increased from 6 years to 10 years.

12-804.29. Description is being changed to make it more accurate, to update reference to the State Engineer's Office of the State Budget and Control Board, and to clarify the basis for the permanent retention of portions of this series through that office. Retention statement is changed to provide for permanent records to be retained at the College or University Archives instead of the State Archives and to include records created in 1980.

12-804.31. Description is being changed to make it more accurate and inclusive.

12-804.32. Retention is being changed to allow some/all of this series to be kept permanently by the college or university archives.

12-804.34. Reading File is being deleted as a series since it is for duplicate records and duplicates are not covered by this general schedule. Contracts is being added as a series to make it easier for state colleges and universities to manage these records.

12-804.35. Description is being changed to clarify the basis for the permanent retention of portions of this series by the State Archives.

### Subarticle 5 – Personnel

12-805.6. Description is being changed to clarify the basis for the permanent retention of portions of this series through the State Human Affairs Commission.

12-805.7. Certification Lists is being deleted as a series since it is no longer being created. This section is being reserved for future use.

12-805.9. Description is being changed to clarify the basis for the retention of this series through the Employment Security Commission.

12-805.15. Description is being changed to delete reference to copies since copies are not covered by this general schedule, to update reference to the State Budget and Control Board's Office of Human Resources, and to clarify the basis for the retention of portions of this series through that office.

12-805.16. Description is being changed to eliminate reference to merit system classification.

12-805.17. Description is being changed to update reference to the State Budget and Control Board's Office of Human Resources and to clarify the basis for the retention of this series through that office.

12-805.20. Description is being changed to make it more accurate.

12-805.22. Description is being changed to make it more accurate.

12-805.23. Description is being changed to update reference to the State Budget and Control Board's Office of Human Resources and to clarify the basis for the permanent retention of this series through that office.

### Subarticle 6 – Accounting

12-806.21. Spelling error is being corrected in Description. Retention is being reformatted to improve codification.

12-806.27. New series is being added to make it easier for state colleges and universities to manage these records.

**Subarticle 7 – Payroll**

12-807.8. Description is being changed to clarify the basis for the retention of this series through the Employment Security Commission.

12-807.9. Description is being changed to update reference to the State Budget and Control Board's Employee Insurance Program and to clarify the basis for the retention of the series through that office.

12-807.12. Retention is being reformatted to improve codification.

Six new series are being added (12-807.14 through 12-807.19.) to make it easier for state colleges and universities to manage these records.

**Subarticle 9 – Student Affairs**

12-809.11. Description is being changed to make it more accurate. Retention is being changed from five years to three years and retention is being reformatted to improve codification.

12-809.12. New series is being added to make it easier for state colleges and universities to manage these records.

**Subarticle 10 – Academic Affairs**

Three new series are being added (12-810.9 through 12-810.11) to make it easier for state colleges and universities to manage these records.

**Subarticle 13 – Library Services**

12-813.6. Series title is being updated by eliminating reference to card files since this format has been replaced by electronic library catalogs.

**Subarticle 14 – Alumni Relations**

New subarticle and three new series are being added (12-814.5 through 12-814.7) to make it easier for state colleges and universities to manage these records.

**Subarticle 15 – Career Placement and Planning**

New subarticle and two new series are being added (12-815.5 through 12-815.6) to make it easier for state colleges and universities to manage these records.

**Subarticle 16 – Residence Services**

New subarticle and one new series are being added (12-816.5) to make it easier for state colleges and universities to manage these records.

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### Subarticle 17 – Health Services

New subarticle and one new series are being added (12-817.5) to make it easier for state colleges and universities to manage these records.

### Subarticle 18 – Purchasing and Auxiliary Services

New subarticle and three new series are being added (12-818.5 through 12-818.7) to make it easier for state colleges and universities to manage these records.

### Subarticle 19 – Public Safety

New subarticle and six new series are being added (12-819.5 through 12-819.10) to make it easier for state colleges and universities to manage these records.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code of Laws of South Carolina, as amended, such hearing will be conducted by the Archives and History Commission at its regularly scheduled meeting on December 13, 2002 at 11:00 a.m. The meeting will be held at the South Carolina Archives and History Center, 8301 Parklane Road, Columbia, SC.

Written comments and inquiries may be directed to Richard Harris, Manager of Records Services, South Carolina Department of Archives and History, 8301 Parklane Road, Columbia, SC 29223. Comments must be received no later than 5:00 p.m. on November 26, 2002.

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

The Department of Archives and History estimates that there will be no additional costs incurred by the State or its political subdivisions.

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

DESCRIPTION OF REGULATION: 12-800 through 12-813.10 General Retention Schedule for State Colleges and Universities.

Purpose: The proposed amendments will simplify the use of the general retention schedule for state college and university offices and departments and will make additional records series available allowing them to better manage their records.

Legal Authority: Code of Laws of South Carolina, 1976, as amended, section 30-1-90(B).

Plan for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. The Department of Archives and History will provide training to state college and university records personnel in the use of the general schedule.

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

By identifying records of permanent value and providing a legal means for disposing of records that are no longer needed, the proposed amendments will allow state college and university offices and departments to manage their records more effectively.

DETERMINATION OF COSTS AND BENEFITS:

There will be no additional cost incurred by the State or its political subdivisions. State college and university offices and departments will benefit through the use of this records retention schedule. Permanent records can be identified and records of no further value can be legally disposed.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: None.

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

**Text:**

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

Document No. 2790  
**CLEMSON UNIVERSITY**  
**STATE CROP PEST COMMISSION**  
 CHAPTER 27

Statutory Authority: Chapter 9, Title 46, 1976 Code

**Preamble:**

The Commission has determined that the Plum Pox Virus (PPV), a member of the family *Potyvirus*, is a serious threat to the stone fruit industry of this state. It is a debilitating disease that affects plant material in the *Prunus* family. The *Prunus* family is also known as ‘stone fruit’ and includes peaches, plums, apricots, nectarines, cherries, and other similar plants. PPV has been discovered in Europe, parts of Asia, South America, and recently in several counties in Pennsylvania and in Canada. It is imperative that the stone fruit industry in South Carolina be provided with appropriate protection from the spread of this disease. Notice of Drafting was published in the State Register on October 26, 2001, and September 27, 2002. No comments were received.

Section-by Section Discussion

27-135.2 This section lists all designated plant pests and in this section would be added “*Potyvirus plum pox virus*”.

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

Interested members of the public and the regulated community are invited to make oral or written comments on the proposed amendment at a public hearing to be conducted at the Center for Applied Technology, 511 Westinghouse Road, Pendleton, SC on Thursday, December 5, 2002, at 2:00 PM. If no qualified request for public hearing is received prior to 4:00 PM on December 2, 2002, said hearing will be cancelled without further notice.

Interested persons may submit written comments on the proposed amendment by writing to Dr. H. B. Jackson, Department of Plant Industry, 511 Westinghouse Road, Pendleton, SC 29670.

**Preliminary Fiscal Impact Statement:**

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

### Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 27- 135, Designation of Plant Pests

Purpose: Regulation 27-135 is being amended to protect the state *Prunus* industry.

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

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

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The regulation was amended to prevent and control the spread of Plum Pox Virus. Plum Pox Virus has not yet been detected in South Carolina, but these measures are considered reasonable and prudent to avoid and/or deter its introduction into the state.

DETERMINATION OF COSTS AND BENEFITS: There is no need to quarantine un-infested areas.

UNCERTAINTIES OF ESTIMATES: None

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

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

### Text:

#### Article 10

27-135 Designation of Plant Pests

1. No change
2. The following is added to the list of plant pests:

Scientific Name	Common Name
" <i>Potyvirus plum pox virus</i> "	Sharka

Document No. 2791  
 CLEMSON UNIVERSITY  
**STATE CROP PEST COMMISSION**  
 CHAPTER 27

Statutory Authority: Chapter 9, Title 46, 1976 Code

27-70. Plum Pox Virus Quarantine

**Preamble:**

The Commission has determined that the Plum Pox Virus (PPV), a member of the family *Potyvirus*, is a plant pest. It is a debilitating disease that affects plant material in the *Prunus* family. The *Prunus* family is also known as 'stone fruit' and includes peaches, plums, apricots, nectarines, cherry and other similar plants. PPV has been discovered in Europe, parts of Asia, South America, and recently in several counties in Pennsylvania and in Canada. It is imperative that the stone fruit industry in South Carolina be provided with appropriate protection from the spread of this disease.

Notices of Drafting were published in the *State Register* on October 26, 2001 and September 27, 2002. No comments were received.

Section-by Section Discussion

- 27-70.1 This section contains definitions of terms used in the regulation.
- 27-70.2 This section specifies the particular items that are to be regulated.
- 27-70.3 This section specifies the conditions that apply to the movement in South Carolina of those articles regulated by section 70.2 above.
- 27-70.4 This section provides for additional regulatory conditions for intrastate movement of regulated articles.
- 27-70.5 This section provides planting guidelines for PPV-susceptible *Prunus* species within quarantined areas in South Carolina.
- 27-70.6 This section provides for the permitted movement of PPV-susceptible *Prunus* species for scientific purposes in South Carolina.
- 27-70.7 This section provides for the addition/deletion of lands from the regulation in South Carolina.
- 27-70.8 This section defines the penalty for violation of the regulation in South Carolina.
- 27-70.9 This section specifies the regulated areas in South Carolina.
- 27-70.10 This section specifies the conditions for a Director's Exemption in South Carolina.

Appendix I. This contains a list of PPV-susceptible *Prunus* species.

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

Interested members of the public and the regulated community are invited to make oral or written comments on the proposed amendment at a public hearing to be conducted at the Center for Applied Technology, 511 Westinghouse Road, Pendleton, SC on Thursday, December 5, 2002, at 2:00 PM. If no

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qualified request for public hearing is received prior to 4:00 PM on December 2, 2002, said hearing will be cancelled without further notice.

Interested persons may submit written comments on the proposed amendment by writing to Dr. H. B. Jackson, Department of Plant Industry, 511 Westinghouse Road, Pendleton, SC 29670.

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

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

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

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

DESCRIPTION OF REGULATION: 27-70, Plum Pox Virus

Purpose: Regulation 27-70 is being promulgated to protect the state *Prunus* industry.

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

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

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The regulation was initially implemented to prevent and control the spread of Plum Pox Virus. Plum Pox Virus has not yet been detected in South Carolina, but these measures are considered reasonable and prudent to avoid and/or deter its introduction into the state.

DETERMINATION OF COSTS AND BENEFITS: There is no need to quarantine uninfested areas.

UNCERTAINTIES OF ESTIMATES: None

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

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

### **Text:**

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

Document No. 2792  
**STATE BOARD OF EDUCATION**  
 CHAPTER 43

Statutory Authority: Code Ann. Sections 59-5-60 (1990), 59-5-65 (1990 and Supp. 2001) and 59-53-1810 (1990) and Carl D. Perkins Vocational-Technical Education Act of 1998

43-236. Career or Technology Centers/Comprehensive High Schools

**Preamble:**

The Office of Vocational and Adult Education in Washington has endorsed grouping courses into a 16-cluster reporting system for the use of Perkins funds. As administrations in Washington change, the clusters may change as well. This will allow the Office of Career and Technology Education to put these changes into effect without changing State Board of Education regulations.

Section-by-Section Discussion

The reference to specific career and technology education clusters is eliminated because the names of the clusters have been changed through the national Career Cluster initiative. This will allow the Office of Career and Technology Education to define and communicate to districts the cluster changes as they occur from the Office of Vocational and Adult Education (OVAE) in Washington.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on December 10, 2002, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. James Couch, Director, Career and Technology Education, Division of District And Community Services, 1429 Senate Street, Room 908, Rutledge Building, Columbia, South Carolina 29201 or e-mail [jcouch@SDE.State.SC.US](mailto:jcouch@SDE.State.SC.US). Comments must be received no later than 5:00 P.M. on November 25, 2002, as noticed above. Comments received by the deadline shall be submitted to the board in a summary of public comments and department responses for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:** None

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: 43-236, Career or Technology Centers/Comprehensive High Schools

Purpose: Regulation 43-236, Career or Technology Centers/Comprehensive High Schools, is being amended. The proposed amendments will allow the Office of Career and Technology to communicate current cluster offerings to the districts as they are updated through the Office of Vocational and Adult Education (OVAE) in Washington.

Legal Authority: S.C. Code Ann. Sections 59-5-60(1990), 59-5-65 (1990 and Supp. 2001) and 59-53-1810 (1990) and the Carl D. Perkins Vocational-Technical Education Act of 1998.

Plan for Implementation: The proposed amendments will be posted on the State Department of Education's Website for review and comments. The amendments will take effect upon approval by the State Board of Education and publication in the *State Register*.



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

This proposed amendment will eliminate the need to go through the process of approval by the State Board of Education every time OVAE rewrites the names of clusters for reporting purposed.

DETERMINATION OF COSTS AND BENEFITS: There is no cost involved.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed amendment will have no effect on environment and public health.

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

The proposed amendment will have no detrimental effect on the environment and public health if the regulation is not implemented.

### Statement of Rationale:

The Office of Vocational and Adult Education in Washington has endorsed a 16-cluster reporting system for the use of Perkins funds. As administrations in Washington change, the clusters may change as well. This will allow the Office of Career and Technology Education to put these changes into effect without changing State Board of Education regulations.

### Text:

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

Document No. 2793  
**STATE BOARD OF EDUCATION**  
CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60 (1990) and 59-40-10, et seq. (Supp. 2001)

43-600. Charter School Appeals

### Preamble:

The State Department of Education recommends that the State Board of Education propose amendments to R 43-600, Charter Schools, as indicated in the drafting notice that was published in the *State Register* on June 28, 2002. The proposed amendments remove the right to remand a case to the local board of trustees by the State Board of Education and establishes a process of appeal from the Charter School Advisory Committee to the State Board of Education, consistent with recent amendments to S.C. Code Ann. § 59-40-10, *et seq.* (to be codified at Supp. 2002).

### Section-by-Section Discussion

Title is changed to Charter School Appeals.

Section I(B) is amended by removing the reference to the South Carolina Code of Laws.

Section I(E) is amended by removing the language that would allow the State Board of Education to remand a case to the local school district. The statute was amended removing remand as an option.

Section II is added to provide the procedures for an appeal from the Charter School Advisory Committee to the State Board of Education.

Section III(A) is amended by removing the reference to the South Carolina Code of Laws.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on December 10, 2002, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Shelly B. Carrigg, Esquire, Deputy General Counsel, Office of General Counsel, 1429 Senate Street, Room 1015, Rutledge Building, Columbia, South Carolina 29201 or e-mail [scarrigg@sde.state.sc.us](mailto:scarrigg@sde.state.sc.us). Comments must be received no later than 5:00 P.M. on November 25, 2002. Comments received by the deadline shall be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:** None

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: R 43-600, Charter Schools Regulation

Purpose: Regulation 43-600, Charter Schools Regulation, is being amended. The amendment modifies the procedures involving the appeal to the State Board of Education from a local school district. The law was amended removing the State Board's authority to remand a decision to the local board; therefore, that provision was removed from the regulation. The proposed amendments will also establish procedures and standards for an appeal of a decision from the newly created Charter School Advisory Committee to the State Board of Education.

Legal Authority: S.C. Code Ann. § 59-5-60 (1990) and 59-40-10, *et seq.* (Supp. 2001).

Plan for Implementation: The proposed amendments will be posted on the State Department of Education's Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation is required because of an amendment to the statute.

DETERMINATION OF COSTS AND BENEFITS: None

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation does not have any effect on the environment or public health.

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

### **Statement of Rationale:**

The proposed amendments to Regulation 43-600 will provided the necessary procedures for appeals from the Charter School Advisory Committee and will change the procedures for an appeal from the local school board to the State Board of Education, as required by the recent amendments to S.C. Code Ann. § 59-40-10 *et seq.* (to be codified at Supp. 2002).

### **Text:**

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

Document No. 2794  
**STATE BOARD OF EDUCATION**  
CHAPTER 43

Statutory Authority: S. C. Code Ann. Sections 59-5-60 (1990), 59-5-65 (1990 and Supp. 2001), and 59-25-110 (1990)

43-55.2. Expired Certificate

### **Preamble:**

The amended text from this regulation will be added to Regulation 43-55, Renewal of Credentials.

#### Section-by-Section Discussion

This regulation is being repealed and the amended language merged into R 43-55.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on December 10, 2002, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Janice Poda, Senior Director, Teacher Quality, 1600 Gervais Street, Columbia, South Carolina 29201 or e-mail [jpoda@scteachers.org](mailto:jpoda@scteachers.org). Comments must be received no later than 5:00 P.M. on November 25, 2002. Comments received by the deadline will be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:** There will be no increased costs to the state or its political subdivisions.

**Statement of Need and Reasonableness:**

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-115 (Supp. 2001).

DESCRIPTION OF REGULATION: R 43-55.2 (Supp. 2001), Expired Certificate.

Purpose: R 43-55.2, Expired Certificate, is being repealed and the amended language merged into R 43-55.

Legal Authority: S. C. Code Ann. Sections 59-5-60 (1990), 59-5-65 (1990 and Supp. 2001), and 59-25-110 (1990).

Plan for Implementation: The proposed repeal will be posted on the State Department of Education's Web site for review and comment. The repeal will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed repeal and addition of the regulation amended text to Regulation 43-55 will align and clarify requirements related to Renewal of Credentials, to include expired certificates.

DETERMINATION OF COSTS AND BENEFITS: None

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed repeal of the South Carolina regulation on expired certificate, if implemented, will have no effect on the environment and public health.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effects on the environment and public health if this repeal is not implemented.

**Statement of Rationale:** Regulation 43-55.2, Expired Certificate, is subsumed by the proposed amendment to Regulation 43-55 in order to align and clarify requirements relating to Renewal of Credentials.

**Text:**

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

Document No. 2795  
**STATE BOARD OF EDUCATION**  
 CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60 (1, 3, and 6) (1990), 59-30-10(F) (1990), and 59-39-100 (Supp. 2001)

43-259. Graduation Requirements

**Preamble:**

A revised version of the Tests of General Educational Development (GED) was put into service on January 1, 2002, by the American Council on Education's GED Testing Service. With this new version a revised scoring

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scale was put into place. Amendments will need to be made to Sections (B)(1)(b)(2), (B)(1)(c)(5), (B)(2)(c)&(d) and (B)(3)(a)(4)(a)&(b) to reflect the new scoring scale.

### Section-by-Section Discussion

Section (B) (1) (b) (2) Currently, all GED examinees under nineteen years-of-age must obtain a letter from the principal of the last school they attended, indicating the last date of attendance at that school. In order to standardize the system, a Verification of School Withdrawal form was developed and sent to all high schools and adult education programs. In order to make it easier for the examinee to have this verification of withdrawal form completed, either the principal or the school attendance supervisor may sign it.

Section (B) (1) (c) (5) With the implementation of GED 2002, the scoring scale was revised. In the past, juvenile examinees must score a minimum of 220 on the official GED practice test. The new scoring scale simply adds a zero to the 220 to make it 2200.

Section (B) (2) (c) & (d)(c) The tense of this passage was changed from present tense to past tense. (d) This statement was added to reflect the passing score requirements on the new GED examination.

Section (B) (3) (a) (4) (a) & (b) (a) & (b) These statements were amended to reflect the new scoring system.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on December 10, 2002, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. David Stout, Director, GED Testing Office, 1429 Senate Street, Ste 402, Columbia, South Carolina 29201 or e-mail [dstout@sde.state.sc.us](mailto:dstout@sde.state.sc.us). Comments must be received no later than 5:00 P.M. on November 25, 2002. Comments received by the deadline will be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

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

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

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

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

DESCRIPTION OF REGULATION: 43-259, Graduation Requirements

Purpose: Regulation 43-259, Graduation Requirements, is being amended. Amendments will need to be made to reflect the new scoring scale.

Legal Authority: S. C. Code Ann. Sections 59-5-60 (1, 3, and 6)(1990), 59-30-10(F) (1990), and 59-39-100 (Supp. 2001)

Plan for Implementation: The proposed amendments will be posted on the State Department of Education's Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

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

The proposed regulation is required, since the GED scoring scale established by the American Council on Education must be used by each state.

The proposed regulation would provide relief to high schools since the method of verifying school withdrawal would be standardized statewide. Students would also gain relief since attendance supervisors would now be allowed to verify school withdrawal by underage examinees.

DETERMINATION OF COSTS AND BENEFITS

There would be no additional cost to GED examinees or the State Department of Education to implement this regulation.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH None

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 these changes are not implemented.

**Statement of Rationale:**

A revised version of the Tests of General Educational Development (GED) was put into service on January 1, 2002, by the American Council on Education's GED Testing Service. With this new version a revised scoring scale was put into place. Amendments will need to be made to Section (B)(1)(b)(2), (B)(1)(c)(5), (B)(2)(c)&(d), and (B)(3)(a)(4)(a)&(b) to reflect the new scoring scale.

**Text:**

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

Document No. 2796

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CHAPTER 43

Statutory Authority: S. C. Code Ann. Sections 59-5-60(1990), 59-5-65 (1990 and Supp. 2001), 59-20-40(7) (1990) and 59-63-20(6) (Supp. 2001)

43-264.1. Half-Day Child Development Programs

**Preamble:**

There needs to be a change in the language of 24 S.C. Code Ann. Regulation 43-264.1 (Supp. 2001), Half-Day Child Development Programs. The funding allocation for Half-Day Child Development Programs has been dependent upon the previous three years' average for the number of students tested as "not ready" on the CSAB as the determiner of the amount of funding that districts would receive for Half-Day Child Development Programs. Cognitive Skills Assessment Battery (CSAB) is an outdated assessment of young children; having been given since 1979 and is no longer used. The change in the regulation should provide that the determination of funding would be based on the number of children in kindergarten who are eligible for free and reduced price

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lunch. The purpose of half-day child development programs is to provide services for children most at risk of school failure.

### Section-By-Section

Section (V)(A)(1) Deletes language stating that the State Department of Education will annually calculate each district's allocation based on the number of students scoring "not ready" as determined by most recent first grades readiness data and total funding available for half day child development programs.

Adds language stating that the State Department of Education will annually calculate each district's allocation based on the number of kindergarten children who are eligible for free and reduced lunch. No district shall receive less than 90 percent of the amount received in the prior fiscal year.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on December 10, 2002, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Linda Mims, Director, Office of Early Childhood Education, Division of District and Community Services, 1300 Sumter Street, Suite 100, Concord Building, Columbia, South Carolina 29201 or e-mail [lmims@SDE.State.SC.US](mailto:lmims@SDE.State.SC.US). Comments must be received no later than 5:00 P.M. on November 25, 2002. Comments received by the deadline will be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

### Preliminary Fiscal Impact Statement:

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

### Statement of Need and Reasonableness:

The statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-115 (Supp. 2001).

### DESCRIPTION OF REGULATION:

Purpose: 43-264.1, Half-Day Child Development Program

Legal Authority: The legal authority for the Regulation 43-264.1 are S. C. Code Ann. Sections 59-5-60 (1990), 59-5-65 (1990 and Supp. 2001), 59-20-40(7) (1990), and 59-63-20(6) (Supp. 2001)

Plan for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. The proposed amendments will be posted on the State Department of Education Web site for review and comment by the regulated community.

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

There needs to be a change in the language of 24 S.C. Code Ann. Regs 43-264.1 (Supp. 2001), Half-Day Child Development Programs. The funding allocation for Half-Day Child Development Programs has been dependent upon the previous three years' average for the number of students tested as "not ready" on the Cognitive Skills

Assessment Battery (CSAB). The CSAB is an outdated assessment of young children; it had been given since 1979 and is no longer used. The change in the regulation provides that the determination of funding will be based on the number of children in kindergarten who are eligible for free and reduced price lunch. The purpose of half-day child development programs is to provide services for children most at risk of school failure. There is a direct relationship between indicators of poverty such as “free and reduced lunch” status and lack of readiness for school.

**DETERMINATION OF COSTS AND BENEFITS:** The EIA allocation for half-day child development programs will not change. The economic impact statewide is zero. Some districts will gain funding; some will lose funding. No district will receive less than 90 percent of the amount it received in the prior fiscal year.

**UNCERTAINTIES OF ESTIMATES:** None

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

The proposed amendments to this regulation have no effect on the environment and public health.

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

There will be no detrimental effects on the environment and public health if this amendment is not implemented.

**Statement of Rationale:**

The CSAB is an outdated assessment of young children, having been given since 1979, and is no longer used. The change in the regulation provides that the determination of funding will be based on the number of children in kindergarten who are eligible for free and reduced price lunch.

**Text:**

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

Document No. 2797

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CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-21-540(11)(1990), 59-33-20(c)(1990), and 59-33-30(1990)

43-241. Homebound Instruction

**Preamble:**

The State Department of Education recommends that the State Board of Education propose amendments to R 43-241, Homebound Instruction. The proposed changes will

1. utilize the term “medical homebound instruction” to clarify its purpose to stakeholders;
2. provide clarification to districts of the requirement to make individualized decisions about the appropriate amount of services for medical homebound students;
3. clarify that if districts fail to provide medical homebound instruction to eligible students, district must make up the missed instructional periods even if the regular school year has ended;
4. clarify eligibility issues; and
5. delete the current guidelines for homebound instruction.



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The Office of Exceptional Children will develop a guidance document for parents and districts.

The Notice of Drafting was published in the *State Register* on June 28, 2002.

### Section-by-Section Discussion

1. Title New text (medical) is added to title of regulation to clarify purpose to stakeholders.
2. Section I New text (public, medical) is added to clarify eligibility and purpose to stakeholders.
3. Section I(B) New text (medical, or) is added to clarify purpose to stakeholders.
4. Section I(E) Text has been deleted to avoid confusion.
5. Section II Text has been deleted and rewording of statement(s) to clarify purpose to stakeholders.
6. Section III New text (medical) is added to clarify purpose to stakeholders.
7. Section III(A) Statement has been deleted to clarify individualized service considerations.  
New statement is added to clarify district responsibility.
8. Section III(C) Text has been deleted to clarify district responsibility.
9. Section IV Rewording of statement to clarify district responsibility.
10. Section IV(A) New text (medical) is added to clarify purpose to stakeholders.
11. Section IV(B) New statement is added to clarify district responsibility.
12. Section V(A)(B) New text (medical) is added to clarify purpose to stakeholders.
13. Guidelines Guidelines have been deleted to remove them from the regulation.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education on December 10, 2002, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Susan DuRant, Director, Office of Exceptional Children, Division of Curriculum Services and Assessment, 1429 Senate Street, Room 808, Rutledge Building, Columbia, South Carolina 29201 or e-mail [sdurant@sde.state.sc.us](mailto:sdurant@sde.state.sc.us). Comments must be received no later than 5:00 P.M. on November 25, 2002. Comments received by the deadline will be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

### Preliminary Fiscal Impact Statement:

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

### Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-115 (Supp. 2001).

DESCRIPTION OF REGULATION: R 43-241, Homebound Instruction

Purpose: Regulation 43-241, Homebound Instruction, is being amended due to requests from stakeholders to provide clarification about its purpose as well as addressing issues of eligibility and service determinations. The proposed amendments will require districts to determine appropriate services for medical homebound students on an individualized basis and at no time will services to students be based on the availability of funding, personnel shortages, administrative convenience, or school policies. The proposed changes will clarify that if districts fail to provide medical homebound instruction to eligible students, districts must make up the missed instructional periods even if the regular school year has ended.

Legal Authority: S.C. Code Ann. Sections 59-21-540(11)(1990), 59-33-20(c)(1990), and 59-33-30(1990).

Plan for Implementation: The proposed amendments will be posted on the State Department of Education's Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: Requests from stakeholders across the state prompted the proposed amendments that will address the issue of eligibility and individualized service determinations.

DETERMINATION OF COSTS AND BENEFITS: None

UNCERTAINTIES OF ESTIMATES: None

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

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

**Statement of Rationale:**

Requests from parents, district personnel, and other stakeholders prompted the proposed amendments that will clarify the issue of eligibility and individualized service determinations. The proposed amendments will require districts to determine appropriate services for medical homebound students on an individualized basis and at no time will services to students be based on the availability of funding, personnel shortages, administrative convenience, or school policies. The proposed changes will clarify that if districts fail to provide medical homebound instruction to eligible students, districts must make up the missed instructional periods even if the regular school year has ended. The proposed changes will delete the current guidelines for homebound instruction from the regulation in order to make periodic updates possible.

**Text:**

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

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CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60 (1990) and 59-40-10, et seq. (Supp. 2001)

### 43-601. Procedures and Standards for Review of Charter School Applications

#### **Preamble:**

The State Department of Education recommends that the State Board of Education propose a new regulation, R 43-601, Procedures and Standards for Review of Charter School Applications, as indicated in the drafting notice that was published in the *State Register* on June 28, 2002. The proposed regulation will establish procedures and standards for review of charter school applications. The amended Charter Schools Act gives the State Board of Education the responsibility and authority to “promulgate regulations and develop guidelines . . . including standards which the Charter School Advisory Committee shall use to determine compliance with this chapter.” The proposed regulation also defines adverse impact, as stipulated in the Act as a condition under which a local board can deny a charter school application, consistent with recent amendments to S.C. Code Ann. § 59-40-10, *et seq.* (to be codified at Supp. 2002).

#### Section-by-Section Discussion

Section I establishes the authority of the Charter School Advisory Committee to review applications.

Section II establishes the standards that the Advisory Committee will use to determine compliance with the application components as set forth in S.C. Code Ann. § 59-40-60 (F) (to be codified at Supp. 2002).

Section III establishes the authority of a local board of trustees to grant a conditional charter to a charter school before the school has secured space, equipment, facilities, and personnel.

Section IV establishes a definition for adverse impact.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on December 10, 2002, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Calvin Jackson Deputy Superintendent, Division District and Community Services, 1429 Senate Street, Room 908, Rutledge Building, Columbia, South Carolina 29201 or e-mail [cjackson@SDE.State.SC.US](mailto:cjackson@SDE.State.SC.US). Comments must be received no later than 5:00 P.M. on November 25, 2002. Comments received by the deadline will be submitted to the board in a summary of public comments and department responses for consideration at the public hearing.

#### **Preliminary Fiscal Impact Statement:** None

**Statement of Need and Reasonableness:** State law requires that the State Board of Education establish standards for the Charter School Advisory Committee to use in reviewing charter school applications. This regulation establishes those standards.

DESCRIPTION OF REGULATION: R 43-601, Procedures and Standards for Review of Charter School Applications

Purpose: Regulation 43-601, Procedures and Standards for Review of Charter School Applications is a new regulation. The proposed regulation establishes procedures and standards for review of charter school applications. The amended Charter Schools Act gives the State Board of Education the responsibility and authority to “promulgate regulations and develop guidelines . . . including standards which the Charter School Advisory Committee shall use to determine compliance with this chapter.” The proposed regulation also defines adverse impact, as stipulated in the act as a condition under which a local board can deny a charter school application.

Legal Authority: S.C. Code Ann. Section 59-40-10, *et seq.* (to be codified at Supp. 2002).

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

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation is required because of an amendment to the statute.

DETERMINATION OF COSTS AND BENEFITS: None

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation does not have any effect on the environment or public health.

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

**Statement of Rationale:**

The proposed Regulation 43-601 will provide the required standards that the Charter School Advisory Committee will use to determine compliance of charter school applications. The regulation will also establish the definition of adverse impact, as required by the recent amendments to S.C. Code Ann. § 59-40-10 *et seq.* (to be codified at Supp. 2002).

**Text:**

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

## 38 PROPOSED REGULATIONS

Document No. 2799  
**STATE BOARD OF EDUCATION**  
CHAPTER 43

Statutory Authority: Code Ann. Sections 59-5-60 (1990), 59-5-65 (1990 and Supp. 2001) and 59-25-110 (1990)

43-55. Renewal of Credentials

### **Preamble:**

The State Board of Education proposes amendments to R 43-55, Renewal of Credentials, as indicated in the drafting notice of September 27, 2002. The proposed amendments clarify the requirements for renewal of professional certificates relative to the Certificate Renewal Plan, as developed by the Office of Teacher Certification and approved by the State Board of Education, and add the requirements for the renewal of expired certificates.

### Section-by-Section Discussion

1. Section II Subsections (A) and (B) are deleted and inserted into Section IV in order to align the requirements.
2. Section IV (B) (1), (2), (3), (4); Section VI Section VII. (A), (B), (C); Section VIII (A), (B), (C); Section IX (A), (B), (C); and Section X (A), (B), (C) are deleted since these renewal credit requirements have been subsumed by the Certificate Renewal Plan, as developed by the Office of Teacher Certification and approved by the State Board of Education.
3. Section IV (A) and (B), certificate renewal requirements are clarified in terms of the employment setting of the educator.
4. Section V, language is clarified regarding certificate renewal requirements for educators who do not hold at least a master's degree.
5. Section VII, certificate renewal requirements formerly contained in Section X are aligned with the Certificate Renewal Plan, as developed by the Office of Teacher Certification and approved by the State Board of Education.
6. Section VIII reflects requirements formerly found in Section XI.
7. Section IX reflects requirements formerly found in Section XII.
8. Section X, new language is inserted relative to requirements for renewal of expired certificates.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on December 10, 2002, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Janice Poda, Senior Director, Teacher Quality, 1600 Gervais Street, Columbia, South Carolina 29201 or e-mail [jpoda@scteachers.org](mailto:jpoda@scteachers.org). Comments must be received no later than 5:00 P.M. on

November 25, 2002. Comments received by the deadline will be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:** There will be no increased costs to the state or its political subdivisions.

**Statement of Need and Reasonableness:**

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-115 (Supp. 2001).

DESCRIPTION OF REGULATION: 43-55, Renewal of Credentials:

Purpose: Regulation 43-55, Renewal of Credentials, is being amended to clarify the requirements for renewal of professional certificates relative to the Certificate Renewal Plan, as developed by the Office of Teacher Certification and approved by the State Board of Education, and to add the requirements for the renewal of expired certificates.

Legal Authority: S.C. Code Ann. Sections 59-5-60 (1990), 59-5-65 (1990 and Supp. 2001), and 59-25-110 (1990).

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

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed amendments consolidate and align requirements related to renewal of professional certificates.

DETERMINATION OF COSTS AND BENEFITS: None

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed amendments to the South Carolina regulation on renewal of credentials, if implemented, will have no effect on the environment and public health.

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

**Statement of Rationale:** This amendment to Regulation 43-55, Renewal of Credentials, clarifies and aligns the requirements for renewal of professional certificates with the Certificate Renewal Plan, as developed by the Office of Teacher Certification and approved by the State Board of Education, and adds requirements for the renewal of expired certificates.

**Text:**

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

## 40 PROPOSED REGULATIONS

Document No. 2800  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
CHAPTER 61  
Statutory Authority: 48-2-10 *et seq.*

### Preamble:

The Department is proposing to amend R.61-30, *Environmental Protection Fees*, as follows: Charge a nominal fee for drinking water permit applications based on the size and complexity of the construction project.

### Section-by-Section Discussion:

SECTION CITATION	CHANGE
61-30.G(2)(b)	Construction General Permit (for Distribution Systems) Annual Fee [new]
61-30.G(2)(c)	Construction Permit Application Fees [new]

### Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum to be held on December 3, 2002 at 2:00 p.m. in conference Room 4380, fourth floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The purpose of the forum is to answer questions, clarify issues and receive formal comments from interested persons on the proposed amendments. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for the Board public hearing scheduled pursuant to S.C. Code Section 1-23-110 and 1-23-111 below.

Copies of the *proposed regulation for public notice and comment* may be obtained by contacting Mr. Jeff deBessonnet, S.C. DHEC, 2600 Bull St., Columbia, S.C. 29201.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on January 9, 2003. The public hearing will be held in the Board Room of the Commissioner's Suite, third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull St., Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Department will publish the Board's agenda 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Mr. Jeff deBessonnet at the above address. Written comments must be received no later than December 3, 2002. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on January 9, 2003, as noticed above. Comments received by the deadline date shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Copies of the *final proposed regulation for submission to the Board for public hearing* may be obtained by contacting Mr. deBessonnet at the above address.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

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

Purpose: The Department is proposing to amend R.61-30, as follows: Charge a nominal fee for drinking water permit applications based on the size and complexity of the construction.

Legal Authority: S.C. Code Section 48-2-10 *et seq.*

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

New: 61-30.G(2)(b) - These fees would be designed to cover a portion of the costs to manage the general permit program under which public water systems construct distribution systems without individual permits from the Department under certain conditions.

New: 61-30.G(2)(c) - These fees would be designed to cover a portion of the costs to receive and review applications for construction permits for drinking water facilities, to render permit decisions, and to issue final operating approvals following construction. Presently there is no fee for this service. The Department proposes to charge a nominal fee based on the size and complexity of the construction project. These fees are necessary to maintain existing staff levels and present turnaround times for issuing permits and operating approvals for projects. No additional staff will be hired as a result of this new fee.

DETERMINATION OF COSTS AND BENEFITS:

Processing applications for permits to construct or modify Public Drinking Water facilities in South Carolina requires considerable commitment of the Department's fiscal resources. The size and scope of applications which can take considerable staff time to review, a lack of state appropriations compounded by budget cuts and reductions in federal funding necessitate the implementation of this fee amendment. There are numerous affected entities in South Carolina. An efficient and timely turnaround on these projects can foster a positive economic impact.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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



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

A lack of appropriate resources slows the permitting process. Insufficient funding creates backlogs of permits awaiting review. This in turn negatively affects the timely turnaround of projects which may be correcting a serious contamination problem. It hinders the issuance of permits intended to protect the public health and environment. As well, new federal rules will make such reviews more complex and take more time in the future (i.e., surface water treatment plant permit applications).

Statement of Rationale (in accordance with S.C. Code Section 1-23-110(A)(3)(h):

The Department has administrative need to collect fees to administer the drinking water construction permitting program. This need is based on an assessment of the Department's financial resources and expenses to administer this program. This fee structure will parallel the structure for the Water Pollution Control construction permit fee system existing in R.61-30. With the forthcoming state budget cuts this fiscal year, two or more permit engineers and several field staff who issue final approvals will have to be eliminated if these funds are not available

#### **Text:**

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

Document No. 2801

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

Statutory Authority: S.C. Code Sections 44-1-140(11); 48-1-10 *et seq.*; 1-23-10

R.61-56. Individual Sewage Treatment and Disposal Systems

#### **Preamble:**

The Department proposes to amend R.61-56, Individual Sewage Treatment and Disposal Systems. This regulation was promulgated pursuant to S.C. Code Section 44-1-140 *et seq* and Section 48-1-10 *et seq*, and was last amended on June 27, 1986. Since the last revision, there have been numerous changes in the technologies of design and installation of onsite wastewater systems. The proposed amendments will incorporate updates in nomenclature and technology, and will further clarify site requirements and system requirements.

Staff initiated the statutory process for the amendment of R.61-56 by publication of a Notice of Drafting in the *State Register* on May 23, 1997. Subsequently, a Notice of Drafting was also published in the *State Register* on April 27, 2001, on November 23, 2001, and on July 26, 2002. The most recent drafting comment period ended on August 26, 2002; comments received from these notices were considered in formulating the proposed revision. See Discussion of Proposed Revision below and Statement of Need and Reasonableness herein.

Discussion of Proposed Revisions:

<u>SECTION</u>	<u>REVISION</u>
61-56.	Title of regulation revised to reflect current nomenclature.
CONTENTS	A table of contents has been added.
61-56.I	Revised language to reflect current nomenclature and for clarification.
61-56.II	Thirty-nine new definitions are added in alphabetical order to further clarify the regulation. Three definitions were modified: GREASE TRAP, LINT TRAP and OIL/WATER SEPARATOR.
61-56.III.A.	Revised to reflect current nomenclature.
61-56.III.B.	Revised to reflect current nomenclature.
61-56.III.C.	Revised to reflect current nomenclature.
61-56.III.D.	Revised to reflect current nomenclature and to identify when an onsite wastewater system is deemed to be a public collection and treatment system.
61-56.III.D.1.	Section added to insure that any permit issued will not conflict with Section 208(b) of the Clean Water Act.
61-56.III.D.2.	Section added to clarify responsibility and ownership of an onsite wastewater system used as a public collection and treatment system.
61-56.III.D.3.	Section added to provide for financial assurances for system operation and maintenance of the system.
61-56.III.D.4.	Section added to insure proper operation, maintenance, installation and compliance of the system.
61-56.III.E.	Moved from Section 61-56.VI.A.6. Language changed to reflect current nomenclature.
61-56.III.F.	Section added to address industrial process or other non-domestic wastewater discharged to an onsite wastewater system.
61-56.III.G.	Section added to address wastewater issues in camps and campgrounds. The language was taken from R.61-39, Camps.
61-56.IV.A.1.	Revised to reflect current nomenclature.
61-56.IV.A.2.	Revised to reflect current nomenclature and to address easement requirements.
61-56.IV.A.3.	Revised to include soil auger borings, backhoe test pits, soil classifications and other tests or information.
61-56.IV.A.4.	Revised to help identify property boundaries, identify building locations and to facilitate the site evaluation.

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- 61-56.IV.B.1. Revised to reflect current nomenclature and to address permit changes.
- 61-56.IV.B.2. Revised to reflect current nomenclature.
- 61-56.IV.B.3. Revised to reflect current nomenclature.
- 61-56.IV.B.4. Section changed to address permit time limits.
- 61-56.IV.C.1. Revised to reflect current nomenclature.
- 61-56.IV.C.2. Section added to address final inspection and approval requirement.
- 61-56.V.A. Revised to reflect current nomenclature and to include the use of soil science methodologies.
- 61-56.V.B. Revised to address smectites.
- 61-56.V.C. Revised to increase the distance to environmentally sensitive receptors from fifty (50) feet to seventy-five (75) feet, and increase the distance above the zone of saturation from six (6) inches to twelve (12) inches.
- 61-56.V.D. Revised to address systems constructed to serve Laundromat, vehicle/equipment wash, or mortuary operations.
- 61-56.V.E. Section added to address distance to rock and other restrictive horizons.
- 61-56.V.F. Revised to reflect current nomenclature.
- 61-56.V.F.1. Deleted “property line.”
- 61-56.V.F.2. Revised to reflect changes in offset requirements to private and public wells to seventy-five (75) feet.
- 61-56.V.F.3. Revised to reflect changes in offset requirements to surface waters.
- 61-56.V.F.5. Revised to address stormwater detention basins.
- 61-56.V.F.6. Moved from Section 61-56.V.F.5.
- 61-56.V.F.7. Section added to define offset to property lines.
- 61-56.V.G.1. Revised to change the repair area for new sites from 50% to 100%.
- 61-56.V.G.2. Revised to quantify and qualify the required repair area.
- 61-56.V.H. Revised to address multiple, individually owned remote tile field requirements and to increase the required repair area from 50% to 100%.
- 61-56.VI.A.3. Revised to change the minimum tank capacity from 890 gallons to 1000 gallons.
- 61-56.VI.A.4. Revised to eliminate a table and to address septic tanks serving multiple dwellings.

- 61-56.VI.A.5. Revised to eliminate a table and to address septic tanks serving other than individual dwellings. Includes the formula for determining required tank volume.
- 61-56.VI.A.6. Moved to Section 61-56.III.E.
- 61-56.VI.B. Changed to “OTHER PRIMARY TREATMENT METHODS”
- 61-56.VI.B.1. Revised to reflect current nomenclature.
- 61-56.VI.B.2. Revised to reflect current nomenclature.
- 61-56.VII.A.1. Revised to define and clarify standards for pipe utilized in onsite wastewater systems.
- 61-56.VII.A.2. Revised to include tire chips as an aggregate material.
- 61-56.VII.A.3. Revised to clarify the use of drop boxes and to eliminate distribution boxes.
- 61-56.VII.A.4. Section added to clarify construction requirements.
- 61-56.VII.A.5. Section added to address operation and protection of the wastewater system by using protective barriers, curtain (interceptor) drains, ground cover, etc.
- 61-56.VII.A.6. Section added to address elevation differential requirements.
- 61-56.VII.A.7. Section added to clarify system design requirements.
- 61-56.VII.A.8. Section added to address covering material for the coarse aggregate in a system.
- 61-56.VII.B. Entire section deleted. Requirements addressed in Sections 61-56.VII.A.4-8.
- 61-56.VIII.B. Revised to reflect current nomenclature and clarify language.
- 61-56.VIII.C. Revised to clarify language.
- 61-56.VIII.D. Revised to clarify language.
- 61-56.VIII.E. Revised to include “multi-part.”
- 61-56.VIII.F. Revised to clarify and define required materials for sealing a tank.
- 61-56.VIII.G. Section added to address effluent pumping.
- 61-56.VIII.H. Section added to authorize the Department to restrict, delay, or prohibit the installation and/or final approval of any onsite wastewater system when adverse soil or site conditions exist.
- 61-56.VIII.I. Section added to address alternative and innovative onsite wastewater system designs.
- 61-56.IX. Previous Section 61-56.IX. has been changed to Section 61-56.X. A new entire section has been added to incorporate standards for the evaluation of alternative tile field products into the regulation. These standards have heretofore not been in the regulation.

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- 61-56.X. Previous Section 61-56.X. has been changed to Section 61-56.XI.
- 61-56.X.A. Section changed from Section 61-56.IX. Revised to reflect current nomenclature and to provide for the prohibition of garbage grinders discharging to onsite wastewater systems.
- 61-56.X.B. Section changed from Section 61-56.IX. Revised to reflect current nomenclature.
- 61-56.X.C. Section changed from Section 61-56.IX. Revised to reflect current nomenclature and to add the requirement for a grit (sand) trap.
- 61-56.XI. Previous Section 61-56.XI. has been changed to Section 61-56.XII.
- 61-56.XI.A. Revised to reflect current nomenclature.
- 61-56.XI.B. Revised to reflect current nomenclature.
- 61-56.XII. Previous Section 61-56.XII deleted. Permit fees are now under R.61-55, Septic Tank Site Evaluation Fees.
- 61-56.XII. Section changed from Section 61-56.XI. Revised to reflect current nomenclature.
- 61-56.XIII. Revised to reflect current nomenclature.
- 61-56.XIV. Added legal reference to incorporate penalties under the South Carolina Pollution Control Act.
- 61-56.XVI. Section changed to Section 61-56.XVII. A new section has been added to address sites approved prior to the effective date of the regulation.
- 61-56.XVII. Section changed from Section 61-56.XVI.

### **Notice of Staff Informational Forum:**

Staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a staff-conducted informational forum to be held on November 20, 2002, at 9:00 a.m. at Peebles Auditorium of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. The purpose of the forum is to answer questions, clarify issues and receive comments from interested persons on the proposed regulation. Comments received shall be considered by staff in formulating the final staff proposal for the revision of R.61-56 for submission to the Board of Health and Environmental Control for the Board public hearing scheduled for January 9, 2003, pursuant to S.C. Code Section 1-23-110 and -111 as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Mr. Leonard Gordon, Division of Onsite Wastewater Management, Bureau of Environmental Health, S. C. Department of Health and Environmental Control, 2600 Bull St., Columbia, S.C. 29201.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on January 9, 2003. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C., The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The agenda is published 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation for public comment by writing to Mr. Leonard Gordon at the above address. Written comments must be received no later than 4:00 p.m. on November 26, 2002. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on January 9, 2003, as noticed above. Comments received by the deadline will be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Copies of the final proposed regulation for public hearing before the DHEC Board may be obtained by contacting Mr. Gordon at the above address.

**Preliminary Fiscal Impact Statement:**

The Department estimates there will be no new costs imposed on the State or its political subdivisions by this regulation.

**Statement of Need and Reasonableness:**

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11):

**DESCRIPTION OF REGULATION:**

Purpose: The proposed amendments of R.61-56 will incorporate updates in nomenclature and technology, and will further clarify site requirements and system requirements. See Preamble above.

Legal Authority: The legal authority for R.61-56 is Section 44-1-140 (11) *et seq.* and Sections 48-1-10 *et seq.*, S.C. Code of Laws.

Plan for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. The proposed amendments will be implemented by providing the regulated community with copies of the regulation. Implementation plans will include training for appropriate Department staff.

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

The proposed regulation will provide additional protection of the state's groundwater and surface waters by increasing the offset to each from septic tank systems. These increased offsets have been recommended by the U.S. Environmental Protection Agency and an ad hoc committee compiled to study R.61-56's required offsets.

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The proposed regulation will provide current information about technical requirements and technology used in the construction and design of septic tanks and septic tank systems.

The proposed regulation will clarify standards for the design and construction of septic tanks and septic tank systems.

**DETERMINATION OF COSTS AND BENEFITS:** There will be a benefit to South Carolina's environment and the health of its citizens by providing further protection of groundwater and surface waters. There will be benefit to the regulated community by providing more definitive standards and having a regulation that reflects current technology.

**UNCERTAINTIES OF ESTIMATES:** None.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:** The proposed amendments will provide further protection of South Carolina's groundwater and surface waters, thereby further insuring the prevention of disease associated with groundwater and surface water contamination.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:** The intent of this revision is to provide additional protection for the environment and public health; if the amendments are not implemented the additional protection of the environment and public health will not be achieved.

### **Statement of Rationale:**

The determination to revise this regulation was an administrative decision. The regulation was last revised in 1986, and there have been numerous changes in technology, evaluative techniques and nomenclature since. The decision to revise the regulation was based on these changes, as well as the need to include standards and criteria that heretofore have not been in regulation.

### **Text:**

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

Document No. 2802

### **DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

#### **CHAPTER 89**

Statutory Authority: S.C. Code Sections 48-20-20, 48-20-30,  
48-20-100, 48-20-120 48-20-210, and 48-20-240.

### **R.89-10 through 89-350 Office of the Governor - Mining Council of South Carolina**

**Preamble:** The South Carolina Mining Act charges the Department with the responsibility for administering the mining program. The Act also gives the Department the authority to assess and collect fees to assist with the costs of administering the provisions of the Act. The proposed amendment to Regulation 89-10 through 89-350 to increase fees will provide the necessary funds to enhance the mining program by providing additional staff to minimize application review times, increase mine inspections and provide educational outreach to the mining industry. The Act requires all mining in S.C. to include reasonable provisions for protection of the surrounding environment and for reclamation of the area of land affected by mining. These fees have not be increased since they were first included in the regulation in 1992. The increase in fees will provide the means to ensure that the usefulness, productivity, and scenic values of all lands and waters affected by mining in S.C. receive the greatest

practical degree of protection and restoration. See Discussion of Proposed Revisions below and the State of Need and Reasonableness herein.

Discussion:

<u>SECTION</u>	<u>CHANGE</u>
89-340.A.(1)	Increase in fee for mining permit application.
89-340.A.(2)	Increase in fee for mining permit conversion.
89-340.A.(3)	Increase in fee for mining permit substantial modification.
89-340.A.(4)	Increase in fee for mining permit transfer.
89-340.A.(5)	Increase in fee for certificate of exploration.
89-340.B.(1)	Increase in mining annual operating fee.

A Notice of Drafting for this proposed amendment was published in the State Register on August 23, 2002.

**Notice of Staff Informational Forum:**

Staff of the Department of Health and Environmental Control invites interested members of the public to attend a staff-conducted informational forum to be held on November 25, 2002 at 10:00 a.m. in Peoples Auditorium on the 4<sup>th</sup> floor of the Sims Building at the S.C. Department of Health and Environmental Control (SCDHEC) at 2600 Bull Street, Columbia, SC 29201.

Interested persons are also provided an opportunity to submit written comments to Craig Kennedy at SCDHEC, Bureau of Land & Waste Management, 2600 Bull Street, Columbia, SC 29201. Written comments must be received no later than 4:00 p.m. November 25, 2002. Comments received by the deadline date will be considered in formulating the final proposed amendment for public hearing before the Board of Health and Environmental Control as noticed below. Comments received 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 Craig Kennedy at SCDHEC, Bureau of Land & Waste Management, 2600 Bull Street, Columbia, SC 29201, or by calling 803-896-4262.

**Notice of Board Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Section 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 meeting on December 12, 2002. 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, 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

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.

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Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Craig Kennedy at SCDHEC, Bureau of Land & Waste Management, 2600 Bull St., Columbia, SC 29201. Written comments must be received no later than 4:00 on November 25, 2002. Comments received by the deadline will be considered by staff in formulating the final proposed regulation for public hearing on December 12, 2002, as noticed above. Comments received by the deadline date will be submitted in a Summary of Public Comments and Department Responses for the Board s consideration public hearing.

Copies of the final proposed regulation for public hearing before the SCDHEC Board may be obtained by contacting Craig Kennedy at 803-896-4262.

**Preliminary Fiscal Impact Statement:** There will be no increased costs to the State or its political subdivisions.

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

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

**DESCRIPTION OF REGULATION:** Proposed Amendment of Regulation 89-10 through 89-350 Office of the Governor - Mining Council of South Carolina.

Purpose: The Department is charged with the responsibility for administering the provisions and requirements of the South Carolina Mining Act, S.C. Code Ann. Section 48-20-10, et seq. The proposed amendment to increase fees will provide the necessary funds to enhance the mining program by providing additional staff to minimize application review times, increase mine inspections and provide educational outreach to the mining industry to assist in complying with the regulatory requirements. This will provide the means to ensure that: the usefulness, productivity, and scenic values of all lands and waters involved in mining within S.C. receive the greatest practical degree of protection and restoration; no mining may be carried on in the State unless plans for the mining include reasonable provisions for protection of the surrounding environment and for reclamation of the area of land affected by mining; and, sufficient technical assistance is available for mining operations.

Authority: The South Carolina Mining Act, S.C. Code Ann. Sections 48-20-20, 48-20-30, 48-20-100, 48-20-120, 48-20-210, and 48-20-240.

Plan for Implementation: The proposed regulation, as amended through public comment and Department response, and upon approval of the General Assembly and publication in the State Register, will be incorporated within R.89-10 through 89-350. Simultaneously, action will be initiated to amend the statute so that permitting, exploration and annual operating fees can be used by the program. (Administrative fees for deficiencies and civil penalties assessed through enforcement action will continue to be deposited in the general fund.) As soon as funding is available, two (2) positions will be filled.

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

The South Carolina Mining Act charges the Department with the responsibility of issuing mining permits, reviewing and approving reclamation plans, collecting reclamation performance bonds, conducting environmental appraisals, providing technical assistance to mine operators and the public, implementing research and demonstration projects, and inspecting all mining operations and reclamations.

The Act gives the Department the authority to assess and collect fees to assist with the costs of administering the provisions of the Act. This amendment is needed to enhance the present status of the program so that more

technical assistance to mining operations is available, review of permit requests are expedited, and to ensure protection of public health and the environment.

This proposed amendment is reasonable because the mines that will pay the increases in fees will receive benefits from the enhancements made to the program. If the number of mines per inspector can be reduced, it will: allow staff more time for one-on-one technical assistance to mine operators; and, expedite reviews of proposed projects - all of which will benefit the mining operations and provide for better efficiency. The statute authorized fees in 1990. A fee schedule was included when the regulation was amended in 1992 and there has been no increase in the fee structure to date.

**DETERMINATION OF COSTS AND BENEFITS.** The proposed increase in the fee structure will provide approximately \$147,000 of new money. The amount of the increase is based upon the need for two technical positions in the mining program to provide enhanced service to the industry and public. Additionally, the money will be used to reestablish and develop an outreach program for small mine operators to provide them with educational and technical information.

The mine operators will benefit from the enhancement of the Department's mining program. The increased staff will allow the program director to spread the workload (i.e., inspections, application reviews, and compliance follow-ups) to greater number of staff; thus, reducing the number of mines per inspector to establish a more efficient workload. This will allow for quicker response in application reviews, increased mine inspections, and a quicker resolution to public inquires. Furthermore, increase in staff will allow for increased technical assistance to mine operators. This is particularly important for small mine operators that have minimal resources to keep abreast of regulatory changes and the technical means to stay in compliance.

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

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:** The proposed amendment will help ensure protection of all lands and waters involved in mining in South Carolina and in turn provide protection of public health.

**DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION AMENDMENT IS NOT IMPLEMENTED:** There could be a detrimental effect on the environment and public health if the regulation amendment is not implemented. The current number of program staff is inadequate to provide the services required by the South Carolina Mining Act. If more one-on-one technical assistance can be offered to small mining operations, the impact will be preventative in nature and will result in better protection of the environment and public health.

**STATEMENT OF RATIONALE:** This amendment is based on an administrative decision to raise fees to enhance service to the regulated community and increase environmental protection and decrease response times on application reviews. This program enhancement will increase educational outreach to the regulated community to assist them in complying with their regulatory obligations. These fees have not been increased since they were first initiated in 1992. See the State of Need and Reasonableness above for details.

**Text**

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

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Document No. 2803

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

Statutory Authority: S.C. Code Section 44-37-30 and Act 225 (May 1, 2002)

#### R.61-80. *Neonatal Screening for Inborn Metabolic Errors and Hemoglobinopathies*

##### **Preamble:**

The Department of Health and Environmental Control proposes to substantially amend R.61-80, *Neonatal Screening for Inborn Metabolic Errors and Hemoglobinopathies*. The amendment will incorporate legislative mandates regarding storage and use of blood specimens collected on filter paper for the purposes of neonatal screening for inborn metabolic errors and hemoglobinopathies and incorporate legislative mandates regarding the confidentiality of information obtained as a result of neonatal screening for inborn metabolic errors and hemoglobinopathies. It will also update language which will include corrections to improve clarity and readability as well as strengthen, improve and codify standards and terminology to be consistent with national and medical standards. The amendment will also incorporate legislative mandates regarding forms and documentation.

A Notice of Drafting for this proposed amendment was published in the *State Register* on July 26, 2002. It was also posted on the Department of Health and Environmental Control Regulatory Information web page at [www.scdhec.net/co/regs](http://www.scdhec.net/co/regs) in the Regulation Development Update. Legislative review will be required.

##### **Discussion of Proposed Revisions:**

Regulation 61-80 is being revised substantially.

A table of contents is added.

Section A explains the purpose, scope and authority for this regulation. Section B, Authority, will be deleted and selected text from section B will be merged into this new section A.

Section B provides definitions. References to specific inborn errors of metabolism and hemoglobinopathies are deleted because other disorders may be detected in the routine course of newborn screening. More identifying information is added to the current requirements. These additions will provide DHEC with the demographic information needed to perform the screening tests in the most precise manner and to correctly identify a child who needs additional testing. The words "infant" or "infants" are changed to "child" or "children" in this section and throughout the remainder of the regulation. This change will make the language in the regulation consistent with the statute. Definitions for Community Based Programs and Genetic Centers are deleted because there is no reference to either of these groups in the remainder of the regulation. Other language is also updated and clarified in this section.

Section C provides for all screening tests for inborn metabolic errors and hemoglobinopathies. Minor word changes are made for consistency and clarity. References are updated to be consistent with national laboratory standards. The statement regarding the availability of laboratory analysis for confirmation and repeat specimen testing at no charge to patients suspected or diagnosed with one of the conditions identified through newborn screening is clarified to indicate that this only applies if the analysis is completed at the laboratory.

Section D addresses collection of specimen. A requirement is added that the brochure produced by DHEC explaining newborn screening and blood specimen storage options be given to the parent or guardian of the

child. The word “must” is changed to “shall” in this section and throughout the remainder of the regulation. Other minor word changes are made for consistency and clarity.

Section E addresses assurance of diagnosis and follow-up. Requirements on maintenance of confidentiality of information as a result of the screening process are added to provide consistency with the statute. The responsibility of the attending physician in notifying the Bureau of Maternal and Child Health when children are diagnosed with one of the conditions identified through screening is clarified to include only those children who are born in South Carolina. Minor word changes are made for consistency and clarity.

Section F is a new section added to the regulation and addresses storage of specimen. It requires persons who collect specimens for screening to inform parents or guardians of the child of the blood specimen storage options and to ensure that the parents’ or guardians’ choice is documented on the appropriate form as indicated. It requires DHEC to maintain the specimens based upon the parents’ or guardians’ documented choice if the parents or guardians do not agree to have their child’s blood specimen stored and potentially released for scientific study.

Section G is a new section added to the regulation and addresses use of stored specimens. It allows DHEC to release specimens for confidential, anonymous scientific study unless prohibited based upon the wording in the statute. It requires DHEC to use the Institutional Review Board process to ensure that any proposed studies using the specimens meet established research standards. It also allows DHEC to confidentially notify affected parties if beneficial information is discovered as a part of any such research.

Section H, Forms, is added. The forms, as specified in statute, are added as Appendices A, B and C.

Section I, Enforcement Provision, provides for penalties and constitutionality.

**Notice of Staff Informational Forum:**

Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum to be held on November 15, 2002 at 10:00 a.m. in Room N-400, Mills/Jarrett Complex of the Department of Health and Environmental Control, 2100 Bull Street, Columbia, S.C. The purpose of the forum is to answer questions, clarify issues, and receive comments from interested persons on the proposed amendment of R.61-80. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for the Board public hearing scheduled pursuant to S.C. code Section 1-23-110 and -111 below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Kathy Tomashitis at the Division of Women and Children’s Services, S.C. Department of Health and Environmental Control, Box 101106, Columbia, S.C., 29211; Fax (803) 898-0337; Phone (803) 898-0619.

**Notice of Public Hearing Pursuant to S.C. Code Section 1-23-110 and 1-23-111:**

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendments of R.61-80 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on January 9, 2003. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Board's agenda will be published by DHEC twenty-four hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record.

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Interested persons are also provided an opportunity to submit written comments on the proposed amendments of R.61-80 by writing to Kathy Tomashitis at the above address. Written comments must be received no later than 5:00 p.m. on November 25, 2002, as noticed above. Comments received by the deadline date shall be submitted in a Summary of Public Comments and Department Responses for the board's consideration at the public hearing.

Copies of the final proposed regulation for submission to the Board for public hearing before the DHEC Board may be obtained by contacting Kathy Tomashitis at the above address.

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

New costs to DHEC include approximately \$35,000 for educational materials (videos, brochures, staff training manuals); approximately \$21,000 in staff time to provide training to health care providers on the new legislative requirements; and \$27,000 one-time cost and \$43,000 annual cost to maintain the blood specimens based upon parental/guardian choice (one additional freezer with a purchase cost of \$24,000 and an annual operations cost of \$10,000; one full time equivalent laboratory technician with a personnel cost of approximately \$33,000 annually to prepare specimens for storage, maintain a database of parental/guardian storage choice, retrieve specimens based upon parental/guardian choice, prepare and send necessary correspondence; and \$3,000 to purchase a dedicated computer system and software to house the database of parental/guardian storage choice.)

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

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

**DESCRIPTION OF REGULATION:** R.61-80, *Neonatal Screening for Inborn Metabolic Errors and Hemoglobinopathies*

**Purpose:** To incorporate legislative mandates regarding storage and use of blood specimens; incorporate legislative mandates regarding the confidentiality of information; update language to strengthen, improve and codify standards and terminology to be consistent with national and medical standards; and incorporate legislative mandates regarding forms and documentation.

**Legal Authority:** S.C. Code Section 44-37-30 and Act 225 (May 1, 2002)

**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, specifically staff at hospitals where infants are born and county health departments, with copies of the regulation. In addition, on-site training will be offered to ensure that staffs understand their responsibilities in complying with the new requirements.

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

The revisions to the regulation are needed and reasonable because they will update State public health policies and practices to comply with the mandates of S.C. Code Section 44-37-30 and Act 225 (May 1, 2002). This Act required DHEC to provide parental options for the storage and use of blood specimen obtained as a result of screening for inborn metabolic errors and hemoglobinopathies and clarified procedures for protection of confidentiality of information.

### **DETERMINATION OF COSTS AND BENEFITS:**

There will be an undetermined cost to the regulated community in increased staff time needed to explain and document the blood specimen storage and use options to parents and guardians. DHEC will also incur ongoing costs in increased staff time devoted to training health care providers and in various aspects of maintaining the stored blood specimens. See the Preliminary Fiscal Impact Statement above for the projected cost to the state and its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

It is difficult to estimate the cost to health care providers in the regulated community for the increased staff time to explain and document the blood specimen storage and use options to parents and guardians because facilities use a variety of staff to perform this service. Staff persons potentially used for this service include registered nurses, licensed practical nurses, and medical technicians, among others. The costs to DHEC have minimal uncertainty.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The amendments will promote public health by providing specificity for the storage and use of blood specimens obtained as a result of newborn screening for inborn metabolic errors and hemoglobinopathies.

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

There will be no detrimental effect on the environment. There may be an adverse effect on public health if the regulation is not implemented due to the lack of specific guidance on the storage and use of these blood specimens. In addition, failure to implement this regulation will affect the ability of DHEC to comply with Act 225 (May 1, 2002) as effectively as possible.

**Statement of Rationale:**

Act 225 (May 1, 2002), which changed S.C. Code Section 44-37-30, directed DHEC to amend R.61-80 so as to include provisions for the storage and use of blood specimens obtained as a result of screening for inborn metabolic errors and hemoglobinopathies. This Act also clarified procedures for maintenance of confidentiality of information obtained as a result of this testing.

Although the legislative mandates were clear, staff determined that a more comprehensive review of the regulation was indicated to ensure that the regulation remains current with accepted practice for newborn screening laboratory and follow-up services in the U.S. Several recently published documents were used as part of that review. They include the following: Serving the Family From Birth to the Medical Home, A Report From the Newborn Screening Task Force, published as a supplement to Pediatrics, August 2000; U.S. Newborn Screening System Guidelines II: Follow-up of Children, Diagnosis, Management, and Evaluation, published as a supplement to The Journal of Pediatrics, October 2000; Newborn Screening Programs: An Overview of Costs and Financing, March of Dimes 2002; Clinical Laboratory Improvement Amendments 1988 (CLIA '88, Health and Human Services); Recommendations and Standardization of Neonatal Screening (Joint Report of the Association of Public Health Laboratories and the Council of Regional Genetic Networks, March 1999); and Newborn Screening Quality Assurance Program (NSQAP), Centers for Disease Control and Prevention (CDC).

In addition, staff requested copies of laws, regulations, collection forms, religious or other objection forms, consent forms, policies on specimen storage, educational brochures and other materials from newborn screening laboratory and follow-up personnel around the U.S. who are participants in the newborn screening related listserv maintained by the National Newborn Screening and Genetics Resource Center. Materials were received from several states and were useful in determining how S.C. compares with others in the U.S.

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As a result of the review process, it was determined that several minor word changes were needed in addition to the legislative mandates to clarify procedures and to bring the regulation in line with current national medical and laboratory standards and terminology.

### Text:

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

Document No. 2804  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
CHAPTER 61

Statutory Authority: 1976 Code Section 13-7-40, as amended

R.61-63. Radioactive Materials (Title A)

### Preamble:

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 amends requirements for certain generally licensed industrial devices containing radioactive material (Part II), amends regulations regarding the use of respiratory protection and other controls to restrict intake of radioactive materials (Part III), updates regulations concerning personnel dosimetry (Parts V, VIII, and XI), and amends regulations governing licenses and radiation safety requirements for well logging (Part VIII). Proposed regulations will comply with 10 CFR Parts 20, 30, 31, 32, 34, 36, and 39, Final Rules, published in the Federal Register on October 7, 1999, December 18, 2000, October 24, 2000, and April 17, 2000, respectively. Legislative review will not be required.

A Notice of Drafting for this amendment was published in the State Register on July 26, 2002. The revision is being promulgated to comply with federal law; neither a fiscal impact statement nor preliminary assessment report is required. See discussion of proposed revisions below and a statement of need and reasonableness provided herein.

### Discussion of Proposed Revisions:

- (1) Revises requirements for certain generally licensed industrial devices in Part II.

<u>SECTION</u>	<u>REVISION</u>
61-63.2.2 certain general licensees.	Incorporates registration requirement for
61-63.2.4.1	Revises "Purpose and Scope" section.
61-63.2.4.2	Revises section title.
61-63.2.4.2.2	Revises acquisition criteria for generally licensed devices.
61-63.2.4.2.3.5	Revises actions required due to detection of a leaking source.

61-63.2.4.2.3.7 through 2.4.2.3.7.2	Revises disposition criteria.
61-63.2.4.2.3.8 through 2.4.2.3.8.2	Revises device transfer criteria.
61-63.2.4.2.3.10 through 2.4.2.3.13	New sections added requiring general license registration for certain devices.
61-63.2.7.1.1.3.3	Revises labelling of a generally licensed device, including footnote changes.
61-63.2.7.1.1.4 through 2.7.1.1.5	Add new sections for labelling.
61-63.2.7.1.4 through 2.7.1.4.5	Revises sections regarding transfer of generally licensed devices within this state.
61-63.2.7.1.5 through 2.7.1.9.2	Adds sections outlining transfer of generally licensed devices to NRC states; labelling requirements; bankruptcy notification; and reporting of transfers to the Department.
61-63.2.10.6	Revises section regarding bankruptcy notification by those general licensees required to register.

(2) Clarifying changes for respiratory protection programs and controls to restrict internal exposure.

<u>SECTION</u>	<u>REVISION</u>
61-63.3.2.5	Adds new definition for "Air-purifying respirator."
61-63.3.2.5 and 3.2.6	Renumbered due to addition of new definition at 3.2.5.
61-63.3.2.8	New definition added.
61-63.3.2.9	New definition added.
61-63.3.2.7 through 3.2.23	Renumbered to 3.2.10 through 3.2.26.
61-63.3.2.27	New definition added for "Demand respirator."
61-63.3.2.24 through 3.2.26	Renumbers definitions to 3.2.28 through 3.2.30.
61-63.3.2.31	Add new definition for "Disposable respirator."
61-63.3.2.27 through 3.2.36	Renumbers definitions to 3.2.32 through 3.2.41.
61-63.3.2.42	Add new definition for "filtering facepiece."



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61-63.3.2.43	Add new definition for "fit factor."
61-63.3.2.44	Add new definition for "fit test."
61-63.3.2.37 and 3.2.38	Renumbers definitions to 3.2.45 and 3.2.46.
61-63.3.2.47	Add new definition for "Helmet."
61-63.3.2.39 and 3.2.40	Renumbered definitions to 3.2.48 and 3.2.49.
61-63.3.2.50	Add new definition for "Hood."
61-63.3.2.41 through 3.2.47	Renumbers definitions to 3.2.51 through 3.2.57.
61-63.3.2.58	Add new definition for "Loose-fitting facepiece."
61-63.3.2.48 through 3.2.51	Renumbers definitions to 3.2.59 through 3.2.62.
61-63.3.2.63	Add new definition for "Negative pressure respirator."
61-63.3.2.52 through 3.2.57	Renumbers definitions to 3.2.64 through 3.2.69.
61-63.3.2.70	Add new definition for "Positive pressure respirator."
61-63.3.2.71	Add new definition for "Powered air-purifying respirator."
61-63.3.2.72	Add new definition for "Pressure demand respirator."
61-63.3.2.58	Renumbered to 3.2.73.
61-63.3.2.74	Add new definition for "Qualitative fit test."
61-63.3.2.59	Renumbered to 3.2.75
61-63.3.2.76	Add new definition for "Quantitative fit test."
61-63.3.2.60 through 3.2.64	Renumbered to 3.2.77 through 3.2.81.
61-63.3.2.82	Add new definition for "Self-contained breathing apparatus."
61-63.3.2.65 through 3.2.70	Renumbered to 3.2.83 through 3.2.88.
61-63.3.2.89	Add new definition for "Supplied-air respirator."
61-63.3.2.90	Add new definition for "Tight-fitting facepiece."

61-63.3.2.71 through 3.2.73	Renumbered to 3.2.91 through 3.2.93.
61-63.3.2.94	Add new definition for "User seal check."
61-63.3.2.74 through 3.2.83	Renumber to 3.2.95 through 3.2.104.
61-63.3.19.1.1	Revision clarifying process controls used by the licensee.
61-63.3.19.2	Revision to section clarifying use of other process controls.
61-63.3.19.3.1.1	Revision to permit the use of only those respirators tested and certified by NIOSH.
61-63.3.19.3.1.2	Revision to permit the use of only those respirators tested and certified by NIOSH.
61-63.3.19.3.1.3.1	Revision clarifying intent of a respiratory protection program.
61-63.3.19.3.1.3.3	Section revised for respirator operability testing.
61-63.3.19.3.1.3.4	Section revised to expand required written procedures needed for a respiratory program.
61-63.3.19.3.1.3.5	Revision of physician testing of individual users.
61-63.3.19.3.1.3.6	Add new section to clarify when and how often fit testing is required.
61-63.3.19.3.1.4 through 3.19.3.1.4.3	Revision to remove section due to its redundancy.
61-63.3.19.3.1.5	Renumbered to 3.19.3.1.4.
61-63.3.19.3.1.6	Renumbered to 3.19.3.1.5 and revised to require the licensee to account for adverse environmental conditions on the equipment and the wearer.
61-63.3.19.3.1.6	New section added to require standby rescue persons in certain situations.
61-63.3.19.3.1.7	Add new section to specify minimum quality of supplied breathing air for use of atmosphere-supplying respirators.
61-63.3.19.3.1.8	Add new section to prohibit use of respirators whenever any conditions interfere with the seal of the respirator.
61-63.3.19.3.2	Revision to section to incorporate the new ANSI terminology for "assigned protection factor."
61-63.3.19.3.2.1 through 3.19.3.4	Sections removed due to redundancy (respirator selection), needless regulatory burden (30 day notice), or information having been stated elsewhere in the regulations (applications to the Department for higher "APFs").
61-63.3.19.4.1	Revision to clarify that the Department will use ALARA considerations in any additional restrictions imposed by the Department on the use of respiratory protection equipment.

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61-63.3.19.5 Add new section specifying procedures for applying to the Department to use higher APFs.

61-63.3.52 Appendix A – Revised in its entirety.

(3) New dosimetry technology

### SECTION

### REVISION

61-63.5.14.1 Revision to delete the limitation of the use of film badges and TLDs and allow the use any personnel dosimeter that requires processing, provided that the processor of the dosimeter is NVLAP accredited.

61-63.5.14.2 Revision to consolidate record retention criteria.

61-63.5.14.3 Revised to consolidate record retention criteria.

61-63.5.14.4 Revision to allow the use of any personnel dosimeter and not restrict monitoring to the use of film badges or TLDs.

61-63.5.14.5 Revision to allow the use of any personnel dosimeter and not restrict monitoring to the use of film badges or TLDs.

61-63.5.14.6.4 Revision to consolidate record retention criteria.

61-63.5.14.7 Add new section to summarize record retention criteria for this part.

61-63.8.21.1 Revision to remove the limitation to the use of film badges and TLDs, and to permit the use of a personnel dosimeter that is processed by an accredited NVLAP processor.

61-63.8.21.3 Revision to incorporate conforming language for "personnel dosimeters" in place of "film badges and TLDs."

61-63.11.20.1 Revision to remove the limitation to the use of film badges and TLDs, and to permit irradiator operators to wear any personnel dosimeter requiring processing to determine dose, provided that the dosimeter is processed by a NVLAP accredited processor.

61-63.11.28.5 Revision to use conforming terminology of "personnel dosimeter" in place of "film badges and TLDs."

(4) Energy compensation sources for well logging and other regulatory clarifications.

SECTION

REVISION

61-63.8.3.1 Add definition for "Energy compensation source."

61-63.8.3.1 Renumbered to 8.3.2 through 8.3.16.  
through 8.3.15

61-63.8.3.17 Add new definition for "Tritium neutron generator target source."

61-63.8.3.16 Renumber to 8.3.18 through 8.3.20.  
through 8.3.18

61-63.8.5.1.5.2 Revision to allow a more performance-based approach to prevent inadvertent intrusion on an abandoned source.

61-63.8.10.2 Revision to clarify purpose of this section and remove redundant wording.

61-63.8.10.3 Revision to clarify purpose of this section and to note the exemption of ECS's and allow an expanded test frequency for these sources.

61-63.8.10.4 Revision to clarify purpose of this section.

61-63.8.10.5.1 Revision to indicate that hydrogen-3 and tritium are the same.

61-63.8.13.1 Revision describing applicable requirements for a sealed source.

61-63.8.13.1.3 New section added to reference additional sealed source use criteria.

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- 61-63.8.13.2 New section added to allow pre-1989 sources to meet USASI standards.
- 61-63.8.13.3 New section added to provide for the use of current ANSI standards.
- 61-63.8.13.4 New section added to introduce existing source testing criteria.
- 61-63.8.13.1.3 Renumbered to 8.13.4.1.
- 61-63.8.13.1.3.1 Renumbered to 8.13.4.1.1.
- 61-63.8.13.1.3.2 Renumbered to 8.13.4.1.2.
- 61-63.8.13.1.3.3 Renumbered to 8.13.4.1.3.
- 61-63.8.13.1.3.4 Renumbered to 8.13.4.1.4.
- 61-63.8.13.1.3.5 Renumbered to 8.13.4.1.5.
- 61-63.8.13.2 Renumbered to 8.13.5 and additional references added.
- 61-63.8.13.6 New section added to clarify that these requirements do not apply to ECS's.
- 61-63.8.13.7 New section added to provide requirements for ECS's.
- 61-63.8.13.8 New section added to provide requirements for tritium neutron generator target sources.
- 61-63.8.17 Revision to eliminate an obsolete date.
- 61-63.8.27.3.1 Revision to allow an option to immediately abandon a well without prior Departmental approval.
- 61-63.8.27.4.9 New section added to require the licensee to justify in writing why it was necessary to immediately abandon a well without prior Departmental approval.
- 61-63.8.27.4.9 Renumbered to 8.27.4.10.

61-63.8.27.4.10 Renumbered to 8.27.4.11.

**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 November 26, 2002 at 10:00 a.m. in Room 103, 1st floor of the Heritage Building at the Department of Health and Environmental Control at 1777 St. Julian Place, Columbia, S.C. 29201.

Interested persons are also provided an opportunity to submit written comments to Pearce O'Kelley, Chief, Bureau of Radiological Health at South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. Written comments must be received no later than 4:00 p.m. November 26, 2002. Comments received by the deadline date will be considered in formulating the final proposed amendment for public hearing before the Board of Health and Environmental Control as noticed below. Comments received 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 Melinda Bradshaw at South Carolina Department of Health and Environmental Control, Bureau of Radiological Health, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 545-4400.

**Notice of Board Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 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 meeting on December 12, 2002, 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, 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 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 written comments on the proposed amendments by writing to Pearce O'Kelley, Chief, Bureau of Radiological Health, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 545-4400. Comments must be received no later than 4:00 p.m. on November 26, 2002. Comments received shall be considered by the staff in formulating the final proposed regulation for public hearing on December 12, 2002, as noticed above. Comments received by the deadline shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the proposed regulation for consideration at the public hearing before the Board may be obtained by contacting Melinda Bradshaw at South Carolina Department of Health and Environmental Control, Bureau of Radiological Health, 2600 Bull Street, Columbia, SC 29201 or by calling (803) 545-4400.

**Preliminary Fiscal Impact Statement:**

A preliminary fiscal impact statement is not required due to this revision being promulgated to comply with federal laws.

**Statement of Need and Reasonableness:**

## 64 PROPOSED REGULATIONS

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

DESCRIPTION OF REGULATION: R.61-63, Radioactive Materials (Title A)

Purpose: To amend Regulation 61-63 in accordance with changes to Federal Regulation 10 CFR Part 20, 30, 31, 32, 34, 36, and 39.

Legal Authority: This change to state law is authorized by S.C. Code Section 13-7-40 and required by Section 274 of the Atomic Energy Act, 40 U.S.C. Section 2021b.

Plan for Implementation: Existing staff of the Bureau of Radiological Health will implement these changes. The additional requirements are expected to require 30 man days of effort. Impact on other program areas will be slight.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AND EXPECTED BENEFIT: This regulatory amendment is exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because each change is necessary to maintain compatibility with Federal regulations. In amending the Federal regulations, the U.S. Nuclear Regulatory Commission found the following:

The proposed regulation provides new requirements for certain generally licensed industrial devices containing radioactive material.

The proposed regulation revises the criteria for respiratory protection and controls to restrict internal exposure.

The proposed regulation provides new criteria concerning dosimetry technology.

The proposed regulation provides for energy compensation sources for well logging and other regulatory clarifications for this part.

DETERMINATION OF COSTS AND BENEFITS: No additional cost will be incurred by the State or its political subdivisions by the implementation of this amendment. Existing staff and resources will be utilized to implement this amendment to the regulation. It is anticipated that the amendment will not create any significant additional cost to the regulated community based on the fact that the requirements or changes to the regulation will be substantially consistent with the current guidelines and review guidelines utilized by the Department.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: It is necessary to update existing regulations as changes occur at the federal level in order to maintain compatibility with the federal government and other Agreement States. This will ensure an effective regulatory program for radioactive material users under state jurisdiction, and protection of the public and workers from unnecessary exposure to ionizing radiation.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: None. Federal requirements will apply to all affected users. The proposed amendments eliminate possible duplicative or redundant requirements.

Instructions: Amend R.61-63 pursuant to each individual instruction provided with the text below:

**Text:**

**PROPOSED REGULATIONS 65**

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