

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2003 PUBLICATION SCHEDULE

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

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

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

REPRODUCING OFFICIAL DOCUMENTS

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

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

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

DOC No.	RAT FINAL No. ISSUE	SUBJECT	EXP. DATE	AGENCY
2821		Highway Patrol Wrecker Regulations	2-09-04	Department Public Safety
2816		Environmental Protection Fees	2-29-04	Department Health and Envir Control
2810		Fees, Liability Insurance Requirements	2-29-04	LLR: Elevator and Amusement Rides
2824		Environmental Protection Fees	2-29-04	Department of Health and Envir Control
2826		Machines	2-29-04	Department of Revenue
2815		Decisions on a permit, Environmental Protection Fees	2-29-04	Department of Health and Envir Control
2818		Elevator and Amusement Rides, Inspections	3-12-04	LLR: Elevator and Amusement Rides
2830		Subdivision Water Supply and Sewage Treatment/Disposal	3-22-04	Department of Health and Envir Control
2829		Residential Care Facility Administration	3-22-04	LLR: Board of Long Term Health Care Administrators
2828		Burglar Alarm Systems	3-22-04	LLR: Contractors' Licensing Board
2832		Business Enterprise Program	4-10-04	Commission for the Blind

COMMITTEE REQUESTED TO WITHDRAW (120 DAY REVIEW PERIOD TOLLED)

DOC No.	DATE	SUBJECT	AGENCY
2729	2-04-03	Fees	4-02-03 LLR: Board of Pharmacy
2822	3-26-03	General-Food Stamp Program	6-26-03 Department Social Services

RESOLUTION INTRODUCED TO DISAPPROVE (120 DAY REVIEW PERIOD TOLLED)

DOC No.	DATE	SUBJECT	AGENCY
2629	1-29-03	Specific Project Stds for Tidelands & Coastal Waters	1-31-03 Department of Health and Envir Control
2801	2-19-03	Individual Sewage Treatment and Disposal Systems	5-29-03 Department of Health and Envir Control
2800	4-02-03	Environmental Protection Fees	5-20-03 Department of Health and Envir Control
2753	5-08-03	LIFE Scholarship Program	5-13-03 Commission on Higher Education

WITHDRAWN:

DOC No.	DATE	SUBJECT	AGENCY
2823	5-14-03	S C. Patients' Compensation Fund	7-03-03 Department of Insurance

2 EXECUTIVE ORDERS

2003-26

WHEREAS, the Child Care Development Fund (CCDF) and Social Services Block Grant (SSBG) primarily support child and family services, particularly services provided to those on Temporary Assistance to Needy Families (TANF); and

WHEREAS, currently the Department of Health and Human Services (DHHS) administers both CCDF and SSBG despite the fact that the Department of Social Services (DSS) is the primary provider of these services and DSS also administers the TANF Block Grant which is the state welfare to work program, and other child and family services in South Carolina; and

WHEREAS, placing CCDF and SSBG at DSS is consistent with the statutory mission of DSS to “administer the public welfare activities and functions of the State . . . and administer any federal funds granted the State in the furtherance of the duties imposed,” and such placement furthers the statutory aim of DSS “to promote the unified development of welfare activities” in South Carolina; and

WHEREAS, transferring administration of CCDF and SSBG from DHHS to DSS will enhance the efficiencies of administering these federal programs and achieve cost-savings; and

WHEREAS, transferring CCDF and SSBG is consistent with the restructuring philosophy of placing programs together based on function rather than form, while also providing taxpayers with the highest quality services at the lowest possible cost through eliminating duplication and streamlining management.

NOW THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I hereby order the Directors of the Departments of Health and Human Services and Social Services to take all steps necessary to transfer administration of the Child Care Development Fund and the Social Services Block Grant Program from the South Carolina Department of Health and Human Services to the South Carolina Department of Social Services.

This Executive Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 17th DAY OF
NOVEMBER 2003.**

MARK SANFORD
Governor

2003-27

WHEREAS, the Grand Jurors of the United States District Court, District of South Carolina, Anderson Division, indicted Theodore Carroll Parker, Jr., a member of the Town Council of the Town of Honea Path, on November 18, 2003, for knowingly and willfully conspiring with others to defraud, exchange, transfer and deliver counterfeit Federal Reserve Notes with the intent that such counterfeit obligations be passed and used as true and genuine in violation of Title 18 United States Code, Sections 371, 472 and 473.

WHEREAS, South Carolina law recognizes that “an act in which fraud is an ingredient involves moral turpitude. . .” *State v. Horton*, 248 S.E.2d 263 (1978).

WHEREAS, the above-referenced charge is a crime of moral turpitude; and

WHEREAS, Theodore Carroll Parker, Jr., is an officer of the State or its political subdivisions; and

WHEREAS, Article VI, Section 8 of the South Carolina Constitution provides that "[a]ny officer of the State or its political subdivisions . . ., who has been indicted by a grand jury for a crime involving moral turpitude or who has waived such indictment if permitted by law may be suspended by the Governor until he shall have been acquitted. . ."

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby suspend Theodore Carroll Parker, Jr. from the office of Town Council of the Town of Honea Path. This suspension shall remain in effect until such time as he shall be formally acquitted or convicted.

This action in no manner addresses the question of the guilt or innocence of Mr. Parker and should not be construed as an expression of any opinion one way or another on such question.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 25th DAY OF NOVEMBER, 2003.**

MARK SANFORD
Governor

4 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Notice of Cancellation And Rescheduling of Public Hearing

State Register Document No. 2873, Proposed Amendment of R.61-62, *Definitions and General Requirements* of R.61-62, *Air Pollution Control Regulations and Standards*

The Department of Health and Environmental Control (Department) published a notice in the South Carolina State Register on October 24, 2003, of its intent to amend Regulation 61-62.1, *Definitions and General Requirements* of 61-62, *Air Pollution Control Regulations and Standards*. In that notice, the Department announced the date of December 11, 2003, for a public hearing before the Department of Health and Environmental Control Board concerning the proposed amendment. On November 28, 2003, the Department published another notice in the South Carolina State Register announcing the cancellation of the public hearing on December 11, 2003, and rescheduling the public hearing to January 8, 2004. The purpose of this notice is to again cancel the date and reschedule the public hearing to February 12, 2004.

The public hearing will be held at the regularly-scheduled Board meeting on February 12, 2004, in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearing on February 12, 2004, will be noticed in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. 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. Any comments made at the public hearing will be given consideration in formulating the final version of the regulations and the SIP revision. Questions concerning this notice should be addressed to Frank Cramer, Bureau of Air Quality at (803) 898-3218.

The text of the proposed amendment of R.61-62.1 can be viewed on the S.C. Legislature On-Line Internet site at <http://www.scstatehouse/net/regs/2873.doc>

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 December 26, 2003, 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 Charleston County

Development of a fixed Positron Emission Tomography/Computerized Tomography (PET/CT) service in a freestanding imaging center to operate three (3) days per week.

Charleston PET-CT Imaging Center, LLC

Charleston, South Carolina

Project cost: \$2,928,394

Affecting Greenville County

Temporary transfer of eighteen (18) nursing home beds that were recently approved by CON SC-03-71 from Roger Huntington Nursing Home to Greenville Memorial Hospital.

Greenville Hospital System

Greenville, South Carolina

Project Cost: \$0

Affecting Greenwood County

Construction of a fifteen (15) bed inpatient hospice facility.
 Hospice House of HospiceCare of the Piedmont, Inc.
 Greenwood, South Carolina
 Project Cost: \$3,622,354

Affecting Horry County

Construction for the addition of a 1.5T Magnetic Resonance Imaging (MRI) unit, a diagnostic cardiac catheterization unit, and renovation of the current recovery room, and discontinuance of the mobile MRI services upon project completion.
 Loris Community Hospital
 Loris, South Carolina
 Project Cost: \$4,207,223

Affecting Pickens County

Convert thirteen (13) nursing home beds to thirteen (13) general acute care beds for a total of one hundred nine (109) general acute care beds.
 Palmetto Baptist Medical Center-Easley
 Easley, South Carolina
 Project Cost: \$0

Affecting Richland County

Transfer of ownership of the Magnetic Resonance Imaging (MRI) unit previously approved by CON SC-03-42 from Palmetto Health Alliance to MRI Inc. of the Carolinas and installation of a 0.7T MRI.
 Palmetto Health Alliance Diagnostic Imaging Center
 Columbia, South Carolina
 Project Cost: \$1,297,418

Addition of eleven (11) general acute care beds for a total of two hundred fifty-eight (258) general acute care beds.
 Providence Hospital
 Columbia, South Carolina
 Project Cost: \$82,078

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 December 26, 2003. "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 Florence County

Construction of a four (4) floor addition to the existing facility, and renovation of the emergency department, with no change in the licensed bed capacity.
 Carolinas Hospital System
 Florence, South Carolina
 Project Cost: \$28,210,000

6 NOTICES

Affecting Sumter County

Provide mobile Positron Emission Tomography (PET) imaging services to Tuomey for one (1) day per week.
Tuomey
Sumter, South Carolina
Project Cost: \$299,000

Department of Health and Environmental Control Notice of Public Hearing and Opportunity for Public Comment on Proposed Designation of Capacity Use Area Pursuant to S.C. Code Section 49-5-60.

The South Carolina Department of Health and Environmental Control proposes the designation of Florence, Darlington, Marlboro, Dillon, Williamsburg, and Marion Counties as the Pee Dee Capacity Use Area. Interested persons are invited to make oral or written comments on the proposed capacity use area at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on February 12, 2004. 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. The Board's agenda will be published prior to 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 capacity use area by writing to Mr. David Baize at SCDHEC, Bureau of Water, 2600 Bull St., Columbia, SC, 29201. Written comments must be received no later than 5:00 p.m. on January 26, 2004. Comments received by the deadline date will be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

SCDHEC's technical report on groundwater conditions in the Pee Dee area is available on the Internet at <http://www.scdhec.net/water/pubs/pdrprt.pdf>. SCDHEC's Fact Sheet summarizing the groundwater conditions in the Pee Dee area and general information about the Capacity Use Program are available at <http://www.scdhec.net/water/pubs/pdfact.pdf>. In addition, a copy of the report and fact sheet may be obtained by contacting Ms. Gloria Lathan at 803 898-4267.

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 January 26, 2004 to:

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

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

Class I

Class II

O'Brien & Gere Companies
Pangean-CMD Associates, Inc.

8 DRAFTING

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. §§ 59-5-65 (Supp. 2002) and 59-65-90 (1990)

Notice of Drafting:

The State Department of Education proposes to draft amendments to Regulation 43-274, Student Attendance, addressing academic achievement along with time requirements. Interested persons may submit comments to Dr. Leonard McIntyre, Deputy Superintendent for Professional Development and School Quality, State Department of Education, 1429 Senate Street, Columbia, S.C. 29201. To be considered, comments must be received no later than January 26, 2004, the close of the drafting comment period.

Synopsis:

The amendment addresses the need for make-up programs for high school courses, which include the accountable for meeting the minimum number of hours required for diploma credits and to provide rigorous academic learning experiences for students. It will also align this regulation with the Uniform Grading system and develop a time line for make-up work.

Legislative review of this proposed regulation will be required.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110, et seq., 1-23-110, et seq., 38-90-10 et seq.

69-60. Captive Insurance Companies

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-60, Captive Insurance Companies. Interested persons should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than January 22, 2004.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-60 in order to conform with several recent pieces of legislation related to the formation, regulation and licensing of captive insurance companies.

The proposed regulation will require legislative review.

DEPARTMENT OF INSURANCE**CHAPTER 69**

Statutory Authority: 1976 Code Sections 38-3-110, et seq., 1-23-110, et seq., 38-43-106.

69-50. Continuing Insurance Education.

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-50, Continuing Insurance Education. Interested persons should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than January 22, 2004.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-50 in order to conform with recent changes with respect to continuing education requirements resulting from the enactment of the Producer Licensing legislation (Act 323 of 2002). The regulation establishes rules and standards which apply to continuing insurance education for individuals qualified or licensed to act as insurance producers in this State.

The proposed regulation will require legislative review.

DEPARTMENT OF INSURANCE**CHAPTER 69**

Statutory Authority: 1976 Code Sections 38-3-110, et seq., 1-23-110, et seq., 38-87-140 et seq.

69-65. Risk Retention Groups and Purchasing Groups

Notice of Drafting:

The South Carolina Department of Insurance proposes to create Regulation 69-65, Risk Retention Groups and Purchasing Groups. Interested persons should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, all comments must be received no later than January 22, 2004.

Synopsis:

The South Carolina Department of Insurance proposes to create Regulation 69-65 in order to provide additional structure to the regulatory framework established by Act No. 355 of 1988 with regard to the formation and operation of risk retention groups and purchasing groups in this State formed pursuant to the provisions of the Federal Liability Risk Retention Act of 1986 to the extent permitted by that law.

The proposed regulation will require legislative review.

10 DRAFTING

DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF NURSING

CHAPTER 91

Statutory Authority: 1976 Code Sections 40-1-70 and 40-33-270

Notice of Drafting:

The State Board of Nursing proposes Regulations 91-13.d. and 91-15.d. be amended to allow the nurse licensure examination to be repeated every forty-five (45) days instead of every three months, as currently provided. This change is consistent with a recent change in the testing procedure of the National Council of State Boards of Nursing, which administers the National Council Licensure Examination (NCLEX). Written comments can be submitted to Martha S. Bursinger, Administrator, South Carolina Board of Nursing, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The purpose of the amendments allows the nurse licensure examination to be repeated every forty-five days instead of every three months. The proposed regulation allows South Carolina applicants for licensure by examination to repeat the National Council Licensure Examination (NCLEX) at the earliest opportunity.

DEPARTMENT OF TRANSPORTATION

CHAPTER 63

Statutory Authority: 1976 Code Section 57-5-1650

Notice of Drafting:

The South Carolina Department of Transportation proposes to amend its regulations concerning contractor prequalification to provide for an Annual Evaluation Rating of all contractors doing construction work for the department. The new regulations will create a process whereby each contractor will be evaluated on its performance on each contract at the completion of the project or annually for multi-year contracts. Scores from the project evaluations will be used to determine the contractor's eligibility to bid on contracts in the future. Interested persons may submit comments to Ms. Deborah Brooks Durden, SCDOT, P.O. Box 191, Columbia, SC 29202-0191. To be considered, comments must be received no later than 5 p.m. on January 9, 2004 the close of the drafting comment period.

Synopsis:

The proposed regulation will provide for the following changes:

1. Provide for a performance evaluation of all prime contractors performing construction work for the department at the completion of each project and annually for multi-year contracts and the determination of a Contract Rating Score.
2. Provide for the weighting and averaging of the Contract Rating Scores to determine an Annual Evaluation Rating for each contractor.
3. Outline the procedures by which contractors will be notified of Annual Evaluation Rating Scores and provide for an appeal procedure.

4. Provide that only contractors with an Annual Evaluation Rating equal to or greater than the one assigned to a contract will be eligible to bid.

Legislative review of this proposal will be required.

12 PROPOSED REGULATIONS

Document No. 2889
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8
Statutory Authority: 1976 Code Section 6-9-63(E)

Preamble:

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

Section-by-Section Discussion

8-210.1 Purpose.

Adds language to clarify intent of the purpose for regulations to include Modular and Accessibility Acts.

8-215 Definitions

Updates language and rennumbers definitions.

Deletes definition of "Amendment." Existing definitions for "amendment" and "modification" have the same wording, yet only "modification" is used in referenced statutory section, therefore, only one definition is necessary.

Deletes definition of "Applicable Governing Body." Three phrases (Applicable Governing Body, Local Government, Local Jurisdiction) that define political subdivisions within the state currently exist in regulations. Only one definition is necessary and the most commonly used phrase is "Local Jurisdiction."

Deletes definition of "Local Government." Three phrases (Applicable Governing Body, Local Government, Local Jurisdiction) that define political subdivisions within the state currently exist in regulations. Only one definition is necessary and the most commonly used phrase is "Local Jurisdiction."

(1) Adds definition of "Accessibility Act" which is referenced by new regulatory language.

(2) Adds definition of "Accessibility Committee" which is referenced by new regulatory language.

(4) Updates definition of "Building Codes" to coincide with statutory language.

(5) Omits obsolete language and update definition of "Building Codes Act" to coincide with statutory language.

(6) Adds definition of "Building Code Cycle" which is referenced by new regulatory language.

(15) Adds definition of "Implementation Date" which is referenced by new regulatory language.

(16) Updates definition of "Local Enforcement Agency" to coincide with revised regulatory language.

(21) Adds definition of "Professional Association" which is referenced by new regulatory language.

(22) Adds definition of "Study Committee" which is referenced by new regulatory language.

8-220 Powers Duties, and Responsibilities of Council.

(A) Adds the language "the Accessibility Act" to include new duty delegated by statute.

(B) Adds the language "and professional associations" to coincide with new statutory authority and add the statutory reference.

(D) Omits obsolete language. Local jurisdictions no longer adopt building codes. Adds new subsection to address the maintenance and duties of the Accessibility Committee authorized and established by statutory amendment.

8-225 Duties and Responsibilities of Department.

(B) Adds the "Modular Act" and the "Accessibility Act" to the existing language to coincide with the statute and intent of the existing programs.

8-230 Council Officers.

- (A) Omit secretary as a Council officer. Obsolete.
- (B) Updates language.
- (C)(3) Omits duties of the secretary. Obsolete.
- (D) Updates language.
- (E) Updates language.

8-235 Council Meetings.

- (A) Adds language to establish a minimum of one meeting per building code cycle to review proposed code modifications to coincide with Building Codes Act.
- (B) Amends existing language to change minimum time for submittal of Council agenda items from “10 working days” to 14 calendar days” and to change the word “mailed” to “delivered” to allow for e-mail transmission of agendas.
- (D) Omits “recorded,” unnecessary word

8-236 Building Codes Adopted.

Relocates the section titled “Building Codes Adopted” from section 8-265.

- (A) New language states the responsibility of the Council to adopt building codes and references the statutory adoption process.
- (B) New language establishes the criteria to determine when inspections will be performed under a prior code, after the implementation of a later code.
- (C) Relocates existing language from section 8-265.
- (D) Relocates existing language from section 8-265 and changes the reference to the entity adopting the codes from local governments to the Council.
- (E) New language addresses the administrative chapters of the codes.

8-240 Building Codes Modification Procedure.

Changes “Amendment” to “Modification” in section title. Omits language in old subsection (B) in favor of new language in subsection (B)(2). Omits criteria for building code modifications in old subsection (C) in favor of updated criteria in new subsection (C). Relocates old subsection (E) to new subsection 8-240(B)(3). Relocates old subsection (G) to new subsection 8-240(B)(4).

- (A) Adds language acknowledging that local jurisdictions or professional associations may request code modifications and recognizing that code modifications may be either statewide or local.
- (B) Amends existing language to clarify the fact that local modifications only apply to the jurisdictions requesting them.
- (B)(2) Amends existing language to assure that the local governing body has approved local amendments that are submitted to Council.
- (B)(3) Relocates existing language from section 8-240(E).
- (B)(4) Adds new language to clarify the fact that local modifications can not take effect for a local jurisdiction until approved by Council.
- (B)(5) Adds new language to clarify the fact that local modifications can be reviewed by the Study Committee or be reviewed directly by Council.
- (C) through (G) Adds new language to establish the criteria and process for statewide modifications.
- (C)(4) Adds new language to require all statewide modifications for the building code cycle to be completed by the implementation date and to state the fact that the modifications are mandatory for all jurisdictions for as long as the codes are on effect.
- (H) Old subsection (D). Updates language.

8-245 Qualifications for Local Modifications to Building Codes.

Adds “Local Modifications” to the section heading too properly identify the modifications addressed in the section. Renumbers section.

- (A) Clarifies language.
- (B) Text remains same.
- (C) Updates language.

14 PROPOSED REGULATIONS

8-246 Study Committee.

(A) through (F) Adds new section to establish the criteria for the operation of the Code Study Committee in compliance with new language added to the Building Codes Act.

8-247 Public Notice.

Adds new section to establish the criteria for the public notice in compliance with new language added to the Building Codes Act.

8-248 Study Committee Meetings.

(A) through (F) Adds new section to establish the criteria for the meetings of the Code Study Committee in compliance with new language added to the Building Codes Act.

8-250 Energy Standards Variation Procedure.

(A) Text remains same.

(B) Text remains same.

(C) Updates language.

(D) Remains the same.

8-255 Energy Standards Appeal Procedure.

(A) Clarifies the areas in the state where the Council will decide appeals to the energy standards.

(B) Text remains same.

(C) Text remains same.

(D) Clarifies the proper route of appeal and effectiveness during appeal.

8-260. Administration of Modular Act.

Text remains same.

8-261 Administration of Accessibility Act.

Adds new section to include new responsibility for administration of the Accessibility Act as established by statutory amendment.

8-265 Building Codes Adopted.

Language relocated to Section 8-236.

8-270 Injunctive Relief.

(A) Text remains same.

(B) Text remains same.

(C) Text remains same.

(D) Clarifies language.

(E) Adds new subsection to refer to the Accessibility Act for injunctive relief for violation of the Accessibility Act.

8-275 Penalties.

(A) Text remains same.

(B) Text remains same.

(C) Text remains same.

(D) Adds new subsection to refer to the Accessibility Act for penalties for violation of the Accessibility Act.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Judge Division at 9:00 a.m. on Tuesday, February 17, 2004. Written comments may be directed to Gary F. Wiggins, Administrator, South Carolina Building Codes Council, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., February 3, 2004.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The Council is updating regulations to conform to recent statutory amendments to state laws governing the Board for Barrier Free Design and Building Codes Council and to clarify and update language in existing regulations.

Legal Authority: 1976 Code, 6-8-20.

Plan for Implementation: Amended regulations will take effect upon approval by General Assembly and upon publication in the State Register. LLR will notify local officials and licensees of the amended regulations and post the amended regulations on the agency's web site.

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

The proposed regulations will prevent conflict between existing regulations and newer legislation.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment. These regulations contribute to the Board's function of protecting public health in the state of South Carolina.

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 of this State if these regulations are not implemented.

STATEMENT OF RATIONALE:

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

16 PROPOSED 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. 2888
DEPARTMENT OF LABOR, LICENSING AND REGULATION
ENVIRONMENTAL CERTIFICATION BOARD
CHAPTER 51
Statutory Authority: 1976 Code 40-23-70, 40-23-305, and 40-1-70

Preamble:

The South Carolina Environmental Certification Board proposes to amend Regulations 51-1 through 51-16 to give effect to 2002 Act No. 185. Some provisions of the existing regulations are no longer necessary under the Act. Others required significant revision to reflect the policies of the Act.

Section-by-Section Discussion:

- R. 51-1. Recodified existing Reg. 51-3. Requires Well Driller or CPO/Spa application to be completed within 12 months of initial filing.
- R. 51-2. Recodified and revised existing Reg. 51-6. Deletes provisions now addressed in statute. Provides specific authorization for accommodations under Americans with Disabilities Act.
- R. 51-3. Recodified and revised existing Reg. 51-8. Removed provisions now addressed in statute. Amended language to achieve consistency with 2002 Act No. 185. Added time frame for notification of change in status of employment.
- R. 51-4. Recodified existing Reg. 51-9 and revised wording for consistency with 2002 Act. No. 185. Added time frame and reinstatement fee.
- R. 51-5. Recodified existing Reg. 51-10 and revised to include all classes of operators. Clarifies requirement for direct supervision of operators-in-training. Deletes references to Percolation Test Technicians and Well Drillers.
- R. 51-6. Recodified existing Reg. 51-12 and corrected citations to statutory authority and to fee caps.
- R. 51-7. Added definition for "direct supervision."

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Judge Division at 11:00 a.m. on Tuesday, February 17, 2004. Written comments may be directed to Dona Caldwell, Administrator, South Carolina Environmental Certification Board, Department of Labor, Licensing, and Regulation, P.O. Box 11409, Columbia, South Carolina 29211-1409, no later than 5:00 p.m., on Tuesday, February 3, 2004.

Preliminary Fiscal Impact Statement

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

Statement of Need and Reasonableness

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

DESCRIPTION OF REGULATION:

Purpose: To conform regulations of the Environmental Certification Board to be consistent with the requirements of 2002 Act No. 185.

Legal Authority: 1976 Code, Section 40-23-70, 40-23-305, and 40-1-70

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. All persons certified by the Environmental Certification Board will be notified. Additionally, Environmental Certification regulations are posted on the LLR web site.

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

The proposed regulation eliminates conflicts and simplifies the application and licensing process. It is procedural in nature.

DETERMINATION OF COSTS AND BENEFITS:

No costs or benefits will be accrued with this change.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no direct effect on the environment. This regulation contributes to the Board's function of protecting public health in South Carolina by simplifying the procedures for licensure.

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

There will be no direct detrimental effect on the environment and public of this State if this regulation is not implemented. However, the operators of various water and waste facilities will be subjected to unnecessary conflicts between statute and existing regulations.

STATEMENT OF RATIONALE:

There were no scientific or technical basis relied upon in developing the 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. 2890
DEPARTMENT OF LABOR, LICENSING AND REGULATION
MANUFACTURED HOUSING BOARD
CHAPTER 19

Statutory Authority: 1976 Code Section 40-29-10

Preamble:

The South Carolina Manufactured Housing Board proposes to amend current Regulation 19-425 to conform to the 2001 Act 61 Manufactured Housing Practice Act update.

Section by Section Discussion:

19-425.1. Definitions.

18 PROPOSED REGULATIONS

Deletes (F) Baling; Renumbered for accuracy.

19-425.2 License Classifications

Remains the same

19-425.3. License Application Requirements.

Adds A(11) regarding criminal background checks.

19-425.4. Financial Responsibility.

Changes credit “check” to credit “report” in (1)(b), (3)(a), and (4)(a); updates language in (3)(a), (4)(a) and (4)(b); Adds new (3)(d) regarding financial reports.

19-425.5 Bad Checks

Remains the same

19-425.6. License Renewal.

Changes “June” to “the end of the renewal period” in A(1); Adds C regarding criminal background checks.

19-425.7 Change of Business Name/ Address

Remains the same

19-425.8 Release of Surety Bond or Other Approved Security

Remains the same

19-425.9 Board authorized to Make Investigations and Deny, Suspend or Revoke License

Remains the same

19-425.10 Issuance of License after Denial or Revocation

Remains the same

19-425.11 Manufacturer

Remains the same

19-425.12 Retail Dealer.

Changes licensure requirements for dealers by deleting “more than five” and adding “three or” more; Deletes A(5); Changes C regarding authorized official for 20 days written notification should the official change; Deletes H and adds prohibited activity definition per §40-29-80(B)(C).

19-425.13 Records to be kept by Retail Dealer

Remains the same

19-425.14 Responsibility of Retail Dealer for Test Inspection and Other Items

Remains the same

19-425.15 Retail Dealer Sales Transactions

Remains the same

19-425.16 Handling of Funds

Remains the same

19-425.17 Contracts; Deposits and Down Payments; Rescission.

Changes the spelling error of “recision” to “rescission.”

19-425.18 Retail Dealer Supervision of Employees

Remains the same

19-425.19 Salesperson

Remains the same

19-425.20 Multi-Lot Salesperson

Remains the same

19-425.21. Installers.

Deletes D.

19-425.22 Repairers

Remains the same

19-425.23 Contractors

Remains the same

19-425.24 Installers, Repairers and Contractors

Remains the same

19-425.25 Standard of Conduct

Remains the same

19-425.26. Fees.

Changes examination fee from \$25 to \$50 in C; Increases licensing fees by 100 percent in D; Adds provision in E for half fees for renewals within the two year licensing period.

Manufactured Home Show Permits

Remains the same

19-425.28. Training.

Adds "retail dealers or salespersons" to A; deletes C; Adds G(4) through (6) regarding retail dealers, retail salespersons, and multi-lot salespersons.

19-425.29. Examinations.

Rewords for clarity and adds provision on Service Providers in A; Deletes A(1) through (5), B and B(1) and rennumbers B as previous B(2).

19-425.30. Failure of Examination.

Rewords for clarity and adds mandatory training class for applicants who have difficulty passing the exam.

19-425.31 Complaints and Hearings

Change "will" to "may"

19-425.32 Complaints from Other than Consumers

Remains the same

19-425.33 Hearing Examiner

Remains the same

19-425.34 State Administrative Agency (SAA) Handling of Consumer Complaints.

Remains the same

20 PROPOSED REGULATIONS

Increase of Surety Bond or Other Approved Security Requirements.
Remains the same

19-425.36 Reduction of Surety Bond or Other Approved Security Requirements.
Remains the same

19-425.37 Claims against Surety Bond or Other Approved Security.
Remains the same

19-425.38 Inspections.
Remains the same

19-425.39 Injunction
Remains the same

19-425.40 National Manufactured Housing Construction and Safety Standards.
Remains the same

19-425.41 National Manufactured Housing Construction and Safety Regulations
Remains the same

19-425.42. Manufactured Home Installation Requirements.
Rewords A for clarity; Adds provisions regarding used homes.

19-425.43 Used Manufactured Home Minimum Habitability Requirements.
Remains the same

19-425.44. Retail Managers; Finance Managers.
Remains the same

Appendices
Remains the same

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Judge Division at 1:00 p.m. on Tuesday, February 17, 2004. Written comments may be directed to David F. Bennett, Administrator, South Carolina Manufactured Housing Board, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Tuesday, February 3, 2004.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The Board is updating regulations to conform to the 2001, Act 61 Manufactured Housing Practice Act and to clarify existing regulations. The proposed changes include updated procedures.

Legal Authority: 1976 Code, 40-29-10

Plan for Implementation: The amended regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the amended regulations and post the amended regulations on the agency's web site.

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

The proposed regulations prevent conflicts between existing regulations and newer legislation. These changes will aid licensees in understanding their responsibilities to the public under current law.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment. These regulations contribute to the Board's function of protecting public health in the state of South Carolina.

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 of this state if these regulations are not implemented.

STATEMENT OF RATIONALE:

There was no scientific or technical basis relied upon in the development of these 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. 2891
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS
CHAPTER 81

Statutory Authority: 1976 Code Section 40-47-20, 40-1-70

Preamble:

The South Carolina Board of Medical Examiners proposes to adopt a new Regulation, 81-95, to establish continued competency options for licensed physicians in this state.

Section by Section Discussion:

22 PROPOSED REGULATIONS

81-95 Continued Competency

- A. Provides that a new licensee's compliance with requirements for initial licensure is acceptable for the first biennial renewal period.
- B. Provides that active licenses must document compliance with at least one of the five options during the renewal period.
- C. Provides that licensees seeking reinstatement from lapsed or inactive status of less than four years must document compliance with at least one of five options during the preceding two years.
- D. Provides that licensees seeking reinstatement for lapsed or inactive status of more than four years must document compliance with at least one of four options.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Judge Division at 3:00 p.m. on Tuesday, February 17, 2004. Written comments may be directed to John D. Volmer, Administrator, South Carolina Board of Medical Examiners, Department of Labor, Licensing, and Regulation, Post Office Box 11289, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., on Tuesday, February 3, 2004.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The Board proposes to adopt a regulation to establish continued competency options for licensed physicians.

Legal Authority: 1976 Code, 40-47-20

Plan for Implementation: The proposed regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensed physicians of the proposed regulation and post the regulation on the agency's web site.

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

The proposed regulation will establish continued competency options for licensed physicians. Periodic demonstration of continued competency provides assurance of current medical knowledge and proficiency of individual practitioners.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment. This regulation contributes to the Board's function of protecting public health in the state of South Carolina.

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 of this State if this regulation is not implemented.

STATEMENT OF RATIONALE:

There was no scientific or technical basis relied upon in the development of this 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. 2886
DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA BOARD OF PILOTAGE COMMISSION
CHAPTER 136
Statutory Authority: 1976 Code Section 54-15-140

R.136-013. Pilot and Apprentice Age Limitations and 136-030. Pilot Registration

Preamble:

The South Carolina Board of Pilotage Commission proposes to amend Regulation 136-013 to reflect the Pilot and Apprentice Age Limitations and 136-030 Pilot Registration.

Section-by-Section Discussion:

R.136-013 Pilot and Apprentice Age Limitation amends age limitations.

R.136-030 (D) Pilot Registration amends requirements for physical fitness examinations.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Judge Division at 10:00 a.m. on Monday, February 2, 2004. Written comments may be directed to Randy Bryant, Administrator, South Carolina Pilotage Commission Board, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., on Monday, January 19, 2004.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

24 PROPOSED REGULATIONS

DESCRIPTION OF REGULATION:

Purpose: The regulations place specific age limits on registrants. Recognizing advancements in medicine and physical fitness since promulgation of the existing regulations, the Commission proposes to allow pilots older than the age of 65 to keep their licenses. To assure public safety, older pilots will have additional age requirements on submission of physical fitness results before registration is allowed.

Legal Authority: 1976 Code, Section 54-15-140

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Commission will notify all licensed pilots.

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

The proposed regulation will comply with accepted standards.

DETERMINATION OF COSTS AND BENEFITS:

No costs or benefits will be accrued with this change.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment. This regulation contributes to the Board's function of protecting public health in the state of South Carolina.

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 of this State if this regulation is not implemented.

STATEMENT OF RATIONALE:

There was no scientific or technical basis relied upon in the development of this regulation. Updating these requirements will conform to established standards without compromising public safety.

Text:

136-013. Pilot and Apprentice Age Limitations.

The required physical rigors and necessary stamina render service as a pilot at Charleston to be such that no pilot seventy years or older will be registered.

136-30. Pilot Registration.

D. Every pilot being registered shall submit evidence that he or she has satisfactorily passed the thorough physical examination required pursuant to 46 CFR 10.709. In addition, every pilot age 65 or older shall submit specific evidence of his or her fitness to perform pilot duties with special attention and certification relative to visual acuity, hearing, heart and vascular, and musculoskeletal systems.

Document No. 2887

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
RESIDENTIAL BUILDERS COMMISSION
CHAPTER 106**

Statutory Authority: 1976 Code Section 40-1-70, 40-59-70, 40-59-610, and 40-59-220.

Preamble:

Act 359 of 2002 amended the Residential Builders Practice Act (Sections 40-59-5, et seq. of the 1976 Code, as amended). Therefore, the regulations must be updated to conform to the new Practice Act. This proposed regulation repeals the former regulations and replaces them with the amended versions consistent with 2002 Act 359.

Section by Section Discussion:

106-1. Licensing of Residential Builders.

Repeal. Covered in Practice Act amendments (Act 359 of 2002).

106-2. Registration of Specialty Contractors.

Repeal. Covered in Practice Act amendments (Act 359 of 2002).

106-3. Classification of Specialty Contractors.

Renumber as 106-1; Amended to include new classification for Stucco Installers established in Act 359 of 2002, and to update definition of Heating and Air Conditioning Installers and Repairers. Amends definition of Masons to exclude non-structural concrete work from scope of specialty.

106-4. Examinations.

Repeal; Renumber as 106-2 and rename title of section. Insert new provisions to license certain residential specialty contractors after examination.

106-5. Initial Fees.

Renumber as 106-3. Reflects current fees for services; collects fee references in one section.

106-6. License Renewals.

Repeal. Covered in Practice Act amendments (Act 359 of 2002).

106-7. Disciplinary Actions.

Repeal. Covered in Practice Act amendments (Act 359 of 2002).

106-8. Reissuance of License or Registration.

Repeal. Covered in Practice Act amendments (Act 359 of 2002).

106-15. Qualifications and Fees for Home Inspectors.

Renumber as 106-4 and rename title of section. Text in (A) and (B) remains the same, however the fees paragraph (C) has been moved to the new 106-3. Reflects current fees for services to home inspectors.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Judge Division at 2:00 p.m. on Monday, February 2, 2004. Written comments may be directed to Charles W. McAlister, Administrator, South Carolina Residential Builders

26 PROPOSED REGULATIONS

Commission, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Monday, January 19, 2004.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The Board is updating regulations to conform to the Practice Act (2002 Act 359) and clarify existing regulations. Proposed changes include a new residential specialty contractor classification for Stucco Installers and a license provision for certain residential specialty contractors after examination. Initial fees for services provided by the Residential Builders Commission are established, consistent with current fees.

Legal Authority: 1976 Code, 40-1-70, 40-59-70, 40-59-610, and 40-59-220

Plan for Implementation: The new regulations will take effect upon approval by the General Assembly and upon publication in the State Register, except for R.106-4, which will become effective July 1, 2004. LLR will notify licensed operators of the regulations and post the regulations on the agency's web site.

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

The proposed regulations will prevent conflict between existing regulations and newer legislation. These changes will aid the licensees in understanding their responsibilities to the public.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment. These regulations contribute to the Board's function of protecting public safety in the state of South Carolina.

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 of this State if these regulations are not implemented.

STATEMENT OF RATIONALE:

There was no scientific or technical basis relied upon in the development of these 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. 2885
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123

Statutory Authority: 1976 Code Sections 50-11-105, 50-11-310, 50-11-520, 50-11-530, 50-11-2200 and 50-11-2210

Preamble:

The South Carolina Department of Natural Resources is proposing to amend the existing regulations which sets seasons, bag limits and methods of hunting and taking of wildlife and establish a new regulation related to chronic wasting disease in deer. The following is a section by section summary of the proposed changes and additions:

(D) Game Zone 4 – adds new WMA (Worth Mountain) with quality deer management antler criteria and moves two quail hunting days on Draper WMA later in the small game season to eliminate overlap with rabbit hunts.

(E) Enoree River Waterfowl Area – removes Enoree River Waterfowl Area from access closure to allow deer hunting within the area.

(V) Sand Hills State Forest WMA – prohibits man-drives and buckshot for deer hunting.

(UU) Wee Tee WMA – adds new WMA.

4.1 – adds definition of an antler “point”.

10.16 – adds Hickory Top Greentree Reservoir.

123-51 – adds additional turkey hunting areas and removes the Sunday hunting restriction in Game Zone 4.

123-54 – new regulation dealing with chronic wasting disease carcass importation.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted on January 16, 2004, at 9:30 am at the Drummond Center, Lake Greenwood State Park, Ninety-Six, SC. Written comments may be directed to William S. McTeer, Deputy Director, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Fiscal Impact Statement:

This amendment of Regulation 123.40 will result in increased public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government. There is no cost associated with the implementation of Regulation 123-54. The regulation is for the purpose of protecting the State’s white-tailed deer resource from CWD. The economics associated with deer hunting in South Carolina are approximately \$200 million in annual retail sales. CWD has caused significant

28 PROPOSED REGULATIONS

impact to the economics associated with deer hunting in states where the disease has been detected. If CWD is introduced into South Carolina significant economic damage could result.

Statement of Rational:

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

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow additional opportunity. Regulation 123-54 is needed to prevent the possible spread of CWD into South Carolina. Certain states have deer and elk populations infected with CWD and hunters from South Carolina travel to these states to hunt. Hunters may bring harvested animals from states with CWD into South Carolina, which may expose native deer and/or habitats to the CWD agent.

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

1. DESCRIPTION OF THE REGULATION:

Purpose: These regulations amend Chapter 123-40 and 123-51 in order to set seasons, bag limits and methods of hunting and taking of wildlife on existing and additional Wildlife Management Areas. These regulations add Chapter 123-54 Chronic Wasting Disease import regulations.

Legal Authority: Under Sections 50-11-2200 and 50-11-2210 of the S.C. Code of Laws, the Department of Natural Resources has jurisdiction over all Wildlife Management Areas to establish open and closed seasons, bag limits, and methods of taking wildlife; special use restrictions related to hunting and methods for taking wildlife on Department-owned Wildlife Management Areas. SC Code Section 50-11-105 authorizes the department to promulgate regulations to prevent and control the spread of disease in wildlife, including restrictions on the movements of wildlife carcasses.

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

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

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

3. DETERMINATION OF COSTS AND BENEFITS:

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

9. UNCERTAINTIES OF ESTIMATES:

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

10. EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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

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

No detrimental impact on public health or the environment will occur if this proposed WMA regulations are not implemented. Failure to implement this regulation will prevent positive benefits to public. The failure to implement regulation 123-54 could potentially allow the introduction of chronic wasting disease into South Carolina deer herds. Chronic wasting disease can cause significant mortality in deer herds.

Summary of Preliminary Assessment Report:

The proposed regulation does not require an assessment report.

Text

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

Document No. 2884

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: 1976 Code Sections 43-1-80 and 20-7-2980 et seq.

114-500. Child Care Centers Licensing Regulations

Preamble:

The child care regulations have been completely revised and amended to enhance the standards of care for children. The purpose of these regulations is to establish standards that protect the health, safety and well being of children receiving care in child care facilities, through the formulation, application and enforcement of these regulations. These regulations include lowered child: staff ratios, as well as limits on group size. Previously, group size was not limited in the regulations.

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Section-by-Section Discussion

114.501 General Provisions.

A. Purpose. New text added to the general provision introductory paragraph to indicate the purpose of the regulation.

B. Applicability. New section has been added to incorporate Section 20-7-2700 from the Child Day Care Licensing Law.

C. Accessibility. New text added to comply with the Americans with Disabilities Act.

114.501 Definitions.

- (1) Applicant. Added to define who can apply for a child care center.
- (2) Approval. Added to clarify type of permit.
- (3) Blood Borne Pathogens. Item added to definition to clarify medical biohazard.
- (4) Center Director. Item revised to add language that would clarify responsibility.
- (5) Center Co-Director. Item added to included provision of compliance when Center Director or Co-director is away from center.
- (6) Center Director Designee. Item added to exempt center co-director.
- (7) Central Registry of Child Abuse and Neglect. Item added to clarify requirements of the Child Day Care Licensing Law.
- (8) Child. Item added from the law to clarify the age range for participants in child care center.
- (9) Child Care Center. Item added from the law to clarify type of facility addressed in these regulations.
- (10) Complaint. Item added from law to clarify what a complaint means as it relates to Child Care Centers.
- (11) Complete Application. Item added to clarify requirement and timeframe.
- (12) Department. Item added to identify agency.
- (13) Emergency Person. Item revised to include age and compliance.
- (14) Group Size. Item added to clearly define new term for compliance with ratios.
- (15) Infant. Item added to define ages.
- (16) License. Item added from the law to define type of permit.
- (17) Owner. Item added from the law to clarify responsible entity.
- (18) Parent. Item revised to include adoptive parents and to clarify definition of parent.
- (19) Preschool Child. Item added to establish ages.
- (20) Provisional approval. Item added from the law to define type of temporary permit.
- (21) Provisional license. Item added from the law to define type of temporary permit.
- (22) Regular approval. Item added from the law to define permit with no deficiencies.
- (23) Regular license. Item added from the law to define permit with no deficiencies.
- (24) Renewal. Item revised to simplify definition.
- (25) Revocation. Item added from the law to clarify term for voiding a permit.
- (26) School-aged Child. Item added to define ages.
- (27) Sex Offender Registry. Item added to explain process department uses to check sex offenders.
- (28) Staff. Item revised to words that will clearly define type of positions that constitute employees.
- (29) Staff: Child Ratio. Item added to define employee to number of participants in child care center.
- (30) Student Teacher. Added to define college student that will serve in an internship capacity and to include requirements.
- (31) Student Volunteer. Item added to define students that assist with duties in child care center to include provision of compliance.
- (32) Supervision. The existing item was revised to strengthen the supervision requirement.
- (33) Teacher/Caregiver. Item added to include duties of teacher/caregiver.
- (34) Toddler. Item added to define ages.
- (35) Two year old. Item added to establish age level.
- (36) Volunteer. Item revised to clarify requirements and role.

114.502 Procedures.

A. Licensing/Approvals.

- (1) Text revised to instruct applicant where to return application.
- (3) Text revised to add word arrange and to clarify requirements.

(5) Text revised to include explanation of the specific items and form that will assist in processing a license or approval permit.

(9) (b) Text revised to improve the sentence.

(10) Text modified to clarify that General Counsel instead of circuit solicitor should be sought to request an injunction.

C. Inspection and Consultation.

(3) Text added to include provision of compliance.

(4) New text added to include provision of compliance.

114.503 Management, Administration, and Staffing.

A. Display of License/Approval.

(2) Text added due to Bill 199.

B. Capacity.

(2) Text revised to include provision for providers to accept children when a facility closes for a period of time due to a natural disaster.

D. Reporting of Incidents. Section revised to include provisions for compliance on what should be reported.

E. Death of a Child. New section added to provide specific procedures for providers in the event a death occurs.

F. Parent Access and Communication.

Sections (1) through (4) revised to clearly define parent access and communication with providers to safeguard children.

G. Child Records.

Items (1) through (4) added to include provision for information required.

(7) Item added to specify information needed when children are away from center.

(8) Item added to ensure provision of compliance on up-to-date information.

H. Staff records shall include the following:

(2) Text revised to define types of policies.

I. Confidentiality and Applicable Laws and Regulations. This section was added to include provision pertaining to confidentiality of children.

J. Communication. This section was added to combine regulation for easy access.

K. Staffing.

(2) Background Criminal History Checks. New section added from the law to provide specific provision for compliance on criminal history.

(3) (b) Section added to include requirement of director responsible.

(c) Text revised to include center co-director.

(i) Text revised to include specific qualification for center directors.

(iii) Text revised to include specific qualifications.

(iv) Text revised to clarify accredited institution.

(4) Caregivers/Teachers. Word added to include language used by child care providers.

(a) (ii) Text revised to clarify requirements to include specific provision for caregivers/teachers.

(iv) Text added to include specific education requirement for caregivers/teachers.

(c) Text revised to include appropriate guidelines and timeframe when there is a break in service.

(5) (a) Text items added to include specific internal training.

(b) Text revised to include specific training requirements in accordance with the South Carolina Child Care Training System.

(c) Text revised to include specific training requirements in accordance with the South Carolina Child Care Training System and OSHA.

(d) Text added to include provision for staff development when centers care for children with special needs.

(g) Text revised to ensure that first aid and CPR is of a recognized health organization.

11.504 Supervision.

Section revised to clarify requirements for supervision of children in child care setting.

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B. through D. Ratios and Group Size. Sections have been revised to include ratios and group size compliance with National Health and Safety Performance Standards for out-of-home child care.

D. Water Safety Staffing.

(2) Text revised to include DHEC requirement of proper certificate.

114.505 Health, Sanitation and Safety.

A. Child Health.

(1) Text revised to include provision for compliance with health requirements.

(2) Text added to include provision for compliances with DHEC.

B. Sanitation. Section added to clarify requirements from DHEC.

C. Emergency Medical Plan. Section added to clarify emergency procedures.

D. Medications or Medical Procedures. Sections (1) through (4) added to revise and combine information on medication compliance.

F. Diapering.

(1) Text revised to clarify compliance.

(2) Text reworded for clarity.

(3) Text added to comply with sanitation requirements.

(6) Amount revised per DHEC requirements.

(15) Text revised to clearly define timeframe for changing soiled diaper and clothing.

G. Staff Health.

(1) (b) Text revised to clarify compliance for staff working directly with children.

(4) Text combined and revised to clarify requirements on hand washing for staff.

(5) Text added to include provision for compliance with DHEC.

H. Fire Safety and Emergency Preparedness.

(2) Text revised to include specific provision for compliance when natural disaster or unscheduled closing occurs.

I. Transportation. Section revised to include provision for compliance to safeguard children who use transportation services provided by the center. Items were added to ensure compliance with state and federal laws.

114.506 Program.

A. Program of Activities.

(1) Text revised to make it easier to read.

(2) Text revised to make it easier to read.

(6) Word added to specify type of communication.

(7) Language added to include current technology devices.

(8) Text revised to include all children and to make it easier to read.

(9) Text revised to make it easier to read.

B. Discipline and Behavior Management.

(2) Text revised to combine for easy reading and clarity.

(3) Text revised for easy reading and clarity.

(4) Language revised for clarity.

(6) Text added to include provision for compliance with corporal punishment.

(7) Text revised to clarify requirements.

114.507 Physical Site.

A. Indoor Space and Conditions.

(2) Ventilation. Section revised to combine and clarify requirements in accordance with DHEC.

(4) Lighting. Section revised to combine lighting requirement.

(5) Environmental Hazards.

(a) Sentence added per DHEC regulations.

(b) Text revised to specify items that are hazardous to children.

(d) Text revised to clarify requirements.

(f) Text revised to clarify compliance to safeguard children when construction and cleaning are in progress.

(g) (i) Item added to clearly define items that can cause strangulation.

(ii) Item added to clearly define items that can cause suffocation.

(iii) Text revised per DHEC requirement.

(6) Water.

(b) Text revised per DHEC requirement.

(b) Text revised per DHEC to provide range for hot water.

(d) Text revised to include provision for compliance to specify availability and type of equipment that cannot be used.

(7) Temperature.

(b) Text added to include provision for compliance during summer season.

(8) Sanitation.

(a) Text revised to clarify requirement.

(e) Text revised to make sentence easier to read and to clarify requirements.

(f) Text revised to make sentence easier to read and to clarify requirements.

(g) Text added to include provision for compliance with outside receptacles to prevent insect and rodents from penetrating the area.

(h) Text revised to comply with local health and sanitation standards.

(i) Text added to prevent the spread of harmful germs.

(9) Doors.

(a) Text revised to include specific requirements for gates that are used to block off areas.

(10) Landings, Stairs, Handrails, and Railings.

Section 10 (a) through (e) added to clarify requirements that would prevent injuries.

(12) Bathrooms.

(a) Text revised to only include children that are trained to use toilets.

(d) Text revised to include hot water pressure per DHEC requirement.

(e) Text revised to clarify and to make easier to read.

(f) Text added to include provision for preschool and school age children.

(i) Text revised for easier reading and to include type of soap that can be used.

D. Rest Equipment. Section revised to clarify requirements and to make it easier to read.

E. Environmental Hazards. Sections (1) through (4) combined and revised for clarify.

114.508 Meal Requirements; Food Preparation and Serving; Storage and Protection of Food Supplies, Utensils and Equipment.

A. Meal Requirements.

(1) (a) Text revised per DHEC regulations.

(b) Text revised to correct time.

(e) Text revised due to changes in USDA guidelines on reconstituted milk.

(4) Text revised to include all food and to make it easier to read.

(5) Word added per DHEC.

B. Food Preparation.

(1) Sentence added per DHEC requirement.

(4) Wording added per DHEC requirement.

(5) Wording added per DHEC requirement.

(7) (a) Text added per DHEC requirement.

(d) Wording added per DHEC requirement.

(10) Items combined for easier reading.

D. Storage.

(3) Text revised to include DHEC current requirement.

(6) Wording added per DHEC requirement.

E. Cleaning, Storage, and Handling of Utensils and Equipment.

(7) (d) Wording added per DHEC requirement.

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114.509 Infant and Toddler Care, Care for Mildly Ill Children, and Night Care.

A. Infant and Toddler Care.

Sections (1) through (6) revised to comply with National Health and Safety Performance Standards.

B. Care for Mildly Ill Children. Section revised for easier reading and to include requirements from DHEC.

C. Night Care. Section combined to reduce time locating overnight care. Existing texts were revised for easier reading and clarification of requirements.

Notice of Public Hearing and Opportunity for Public Comment:

Written comments may be submitted to Rose Mary McGregor, Assistant General Counsel at the State Department of Social Services, P.O. Box 1520, Columbia, South Carolina, 29202. The public hearing before the Administrative Law Judge Division is set for Tuesday, February 17, 2004 at 10:00 AM at 1205 Pendleton Street, Suite 224, Columbia, SC.

Preliminary Fiscal Impact Statement:

The Department of Social Services estimates the costs incurred by the State and its political subdivisions in complying with the proposed regulation will be minimal. The cost to child care providers to comply with the proposed regulations is unable to be determined because that type of data is not kept currently at the agency. Although some costs will be incurred by providers, it is hoped that those costs can be minimized and grants to assist providers in meeting the new requirements may be available.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Child Care Licensing Regulations

Purpose of Regulation: The purpose of these regulations is to establish standards that protect the health, safety and well being of children receiving care in child care facilities, through the formulation, application and enforcement of these regulations.

Legal Authority: 1976 Code Sections 43-1-80 and 20-7-2980 et seq

Plan for Implementation: The agency will implement the regulations with existing staff and resources.

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

Section 20-7-2980 © states: The department shall conduct a comprehensive review of its licensing and approval regulations and family day care home suggested standards at least once each three years. The regulations have not been revised in ten years. A statewide child care task force recommended reducing child: staff ratios and placing limits on group size. These recommendations were considered and adopted by the Child Care Advisory Committee within these new regulations.

DETERMINATION OF COSTS AND BENEFITS:

Childcare providers may experience some costs associated with coming into compliance with these regulations. Every step will be taken to insure that costs are minimized while maintaining health and safety for children.

UNCERTAINTIES OF ESTIMATES:

The agency does not capture the type of data needed to quantify the costs that may be incurred by the implementation of these regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations are designed to enhance the safety and well being of children in child care settings.

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

Research shows that lower child: staff ratios and limiting group size benefits children and provides a more homelike environment. Our current regulations are some of the most minimal in the nation.

36 EMERGENCY REGULATIONS

Filed: November 26, 2003, 10:35 am

Document No. 2895
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Section 50-11-105

Emergency Situation:

Chronic wasting disease (CWD) is a neurological disease of deer and elk and poses an unprecedented threat to North America's deer and elk populations. The disease invariably is fatal. It has a long incubation time, during which animals may not exhibit symptoms, and there is no diagnostic test for the disease in live animals. Should CWD be introduced into South Carolina, it poses significant risk to the white-tailed deer resource, the deer hunting, and the State's economy related to deer hunting. This regulation places restrictions on the importation of the whole carcass or carcass parts of cervids from a state or province with a documented occurrence of CWD. The regulation is necessary to prevent the possible spread of CWD into South Carolina. South Carolina Code Section 50-11-105 authorizes the department to promulgate regulations to prevent and control the spread of disease in wildlife, including restrictions on the movements of wildlife carcasses. Deer and elk seasons in states and provinces with documented cases of CWD will open in September 2003, and hunters from South Carolina may travel to these infected states to hunt deer and elk. Therefore, in order to protect the State's white-tailed deer resource, this emergency regulation is necessary. Since hunting seasons extend until January 1, 2004 or later in some states, it is necessary to re-file these regulations as emergency.

123-54 Chronic Wasting Disease Carcass Importation Regulations

Section 1. Definitions.

- (1) "Cervid" means a member of the family Cervidae.
- (2) "Chronic wasting disease (CWD)" means a fatal neurological disease of cervids belonging to a group of diseases called transmissible spongiform encephalopathies.
- (3) "Clean" means having no meat or other tissues attached to the carcass part.
- (4) "Infected state" means a state of the United States or province of Canada that has a known case of chronic wasting disease.
- (5) "Importation" means the transportation of a cervid carcass or carcass part into this State.
- (6) "Whole" means the entire carcass whether eviscerated or not, prior to the carcass being processed.

Section 2. Prohibition on the Importation and Possession of a Whole Cervid Carcass or Carcass Part from an Infected State.

- (1) No person may import or possess a whole cervid carcass or carcass part from an infected state unless the carcass or part has been converted as specified in subsections (2) or (3) of this section.
- (2) A person may import a cervid carcass or a carcass part from an infected state if:
 - (a) Quarters or other portions of meat have no part of the spinal column or head attached; or
 - (b) Meat has been boned out.
- (3) A person may import or possess the following inedible parts of a cervid carcass from an infected state:

- (a) Antlers;
- (b) Antlers that are attached to a clean skull plate;
- (c) A clean skull;
- (d) Clean upper canine teeth;
- (e) A finished taxidermy product; or
- (f) The hide.

Section 3. Penalty

The penalty for a violation of this regulation shall be as provided in Section 50-1-130.

Statement of Need and Reasonableness:

This emergency regulation is needed to prevent the possible spread of CWD into South Carolina. Certain states have deer and elk populations infected with CWD and hunters from South Carolina travel to these states to hunt. Hunters may bring harvested animals from states with CWD into South Carolina, which may expose native deer and/or habitats to the CWD agent. Because deer and elk seasons in infected states may begin in September, these regulations must be filed as emergency regulations so they take effect immediately.

Fiscal Impact Statement:

There is no cost associated with the implementation of this regulation. The regulation is for the purpose of protecting the State's white-tailed deer resource from CWD. The economics associated with deer hunting in South Carolina are approximately \$200 million in annual retail sales. CWD has caused significant impact to the economics associated with deer hunting in states where the disease has been detected. If CWD is introduced into South Carolina significant economic damage could result.

Filed: November 26, 2003, 10:35 am

Document No. 2894
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123
 Statutory Authority: 50-11-10; 50-11-2200

Emergency Situation:

These emergency regulations establish the dove seasons and dove limits statewide and establish seasons, limits and special restrictions for dove hunting on Dove Management Areas. Because the dove season extends until January 17, 2004 it is necessary to re-file these emergency regulations.

WILDLIFE MANAGEMENT AREA PUBLIC DOVE FIELDS 2003-04

Dove Management Area Regulations: The following fields are open on a first-come basis, unless otherwise stated below. The number of hunters may be restricted on some fields. A Wildlife Management Area permit is required for all fields. Fields are open only as shown below. Please consider the other hunters as well as the landowners whose cooperation makes these fields possible. Signs will be placed along roads directing hunters to the fields.

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All federal and state laws apply. Fields are open only on days and times indicated. Fields denoted by an asterisk (*) require hunters to sign in (not before 12:00 noon) and sign out on opening-day hunts. Fields denoted by a double asterisk (**) require hunters to sign in (not before 12:00 noon) and sign out on ALL hunts. No species other than mourning doves may be hunted during scheduled dove hunts.

Season Dates: September 1 - October 4 (Sept 1-6 Afternoons only)
November 22- November 29 -- December 19 - January 15

Bag Limit: 12 doves per day

The following special regulations apply to all Wildlife Management Area Public Dove Fields: No entry onto fields before 12:00 noon. Hunters are limited to 50 shells per hunt. Fields will close at 6:00 p.m. during the first segment of the season (September 1 – October 4).

ABBEVILLE

U.S. Forest Service, Parson Mountain WMA

5 mi. east of Abbeville on SC-72, ¼ mile south on Bass Rd., 20 acres. Special Youth Hunt on Sept. 1 (see Youth Hunt List for details). 1st season – Saturdays Only beginning Sept. 13, Afternoons only. 2nd and 3rd season – Open Mon – Sat (864) 223-2731

ANDERSON

Evans Property, US 178 at Lebanon, 25 acres. Sept. 1 & Saturdays Only, Afternoons Only, Dove Hunting Only. Opening day participants will be selected by drawing August 19 at Clemson DNR Office. Call (864) 654-1671 for details

ANDERSON

Clemson University - Fant's Grove WMA, From US 76/ SC 28 south of Clemson Take SC 187 to Fant's Grove Rd. 1.5 miles W, 45 acres. Sept. 1 & Saturdays Only, Afternoons Only. (864) 654-1671

****BERKELEY**

U.S. Army Corps of Engineers - Canal WMA (Above Powerhouse) From St. Stephen Take SC 45 west for 1.5 miles or continue to County Rd 35. Go Left about .3 miles, 60 acres. Sept 6, 20; Oct. 4; Nov. 22- Afternoons Only. Dove & Pigeon Hunting Only. (843) 825-3387.

****BERKELEY**

U.S. Army Corps of Engineers - Canal WMA (Below Powerhouse) From St. Stephen Take SC 45 E for 2.5 miles Turn Left on Paved Road, 40 acres. Sept 6, 20; Oct. 4; Nov. 22; Afternoons Only. Dove & Pigeon Hunting Only. (843) 825-3387

***CHESTER**

Chester County Airport Commission, 4.3 miles north of Chester on Sec Rd 1. Turn Right on Guy Rd. (dirt). Go about 1.2 miles Turn Right at Gate to Parking Area, 20 acres. Sept. 1 & Saturdays Only, Afternoons Only, Dove Hunting Only. (864) 427-4771

***CHESTER**

U.S. Forest Service - Worthy Bottoms, 10 miles west of Chester on SC 9, Left on Sec Rd 535, Turn Right on Worthy's Ferry Rd. 30 acres. 1st season - Sept. 1 & Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon – Sat. Afternoons Only All 3 seasons (864) 427-9858, (864) 427-4771

***CHESTERFIELD**

Taylor Property, 1.8 miles north of McBee on US 1, Left on SC 145 for 11.8 miles, Right on Sec Rd 29 for .6 miles. 40 acres

Sept. 1 & Saturdays Only, Afternoons Only. Dove Hunting Only. (864) 427-4771

***CHESTERFIELD**

DNR - McBee Tract

4 miles west of McBee on US 1, Left (South) on Sec Rd 296 for about 2 miles, Field on Left, 20 acres Planted.

1st season – Sept. 1 & Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon – Sat. Afternoons Only

All 3 seasons . (864) 427-4771

***CHESTERFIELD**

SC Forestry Commission - Sand Hills State Forest, Wilkes Chapel Field, From Sand Hills Forest Headquarters on US 1, Go south on truck trail 141 for 1.3 miles, Right on Sec Rd 29 for .2 miles, Field on Right, 54 acres. 1st season – Sept. 1 & Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon – Sat. Afternoons Only All 3 seasons. (843) 498-6478, (864) 427-4771

***CHESTERFIELD**

SC Forestry Commission - Sand Hills State Forest, Patrick Field, South on SC 102 from Patrick approx. 1 mile to gate on right. 30 acres. 1st season – Wednesdays. 2nd & 3rd seasons open Mon – Sat. Afternoons Only All 3

Seasons. (843) 498-6478 or

(864) 427-4771

****CLARENDON**

Santee Cooper – Santee Dam WMA, From the south end of SC 260 follow gravel road at Base of dam for approx. 5 mi., 137 acres.

Sept. 13, 27. Field may be closed - call before coming. (843) 825-3387 - Dove Hunting Only

****CLARENDON**

SC Forestry Commission Oak Lea WMA. From Summerton take SC 26 west for 2 mi. Go north on SC 41 for approx 5 mi. Field on right. Sept. 6, 13; Oct. 4; Nov. 29; Jan. 3. (843) 825-3387. Dove Hunting Only

****COLLETON**

DNR - Bear Island WMA, About 17 miles southeast of Green Pond on Sec Rd 26, 100 acres. 1st season - noon to 6 PM, 2nd season - noon to Sunset Sept 3, 17 & 24; Nov 29. (843) 844-8957

****COLLETON**

DNR - Donnelley WMA, From US 17 E of Green Pond, Go southeast on Sec Rd 26 4 miles, Turn Right at Donnelley WMA Sign, Field 2 miles on Right, 100 acres. Sept 3, 10, & 24; Nov 29; Dec 20; Jan. 7 & 14. Afternoons only. (843) 844-8957

EDGEFIELD/ MCCORMICK

U.S. Forest Service - Forks WMA, 1 mile east of SC 28 on Sec Rd 112 near Furey's Ferry, 22 acres. 1st season – Sept. 1 & Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon-Sat. (864) 223-2731

***FAIRFIELD**

Ridgeway Mining Co., 4.5 miles E of Ridgeway on SC 34, Right on dirt road for 0.5 miles, 28 acres. Sept. 1 & Saturdays Only, Afternoons Only. (864) 427-4771

GEORGETOWN

DNR Samworth WMA, 15 miles north of Georgetown off US 701, Follow Signs, 65 acres. Saturdays, Afternoons Only, Dove Hunting Only. (843) 546-9489

GREENWOOD

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U.S. Forest Service - Parsons Mountain WMA, 2 fields – ½ mile south of Cedar Springs Church on Sec. Rd. 112, 30 acres, & near Fell Hunt Camp, 15 acres. 1st season – Sept. 1 & Saturdays only, afternoons only. 2nd and 3rd season - Mon-Sat. (864) 223-2731

HAMPTON

DNR - Webb Wildlife Center, 3 miles west of Garnett on Augusta Stage Coach Rd., 100 acres. Sept 3 & 20, Oct. 4, Nov. 26, Dec. 20, Jan 3 & 14 Afternoons Only. (803) 625-3569

HORRY

DNR - Waccamaw River Heritage Preserve, Schultz Tract, From Stephens Crossroads on SC 9, Turn north on Sec Rd 57 & Proceed 2.2 miles, Left on Sec Rd 111 & Proceed 2 miles, Left on Oscar Rd., Bear Left & Then Right to Field Entrance, 32 acres. Sept. 1 & Saturdays only, afternoons only. (843) 546-9489, (843) 248-6013

KERSHAW

Landfill, 5 miles north of Camden on US 1, Right on Sec Rd 489 for 1 mile, Right on Sec Rd 331 for .1 mile, Left at Gate under Power Line, 25 acres. Sept. 1 & Saturdays Only, Afternoons Only. Dove Hunting Only. (864) 427-4771

***LAURENS**

DNR - Gray Court Tract

8 miles north of Laurens on SC 14, Right on tar & gravel road for .2 miles, Right on dirt road for .1 mile, 12 acres. 1st season –Sept. 1 & Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon – Sat. Afternoons Only All 3 seasons - (864) 427-4771

LEE

Atkinson Property, From 1-20, Go 2.7 miles southeast on SC 341 to Wisacky, Go 0.9 miles west on Cooper= Mill Rd. To Mt. Zion AME Church. Go 3.7 miles south on Dog Island Rd. Field on both sides of road. From US 401, Go 1.1 miles northwest on Dog Island Rd., 70 acres. Sept. 1 & Wednesdays beginning Sept. 10, Afternoons only. Dove Hunting Only. (843) 661-4768

MARLBORO

DNR - Lake Wallace WMA, northwest of Lake Wallace on Sec Rd 47 Bennettsville, Beauty Spot Rd., 50 acres. Saturdays, Afternoons Only. Closed Labor Day. Dove Hunting Only. (843) 661-4768, (843) 479-3312

MCCORMICK

U.S. Army Corps of Engineers - Clarks Hill WMA Waterfowl Area, 2.5 miles south of Bordeaux on Sec Rd 110, 40 acres

Sept 1 & 24; Nov 26, Jan 14 only, afternoons only. (864) 223-2731

MCCORMICK

U.S. Army Corps of Engineers - Clarks Hill WMA, 3 miles south of Willington on Sec Rd 135, 2 miles southwest on Forest Service Rd. 563F, 25 acres. 1st season – Wednesdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon - Sat. (864) 223-2731

MCCORMICK

U.S. Army Corps of Engineers - Key Bridge WMA, 2 miles west of Plum Branch on Sec Rd 57, 30 acres. 1st season –Sept. 1 & Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon-Sat. (864) 223-2731

NEWBERRY

International Paper Company, From Intersection of Hwy 56 & 39 near Chappells, Go 1 mile northwest on Hwy 39 & Turn Left on gravel road at Sign, 20 acres. 1st season – Sept. 1 & Saturdays Only, Afternoons Only. 2nd & 3rd seasons Open Mon-Sat.

Afternoons Only All 3 seasons . (864) 427-4771

NEWBERRY

U.S. Forest Service, 10 miles north of Newberry on SC 121, Turn Right on Forest Service Rd 490, Go 1 mile., Field at end of road on Left, 22 acres. 1st season - Sept. 6, 13, 20, 27 & Oct. 4. 2nd & 3rd seasons Open Mon-Sat. Afternoons Only -All 3 seasons. (803) 276-4810, (864) 427-4771

NEWBERRY

SCE&G, From Newberry take SC Hwy 395 South approx. 12 miles and field is on right. 30 acres planted in clearcut. Open only Nov. 22, Nov. 29, Dec. 20, Dec. 27, Jan. 3, Jan. 10. Afternoons only. (864) 427-4771.

OCONEE

S.C. Forestry Commission - Piedmont Nursery, From SC 130 north of Salem Turn Left on SC 11 & follow signs to nursery, 18 acres

Sept. 1 & Saturdays Only, Afternoons Only. Dove hunting only -- 3rd season – Closed. (864) 654-1671

OCONEE

U.S. Forest Service - Ross Mtn. Field, About 7 miles north of Walhalla on SC 28, Turn on Tunneltown Rd., Turn on Ross Mtn. Rd, Field on Both Sides of road, 35 acres. Saturdays, Afternoons Only, Beginning Sept 6. (864) 654-1671

****ORANGEBURG**

Santee Cooper - Santee Cooper WMA, .5 miles northeast of Eutaw Springs, 70 acres. Entire WMA under Dove Area Regulations.

Sept 6, 13; Oct. 4; Nov. 29. Afternoons Only. Dove Hunting Only. (843) 825-3387

PICKENS

Crescent Resources, From Seneca Take SC 130 north to SC 183, Turn Right on SC 183. Go about 1.5 miles to Gated road, Field on Left, 20 acres. 1st season - Sept 1, 6, 13, 20, 27. 2nd & 3rd seasons - Open Mon -Sat Afternoons Only
(864) 654-1671

PICKENS

DNR Property, South of Pickens off Sec Rd 304 near SC Highway Dept. Bldg., 40 acres. Sept. 1 & Saturdays Only, Afternoons Only.
(864) 654-1671

PICKENS

Clemson University - Gravely WMA - Causey Tract, From SC 11 Go south on Sec Rd 112 at Cendy's Store, Turn east on Sec Rd 114 & Go 0.5 miles; 25 acres. Sept. 1 & Saturdays Only, Afternoons Only. (864) 654-1671

PICKENS

Porter Field, 183 from Pickens, Go 5 miles to Mtn. View Church Rd. Right 1/10 miles, Field on Right. Opens Sept. 6, Saturdays - Afternoons Only. 1st & 2nd seasons Only. (864) 654-1671

SALUDA

S.C. Electric and Gas, Murray WMA, 12 mi. N of Saluda on SC-121, 1 mi. E on Tostie Creek Rd., 40 acres. 1st season – Sept. 1 & Saturdays Only. Afternoons Only. 2nd & 3rd seasons – Mon.-Sat. (864) 223-2731

***SPARTANBURG**

Jones Property, From Intersection of Hwy 9 & 11, Go north on Hwy 9 for 2.7 miles, Turn Right on Wooden Bridge Rd, Go 0.6 miles, Field on Left. 15 acres. Sept. 1 & Saturdays, Afternoons Only. Dove Hunting Only. (864) 427-4771

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***SPARTANBURG**

Santee Cooper, From intersection of US 176 & West Main St. (Sec. Rd. 227) approx. 2.5 miles W. of Pacolet, go 0.1 mile east on West Main St. and turn left on Goldmine Rd. (Sec. Rd. 108) for 4.3 miles then turn right on Hatchet Dr. Field at end of road. 15 acres.

Sept. 1 and Saturdays, Afternoons Only. (864) 427-4771

SUMTER

S.C. Forestry Commission - Manchester State Forest, Field locations posted at Forestry Headquarters, Batten's at SC 261 & SC 763 in Wedgefield, or Shop-N-Go on SC 120, the Pinewood Rd., multiple fields, 150 acres. 1st season - Wed or Sat Afternoons (Designated Fields). 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest). (803) 494-8196, (843) 661-4768

***UNION**

DNR Thurmond Tract, 4.3 miles North on SC9 from the intersection of SC 9 and SC 49 at Lockhart. Field is on left. 15 acres.

1st season – Sept. 1 & Saturdays Only, Afternoons Only. 2nd & 3rd seasons open Mon – Sat. Afternoons Only All 3 Seasons.

(864) 427-4771.

UNION

U.S. Forest Service, 3 miles E of Cross Keys on Sec Rd 18 at Intersection of Sec Rd 80 near Sedalia , 15 acres.

1st season - Sept 6, 13, 20, 27 & Oct. 4. 2nd & 3rd seasons - Open Mon - Sat. Afternoons Only All 3 seasons.

(864) 427-4771, (864) 427-9858

***YORK**

DNR - Draper Tract, 3.5 miles E of McConnell on SC 322, Turn Right on Sec Rd 165, Go .5 miles, Turn Right, Two 30 acres Fields.

1st season – Sept. 1 & Saturdays Only, Afternoons Only. 2nd & 3rd seasons Open Mon - Sat. Afternoons Only All 3 seasons.

Opening day participants selected by drawing. Apply in writing by Aug 18 to DNR, 124 Wildlife Drive, Union, SC, 29379. Limited space available. Call (864) 427-4771

YORK

York County – Worth Mountain WMA, From Hickory Grove at the intersection of SC Hwy 97 and SC Hwy 211, take Hwy 211 South approx. 4 miles and turn right on Scenic View Rd, go .75 miles and field is on right. 25 acres planted. Open only Nov. 22, Nov. 29, Dec. 20, Dec. 27, Jan. 3, Jan. 10. Afternoons only. (864) 427-4771.

SPECIAL YOUTH HUNTS

Eligibility for these hunts requires adults 21 years or older to bring 1 or 2 youths 5 to 15 years of age. The following regulations also apply on Special Youth Dove Hunts: (1) Adults may actively participate in hunting, but adults may not shoot while accompanying youths are shooting. Adult's gun must be unloaded when accompanying youth is shooting; youths' guns must be unloaded when adult is shooting. (2) Bag limit is 12 birds per youth participant. Birds harvested by adult hunters will count towards this bag limit. Birds harvested by individual hunters must be kept separate, and in no instance may an individual hunter harvest more than 12 birds.

ABBEVILLE YOUTH HUNT

U.S. Forest Service – Parson Mountain WMA, Sept. 1. Limited space available.

Call (864) 223-2731) beginning August 11 to pre-register

****CLARENDON YOUTH HUNT**

Oak Lea WMA, Summerton take SC 26 west for 2 mi. Go north on SC 41 for approx. 5 mi. Field on right. Sept. 1.

For information, call (843) 825-3387. No pre-registration required. Dove Hunting Only

NEWBERRY YOUTH HUNT

U.S. Forest Service near Whitmire. September 1. Participants selected by drawing. Apply in writing or call by Aug 20 to USFS, 20 Work Center Rd, Whitmire, SC 29178-9710. Limited space available. (803) 276-4810

OCONEE YOUTH HUNT

U.S. Forest Service, Ross Mtn. Field. September 1. Participants selected by drawing. Apply by Aug. 19 to DNR, 153 Hopewell Rd., Pendleton, SC 29670. Limited Space Available. For application, call (864) 654-1671 ext. 24

PICKENS YOUTH HUNT

Porter Field -- Sept 1. Participants selected by drawing. Apply by Aug. 19 to DNR, 153 Hopewell Rd., Pendleton, SC 29670

Limited Space Available . For application, call (864) 654-1671 ext. 24

SUMTER YOUTH HUNT

Manchester State Forest near Wedgefield. September 1. Limited space available. Call (843) 546-9489 beginning August 13 but prior to August 22 for field location and to pre-register.

UNION YOUTH HUNT

U.S. Forest Service near Sedalia. September 1 . Participants selected by drawing. Apply in writing or call by Aug 20 to DNR, 124 Wildlife Dr., Union, SC 29379. Limited space available. (864) 427-4771

YORK YOUTH HUNT

DNR Draper WMA. September 1 . Participants selected by drawing. Apply in writing or call by Aug 20 to DNR, 124 Wildlife Dr. Union, SC 29379. Limited Space Available. (864) 427-4771

Statement of Need and Reasonableness:

Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on new WMAs as well as expanding use opportunities on existing WMAs. Since the availability of specific fields changes each year and season dates changed as allowed by Federal Regulation it is necessary to file Dove Field regulations annually. Because these hunts begin on September 1, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

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

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Filed: November 26, 2003, 10:35 am

Document No. 2892
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Section 50-11-2200 and 50-11-2210

Emergency Situation:

This amended regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas. Amendments are needed to allow a special deer herd reduction hunt on Croft State Park. Because the hunting season extends until January 1, 2004 it is necessary to re-file these regulations as emergency.

123-40 Hunt Units and Wildlife Management Area Regulations

1.2 (X) Croft State Park WMA

Archery Only Deer Hunts	September 17-18 September 24-25	3 Deer Per Day, either-sex Max. 1 antlered buck per day
Archery-Crossbow Deer Hunts	October 15-16 November 12-13	3 Deer Per Day, either-sex Max.1 antlered buck per day

Hunt Procedure/ Special Rules and Regulations

1. All hunters are required to check-in and obtain a daily permit at the checkpoint at the Shop near the main gate each day of the hunt period. On or prior to opening day of each hunt period, all hunters must report to the checkpoint to check-in and present their hunting license for a daily permit. The check point will be open on the day of the hunt approximately 2 hours before official sunrise and the day before each hunt period from 3:00 pm to 8:00 pm.
2. All hunters must leave their hunt area immediately after dark and must report to the checkpoint to checkout no later than one hour after official sunset. Failure to checkout in a timely manner will result in a citation. Those persons needing to return to the hunt area to look for a wounded deer or to retrieve a dead deer must notify PRT or DNR personnel at that time.
3. Scouting is allowed during normal park hours and days prior to each hunt period.
4. Parking is allowed only on park property inside the property boundaries and along roads inside the interior portion of the park. The daily hunt permit must be displayed on the dash of all vehicles parked on state park property. A parking area will be provided near the old ammo dump just off Dairy Ridge Road but parking is not allowed along Dairy Ridge Road. Do not park where a gate is being blocked. See map for designated parking areas.
5. Portable stands may be placed one day prior to your scheduled hunt and must be removed no later than one day following each hunt period. Screw-in steps must be removed and no permanent spikes or nails are allowed.
6. Only archery equipment will be permitted during September hunts. Crossbows will not be allowed during the September hunts unless a person has an upper limb disability and has complied with all legal requirements (Section 50-11-565) to utilize a crossbow. Archery equipment or crossbows will be permitted during the October and November hunts. Hunters are allowed to carry only one type of equipment at a time.
7. Hunters must wear either a hat, coat or vest of international orange during all hunts except while occupying an elevated stand more than six feet above the surface level.
8. Hunters may use boats with electric trolling motors only to enhance hunter access. Running lights and all other safety equipment are required.

9. The use of a trail dog on a leash will be allowed for the recovery of wounded deer from 11:00 am to 3:00 pm and after dark. You must notify PRT or DNR before a dog is utilized.
10. Hunters will not be allowed to use ATV's.
11. Camping is available at Croft State Natural Area. Reservations for individuals (2 nights minimum) can be made in advance.
12. The daily bag limit is 3 deer per day including no more than one antlered buck.
13. Field dressing of deer is allowed in the woods but entrails should not be left closer than 200 yards from any road, trail or facility. Hunters should not attempt to dig in the ground to bury entrails because of safety concerns regarding buried ordnance (See safety requirements sheet). Field dressing of deer will not be allowed at the check station near the Shop.
14. All harvested deer must be promptly brought to the deer check station at the Shop near the main gate.
15. Firearms or alcoholic beverages are not allowed within the park.
16. All State Parks, Recreation and Tourism (PRT) and all Wildlife Management Area (WMA) rules and regulations apply.
17. All appropriate hunting licenses including a valid WMA Permit and Big Game Permit are required.

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow a special deer herd reduction hunt on Croft State Park. Because the hunts begin on September 17, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

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

Filed: November 26, 2003, 10:35 am

Document No. 2893
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123

Statutory Authority: 1976 Code Sections 50-11-310, 50-11-2200 and 50-11-2210

Emergency Situation:

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Number 123-40. These regulations set open and closed seasons, bag limits, and methods of taking wildlife; define special use restrictions related to hunting and methods for taking wildlife on Department-owned Wildlife Management Areas. Because the hunting seasons extend until March 1, 2004 on these areas, it is necessary to re-file these regulations as emergency.

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HUNTING IN WILDLIFE MANAGEMENT AREAS

123-40. Wildlife Management Area Regulations.

1.1 The following regulations amend South Carolina Department of Natural Resources regulation Numbers 123-40.

1.2. The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking wildlife, and bag limits for Wildlife Management Areas are as follows:

(D) Game Zone 4

Fairforest, Enoree, Carlisle, Broad River, Dutchman, Wateree and Worth Mountain WMA's (add "Worth Mountain")

No more than 5 bucks total may be taken during all seasons combined, regardless of method (archery, muzzleloader, gun). Worth Mountain WMA Quality Deer Management Area: Bucks must have a minimum 4 points on one side or a minimum 12-inch antler spread.

(E) Broad River Waterfowl Management Area (Remove "Enoree River")

(V) Sand Hills State Forest WMA

Hunting by the general public closed during scheduled field trials on the Sand Hills State Forest Special Field Trial Area. Hunting allowed during permitted field trials on the Sand Hills State Forest Special Field Trial Area in compliance with R.123-96. No man-drives allowed. No buckshot allowed.

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

DESIGNATED WATERFOWL AREAS

Hickory Top Greentree Reservoir	Closed to waterfowl hunting
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Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow additional opportunity. Because some hunts begin on September 1, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

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

Filed: November 26, 2003, 10:35 am

Document No. 2896

DEPARTMENT OF NATURAL RESOURCES**CHAPTER 123**

Statutory Authority: 1976 Code Section 50-11-2200 and 50-11-2210

Emergency Situation:

This amended regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas. Amendments are needed to allow a special deer herd reduction hunt on Santee State Park. Because the hunt season extends until January 1, 2004 it is necessary to re-file these regulations as emergency.

123-40 Hunt Units and Wildlife Management Area Regulations**1.2 (Y) Santee State Park WMA**

Archery-Crossbow Deer Hunts	September 23-24	3 Deer Per Day, either-sex
	October 14-15	Maximum 1 buck per day
	November 4-5	
	November 18-19	
	December 5-6	
	December 16-17	

Hunt Procedure/ Special Rules and Regulations

1. All hunters are required to check-in and obtain a daily permit at the checkpoint at the park shop near the park crossroads each day of the hunt period. On or prior to opening day of each hunt period, all hunters must report to the checkpoint to check-in and present their hunting license for a daily permit. The checkpoint will be open on the day of the hunt approximately 2 hours before official sunrise and the day before each hunt period from 3:00PM to 4:00PM.
2. All hunters must leave their hunt area immediately after dark and must report to the checkpoint to checkout no later than one hour after official sunset. Failure to check-out in a timely manner will result in a citation. Those persons needing to return to the hunt area to look for a wounded deer or to retrieve a dead deer must notify PRT or DNR personnel at that time.
3. Scouting is allowed during normal park hours and days prior to each hunt period.
4. Parking is allowed only on park property inside the property boundaries and along roads inside the interior portion of the park. The daily hunt permit must be displayed on the dash of all vehicles when parked on state park property. Do not park where a gate or road would be blocked. Designated parking areas will be shown on the hunt map.
5. Portable stands may be placed no earlier than Saturday before a scheduled Tuesday hunt date or no earlier than Tuesday for a scheduled Friday hunt date. All stands must be removed no later than one day following each hunt period. Screw-in steps must be removed and no permanent spikes or nails are allowed. Only one stand per hunter allowed.
6. Only archery or crossbow equipment will be allowed. Only one weapon per person is allowed.

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7. Crossbows can not be cocked and loaded until after the hunter is in their stand. The weapon must be uncocked and unloaded before the hunter leaves his stand and remain this way until placed in the vehicle.
8. Hunters must wear a hat, coat or vest of solid international orange during all hunts except while occupying an elevated stand more than six feet above the surface level.
9. Hunters may use bicycles to enhance hunter access.
10. Access by boats is not allowed.
11. Hunters will not be allowed to use ATV's.
12. The use of a trail dog on a leash will be allowed for the recovery of wounded deer from 11:00AM to 3:00PM and after dark. You must notify PRT or DNR before a dog is used. This can be done when you check in to begin your hunt.
13. Camping is available at Santee State Park Reservations for individuals (2 nights minimum) can be made in advance.
14. The daily bag limit is 3 deer per day including no more than one antlered buck.
15. Field dressing of deer will not be allowed in the woods. An area near the checkpoint will be provided for field dressing of deer.
16. All harvested deer must be promptly brought to the check station at the park shop.
17. Firearms or alcoholic beverages are not allowed within the park.
18. All State Parks, Recreation and Tourism (PRT) and all Wildlife Management Area (WMA) rules and regulations apply.
19. All appropriate hunting licenses including a valid WMA Permit and Big Game Permit are required.

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow a special deer herd reduction hunt on Santee State Park. Because the hunts begin on September 23, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

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

Document No. 2869
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: S. C. Code Ann. Section 59-65-90 (1990) and 20 U.S.C. 7165 (2001)

43-273. Transfers and Withdrawals

Synopsis:

In accordance with federal legislation, the No Child Left Behind Act (NCLB), 20 U.S.C. 7165 (2001), South Carolina must provide an assurance that a procedure is in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local school districts to public or private schools upon enrollment of a student.

The Notice of Drafting was published in the *State Register* on September 26, 2003.

Section-by-Section Discussion

The following sentence will be added to two sections of the regulation “Schools must transfer student disciplinary records of suspensions and expulsions to the public or private school to which the student is transferring.”

Instructions: Amend in its entirety R 43-273, to Chapter 43 regulations.

Text:

43-273. Transfers and Withdrawals.

Kindergarten; Grades 1-6; 7-8:

Transfer of Students

Each student transferring shall be given a transfer form showing name, date of birth, grade placement, and attendance record to present to the principal of the school where he or she is enrolling. Appropriate additional data shall be furnished by the school on request.

School must transfer a student’s disciplinary record of suspensions and expulsions to the public or private school to which the student is transferring.

Grades 9-12:

Transfer of Students

1. Accurate accounting records shall be developed and maintained for student transfers and withdrawals. Comprehensive transcripts shall be submitted directly to the receiving school. A permanent record of the transferred student shall be retained in the school from which the student is transferred. School must transfer a student’s disciplinary record of suspensions and expulsions to the public or private school to which the student is transferring.

2. Units earned by a student in an accredited high school of this state or in a school of another state which is accredited under the regulations of the board of education of that state, or the appropriate regional accrediting agency (New England Association of Colleges and Schools, Middle States Association of Colleges and Schools, Southern Association of Colleges and Schools, North Central Association of Colleges and Schools, Western

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Association of Colleges and Schools, and the Northwest Association of Colleges and Schools), will be accepted under the same value which would apply to students in the school to which they transferred.

3. If a student transfers from a school, which is not accredited, he or she shall be given tests to evaluate prior academic work and/or be given a tentative assignment in classes for a probationary period.

Preliminary Fiscal Impact Statement: The Department of Education anticipates there will be no additional cost to the State or its political subdivisions.

Document No. 2858

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 48-1-10 et seq. and 48-14-10 et seq.

R.61-9 Water Pollution Control Permits

Preamble:

The Department is amending Regulation 61-9 to incorporate Federal Concentrated Animal Feeding Operation (CAFO) discharge permit regulations promulgated at 40 CFR 122. The requirement for South Carolina to include equivalent regulations is stated at 40 CFR 123.25 and 36. See the Discussion of the Revisions below and the Statement of Need and Reasonableness herein. The amendments are being promulgated to maintain consistency with federal regulations. Neither a preliminary fiscal impact statement nor an assessment report is applicable.

A Notice of Drafting for this amendment was published in the State Register on June 27, 2003. No public comments were received from the notice. Notice of Proposed Regulation was published in the State Register September 26, 2003. No comment was received in response to the second notice. The amendments do not require legislative approval.

Discussion of Revisions:

<u>Section</u>	<u>Change</u>
122.21(a)(1)	Add a sentence to the paragraph adding requirements for a concentrated animal feeding operation (CAFO) to apply for an NPDES permit.
122.21(i)(1)(i) - (x)	Remove existing text and replace with new requirements for NPDES applications for CAFO.
122.23(a) - (h)	Remove existing text and replace with new requirements related to NPDES permits for CAFO. This language also replaces existing Appendix B of R.61-9.122.
122.28(b)(2)(ii)	Add a sentence to the paragraph adding the requirement that a Notice of Intent to be covered (NOI) by a general NPDES permit for a concentrated animal feeding operation (CAFO) include information specified in the regulation.
122.42(e)	Add a new item stating general requirements (as compared to the specific requirements included in Federal effluent limitations guidelines) which must be included in NPDES permits for CAFO.

122 Appendix B Remove and reserve the entire Appendix, which is replaced by new requirements in 122.23, 28, and 42.

Instructions: Amend R.61-9 pursuant to each individual instruction provided with the text of the amendment below.

Text of Amendments:

Change the item in 61-9.122 Table of Contents to read:

APPENDIX B - [Reserved.]

Revise item 122.21(a)(1) to read as follows:

(1) Any person who discharges or proposes to discharge pollutants or who owns or operates a "sludge-only facility" whose sewage sludge use or disposal practice is regulated by R.61-9.503 and who does not have an effective permit, except persons covered by general permits under section 122.28, excluded under section 122.3, or a user of a privately owned treatment works, unless the Department requires otherwise under section 122.44(m), must submit a complete application to the Department in accordance with this section and R.61-9.124. All concentrated animal feeding operations have a duty to seek coverage under an NPDES permit, as described in section 122.23(d).

Revise item 122.21(i)(1) to read as follows:

- (1) For concentrated animal feeding operations:
 - (i) The name of the owner or operator;
 - (ii) The facility location and mailing addresses;
 - (iii) Latitude and longitude of the production area (entrance to production area);
 - (iv) A topographic map of the geographic area in which the CAFO is located showing the specific location of the production area, in lieu of the requirements of paragraph (f)(7) of this section;
 - (v) Specific information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
 - (vi) The type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, under-floor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons);
 - (vii) The total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;
 - (viii) Estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons);
 - (ix) Estimated amounts of manure, litter, and process wastewater transferred to other persons per year (tons/gallons); and

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(x) For CAFO that must seek coverage under a permit after December 31, 2006, certification that a nutrient management plan has been completed and will be implemented upon the date of permit coverage.

Revise section 122.23 to read as follows:

122.23 Concentrated animal feeding operations.

(a) Permit requirement for CAFO. Concentrated animal feeding operations, as defined in paragraph (b) of this section, are point sources that require NPDES permits for discharges or potential discharges. Once an operation is defined as a CAFO, the NPDES requirements for CAFO apply with respect to all animals in confinement at the operation and all manure, litter, and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

(b) Definitions applicable to this section:

(1) "Animal feeding operation (AFO)" means a lot or facility (other than an aquatic animal production facility)

(i) where the following conditions are met:

(A) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period and

(B) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(ii) Two or more AFO under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

(2) "Concentrated animal feeding operation (CAFO)" means an AFO that is defined as a Large CAFO or as a Medium CAFO by the terms of this paragraph, or that is designated as a CAFO in accordance with paragraph (c) of this section.

(3) The term "land application area" means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.

(4) "Large concentrated animal feeding operation (Large CAFO)". An AFO is defined as a Large CAFO if it stables or confines as many as or more than the numbers of animals specified in any of the following categories:

(i) 700 mature dairy cows, whether milked or dry;

(ii) 1,000 veal calves;

(iii) 1,000 cattle other than mature dairy cows or veal calves. The term cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs;

(iv) 2,500 swine, each weighing 55 pounds or more;

(v) 10,000 swine, each weighing less than 55 pounds;

- (vi) 500 horses;
- (vii) 10,000 sheep or lambs;
- (viii) 55,000 turkeys;
- (ix) 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
- (x) 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
- (xi) 82,000 laying hens, if the AFO uses other than a liquid manure handling system;
- (xii) 30,000 ducks, if the AFO uses other than a liquid manure handling system; or
- (xiii) 5,000 ducks, if the AFO uses a liquid manure handling system.

(5) The term "manure" is defined to include manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal.

(6) "Medium concentrated animal feeding operation (Medium CAFO)". The term Medium CAFO includes any AFO with the type and number of animals that fall within any of the ranges listed in paragraph (b)(6)(i) of this section and which has been defined or designated as a CAFO. An AFO is defined as a Medium CAFO if:

- (i) The type and number of animals that it stables or confines falls within any of the following ranges:
 - (A) 200 to 699 mature dairy cows, whether milked or dry;
 - (B) 300 to 999 veal calves;
 - (C) 300 to 999 cattle other than mature dairy cows or veal calves. The term cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
 - (D) 750 to 2,499 swine each weighing 55 pounds or more;
 - (E) 3,000 to 9,999 swine each weighing less than 55 pounds;
 - (F) 150 to 499 horses;
 - (G) 3,000 to 9,999 sheep or lambs;
 - (H) 16,500 to 54,999 turkeys;
 - (I) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;
 - (J) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
 - (K) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;
 - (L) 10,000 to 29,999 ducks, if the AFO uses other than a liquid manure handling system; or
 - (M) 1,500 to 4,999 ducks, if the AFO uses a liquid manure handling system; and

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(ii) Either one of the following conditions is met:

(A) Pollutants are discharged into waters of the State through a man-made ditch, flushing system, or other similar man-made device; or

(B) Pollutants are discharged directly into waters of the State which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(7) "Process wastewater" means water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

(8) "Production area" means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under-house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities.

(9) "Small concentrated animal feeding operation (Small CAFO)". An AFO that is designated as a CAFO and that is not a Medium CAFO.

(c) How may an AFO be designated as a CAFO? The appropriate authority (i.e., the Department or Regional Administrator, or both, as specified in paragraph (c)(1) of this section) may designate any AFO as a CAFO upon determining that it is a significant contributor of pollutants to waters of the State.

(1) Who may designate? In South Carolina, CAFO designations may be made by the Department. The Regional Administrator may also designate CAFO in South Carolina, but only where the Regional Administrator has determined that one or more pollutants in the AFO's discharge contributes to an impairment in a downstream or adjacent state or Indian country water that is impaired for that pollutant.

(2) In making this designation, the Department or the Regional Administrator shall consider the following factors:

(i) The size of the AFO and the amount of wastes reaching waters of the State;

(ii) The location of the AFO relative to waters of the State;

(iii) The means of conveyance of animal wastes and process wastewaters into waters of the State;

(iv) The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes, manure, and process waste waters into waters of the State; and

(v) Other relevant factors.

(3) No AFO shall be designated under this paragraph unless the Department or the Regional Administrator has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. In addition, no AFO with numbers of animals below those established in paragraph (b)(6) of this section may be designated as a CAFO unless:

(i) Pollutants are discharged into waters of the State through a manmade ditch, flushing system, or other similar manmade device or

(ii) Pollutants are discharged directly into waters of the State which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(d) Who must seek coverage under an NPDES permit?

(1) All CAFO owners or operators must apply for a permit. All CAFO owners or operators must seek coverage under an NPDES permit, except as provided in paragraph (d)(2) of this section. Specifically, the CAFO owner or operator must either apply for an individual NPDES permit or submit a notice of intent for coverage under an NPDES general permit. If the Department has not made a general permit available to the CAFO, the CAFO owner or operator must submit an application for an individual permit to the Department.

(2) Exception. An owner or operator of a Large CAFO need not seek coverage under an NPDES permit otherwise required by this section once the owner or operator has received from the Department notification of a determination under paragraph (f) of this section that the CAFO has "no potential to discharge" manure, litter, or process wastewater.

(3) Information to submit with permit application. A permit application for an individual permit must include the information specified in section 122.21. A notice of intent for a general permit must include the information specified in sections 122.21 and 122.28.

(e) Land application discharges from a CAFO are subject to NPDES requirements. The discharge of manure, litter, or process wastewater to waters of the State from a CAFO as a result of the application of that manure, litter, or process wastewater by the CAFO to land areas under its control is a discharge from that CAFO subject to NPDES permit requirements, except where it is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For purposes of this paragraph, where the manure, litter or process wastewater has been applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified in section 122.42(e)(1)(vi) through (ix), a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO is an agricultural storm water discharge.

(f) "No potential to discharge" determinations for Large CAFO.

(1) Determination by the Department. The Department, upon request, may make a case-specific determination that a Large CAFO has "no potential to discharge" pollutants to waters of the State. In making this determination, the Department must consider the potential for discharges from both the production area and any land application areas. The Department must also consider any record of prior discharges by the CAFO. In no case may the CAFO be determined to have "no potential to discharge" if it has had a discharge within the 5 years prior to the date of the request submitted under paragraph (f)(2) of this section. For purposes of this section, the term "no potential to discharge" means that there is no potential for any CAFO manure, litter, or process wastewater to be added to waters of the State under any circumstance or climatic condition. A determination that there is "no potential to discharge" for purposes of this section only relates to discharges of manure, litter, and process wastewater covered by this section.

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(2) Information to support a "no potential to discharge" request. In requesting a determination of "no potential to discharge", the CAFO owner or operator must submit any information that would support such a determination, within the time frame provided by the Department and in accordance with paragraphs (g) and (h) of this section. Such information must include all of the information specified in sections 122.21(f) and (i)(1)(i) through (ix). The Department has discretion to require additional information to supplement the request and may also gather additional information through on-site inspection of the CAFO.

(3) Process for making a "no potential to discharge" determination. Before making a final decision to grant a "no potential to discharge" determination, the Department must issue a notice to the public stating that a "no potential to discharge" request has been received. This notice must be accompanied by a fact sheet which includes, when applicable, a brief description of the type of facility or activity which is the subject of the "no potential to discharge" determination; a brief summary of the factual basis upon which the request is based for granting the "no potential to discharge" determination; and a description of the procedures for reaching a final decision on the "no potential to discharge" determination. The Department must base the decision to grant a "no potential to discharge" determination on the administrative record, which shall include all information submitted in support of a "no potential to discharge" determination and any other supporting data gathered by the permitting authority. The Department must notify any CAFO seeking a "no potential to discharge" determination of its final determination within 90 days of receiving the request.

(4) What is the deadline for requesting a "no potential to discharge" determination? The owner or operator must request a "no potential to discharge" determination by the applicable permit application date specified in paragraph (g) of this section. If the Department's final decision is to deny the "no potential to discharge" determination, the owner or operator must seek coverage under a permit within 30 days after the denial.

(5) The "no potential to discharge" determination does not relieve the CAFO from the consequences of an actual discharge. Any unpermitted CAFO that discharges pollutants into the waters of the State is in violation of the Clean Water Act and PCA even if it has received a "no potential to discharge" determination from the Department. Any CAFO that has received a determination of "no potential to discharge", but who anticipates changes in circumstances that could create the potential for a discharge, should contact the Department and apply for and obtain permit authorization prior to the change of circumstances.

(6) The Department retains authority to require a permit. Where the Department has issued a determination of "no potential to discharge", the Department retains the authority to subsequently require NPDES permit coverage if circumstances at the facility change, if new information becomes available, or if there is another reason for the Department to determine that the CAFO has a potential to discharge.

(g) When must a CAFO seek coverage under an NPDES permit?

(1) Operations defined as CAFO prior to the effective date of this regulation. For operations that are defined as CAFO under regulations that are in effect prior to the effective date of this regulation, the owner or operator must have or seek to obtain coverage under an NPDES permit as of the effective date of this regulation and comply with all applicable NPDES requirements, including the duty to maintain permit coverage in accordance with paragraph (h) of this section.

(2) Operations defined as CAFO as of the effective date of this regulation, who were not defined as CAFO prior to that date. For all CAFO, the owner or operator of the CAFO must seek to obtain coverage under an NPDES permit by a date specified by the Department, but no later than February 13, 2006.

(3) Operations that become defined as CAFO after the effective date of this regulation, but which are not new sources. For newly constructed AFO and AFO that make changes to their operations that result in becoming defined as CAFO for the first time, after the effective date of this regulation, but that are not new sources, the owner or operator must seek to obtain coverage under an NPDES permit, as follows:

(i) For newly constructed operations not subject to effluent limitations guidelines, 180 days prior to the time CAFO commences operation or

(ii) For other operations (e.g., resulting from an increase in the number of animals), as soon as possible, but no later than 90 days after becoming defined as a CAFO; except that

(iii) If an operational change that makes the operation a CAFO would not have made it a CAFO prior to the effective date of this regulation, the operation has until April 13, 2006, or 90 days after becoming defined as a CAFO, whichever is later.

(4) New sources. New sources must seek to obtain coverage under a permit at least 180 days prior to the time that the CAFO commences operation.

(5) Operations that are designated as CAFO. For operations designated as a CAFO in accordance with paragraph (c) of this section, the owner or operator must seek to obtain coverage under a permit no later than 90 days after receiving notice of the designation.

(6) No potential to discharge. Notwithstanding any other provision of this section, a CAFO that has received a "no potential to discharge" determination in accordance with paragraph (f) of this section is not required to seek coverage under an NPDES permit that would otherwise be required by this section. If circumstances materially change at a CAFO that has received a NPTD determination, such that the CAFO has a potential for a discharge, the CAFO has a duty to immediately notify the Department and seek coverage under an NPDES permit within 30 days after the change in circumstances.

(h) Duty to Maintain Permit Coverage. No later than 180 days before the expiration of the permit, the permittee must submit an application to renew its permit in accordance with section 122.21(g). However, the permittee need not continue to seek continued permit coverage or reapply for a permit if:

(1) The facility has ceased operation or is no longer a CAFO and

(2) The permittee has demonstrated to the satisfaction of the Department that there is no remaining potential for a discharge of manure, litter or associated process wastewater that was generated while the operation was a CAFO, other than agricultural storm water from land application areas.

Revise item 122.28(b)(2)(ii) to read as follows:

(ii) The contents of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on Federal lands where an operator cannot be identified may contain alternative notice of intent requirements. All notices of intent shall be signed in accordance with section 122.22. Notices of intent for coverage under a general permit for concentrated animal feeding operations (CAFO) must include the information specified in section 122.21(i)(1), including a topographic map.

Add new sub-section 122.42(e) to read as follows:

(e) Concentrated animal feeding operations (CAFO). Any permit issued to a CAFO must include:

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(1) Requirements to develop and implement a nutrient management plan. At a minimum, a nutrient management plan must include best management practices and procedures necessary to implement applicable effluent limitations and standards. Permitted CAFO must have their nutrient management plans developed and implemented by December 31, 2006. CAFO that seek to obtain coverage under a permit after December 31, 2006 must have a nutrient management plan developed and implemented upon the date of permit coverage. The nutrient management plan must, to the extent applicable:

(i) Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;

(ii) Ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;

(iii) Ensure that clean water is diverted, as appropriate, from the production area;

(iv) Prevent direct contact of confined animals with waters of the United States;

(v) Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants;

(vi) Identify appropriate site-specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the State;

(vii) Identify protocols for appropriate testing of manure, litter, process wastewater, and soil;

(viii) Establish protocols to land apply manure, litter, or process wastewater in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater; and

(ix) Identify specific records that will be maintained to document the implementation and management of the minimum elements described in paragraphs (e)(1)(i) through (e)(1)(viii) of this section.

(2) Recordkeeping requirements.

(i) The permittee must create, maintain for five years, and make available to the Department upon request, the following records:

(A) All applicable records identified pursuant to paragraph (e)(1)(ix) of this section;

(B) In addition, all CAFO subject to 40 CFR 412 must comply with record keeping requirements specified in sections 412.37(b) and (c) and sections 412.47(b) and (c).

(ii) A copy of the CAFO's site-specific nutrient management plan must be maintained on site and made available to the Department upon request.

(3) Requirements relating to transfer of manure or process wastewater to other persons. Prior to transferring manure, litter, or process wastewater to other persons, Large CAFO must provide the recipient of the manure, litter, or process wastewater with the most current nutrient analysis. The analysis provided must be consistent with the requirements of 40 CFR 412. Large CAFO must retain for five years records of the date, recipient name and address, and approximate amount of manure, litter, or process wastewater transferred to another person.

(4) Annual reporting requirements for CAFO. The permittee must submit an annual report to the Department. The annual report must include:

(i) The number and type of animals (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other), whether in open confinement or housed under roof;

(ii) Estimated total amount of manure, litter, and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);

(iii) Estimated total amount of manure, litter, and process wastewater transferred to other person(s) by the CAFO in the previous 12 months (tons/gallons);

(iv) Total number of acres for land application covered by the nutrient management plan developed in accordance with paragraph (e)(1) of this section;

(v) Total number of acres under control of the CAFO that were used for land application of manure, litter, and process wastewater in the previous 12 months;

(vi) Summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and

(vii) A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner.

Delete all text from existing section 122 Appendix B and reserve, as follows:

APPENDIX B [Reserved.]

Statement of Need and Reasonableness:

This statement of need and reasonableness has been developed based on staff analysis pursuant to S.C. Code Section 1-23-115(C)(1) - (3) and (9) - (11):

DESCRIPTION OF REGULATION: R.61-9. Water Pollution Control Permits.

Purpose: To amend Regulation 61-9 in accordance with changes to Federal Regulation 40 CFR Part 122, promulgated as stated below. The Federal promulgation also requires, at 40 CFR 123.36, that states, such as South Carolina, with permit authority establish technical standards consistent with Federal requirements at 40 CFR 412.4(c)(2). This has previously been accomplished in South Carolina Regulation 61-43, Standards for the Permitting of Agricultural Animal Facilities. S.C. R.61-43 was established based on Confined Swine Feeding Operations of 1996, S.C. Code Ann. 47-20-10 et seq., as well as the Pollution Control Act, S.C. Code Ann. 48-1-10 et seq. As stated in the Act, S.C. Code Ann. 47-20-10 et seq. was repealed as the outcome of the Department issuing and the Legislature approving "separate and distinct confined swine feeding operations regulations" in June 2002.

These regulations are copied from and are solely based on the U.S. Environmental Protection Agency regulation on the same subject, Concentrated Animal Feeding Operations (CAFO). Changes are made to name the Department as the permitting authority and to refer to the Department (defined in the existing regulation as the Department of Health and Environmental Control) as such throughout the regulation, to change compliance dates

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earlier than the effective date of this regulation amendment to the effective date, and to refer to "waters of the United States" as "waters of the State".

Legal Authority: This change to state law is authorized by S.C. Code Sections 48-1-10 through 350 and the Clean Water Act, 33 U.S.C. 1251 et seq. and regulations promulgated in the Federal Register at page 7176 on February 12, 2003.

Plan for Implementation: The additional work required of Department personnel by the amendments will be integrated with existing staff and duties. During the first year after the permit is issued and during reissuance of the permit five (5) years later, the above activities would necessitate a total effort of about one-half person-year by the Department. In each intervening year efforts would entail about three (3) person-months of effort by the Department.

The existing South Carolina Regulation 61-30, Environmental Permit Fees, includes fees for coverage under an NPDES general permit. Once these regulations are final, the fees will apply to existing and new CAFO for coverage under the NPDES general permit for CAFO and will assist in funding Department personnel to accomplish this program. However, fees will not be due (or received by the Department) until after the permit is written and issued.

DETERMINATION OF NEED AND REASONABLENESS FOR THE REGULATION AND EXPECTED BENEFIT:

This regulatory amendment is exempt from the requirements to develop a Preliminary Fiscal Impact Statement and a Preliminary Assessment Report because each change is necessary to maintain consistency with Federal regulations. In amending the Federal regulations, the U.S. Environmental Protection Agency (at FR 2/12/03) states the purpose of the amendment of this date as follows:

"Today's final rule revises and clarifies the Environmental Protection Agency's (EPA) regulatory requirements for concentrated animal feeding operations (CAFOs) under the Clean Water Act. This final rule will ensure that CAFOs take appropriate actions to manage manure effectively in order to protect the nation's water quality.

"Despite substantial improvements in the nation's water quality since the inception of the Clean Water Act, nearly 40 percent of the Nation's assessed waters show impairments from a wide range of sources. Improper management of manure from CAFOs is among the many contributors to remaining water quality problems. Improperly managed manure has caused serious acute and chronic water quality problems throughout the United States.

"Today's action strengthens the existing regulatory program for CAFOs. The rule revises two sections of the Code of Federal Regulations (CFR), the National Pollutant Discharge Elimination System (NPDES) permitting requirements for CAFOs (Sec. 122) and the Effluent Limitations Guidelines and Standards (ELGs) for CAFOs (Sec. 412).

"The rule establishes a mandatory duty for all CAFOs to apply for an NPDES permit and to develop and implement a nutrient management plan. The effluent guidelines being finalized today establish performance expectations for existing and new sources to ensure appropriate storage of manure, as well as expectations for proper land application practices at the CAFO. The required nutrient management plan would identify the site-specific actions to be taken by the CAFO to ensure proper and effective manure and wastewater management, including compliance with the Effluent Limitation Guidelines. Both sections of the rule also contain new regulatory requirements for dry-litter chicken operations."

Federal regulations, 40 CFR 123.25, require that the NPDES requirements (40 CFR 122) of the U.S. Environmental Protection Agency be adopted by South Carolina, as an authorized permitting authority, and that is

being done in this regulatory action. Provisions of existing South Carolina Regulation 61-43, Standards for the Permitting of Agricultural Animal Facilities, establish requirements to accomplish appropriate portions of U.S. EPA effluent limitations guidelines (ELG). However, the Effluent Limitations Guidelines (40 CFR 412) need not be adopted by a permitting authority, and it is not intended to do so. Nonetheless, references in regulations promulgated in South Carolina would require compliance by S.C. CAFO with the U.S. EPA Effluent Limitations Guidelines.

This amendment is needed and reasonable to bring South Carolina regulations into compliance with Federal regulations and to ensure compliance with the goals of the Federal amendments.

DETERMINATION OF COSTS AND BENEFITS:

For the CAFO NPDES permitting, there could be significant costs to the Department. U.S. EPA estimates that compliance with regulation requirements will cost permit authorities about \$580 per permit. U.S. EPA's estimate of the average number of permits per state is about 300. For that many permits in South Carolina, the cost to the Department would be \$174,000. The existing permitting of agricultural animal facilities in South Carolina is likely to reduce the additional cost to the Department of CAFO NPDES permits for existing facilities, and the additional fees for NPDES general permit coverage would cover part of the cost.

U.S. EPA estimates of the national costs and benefits for compliance show that the regulation is cost-effective, as stated in the preamble to the Federal regulation.

UNCERTAINTIES OF ESTIMATES: The estimates stated by U.S. EPA in the FR show significant variation, both for cost estimates and benefit estimates.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: Existing S.C. DHEC Regulation 61-43 already requires compliance with measures comparable to U.S. EPA Effluent Limitations Guidelines. The new permit requirements will include monitoring to demonstrate compliance with the management requirements and periodic reporting. This will allow additional enforcement and thereby provide more incentive for compliance by permitted facilities.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: Federal regulations require all the actions in these amendments. Therefore, all the actions must be carried out even if the regulation is not implemented. However, there would likely be significant delays in achieving some of the water quality improvements if the regulation is not implemented to provide the authority for the Department of Health and Environmental Control to proceed.

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Document No. 2870
DEPARTMENT OF LABOR, LICENSING AND REGULATION
DIVISION OF LABOR
CHAPTER 71

Statutory Authority: 1976 Code Section 41-15-210

Regulation 71, Article I, Subarticle 3 - Recording and Reporting Occupational Injuries and Illnesses

Synopsis:

The purpose of the amendment is to revise the regulation to delete the two provisions concerning musculoskeletal disorders (MSDs). This amendment is required by the United States Department of Labor 29 CFR 1904.37 "State Recordkeeping Regulations."

Instructions:

SCRR 71-300 to 311 remains the same

SCRR 71-312 Delete, Reserved

SCRR 71-313 to 328 remains the same

SCRR 71-329 (a) and (b)(1) through (7)(v) remains the same.

SCRR 71-329 paragraph (b)(7)(vi) replace with the following amendment

SCRR 71-329 paragraph (b)(8) through (10) remains the same.

SCRR 71-330 to 346 remains the same

Statement of Rationale:

There was no scientific or technical basis relied upon in developing the regulation.

Text:

SCRR 71-312 Recording criteria for cases involving work-related musculoskeletal disorders. [Reserved]

SCRR 71-329 Forms.

(b) (7) (vi) Other illnesses, if the employee voluntarily requests that his or her name not be entered on the log.

Fiscal Impact Statement:

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