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SOUTH CAROLINA STATE REGISTER

PUBLISHED BY THE LEGISLATIVE COUNCIL of the GENERAL ASSEMBLY

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

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Published March 24, 2006

Volume 30 Issue No. 3 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.

2006 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	1/13	2/10	3/10	4/14	5/12	6/9	7/14	8/11	9/8	10/13	11/10	12/8
Publishing Date	1/27	2/24	3/24	4/28	5/26	6/23	7/28	8/25	9/22	10/27	11/24	12/22

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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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2955 R21 2958	6 SR30-2 SR30-2	Motorist Insurance Identification Database (Repeal) Voluntary Check-off Funds	1/15/06 1/17/06	Department of Public Safety Department of Revenue
2935	SR30-2 SR30-2	Property Tax (Repeal 117-8)	1/17/06	Department of Revenue
2915	SR30-2 SR30-2	Repeal of Bulk Sales Regulation	1/17/06	Department of Revenue
2936	SR30-2	Sales and Use Tax Exemption for Machines	1/17/06	Department of Revenue
2937	SR30-2	Alcoholic Beverages, Beer and Wine	1/17/06	Department of Revenue
2914	SR30-2	Electric Power Tax	1/17/06	Department of Revenue
2966	SR30-3	Repeal Annual Renewal Plan	2/19/06	Department of Insurance
2968	SR30-3	Workers' Compensation Assigned Risk Rates	2/19/06	Department of Insurance
2942	SR30-3	Graduation Requirements	2/20/06	Board of Education
2962	SR30-3	Implementation of Emergency Health Powers Act	2/20/06	Department of Health and Envir Control
2945	SR30-3	Standards for Licensing Tattoo Facilities	2/21/06	Department of Health and Envir Control
2973		Repeal of Duplicative Regulations Included in Nurse Practice Act	3/12/06	LLR: Board of Nursing
2971		Assessment Program	3/22/06	Board of Education
2972		Transportation of Unmanufactured Forest Products	3/22/06	Department of Public Safety
2975		211 Network Provider Certification Requirements	4/09/06	Budget and Control Board
2970		Seasons, Limits, Restrictions on WMA's, Turkey Hunting	4/11/06	Department of Natural Resources
2969	2 (1) 20 2	Wildlife Management Area Regulations	4/11/06	Department of Natural Resources
2978 R21 2974	3 SR30-3	CSO Mortality Table	4/22/06	Department of Insurance
2974 2976		Settlement, Proof of Compliance, Self-Ins, Financial, Audits Representation of Parties and Intervenors	4/22/06 5/10/06	Workers' Compensation Commission LLR: Occupat Health and Safety Rev Bd
2978		Child Labor	5/10/06	LLR: Office of Labor Services
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3014		SC LIFE Scholarship Program	5/10/06	Commission on Higher Education
3016		Lottery Tuition Assist Prog Two-Year Pub & Independ Instit.	5/10/06	Commission on Higher Education
3017		Palmetto Fellows Scholarship Program	5/10/06	Commission on Higher Education
3018		LIFE, HOPE, Palmetto Fellows Scholarships Appeals Regulations	5/10/06	Commission on Higher Education
2999		Additional Areas of Certification	5/10/06	Board of Education
2996		Displaying the Flag	5/10/06	Board of Education
2984		Denial, Revocation and Suspension of Credentials	5/10/06	Board of Education
2995		Fees and Charges of Consumer Credit Counseling Org Licensees	5/10/06	Consumer Affairs
3012		Licensees, Ethics for Supervisors, Standards for Supervision	5/10/06	LLR: Counselors, Therapists, Psycho-Ed
3026		Maritime Security	5/10/06	SC Maritime Sec Comm Naval Militia
3036		Instant Games, Online Games	5/11/06	SC Lottery Commission
3031		License to Practice Dentistry	5/11/06	LLR: Board of Dentistry
3035		Nurse Licensure Compact	5/11/06	LLR: Board of Nursing
3030		Supervising Licensees	5/11/06	LLR: Board of Nursing
3011		Intrastate Movement of Certain Animals - Sheep and Goats	5/17/06	Clemson University
3007		Imported Fire Ant Quarantine	5/18/06	Clemson University
3008		Soil Amendments	5/18/06	Clemson University
2983		Wired Music Sales and Use Tax - Interstate Commerce	5/20/06	Department of Revenue
3033 2987		ABL - Records	5/20/06 5/20/06	Department of Revenue Department of Revenue
3032		Sales and Use Tax - Warranty Agreements	5/20/06	Department of Revenue
2985		Sales and Use Tax - Manufactured and Modular Homes	5/20/06	Department of Revenue
3028		Types and Levels of Credential Classification (Repeal)	5/20/06	Board of Education
3029		Requirements for Credential Advancement (Repeal)	5/20/06	Board of Education
3006		Tidelands and Coastal Waters	5/20/06	Department of Health and Envir Control
3000		Emergency Medical Services	5/20/06	Department of Health and Envir Control
3005		Capacity Use Declar (Repeal);New Groundwater Use and Report	5/20/06	Department of Health and Envir Control
3002		Shellfish	5/20/06	Department of Health and Envir Control
3003		Hazardous Waste Management	5/20/06	Department of Health and Envir Control
3001		Environmental Protection Fees	5/20/06	Department of Health and Envir Control
3004		Prevention and Control of Lead Poisoning in Children	5/20/06	Department of Health and Envir Control

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3040	Hunting in Wildlife Management Areas	1/21/07	Department of Natural Resources
3025	Classified Waters	1/28/07	Department of Health and Envir Control
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3045	Securities	2/13/07	Office of Attorney General
3057	Retail Licenses And Partnerships	2/14/07	Department of Revenue
3056	End-of-Course Tests	2/14/07	Department of Education

Committee Requested Withdrawal:

Permanently Withdrawn: None

Resolution Introduced to Disapprove2927The Practice of Selling and Fitting Hearing Aids

Department of Health and Envir Control

EXECUTIVE ORDER NO. 2006-02

WHEREAS, the Grand Jury of Sumter County indicted Ronald Glendon Eldridge, Jr., a member of the Sumter County Council, on February 23, 2006, for one count of Criminal Domestic Violence of a High and Aggravated Nature; and

WHEREAS, a certified true copy of the indictment against Ronnie Glendon Eldridge, Jr. has been provided to me; 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. . ."; and

WHEREAS, Ronald Glendon Eldridge, Jr. is an officer of the State or its political subdivisions; and

WHEREAS, the above-referenced indictment is for a crime that involves moral turpitude; and

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby suspend Ronald Glendon Eldridge, Jr. from the office he holds on Sumter County Council. 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. Eldridge 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 28TH DAY OF FEBRUARY, 2006.

MARK SANFORD Governor

4 EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 2006-03

WHEREAS, Ronald Glendon Eldridge, Jr., a member of the Sumter County Council, District 3, was suspended by Executive Order 2006-02, effective February 28, 2006; and

WHEREAS, pursuant to Section 8-1-100 of the South Carolina Code of Laws, as amended, in the event of such suspension, the undersigned shall appoint another in his stead; and

WHEREAS, James Robert Byrd, Jr., a resident of Sumter, South Carolina is a fit and proper person to serve as a member of the Sumter County Council.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby appoint James Robert Byrd, Jr. as a member of Sumter County Council, District 3. This appointment shall remain in effect until such time as Mr. Eldridge shall be formally acquitted or convicted.

This Order shall take effect immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 8TH DAY OF MARCH, 2006.

MARK SANFORD Governor

DEPARTMENT OF CONSUMER AFFAIRS

NOTICE CHANGES IN DOLLAR AMOUNTS

The Administrator of the Department of Consumer Affairs announces changes in Dollar Amounts in Regulation 28-62, pursuant to Sections 37-1-109 and 37-6-104(1)(e). The changes will adjust certain dollar amounts in the Consumer Protection Code which are subject to change on July 1 of every even numbered year based on the changes in the Consumer Price Index for December of the prior year. The dollar amounts will increase 10% from the original amount, with the exception of Sections 37-2-203(2) and 37-3-203(2) which have a self-executing formula of 40% of the amount in Sections 37-2-203(1) and 37-3-203(1). The designated dollar amount figures are Sections 37-2-104(1)(e), 37-2-106(1)(b), 37-2-203(1), 37-2-407(1), 37-2-705(1)(a), 37-2-705(1)(b), 37-3-(104(1)(d), 37-3-203(1), 37-3-510, 37-3-511, 37-3-514, 37-5-102(2), (3) and (4), 37-10-103, and 37-23-80. Pursuant to Section 1 of Act No. 82 of 2001, the Department is required to announce these changes by publication in the State Register by April 30 of each even numbered year. Section 1 of Act No. 42 of 2003, added Sections 37-10-103 and 37-23-80 to the amounts subject to change.

Change Dollar Amount

		From	То
Section		7/1/2004 to 6/30/2006	7/1/2006 to 6/30/2008
2.104(1)(e)	Consumer Credit Sale	72,500.00	77,500.00
2.106(1)(b)	Consumer Lease	72,500.00	77,500.00
2.203(1)	Delinquency Charge – Sales	14.50	15.50
2.203(2)	Minimum Delinquency Charge	5.80	6.20
2.407(1)	Security Interest – Sales	870.00 2,900.00	930.00 3,100.00
2.705(1)(a)	Delinquency Charge – Rental Purchase	8.40	8.80
2.705(1)(b)	Delinquency Charge – Rental Purchase	4.20	4.60
3.104(1)(d)	Consumer Loans	72,500.00	77,500.00
3.203(1)	Delinquency Charge – Loans	14.50	15.50
3.203(2)	Minimum Delinquency	5.80	6.20
3.510	Land as Security – Supervised Loans	2,900.00	3,100.00
3.511	Maximum Loan Term	870.00 2,900.00	930.00 3,100.00
3.514	Attorney's Fees – Supervised Loans	2,900.00	3,100.00
5.103(2), (3) & (4)	Deficiency Judgment	4,350.00	4,650.00
10.103	Prepayment Penalty	150,000.00	180,000.00
23.80	Prepayment Penalty	150,000.00	180,000.00

STATE DEPARTMENT OF EDUCATION

NOTICE OF GENERAL PUBLIC INTEREST

The South Carolina Public School Facilities Committee, authorized by S.C. Code Ann. § 59-23-210 (Supp. 2005), approved the 2006 South Carolina School Facilities Planning and Construction Guide (2006 Guide) on October 13, 2005. The document can be found on the website of the Office of School Facilities (OSF), State Department of Education, at the following address:

www.myscschools.com/offices/sf/2006GuideBook.pdf

Effective immediately as per the date of this publication on March 24, 2006, all school projects submitted for their initial plan review will be subject to the 2006 Guide.

The following codes and standards, in addition to the 2006 Guide, shall establish minimum standards for South Carolina public schools:

- 1. The codes established in the 2003 International Building Code, the 2003 International Existing Building Code, the 2003 International Plumbing Code, the 2003 International Mechanical Code, the 2003 International Fuel Gas Code, the 2003 International Fire Code, and the 2003 International Energy Conservation Code as published by the International Codes Council;
- 2. The 2002 National Electrical Code as published by the National Fire Protection Association (NFPA);
- 3. The South Carolina State Fire Marshal's Regulation;
- 4. The South Carolina Elevator Code and Regulation;
- 5. The American Society of Heating, Refrigerating and Air-Conditioning Engineers, (ASHRAE) 90.1 2004;
- 6. ASHRAE 62.1 2004;
- 7. The American Society of Civil Engineers (ASCE) 7 2005;
- 8. Where the above basic governing codes do not adequately provide for every contingency, conformance with NFPA Standards, American National Standards Institute, or other nationally recognized and accepted standards in effect at the time of the initial plan submittal to OSF shall be evidence of compliance with the intent of the *2006 Guide*. The provision of such standards should be followed unless deviation is approved by OSF.
- 9. However, the provisions of the codes referenced herein which concern the qualifications, removal, dismissal, duties, responsibilities of, and administrative procedures for all building officials, deputy building officials, chief inspectors, and assistants do not apply unless deemed applicable by OSF.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication March 24, 2006, 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 Greenville County

Addition of fourteen (14) licensed general acute care beds for a total of seventy-two (72) licensed general acute care beds. Greer Memorial Hospital

Greer, South Carolina Project Cost: \$7,500,000

Conversion of thirty-six (36) existing observational beds to general acute care beds for a total licensed bed capacity of seven hundred forty-six (746) general acute care beds. Greenville Memorial Hospital Greenville, South Carolina Project Cost: \$-0-

Affecting Greenwood County

Establishment of a mobile Positron Emission Tomography/Computerized Tomography (PET/CT) scanning service one day per week to be located at the imaging center. Self Regional Healthcare Greenwood, South Carolina Project Cost: \$616,975

Affecting Horry County

Renovation of existing facility for addition of sixteen (16) psychiatric beds and eight (8) in-patient substance abuse beds for a total of forty-four (44) psychiatric beds and eight (8) substance abuse beds. Lighthouse Care Center of Conway Conway, South Carolina Project Cost: \$1,200,471

Affecting Lexington County

Addition of a bi-plane special procedures unit to the Radiology Department. Lexington Medical Center West Columbia, South Carolina Project Cost: \$2,278,775

Affecting Spartanburg County

Construction of a twelve (12) bed inpatient hospice facility. Hospice House of the Carolina Foothills Landrum, South Carolina Project Cost: \$5,525,761 Affecting Spartanburg County

Renovation of Neonatal Intensive Care Unit (NICU) to add 3 intensive neonatal bassinets and 7 intermediate neonatal bassinets for a total of 13 intensive neonatal bassinets and 22 intermediate bassinets. Spartanburg Regional Medical Center Spartanburg, South Carolina Project Cost: \$3,442,057

8 NOTICES

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning March 24, 2006. "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 Anderson County

Conversion of the existing ten (10) bed nursing home unit to seven (7) comprehensive rehabilitation beds resulting in a total licensed bed capacity of thirty-seven (37) comprehensive rehabilitation beds within the facility. AnMed HealthSouth Rehabilitation Hospital Anderson, South Carolina Project Cost: \$625

Affecting Berkeley County

Construction of a freestanding ambulatory surgical facility with two (2) operating rooms. Wando Outpatient Surgery Center Daniel Island, South Carolina Project Cost: \$7,811,222

Affecting Greenville County

Upgrade of one (1) existing cardiac catheterization laboratory located in the Memorial Medical Office Building with relocation to Greenville Memorial Hospital. Greenville Memorial Hospital Greenville, South Carolina Project Cost: \$2,744,663

Affecting Greenwood County

Establishment of a mobile Positron Emission Tomography/Computerized Tomography (PET/CT) scanning service one day per week to be located at the imaging center. Self Regional Healthcare Greenwood, South Carolina Project Cost: \$616,975

Affecting Horry County

Establishment of an outpatient diagnostic imaging center to include Magnetic Resonance Imaging (MRI) and Computed Tomography (CT) services. Carolina Forest Imaging Center, LLC Myrtle Beach, South Carolina Project Cost: \$4,447,600

Affecting Lancaster County

Addition of ten (10) acute care beds for a total of 178 acute care beds and 18 substance abuse beds. Springs Memorial Hospital Lancaster, South Carolina Project Cost: \$25,000 Affecting Pickens County

Provision of emergency (primary) Percutaneous Coronary Intervention (PCI) without onsite comprehensive cardiac catheterization and open heart surgery programs. Palmetto Health Baptist Hospital Easley Easley, South Carolina Project Cost: \$38,492

Affecting Spartanburg County

Renovation for the addition of an interventional radiology suite with a Digital Imaging System. Mary Black Memorial Hospital Spartanburg, South Carolina Project Cost: \$3,735,000

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF CANCELATION AND RESCHEDULING OF PUBLIC HEARING STATE REGISTER DOCUMENT NO. 3055 PROPOSED AMENDMENT OF R.61-51, *PUBLIC SWIMMING POOLS*

The Department of Health and Environmental Control (DHEC) published a Notice of Proposed Regulation identified as Document 3055 in the in the South Carolina State Register on January 27, 2006, for amendment of R.61-51, *Public Swimming Pools*. The Notice scheduled an Informational Forum that was conducted by DHEC staff on March 1, 2006, and provided an opportunity for the public and regulated community to submit written comments during a public comment period that closed March 6, 2006. It also noticed opportunity to contribute public comment at a public hearing before the Board of Health and Environmental Control on April 13, 2006.

This notice is to advise the public and regulated community that the public hearing scheduled before the DHEC Board for April 13, 2006, has been canceled and rescheduled for June 8, 2006. The hearing will be held at the regularly scheduled meeting of the Board in its Board Room of the Commissioner's Suite, Third Floor, Aycock Building, of the S.C. Department of Health and Environmental Control at 2600 Bull St., Columbia, S.C. (For security purposes, please be sure to use the front entrance facing Bull Street.) The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda. The agenda is published 24-hours in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed amendments of R.61-51 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 regulation amendments for submission to the legislature for review.

Additionally, all comments received at the Informational Forum on March 1, as well as any comments received during the public comment period that closed March 6, 2006, will be considered. All comments received through March 6, 2006, shall be submitted to the Board for consideration at the public hearing on June 8 in a Summary of Public Comments and Department Responses.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

R.61-62. Air Pollution Control Regulations and Standards

Notice of Drafting:

The South Carolina Department of Health and Environmental Control (Department) proposes to amend Regulation 61-62, *Air Pollution Control Regulations and Standards*, and the South Carolina State Implementation Plan (SIP). The purpose of this notice is to extend the drafting period initially established by the April 22, 2005, drafting notice published in Volume 29, Issue No. 4, and previously extended by the November 25, 2005, drafting notice published in Volume 29, Issue No. 11, of the *South Carolina State Register*. All previous comments, as well as any additional comments received after this publishing, will be considered. Interested persons are invited to present their views in writing to Dennis Camit; Division of Air Planning, Development and Outreach; Bureau of Air Quality; 2600 Bull Street; Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on Monday, April 24, 2006, the close of the drafting comment period.

Synopsis:

The Department is proposing to amend Section I - Definitions, and Section II - Permit Requirements, of Regulation 61-62.1, *Definitions and General Requirements*, which requires stationary sources planning to construct, alter or add to a source of air pollutants to first obtain a construction permit from the Department. This permitting program is generally referred to as the minor source permitting program to distinguish it from additional permitting requirements for major sources of air pollutants. The Department is currently reviewing the minor source permitting program to ensure that we are meeting our goals of promoting and protecting the public health and the environment and doing so in the most efficient and effective manner. Also, the Department is proposing to review and amend Regulation 61-62.5, Standard No. 5.2, *Control of Oxides of Nitrogen (NOx)* to make corrections and clarifications as needed. Also, the Department is proposing to review and amend Regulation 61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NOx) to make corrections and clarifications as needed. Also, the Department is proposing to review and amend Regulation 61-62.5, Standard No. 4, *Emissions From Process Industries* to amend Section IV - Portland Cement Manufacturing. The Department has determined that the requirements of Section IV are redundant and is proposing to delete these requirements. Sources subject to Section IV are currently subject to, and will continue to be subject to, more stringent federal rules.

The proposed amendments to Regulation 61-62 and the SIP will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61 Statutory Authority: 1976 Code Section 44-55-10 *et seq.*

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-58, State Primary Drinking Water Regulations. Interested persons may submit their views in writing to Mr. Douglas B. Kinard, Water Enforcement Division, Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, written comments must be received no later than 5:00 p.m. on April 24, 2006, the close of the drafting comment period.

Synopsis:

The Department proposes to revise the State Primary Drinking Water Regulations to include, but not be limited to, requirements promulgated under the National Primary Drinking Water Regulations: Stage 2 Disinfectants and Disinfection Byproducts Rule. Community and Non-Transient, Non-Community public water systems that utilize a disinfectant will be required to monitor their distribution systems for disinfectants and disinfection byproducts in such a way as to ensure that levels above the established MCL do not persist undetected in the system. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. The final Stage 2 Disinfectants and Disinfection Byproducts Rule was published in the January 4, 2006 Federal Register.

The Department proposes to revise the State Primary Drinking Water Regulations to include, but not be limited to, requirements promulgated under the National Primary Drinking Water Regulations; Long Term 2 Enhanced Surface Water Treatment Rule. Public water systems that treat surface water will be required to monitor their source water for Cryptosporidium and/or E-Coli and provide treatment of the source water to a level dependant on their source water quality. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. The final Long Term 2 Enhanced Surface Water Treatment Rule was published in the January 5, 2006 Federal Register

The Department proposes to revise the State Primary Drinking Water Regulations to include, but not be limited to, requirements promulgated under the National Primary Drinking Water Regulations: Minor Corrections and Clarification to Drinking Water Regulations; National Primary Drinking Water Regulations for Lead and Copper. This rule makes minor changes for clarification and corrects typographical errors and omission. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. Minor Corrections and Clarification to Drinking Water Regulations; National Primary Drinking Water Regulations for Lead and Copper was published in the June 29, 2004 Federal Register.

The proposed regulations will comply with federal law and are exempt from legislative review; neither a preliminary assessment report nor a fiscal impact statement is required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61 Statutory Authority: S.C. Code Sections 13-7-10 et. seq.; 13-7-40

R.61-63 Radioactive Materials (Title A) Regulations R.61-83 Transportation of Radioactive Waste Into or Within South Carolina

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-63, Radioactive Materials (Title A) and R.61-83, Transportation of Radioactive Waste Into or Within South Carolina, to adopt federal amendments through January 26, 2004. Interested persons may submit comments in writing to Henry J. Porter, Division of Waste Management, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, comments must be received by 5:00 p.m. on April 25, 2006.

Synopsis:

The Nuclear Regulatory Commission (USNRC) promulgates amendments to 10 CFR 30, 40, 70 and 71 throughout each calendar year. Recent amendments include requirements for Financial Assurance for Material Licensees and Transportation Safety Standards. These rules have been published in the Federal Register

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between October 3, 2003 and January 26, 2004, at 68 <u>FR</u> 57327 on October 3, 2003 and 69 <u>FR</u> 3698 on January 26, 2004. The Department intends to amend R.61-63, Radioactive Materials (Title A) to maintain conformity with federal requirements for Financial Assurance for Material Licensees as found in 10 CFR 30, 40, and 70 and the Transportation Safety Standards as found in 10 CFR 71 and ensure compliance with federal standards as required by Section 274 of the Atomic Energy Act of 1954. The transportation regulations are incorporated by reference into R.61-63, Radioactive Materials (Title A). In addition, several minor corrections and clarifications may be made to achieve conformity with prior federal regulations. Legislative review of these amendments will not be required.

The Nuclear Regulatory Commission (USNRC) promulgates amendments to 10 CFR 71 throughout each calendar year. Recent amendments include requirements for the Transportation Safety Standards. These rules have been published in the Federal Register on January 26, 2004 at 69 <u>FR</u> 3698 on January 26, 2004. The Department intends to amend R.61-83, Transportation of Radioactive Waste Into or Within South Carolina, to maintain conformity with federal requirements for Transportation Safety Standards as found in 10 CFR 71 and ensure compliance with federal standards as required by Section 274 of the Atomic Energy Act of 1954. The transportation regulations are incorporated by reference into R.61-83, Transportation of Radioactive Waste Into or Within South Carolina. In addition, several minor corrections and clarifications may be made to achieve conformity with prior federal regulations. Legislative review of these amendments will not be required.

Document No. 3064 SOUTH CAROLINA LAW ENFORCEMENT DIVISION CHAPTER 73 Statutory Authority: 1976 Code Section 40-18-30 Article 4

73-40. Private Security and Private Investigation Businesses

Preamble:

The South Carolina Law Enforcement Division (hereinafter "the Division") proposes to amend and replace in its entirety Article 4 of Chapter 73, South Carolina Code of Regulations, which consists of R. 73-40.1 through R. 73-40.36, with Article 4, Chapter 73, R. 73-400 through R. 73-421. This action is sought because some provisions of R. 73-40 were adopted, in substance, into statutory law (Chapter 18, Title 40, S.C. Code) by the General Assembly in 2000. Other provisions of R. 73-40 became conflictive with provisions of statutory law and must be replaced. The proposed regulation will correct language, provide clarification and create requirements as addressed below:

(1) The proposed amendments will establish definitions of terms.

(2) The proposed amendments will establish character standards for participation in the operation of a licensed business.

(3) The proposed amendments will establish procedures for interim continuation of licensed business under certain circumstances.

(4) The proposed amendments will clarify and further define standards governing use of business and trade names.

(5) The proposed amendments will clarify and further define standards for appearance and renewal of employee registration identification cards

(6) The proposed amendments will publish current license and registration fees and establish a registration card replacement fee.

(7) The proposed amendments clarify restrictions on participation in licensed businesses by public law enforcement officers and permits private security employment by S.C. Department of Corrections officers.

(8) The proposed amendments clarify and further define guidelines for use of blue lights and sirens on vehicles by private security officers and markings on private security vehicles.

(9) The proposed amendments create and further define requirements consistent with statutory law governing private security law enforcement authority on private roads.

(10) The proposed amendments create standards for use of punitive written instruments (tickets) by private security officers and required public notices.

(11) The proposed amendments clarify and further define requirements for private security company and officer cooperation with law enforcement officials.

(12) The proposed amendments create company-optional alternative enhanced training procedures for private security officers.

(13) The proposed amendments enable requirements for periodic firearms retraining and range qualification by armed private security officers and restrict use of rifles and shotguns by private security officers.

(14) The proposed amendments create continuing education program requirements for private investigators.

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 of Laws, as amended, such hearing will be conducted at the Administrative Law Court (ALC) at 10:00 a.m. on April 26, 2006.

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Interested persons are invited to submit written comments on the proposed amendments by writing to Captain Clifton Weir, South Carolina Law Enforcement Division, Post Office Box 21398, Columbia, South Carolina, 29221-1398. Comments must be received no later than 4:00 p.m. on April 24, 2006. Comments received will be considered by the staff in formulating the final proposed regulations.

Preliminary Fiscal Impact Statement:

The South Carolina Law Enforcement Division estimates that there will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness addressing each proposed regulation was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1) through (3) and (9) through (11) and after consultation with members of private security and private investigations advisory committees formed at the request of the South Carolina Law Enforcement Division.

DESCRIPTION OF REGULATIONS: 73-400 through 73-422. Private Security and Private Investigations.

Purpose: To establish and define:

- (1) definitions of terms;
- (2) minimum character and experience requirements for participating in the operation of licensed businesses;

(3) allowances for experience credit for licensing purposes for holders of certain certificates and degrees from qualified educational institutions;

- (4) allowances for continuation of business under certain circumstances;
- (5) standards for use of business and trade names and public advertising;
- (6) standards for appearance and renewal of employee registration identification cards;
- (7) license fees and registration card replacement fees to current statutory amounts;
- (8) restrictions on participation in licensed businesses by law enforcement officers;
- (9) restrictions on use of emergency vehicle equipment on private security vehicles;
- (10) requirements for marking of private security vehicles;

(11) private security officer authority for enforcement of State traffic laws on private roads; (12) restrictions on use of punitive citation instruments by private security officers;

- (13) requirements for private security cooperation with law enforcement agencies:
- (14) enhanced and alternative training requirements for private security officers;

(15) continuing education requirements for licensed and registered private investigators.

Legal Authority: The legal authority for Regulations 73-400 through 73-420 is 1976 Code Sections 40-18-30(A)(1), (B)(2).

Plan for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. The proposed amendments will be implemented by providing the regulated community with copies of the regulation and a statewide series of mandatory meetings with private security and private investigation company representatives.

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

The proposed regulations were developed in consultation with advisory committees comprised of members of the regulated professions, and incorporating requests and suggestions of those members. The resulting regulations will provide the following benefits:

(1) facilitate awareness and understanding of regulated practitioners by establishing specific and clear definitions of terms used repeatedly throughout the relevant regulations and statutory law and in determinations of charges against practitioners for violations allegedly committed by members of the regulated community;

(2) facilitate awareness and understanding of regulated practitioners by providing agency interpretations of relevant statutory law;

(3) enhance protection of the client-public by defining character standards for participation in the operation of licensed businesses;

(4) enable the interim and reasonable continuation of a licensed business upon termination of a licensee; enable and facilitate the interim continuation of licensed businesses by survivors upon the death of a licensee, in accommodation of the jurisdiction, orders and activities of the court;

(5) comply with statutory requirements to set license and registration fees by regulation and reflect current license fees previously set by State budget proviso, establish a card replacement fee to cover agency costs of issuance of duplicate registration cards and address concerns related to security issues at secured sites by encouraging responsible retention of registration cards by registrants;

(6) address potential security concerns relating to the issuance, possession and use of State-issued private security officer identification cards with requirements for handling by licensed companies and registrants and, by establishing the aforementioned replacement fee, penalize misplacement of such registration cards;

(7) establish standards governing enforcement of State traffic laws on private roads by private security officers;

(8) establish standards for enhancing public awareness relative to the authorized use of potentially punitive written citations (tickets) by private security officers, required markings on private security vehicles and use of blue lights on private security vehicles;

(9) assist municipal and county law enforcement agencies by defining the private security role and required reactions following discovery of criminal activity and establish clear standards relating to notification of law enforcement agencies in defined circumstances;

(10) establish optional alternative standards for private security officer training;

(11) establish requirements for periodic retraining and firearms proficiency demonstrations by armed private security officers;

(12) establish protection for the public by establishing clear restrictions against operation of private investigation businesses by persons holding only registration as employees of licensed private investigation businesses;

(13) encourage professional development by establishing continuing education requirements for private investigators.

DETERMINATION OF COSTS AND BENEFITS: The Division estimates there will be no increased costs to the State or its political subdivisions.

The proposed regulations will benefit potential applicants and holders of private security or private investigation business licenses by clearly defining statutory law relating to requirements for ownership and operation of such businesses and by creating awareness of consistent and defining guidelines for lawful operation of such businesses.

The State and the Division will benefit in that the administrative regulations necessary for efficient regulation of licensed businesses by the Division will be brought into compliance with statutory law and current operating procedures and because the establishment of clear standards for operation of regulated businesses will facilitate the detection, investigation and prosecution of violators.

The public will benefit by being better protected against the operation of licensed businesses by persons of unsuitable character, as defined in statutory law, because of created opportunities for better training and professional education of practitioners in the regulated professions, and by creation of standards relating to potentially punitive interactions by private security officers with members of the public.

UNCERTAINTIES OF ESTIMATES:

None

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EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None

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

None

Statement of Rationale:

The proposed changes to Chapter 73 are sought because some provisions of R. 73-40 were adopted, in substance, into statutory law (Chapter 18, Title 40, S.C. Code) by the General Assembly in 2000. Other provisions of R. 73-40 became conflictive with provisions of statutory law and must be replaced. The proposed regulation will correct language, provide clarification and create requirements as noted in the text.

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. 2942 STATE BOARD OF EDUCATION Chapter 43

Statutory Authority: S.C. Code Ann. § 59-5-60 (1, 3, and 6) (2004), § 59-30-10(f) (2004), § 59-39-100 (2004) and No Child Left Behind Act, 20 U.S.C. § 6301 *et seq.* (2002)

43-259. Graduation Requirements

Synopsis:

The State Board of Education promulgated amendments to R 43-259, Graduation Requirements, to delete the twenty-unit diploma requirements and obsolete language. An amendment requiring every high school student to take physical science prior to taking the exit examination was added and an amendment addressing the phase-out of out-of-field teaching permits in special education under the federal No Child Left Behind Act, 20 U.S.C. § 6301 *et seq.* (2002) was inserted. Language is added specifying Keyboarding may count no more than one-half unit of the one unit computer science requirement. The restriction to the number of units a student can earn through summer school, distance education, and adult education programs is eliminated. Changes the credit for a three-semester-hour college course from one-half to one unit of dual credit. Clarifications for teacher certification requirements and granting course credit in adult education programs are also included.

Section-by-Section Discussion

Section I(A)(1)	Adds footnote specifying Keyboarding may count no more than one-half unit of the one unit computer science requirement. Inserts grammatical and editorial changes in language.
Section I(A)(2)	Deletes the twenty-unit high school diploma requirements.
	Adds former footnote 3, regarding the computer literacy requirement.
Section I(A)(3)	Adds former footnote 2, regarding student programs of study.
Section I(A)(4)	Inserts grammatical and editorial changes in language.
Section I(A)(5)	Inserts grammatical and editorial changes in language.
Section I(A)(6)	Inserts grammatical and editorial changes in language.
Section I(A)(7)	Eliminates the restriction to the number of units a student can earn through summer school, distance education, and adult education programs. Inserts grammatical and editorial changes in language.
Section I(A)(8)	Inserts text requiring all students to take one unit of physical science prior to taking the exit examination.
Section I(B)(1)(a-b)	Add text to align with federal No Child Left Behind Act, 20 U.S.C. Section 6301 et seq. (2002). Inserts grammatical and editorial changes in language.
Section I(B)(2)	Inserts grammatical and editorial changes in language.
Section I(C)	Adds new section titled Distance Learning Credit. Text was formerly in Section $I(B)(3)$ and aligns with R 43-234, Defined Program, Grades 9–12.

Section I(D)	Adds new section containing language for dual credit and aligns with R 43-234, Defined Program, Grades 9–12.
Section I(D)(2)	Changes the credit for a three-semester-hour college course from one-half to one unit of credit.
Section I(E)	Adds text to align with federal No Child Left Behind Act, 20 U.S.C. § 6301 <i>et seq.</i> (2002), by addressing the phase-out of out-of-field teaching permits in special education.
	Inserts a relocated footnote concerning the certification status of a teacher of students with disabilities.
	Inserts language for clarification of special needs student placement in alignment with text from R 43-234, Defined Program, Grades 9–12.
	Inserts grammatical and editorial changes in language.
Section II(A)(1)(2)(a-b)	Inserts grammatical and editorial changes in language and revises outline format.
Section II(A)(2)(c)	Amends requirement for over eighteen-year-old high school students to submit a signed withdrawal form for approval to take General Educational Development (GED) exam.
Section II(A)(3)	Amends language providing GED exceptions for juvenile offenders under certain conditions.
Section II(A)(3)(a-e)	Inserts grammatical and editorial changes in language.
Section II(C)(1)(a-f)	Inserts grammatical and editorial changes in language.
Section II(C)(2)	Inserts grammatical and editorial changes in language.
Section III(A)(1)	Adds footnote specifying Keyboarding may count no more than one-half unit of the one unit computer science requirement. Inserts grammatical and editorial changes in language.
Section III(A)(2)	Deletes the twenty-unit high school diploma requirements.
	Inserts former footnote 3 requiring the student to demonstrate computer literacy before graduation.
	Deletes former Section (C)(1)(c) pertaining to subject matter examinations that are now inserted in $III(A)(5)$.
Section III(A)(3-4)	Inserts grammatical and editorial changes in language.
Section III(A)(5)	Adds section to allow the waiver of classroom attendance by demonstration of subject-matter attainment on a state-approved subject-matter examination.
Section III(A)(6)	Adds language regarding passing of an examination on the provisions and principles of the United States Constitution, Declaration of Independence, the
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	Federalist papers, and American institutions and ideals as found in section $I(A)(2)(4)$.
Section III(A)(7)(a-c)	Inserts grammatical and editorial changes in language.
Section III(B)(1-2)	Inserts grammatical and editorial changes in language.
	Deletes former Section (C)(2)(c) addressing issuance of credit in occupational courses.
Section III(B)(3)	Adds language that restricts credit for occupational training and experience to those students twenty-one years of age and older.
	Inserts grammatical and editorial changes in language.
Section III(B)(4)	Adds language allowing an adult to earn credit by passing a state-approved subject matter examination when the teacher is not certified in the specific area of credit.
Section III(C)	Adds language requiring an adult education high school diploma program to offer instruction for a minimum of thirty weeks.
Section III(C)(1-4)	Inserts grammatical and editorial changes in language.
	Deletes former Sections (C)(3)(e–f) regarding the qualifications for adult basic education teachers.
Section III(C)(5)	Adds language that requires each adult basic education teacher be properly certified
Section III(C)(6)	Inserts grammatical and editorial changes in language.
Section III(C)(7)	Adds text aligned with federal No Child Left Behind Act, 20 U.S.C. § 6301 <i>et seq.</i> (2002), by addressing adult learning laboratory teacher qualifications.
Section III(C)(8)	Adds text aligned with federal No Child Left Behind Act, 20 U.S.C. § 6301 <i>et seq.</i> (2002), restricting the use of out-of-field permits.
Section III(C)(9)	Inserts grammatical and editorial changes in language and aligns with Section $(3)(A)(4)$.
Section III(C)(10-13)	Inserts grammatical and editorial changes in language.

Instructions: Amend in its entirety R 43-259, Graduation Requirements, to Chapter 43 regulations.

Text:

43-259. Graduation Requirements

I. State High School Diploma (Grades 9–12)

A. Curriculum Requirements

1. The student must earn a total of 24 prescribed units of credit. The unit requirements are distributed as follows:

Unit Requirements

English/language arts	4.0
mathematics	4.0
science	3.0
U.S. History and Constitution	1.0
economics	0.5
U.S. Government	0.5
other social studies course(s)	1.0
Physical Education or Junior ROTC	1.0
computer science (including keyboarding)*	1.0
foreign language or	
career and technology education	1.0
electives	7.0
	$\overline{24.0}$ total

2. The student must demonstrate computer literacy as determined by local school district policy.

3. The student in a College Prep program must earn one unit in a foreign language. (Please note that most four-year colleges/universities require at least two units of the same foreign language.) The student in a Tech Prep program must earn one unit in career and technology education course work.

4. The student must complete a study of and pass an examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the *Federalist* papers, and American institutions and ideals. This instruction shall be given for a period of at least one year, or its equivalent, either within the required U.S. History course and/or within another course using a suitable text recommended by the State Superintendent of Education and approved by the State Board of Education (SBE).

5. The student must attend the accredited high school issuing the diploma for at least the semester immediately preceding his or her graduation, except in the case of a bona fide change of residence to a location in which the sending school will not grant the diploma. Units earned in a summer school program do not satisfy this requirement.

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

7. The student must pass the South Carolina high school exit examination in addition to passing the required courses. (See SBE Regulation 43-262, "Assessment Programs.")

8. Every student must take one unit of physical science prior to taking the exit exam that is given the second spring after initial enrollment in the ninth grade.

B. Provisions for Granting High School Credit

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

1. High school credit earned in an approved adult education program may be used to meet regular high school graduation requirements under the following conditions:

a. The student spent a minimum of 120 hours in class time in that subject at that level, and the teacher was properly certified to teach the course.

b. The teacher providing the instruction is properly certified to teach the course and meets the "highly qualified" requirements specified in the No Child Left Behind Act of 2002, 20 U.S.C.§ 6301 *et seq.* (2002), if the course is in a core academic subject. The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts.

2. Credit shall be accepted when official transcripts are received from schools that are accredited by a state or by one of the following: the New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools. Credit from nonaccredited schools must be validated by standardized examinations by the local administrator to evaluate the student's prior academic work and/or the student may be given a tentative assignment in classes for a probationary period.

C. Distance Learning Credit

Credit for distance learning courses may be allowed when approved by the district superintendent or his or her designee.

D. Dual Credit

Students enrolled in grades nine through twelve or an adult education program may earn college course credit that can be applied to the 24 units required for a state high school diploma. The acceptance of credits for college course work is subject to the following conditions:

1. Local school boards may allow students to take college courses for credit. Courses may be offered through distance learning and cooperative agreements with institutions of higher education.

2. A three-semester-hour college course shall transfer as one unit of credit.

3. Students enrolled in a South Carolina public school may take for credit only courses applicable to baccalaureate degrees or to associate degrees in arts or in science offered by institutions that are accredited by the New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

E. Special Education Minimum Curriculum Completion Requirements

1. Students who complete a program of prescribed special education shall be awarded a state high school diploma, a state certificate, or a certificate designed and issued by the school district. If a determination is made that a student with a disability shall pursue credits toward a state high school diploma, the following two alternatives apply:

Alternative 1. Credits toward a state high school diploma may be awarded only by teachers who are certified or who hold out-of-field permits in the subject in which credit is earned (permits will not be issued to special education teachers or to any teachers of core academic subjects after June 30, 2006). If credit is awarded in a core academic subject, the teacher must also meet the "highly qualified" requirement of the No Child Left Behind Act of 2002. A student with a disability may receive such credits only after successfully completing

course objectives that are similar to those prescribed for students without disabilities and that are completed in accordance with cooperative instructional arrangements between regular education and special education as set forth in the student's individualized education program (IEP).

Alternative 2. Students with disabilities properly in membership in programs for students with disabilities may be awarded a state high school diploma provided they earn a total of 24 units, 17 of which are the same as those required of students without disabilities. Seven of the 24 units may be earned in special education courses.

2. A teacher of disabled students in the resource or itinerant model must have one of the following three qualifications:

(a) certification in the area of disability in which the majority of his or her students are classified, or

(b) an out-of-field permit (permits will not be issued in special education after June 30, 2006) in the area of disability in which the majority of his or her students are classified, or

(c) certification in one area of disability in which he or she is teaching and successfully complete 6 semester hours annually toward certification in the area in which the majority of his or her students are classified.

3. A student with a disability who will be participating in a self-contained program must be placed in a program with students who have the same category of disability unless the student's IEP team determines that he or she would be more appropriately served by being placed in an innovative-approach program approved by the SDE Office of School Quality. Students classified as having a mental disability (mild, moderate, or severe) may not be commingled without being in an approved innovative-approach program. The teacher must be certified in the area of disability of the majority of the students served or must hold an out-of-field permit (permits will not be issued in special education after June 30, 2006) in that area of disability.

II. The State High School Equivalency Diploma

The SBE recognizes the high-school level General Educational Development (GED) test battery and will issue a state high school equivalency diploma to eligible candidates who successfully complete the tests. The SBE authorizes the administration of the GED Tests by the State Department of Education (SDE) under policies established by the SBE and the Commission on Educational Credit and Credentials of the American Council on Education and procedures established by the GED Testing Service in_Washington, D.C.

A. Eligibility Requirements for Equivalency Diploma Candidates

1. Service Personnel and Veterans

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

2. General Adult Population

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

b. A candidate for a state high school equivalency diploma who is seventeen or eighteen years of age must submit a "Verification of School Withdrawal" form completed by either the school principal or attendance supervisor of the last school he or she attended or from the district superintendent of the school. The "Verification of School Withdrawal" form must verify the candidate's date of birth and the date of his or her last attendance at the school. In the event that the last school he or she attended was outside South Carolina, a person seventeen or eighteen years of age may submit a letter from an adult education coordinator or director verifying his or her date of birth and the date of last attendance in school. Verification by the adult education coordinator or director in this instance will be based upon inspection of transcript records. Verification letters are to be forwarded to the chief examiner in the SDE's GED Testing Office.

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

3. Juvenile Offenders

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

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

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

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

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

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

(e) The juvenile was tested using the official GED practice tests and scored a minimum of 2200.

B. Passing Score Requirements

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

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

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

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

C. Testing and Credential Application Procedures

1. GED Testing in South Carolina

(a) The GED tests may be scheduled and administered at adult education centers, technical education centers, and other locations approved by the director of the SDE's Office of Adult and Community Education.

(b) Eligible candidates must submit an application to the SDE's GED Testing Office, and pay the required fee set by the SDE for the testing service and the diploma.

(c) Score reports will be provided to initial examinees only after they complete all five tests in the GED test battery.

(d) The retesting of examinees who do not pass the GED Tests shall be conducted under the following terms:

(1) Candidates who attain a total combined score below 2150 on prior administrations must retake the full battery of five tests.

(2) Candidates who attain a total combined score of 2150 or higher on prior administrations may be permitted a partial administration of one or more tests.

(3) No more than three testing sessions (either initial or retesting sessions) may be scheduled for a candidate within any twelve-month period.

(4) Before an application for a second or subsequent retesting session is approved, either a waiting period of six months from the last retesting must elapse or the application must be accompanied by a letter of recommendation from an adult education coordinator or director certifying that the candidate has completed a course of instruction since his or her last retesting and has demonstrated readiness on the GED pretest.

(e) Nonresident individuals who are living temporarily in South Carolina may be permitted to take the GED Tests in South Carolina if they meet minimum age requirements and are not enrolled in high school. Nonresident individuals will not be awarded a state high school equivalency diploma unless their most recent elementary or secondary school of attendance was in South Carolina. Nonresidents must submit an application for testing services to the SDE's GED Testing Office and must pay the required fee set by the SDE to cover the full costs of the testing and the score report.

(f) The SDE offers the Spanish version of the GED Tests. A score report will be issued upon the student's completion of the Spanish GED test battery. However, the South Carolina high school equivalency diploma will not be issued based on the Spanish version of the GED Tests.

2. GED Testing Outside South Carolina

Eligible candidates tested outside South Carolina must submit a diploma application to the SDE's GED Testing Office and must pay the required fee to cover the costs of the diploma. Applicants must arrange

for official score reports to be sent to the chief examiner in the SDE's GED Testing Office.-Score reports will be accepted as official only when sent directly by an official GED Testing Center, by the transcript service of the Defense Activity for Nontraditional Education Support (DANTES), or by the GED Testing Service in Washington, D.C. Eligible candidates who are tested outside of South Carolina must meet the state's passing score requirements in order to receive a state high school equivalency diploma.

III. Adult Education: High School Diploma Program

A. Graduation Requirements

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

Unit Requirements	
English/language arts	4.0
mathematics	4.0
science	3.0
U.S. History and Constitution	1.0
economics	0.5
U.S. Government	0.5
other social studies course(s)	1.0
computer science (including keyboarding)*	1.0
electives	<u>9.0</u>
	24.0 total

2. The student must demonstrate computer literacy before graduation as determined by local school district policy.

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

4. No student shall be graduated from the adult education program prior to the time that he or she would have graduated from a regular high school unless written approval is granted by the high school principal and the SDE's Office of Adult and Community Education. For a student to be eligible to receive a state high school diploma, he or she must complete one semester in residence (i.e., through actual attendance in the adult education program). This semester in residence is a prerequisite for the state high school diploma and may not be waived. For the purposes of adult education programs, a semester in residence is defined as follows: a minimum of 60 hours of classroom attendance for a student needing only 1 unit to graduate, and a minimum of 30 hours of classroom attendance. A student who needs only one-half unit to graduate. A student who enters an adult education program needing only to pass one or more subtests of the exit examination must attend a minimum of 12 hours in classroom attendance. A student may not earn a state high school diploma through an adult education program solely by taking state-approved subject-matter examinations or by earning credit through occupational training and experiences and/or distance learning courses.

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

5. The classroom attendance requirement may be waived only when objective evidence of the student's subject matter attainment was demonstrated through his or her acceptable performance on a state-approved subject-matter examination. Credit granted by objective evidence must be approved by the principal of the high school and the director of the adult education program awarding the diploma. A copy of the test results with the principal's signature of approval, the date of the examination, the name and form of the state-approved, subject matter examination, and the name of the examiner must be filed in the school records for that student.

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

7. A student may earn no more than 8 units of credit in one or any combination of the following ways:

- (a) passing a state-approved, subject-matter examination (6 units maximum),
- (b) participating in occupational training and similar experiences (6 units maximum), and
- (c) passing approved distance learning courses.
- B. Provisions for Granting Course Credit

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

2. Credit for distance learning courses shall be accepted from the extension divisions of South Carolina colleges and universities and/or the United States Armed Forces Institute. Credit for courses completed through distance learning may be accepted when the quality of the work completed is validated by a subject-matter examination. Credit shall be validated from institutions not accredited by the SBE or by one of the following: New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

3. Credit for occupational training and experience will be available for students twenty-one years of age and older. In the determination of units of credit to be allowed for the educational aspects of occupational training and work experience, the local administrator may request a maximum of 6 units of credit, provided the student establishes that he or she had formal training (through trade school, apprenticeship, special programs or course work, and so on) plus at least two years of successful experience verified by his or her employer in the occupation. The issuance of occupational and work experience credits shall be allowed only when the individual has satisfied the necessary academic requirements. The principal of the high school and the director of the adult education program awarding the diploma must recommend that credit be granted for occupational training and experience. The adult student seeking credit for occupational training and experience must complete a work experience form ("Evaluation of Occupational Training and Experience for Granting High School Credit in Adult Education"), and the form must be forwarded by the local adult education director to the SDE's Office of Adult and Community Education. If the request for credit is approved, this form shall become a part of the adult student's official school record. 4. High school diploma credit earned in an adult education learning laboratory may be granted only by a teacher certified in the specific area in which credit is to be awarded. If the adult education learning laboratory teacher is not certified in the specific area in which the student is seeking credit, the teacher can administer a state-approved subject-matter examination and award the credit on that basis.

C. Approved Programs and Granting of Credit

No credit toward a state high school diploma shall be granted to any adult education student unless the program has been officially approved in writing by the Office of Adult and Community Education and the Office of School Quality at the SDE. In instances where a high school diploma program does not meet for the required minimum of 30 weeks, a student may not be awarded course credit unless he or she passes a state-approved examination. Program-related requirements include, but are not limited to, the following:

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

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

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

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

5. Each adult education teacher must be properly certified and meet the "highly qualified" requirements specified in the No Child Left Behind Act of 2002, 20 U.S.C.§ 6301 *et seq.* (2002), if the course is in a core academic subject. The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts.

6. Each adult education high school subject_area teacher must be properly certified and "highly qualified" to teach the subject area in which he or she is assigned to teach.

7. Each adult learning laboratory teacher must be properly certified in an approved subject area and meet the "highly qualified" requirements specified in the No Child Left Behind Act of 2002.

8. Any staff member who is assigned duties in a subject for which he or she is not properly certified must hold a valid teaching credential, must have completed 12 semester hours of credit in the assigned subject, and must have obtained an out-of-field permit in that subject from the Office of Teacher Quality. The staff member must earn 6 semester hours toward proper certification each year for renewal of the out-of-field permit. After June 30, 2006, out-of-field permits will no longer be issued to teachers who teach core academic subjects as specified by the No Child Left Behind Act of 2002, 20 U.S.C. § 6301 *et seq.* (2002). These core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts.

9. A student must attend class a minimum of 60 hours to receive consideration for a unit of high school credit and 30 hours for consideration for one-half unit of high school credit. Actual course credit will be awarded only after the student has completed all course requirements. The classroom-attendance requirement does not apply to instances in which credit has been validated by means of a state-approved examination.

10. The maximum student membership in an adult education class shall be 30 students.

11.Applications for innovative-approach programs must be submitted to the SDE's Office of Adult and Community Education when a departure from certain established standards is necessary for the implementation of the new program. Requests for prior approval must be made to the Office of Adult and Community Education and must be approved by the SDE's Office of School Quality.

12. An accurate record of the attendance and achievements of each student must be kept and must_be stored in locked, fireproof filing cabinets or vaults or in a secure database with backup copies.

13.Students enrolled in the high school completion program must be given access to school library facilities.

Fiscal Impact Statement: None

Statement of Rationale: A copy of the detailed statement of rationale can be obtained by writing to Mr. Calvin Jackson, Deputy Superintendent, Division of District and Community Services, 1429 Senate Street, Room 908, Rutledge Building, Columbia, South Carolina 29201 or e-mail <u>cjackson@sde.state.sc.us</u> or Ms. Lucinda Saylor, Deputy Superintendent, Division of Curriculum Services and Assessment, 1429 Senate Street, Room 805, Rutledge Building, Columbia, South Carolina 29201 or e-mail <u>csaylor@sde.state.sc.us</u>.

Document No. 2962 **DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL** CHAPTER 61 Statutory Authority: 2002 SC Code Ann. Section 44-1-140; Sections 44-4-100 *et seq*. (Supp. 2003)

Related Authority: SC Code Ann. Section 25-1-440 (Supp. 2003)

R.61-112. Implementation of Emergency Health Powers Act

Synopsis:

The General Assembly added Chapter 4 to Title 44 to: (1) authorize the collection of data and records, the control of property, the management of persons, and access to communications as may be strictly necessary to accomplish the purposes of this act; (2) facilitate the early detection of a qualifying health event or public health emergency, and allow for immediate investigation of such an emergency by granting access to individuals' health and other information under specified circumstances; (3) grant state officials the authority to use and appropriate property as necessary for the care, treatment, and housing of patients, and for the destruction or decontamination of contaminated materials; (4) grant state officials the authority to provide care and treatment to persons who are ill or who have been exposed to infection, and to separate affected individuals from the population at large for the purpose of interrupting the transmission of infectious disease; (5) ensure that the needs of infected or exposed persons will be addressed to the fullest extent possible, given the primary goal of controlling serious health threats; (6) provide state officials with the ability to prevent, detect, manage, and contain emergency health threats without unduly interfering with civil rights and liberties; and (7) require the development of a comprehensive plan to provide for a coordinated, appropriate response in the event of a public health emergency. Code Section 25-1-440(d) authorizes the Governor to appoint a Public Health Emergency Plan Committee to advise him and make recommendations regarding public health emergency preparedness and public health emergency orders.

This new regulation will complement Regulation 61-20, *Communicable Diseases*, implement the provisions of the Emergency Health Powers Act, and provide for coordination with the Public Health Emergency Plan Committee.

Instructions: Add new R.61-112, Implementation of Emergency Health Powers Act, to Chapter 61 regulations.

Text:

Regulation 61-112, Implementation of Emergency Health Powers Act

Section 1. Scope and Purpose

This regulation provides procedures for responding to the occurrence or imminent risk of a Qualifying Health Condition in a manner which is consistent with the authorities of S.C. Code Ann. Sections 44-1-110 through - 140, the Emergency Health Powers Act (S.C. Code Ann. Section 44-4-10 *et seq.*), S.C. Code Ann. Sections 44-29-10 through -50, Regulations 61-16 and 61-20, and the State Emergency Response Plan with its supporting annexes, appendices, and Standard Operating Procedures. The regulation is intended to provide for timely recognition of sources or potential sources of disease, identification of victims or potential victims, delivery of health care, application of appropriate public health measures, and assurance of due process and personal privacy commensurate with the public health threat.

Section 2. Definitions

Unless otherwise defined below, terms in this regulation have the definitions set forth in S.C. Code Ann. Section 44-4-130, S.C. Code Ann. Section 44-29-10(C), and S.C. Code Ann. Regulation 61-20.

"Administer" -- the direct application of a drug or device pursuant to a lawful order of a practitioner to the body of a patient by injection, inhalation, ingestion, topical application, or any other means.

"Commissioner" – the commissioner of the Department of Health and Environmental Control (DHEC) or his designee.

"Dispense" -- the transfer of possession of one or more doses of a drug or device by a licensed pharmacist or person permitted by law, to the ultimate consumer or his agent pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. As an element of dispensing, the dispenser shall, before the actual physical transfer, interpret and assess the prescription order for potential adverse reactions or side effects, interactions, allergies, dosage, and regimen the dispenser considers appropriate in the exercise of his professional judgment, and the dispenser shall determine that the drug or device called for by the prescription is ready for dispensing. The dispenser shall also provide counseling on proper drug usage, either orally or in writing, as provided in this chapter. The actual sales transaction and delivery of a drug or device is not considered dispensing and the administration is not.

"Distribute" -- the delivery of a drug or device other than by administering or dispensing

"Emergency medical services" – the arrangement of personnel, facilities, and equipment for the delivery of health care services under emergency conditions.

"First Responder" – a health care worker, disaster relief worker, public safety officer, mortuary staff, or other individuals directly engaged in examining, treating or directing persons or animals during a Public Health Emergency.

"Initiating Event" -1) the release of contaminants or infectious agents, 2) the spread of communicable disease, or 3) an accumulation of observations which lead to the conclusion that contamination may have been released, or that a communicable disease has begun to spread by either a natural or intentional event, with the potential for widespread public health impact. The existence of an Initiating Event may be inferred, based upon data and observations, and need not be a discrete event localized in time or place.

"Medical Supplies" -antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies

"Official List of Reportable Diseases" – the list published pursuant to S.C. Code Ann. Regulation 61-20 as amended from time to time.

"Route of Transmission" – the pathway by which an individual may be exposed to an infectious or communicable disease, or chemical or radiological contamination; includes consideration of physical pathways (aerosol, droplet, vapor, blood-borne, body fluids, or direct contact), biological pathways (human to human, animal to human, or other biological vectors), and receptor route (inhalation, ingestion, skin absorption).

"Strategic National Stockpile" or "SNS" –a national repository of antibiotics, chemical antidotes, antitoxins, life-support medications, IV administration, airway maintenance supplies, and medical/surgical items. The SNS is designed to supplement and re-supply state and local public health agencies in the event of a national emergency anywhere and at anytime within the U.S. or its territories.

Section 3. Declaration of Public Health Emergency; Roles of Agencies

A. The Governor, in consultation with the Public Health Emergency Plan Committee, has the authority to declare a state of Public Health Emergency. DHEC will provide information and advice to the Committee and to the Governor before and after declaration of a state of Public Health Emergency.

B. It is inherent in the nature of public health emergencies that some actions must be taken before the declaration of a state of Public Health Emergency. Nothing in this regulation shall be construed to limit DHEC's authority or obligation, before the declaration of a state of Public Health Emergency, to undertake such investigations or to take such actions pursuant to Code Sections 13-7-40 and -50, 44-1-80 and 44-1-140, 44-55-60, and 44-56-50 as may be necessary to detect, identify, and control the spread of communicable diseases or of biological, chemical, or radiological agents capable of causing disease or injury.

C. DHEC shall request the assistance of public safety agencies, coroners, medical examiners, professional licensing boards, professional associations, health care facilities, and vendors delivering goods and services to health care facilities and medical professionals to implement this regulation. Where specifically provided for by statute or regulation, such requests shall have the force of law.

Section 4. Personal and public health information

A. Medical Information

i. Upon declaration of a state of Public Health Emergency DHEC may by order amend the Official List of Reportable Conditions to include specific diseases or diagnostic criteria. DHEC may designate whether such reports are "Report Immediately" or "Urgently Reportable" and may provide telephone hot line numbers, electronic notification (email) addresses or other means of reporting as may be appropriate.

ii. Before declaration of a state of Public Health Emergency DHEC may by order amend the Official List of Reportable Conditions to include specific diseases or diagnostic criteria. DHEC may designate whether such reports are "Report Immediately" or "Urgently Reportable" and may provide telephone hot line numbers, electronic notification (email) addresses or other means of reporting as may be appropriate. Within twenty four hours of such order DHEC will provide the Governor and the Public Health Emergency Plan Committee with information upon which such order was based.

B. Non-Medical Information

If the Commissioner determines that individuals who have been in certain facilities, or at specific events, or in contact with certain individuals, objects, animals, or categories of individuals, have been or may have been exposed to contaminants or communicable diseases, he may by order require reports to be submitted to DHEC, which may include but not be limited to: passenger manifests; attendance rosters; lists of patrons of events, activities, or venues; and the like. The order shall include as much specificity as is reasonably available to limit the scope of the report.

C. Use and safeguarding

i. In order to investigate the causes and spread of communicable or epidemic disease, to prevent or control the spread of contamination or infectious diseases, and to protect the public health, the Commissioner may by order require collection of contact tracing information from individuals who have or may have been exposed to contaminants, infectious agents, or communicable diseases. To the extent that such information may be Protected Health Information, individuals carrying out such orders and collecting contact tracing information shall be deemed to be acting in accordance with the authority of Code Sections 44-1-80 and 44-4-560 for purposes of having access to such information.

ii. Other than in accordance with subsection (i) above, access to DHEC records containing protected health information of persons who have participated in medical testing, treatment, vaccination, isolation, or quarantine programs or efforts by DHEC during a public health emergency is limited to those persons having a legitimate need to provide treatment to the individual who is the subject of the health information; or to conduct epidemiological research; or to investigate the causes of transmission.

iii. Pursuant to Code Section 44-4-560(B)(3), protected health information otherwise exempt from disclosure by Section 44-4-560(A) may be included in petitions and other court documents required pursuant to Section 44-4-540.

iv. Pursuant to Code Section 44-4-560(B)(3) and (B)(5), DHEC may seek an *ex parte* court order for permission to disclose otherwise protected health information if necessary to locate individuals to limit the spread of contagion or to offer medical treatment. DHEC will include with the John Doe petition for such order a sealed affidavit stating with particularity the basis for believing that location of the specific individuals is necessary to protect the public health or the health of the individual and why disclosure of the identity or the protected health information is necessary.

Section 5. Use of Real Property

- A. Use of Health Care Facilities
 - i. Coordination of assets

Upon declaration of a Public Health Emergency DHEC may require health care facilities to provide current information on patient census, available patient beds, and potential expansion capacity. Potential expansion capacity shall include vacant beds, rooms constructed but not placed into operation in accordance with a Certificate of Need, and rooms which could be adapted for multiple occupancy pursuant to subsection ii below. Health care facilities shall include such potential expansion capacity as separate line items in reports submitted for inclusion in the Regional Mass Casualty Response Plans. The means of reporting bed availability, facility problems, emergency department diversion, hospital pharmaceutical supplies, equipment, decontamination capability and other information necessary to coordinate a regional mass casualty response will be determined by DHEC and may include software or web page reporting mechanisms in current use and provided by DHEC.

Hospitals may be required to report information with a predetermined frequency, or as requested within each hospital preparedness planning district.

ii. Suspension of hospital licensure requirements

Upon declaration of a state of Public Health Emergency, DHEC may by order suspend for the duration of the PHE so much of Regulations 61-15 and 61-16 as (1) restricts use of unlicensed beds or space; (2) restricts the conversion of single and double occupancy patient rooms to higher capacity (consistent with medically appropriate criteria); or (3) restricts establishment of wards, dormitories, or other spaces not designated as patient rooms.

B. Use of other real property

i. Upon declaration of a Public Health Emergency, DHEC may identify and notify public and private facilities to include but not be limited to hospitals, clinics, emergency medical services, outpatient treatment facilities, mortuaries, laboratories, and refrigerated storage facilities, that use of such facilities will be needed for the duration of the PHE to protect the public health.

ii. Operation of such facilities by the owners and operators is preferred. However, upon refusal by the owners or operators, or upon refusal to respond to DHEC's notification within a reasonable time not to exceed forty-eight hours, DHEC may apply for an *ex parte* court order authorizing DHEC, or its designee, to enter into said facility and take control for purposes of responding to the Public Health Emergency. Upon presentation, any public safety agency may execute such order. DHEC may apply for any such order to provide that designees operating facilities pursuant to court order shall be held harmless as to the owners or operators. After notice and opportunity for a hearing, DHEC may apply for an order continuing the *ex parte* order and setting the compensation, if any, due the owners and operators for such period of displacement.

C. Decontamination and sealing

i. DHEC may order decontamination of facilities to prevent the transmission of communicable diseases or to remove or neutralize biological, chemical, or radiological contaminants; such orders may include standard infection control techniques or other specific techniques as appropriate. DHEC may order decontamination of part or all of a facility or may order the sealing of part or all of a facility in lieu of decontamination. Sealed facilities shall be flagged or placarded in accordance with Regulation 61-20, Section 6; Regulation 61-20, Sections 8 and 9 apply.

ii. Orders requiring the sealing of facilities shall be reviewed regularly on a schedule commensurate with the nature of the contaminant, the scope and extent of the Public Health Emergency, and available resources.

Section 6. Personal property

A. DHEC may order decontamination, sealing, or destruction of equipment, foodstuffs, personal property, or any other material to limit the spread of communicable disease or contaminating agents. Such orders may apply to specific items or to classes of items.

B. Destruction may be ordered when decontamination is not practical or when exigent action is necessary to control the spread of contamination or communicable disease.

i. A petition for an order of destruction based on impracticality of decontamination shall be accompanied by one or more affidavits stating (1) the basis for determining the material to be contaminated; (2) if contamination cannot be confirmed by tests, the basis for believing the material to be contaminated or potentially contaminated; (3) the risk to the public health if the material is neither decontaminated or destroyed; (4) alternatives such as decontamination or isolation which have been considered and the reasons they are not adequately protective of the public health.

ii. Nothing herein shall be construed to prohibit the immediate destruction without court order of a source of contamination or communicable disease when, in the professional judgment of DHEC staff, such action is necessary to prevent or limit the spread of contamination or disease. To the extent practicable, staff will record a description of the affected property, the location, and the basis for ordering immediate destruction.

C. If material can be sealed to eliminate it as a source of communicable disease or contamination with the possibility of decontamination after the Public Health Emergency abates, DHEC may order this as an option. Orders requiring sealing of material shall be reviewed regularly on a schedule commensurate with the nature of the contaminant, the scope and extent of the Public Health Emergency, and available resources.

D. Failure to comply with an order requiring decontamination or sealing of material may be grounds for seeking a court order requiring destruction of such material.

E. Animals

i. In consultation with the State Veterinarian, DHEC may issue orders requiring isolation, quarantine, or destruction of animals. Unless there is a clear medical or public health necessity, no animal shall be destroyed except by court order

ii. Domestic pets: DHEC may by order allow persons to be accompanied by their pets in communal isolation or quarantine facilities, depending on the nature of the threat and the capacity of the facility. Alternatively DHEC may order establishment of pet holding areas or forbid pets in isolation or quarantine facilities.

iii. Non-domestic animals; farm animals; large animals: DHEC may by order allow owners or their representatives access to isolated animals for feeding or other necessary care; such access shall be upon such conditions as DHEC shall order.

Section 7. Response equipment and supplies

A. Possession and distribution

i. Pursuant to Code Section 44-4-330, DHEC may purchase antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies ("Medical Supplies"). After declaration of a Public Health Emergency, and in accordance with Code Section 11-35-1570, the Commissioner or his designee may authorize others to make emergency procurements; provided, that such emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

ii. Strategic National Stockpile

a. DHEC has been designated as the entity responsible for distribution of SNS materials after transfer of SNS materials from CDC. DHEC shall name a consultant pharmacist to be responsible for establishing appropriate policies and procedures for the receipt, storage, dispensing, and distribution of drugs from the SNS and for supervising a record-keeping system for those drugs. DHEC shall submit these policies, procedures, and record-keeping systems to the Board of Pharmacy for review and approval.

b. Upon notification that SNS materials are being sent to South Carolina and the declaration of a Public Health Emergency, DHEC shall notify the SC Board of Pharmacy and the SC Department of Labor, Licensing and Regulation of the impending arrival, distribution, and dispensing of SNS materials.

c. Provided that the Board of Pharmacy has approved the submitted policies, procedures and recordkeeping systems, DHEC may proceed to distribute and dispense SNS materials.

d. Records with respect to receipt, storage, distribution and dispensing of SNS materials shall be retained for two years and shall be readily available for audit by the Board of Pharmacy, the Department of Labor, Licensing and Regulation, the DHEC Bureau of Drug Control, or a responsible Federal agency.

iii. DHEC may distribute, administer or dispense Medical Supplies either through its own employees, by instructions to wholesalers, or by allocation to health care providers for redistribution in accordance with directives issued by DHEC. In allocating Medical Supplies, DHEC will consider the amount on hand, the amount reasonably anticipated from other sources, and the population at risk. DHEC may allocate or deny Medical Supplies based on age, proximity to an initiating event or route of transmission, whether the individual is a First Responder, whether alternative personal protective measures are readily available, or other criteria of epidemiological significance.

iv. In allocating Medical Supplies to First Responders, DHEC may consider proximity to an initiating event or route of transmission in addition to other risk factors.

B. Orders affecting wholesale distribution

i. After declaration of a Public Health Emergency, DHEC may order manufacturers and distributors doing business in South Carolina to provide information on the amount, location and availability of Medical Supplies in South Carolina or in distribution chains serving South Carolina.

ii. In consultation with public health officials in neighboring states and with Federal officials, DHEC may direct distribution of Medical Supplies to designated health care providers. DHEC may direct designated health care providers to distribute or dispense Medical Supplies in accordance with criteria established by DHEC, which may include age, proximity to an initiating event or route of transmission, or other criteria of epidemiological significance.

C. Orders affecting retail distribution

DHEC may issue guidelines defining diagnostic criteria, risk factors and contraindications for the guidance of health care providers. The Commissioner may by order identify categories of individuals to whom Medical Supplies shall not be given.

Section 8. Qualified health care providers

A. Authorization to practice

i. Authorization of otherwise qualified health care professionals who are not licensed in South Carolina to render professional services during a public health emergency is the responsibility of the respective licensing board or entity. This may include students or interns as may be recommended by their faculty and approved by the respective licensing board.

ii. DHEC will consult with the Board of Medical Examiners, Board of Nursing, Board of Pharmacy, the State EMT Coordinator, and other licensing boards to determine what credentials will be required of otherwise qualified, but unlicensed, individuals before assignment in a response role. Upon declaration of a Public Health

Emergency, DHEC may assign individuals after review of individual credentials but before confirmation from the professional licensing boards.

B. Conditions of licensure

i. If, during a Public Health Emergency, an individual health care provider unreasonably fails or refuses to perform vaccinations, treatment, examination, or testing of individuals, DHEC may submit evidence of such refusal to the appropriate licensing board for consideration in subsequent licensing decisions.

ii. DHEC may consider evidence of failure or refusal to allow vaccinations, treatment, examination or testing of individuals as a basis for revoking or denying renewal of facility licenses issued by DHEC. Revocation or denial of a license based in whole or in part on such grounds may be challenged as a contested case.

Section 9 Quarantine; Restrictions on travel and public assembly

A. Upon declaration of a Public Health Emergency in which there is a substantial likelihood of person-toperson transmission of disease or spread of contamination, DHEC may recommend to law enforcement authorities orders placing restrictions on public gatherings. Such recommendations shall be reasonably tailored to address the risk and may include limits on the number or age of individuals, restrictions on location, or restrictions on non-essential gatherings.

B. Upon declaration of a Public Health Emergency, DHEC may order closure of primary or secondary schools.

C. Quarantine and isolation

i. DHEC will provide notice to individuals in quarantine or isolation sufficient to inform them of (1) the basis for the order of quarantine or isolation; (2) the restrictions imposed by the order; (3) procedures for obtaining judicial review of the order; (3) notice of any hearings, appointment of counsel, or other court proceedings; (4) the findings of the court after any review of the order; (5) any testing, treatment or vaccination which is planned or available; (6) the location and hours of operation of facilities for the delivery of mail, food, fuel, medical treatment or supplies, and other necessaries.

ii. (1) DHEC will by order establish criteria for allowing entry into and departure from quarantine or isolation facilities, which may include prohibitions against departure. The Commissioner may designate medical professionals to assist law enforcement personnel assigned to implement the quarantine order. (2) If quarantine has been established by geographical area, criteria for departure may include procedures for documenting that travelers have permission to enter the intended destination.

iii. DHEC will offer the reviewing court information, including best professional judgment, concerning risk of disease transmission and possible prophylactic measures for the court's consideration in establishing procedures for allowing quarantined or isolated individuals access to counsel and access to court proceedings consistent with public health and due process.

Section 10. Human remains

A. Upon declaration of a Public Health Emergency, DHEC will notify coroners, medical examiners, and funeral directors of specific procedures to be followed in handling and disposing of remains of individuals known or presumed to have died from or been exposed to contamination or communicable disease. This may include individuals determined to have died as a result of other causes, such as trauma, but who had been exposed prior to death.

B. Prior to disposal

i. Every person in charge of disposing of any human remains must maintain a written record of each set of human remains and all available information to identify the decedent and the circumstances of death and disposal. If the human remains cannot be identified, prior to disposal, a qualified person must, to the extent possible, take fingerprints and one or more photographs of the human remains, and collect a DNA specimen. The Commissioner may by order require collection of specific tissue samples or performance of specific tests. All information gathered under this paragraph must be promptly forwarded to DHEC. Identification must be handled by the agencies that have laboratories suitable for DNA identification.

ii. All human remains of a person who has died from an infectious disease must be clearly labeled with all available information to identify the decedent and the circumstances of death. Any human remains of a deceased person with an infectious disease must have an external, clearly visible tag indicating that the human remains are infected and, if known, the infectious disease. The person in charge of disposing of such human remains shall report to DHEC the identifying information and the date, means and place of disposal.

C. If DHEC concludes that there is no public health reason to require disposal within twenty-four hours of human remains of persons who have died of an infectious disease, DHEC shall so notify coroners, medical examiners, and funeral directors.

D. Mass graves: In the event of mass casualties in excess of the provisions of the State Emergency Operations Plan to provide for disposal, mass graves shall

i. not be located in floodways, wetlands, karst formations, or in unstable terrain;

ii. have at least two feet vertical separation above groundwater.

iii. be at least two hundred feet from the nearest property line, potable well, or irrigation well, and one hundred feet from surface waters (including ephemeral or seasonal streams);

iv. provided with daily cover to control vectors, hydrated lime, and absorbent material;

v. provided with adequate final cover, fencing and venting to minimize the need for long-term care.

vi. The corners of mass graves shall be marked with permanent monuments and the location recorded where title to real property is recorded.

vii.A permanent record of the names or other identifying information of all human remains shall be kept.

Section 11. Severability.

Should any section, paragraph or other part of these regulations be declared invalid for any reason, the remainder shall not be affected.

Fiscal Impact Statement:

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

Statement of Need and Reasonableness and Rationale:

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

DESCRIPTION OF REGULATION:

Purpose: The purpose of this action is to implement the Emergency Health Powers Act.

Legal Authority: The legal authority for this regulation is 2002 SC Code Section 44-1-140; Sections 44-4-100 *et seq.* (Supp. 2003); and related authority, SC Code Section 25-1-440 (Supp. 2003).

Plan for Implementation: Department staff will revise internal procedures and training to incorporate the provisions of this regulation. The Department will work with health care practitioners and facilities, public safety agencies, licensing boards, coroners, the Governor's office, the Public Health Emergency Plan Committee, other potentially affected entities, and members of the public to develop plans to incorporate the provisions of the regulation.

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

The Emergency Health Powers Act provides extraordinary authority and responsibility to DHEC in the event of a naturally occurring epidemic or an act of terrorism which results in casualties exceeding the normal capabilities of public health responders. The Department determined that existing plans and regulations are not sufficient to implement the provisions of the Emergency Health Powers Act; accordingly this new regulation will supplement Regulation 61-20.

The regulation is needed because the circumstances under which it would be implemented exceed the capabilities and planning basis for existing regulations; under such circumstances, the Emergency Health Powers Act authorizes mass isolation or quarantine of individuals, compulsory dedication of private property to public uses, and other similar actions for which regulatory no existing regulations provide adequate direction. The regulation is drafted to provide instruction for agency staff and procedures intended to balance public benefits and private rights as much as possible under those extraordinary circumstances.

DETERMINATION OF COSTS AND BENEFITS: During a Public Health Emergency, DHEC may initiate extraordinary actions such as ordering quarantine of individuals, closing of certain facilities, dedication of other facilities for use as quarantine or isolation facilities, or destruction of contaminated property. Such actions will result in costs to the individuals or entities affected; however, this regulation does not answer questions of compensation for such costs, leaving them to the courts for resolution based on the specific facts of each claim. As summarized above, benefits arising from this regulation include specification of procedures to be followed during a Public Health Emergency to minimize confusion and implement the provisions of the Emergency Health Powers Act.

UNCERTAINTIES OF ESTIMATES: By definition, the circumstances under which this regulation would be implemented are extraordinary and uncertain.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect on the environment; the regulation is intended as a response to a postulated major threat to the public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effect on the environment. There will likely be a significant, but unquantifiable, detrimental effect in the event of a triggering public health emergency: if the

regulation is not implemented, public health responders will have to use existing regulations and such improvised procedures as may seem necessary.

Statement of Rationale:

For the reasons summarized above, this regulation is needed as reasonable preparation for a postulated major public health emergency.

Document No. 2945 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: S.C. Code Ann. Section 44-34-10, et seq., (1976, as amended)

R.61-111, Standards For Licensing Tattoo Facilities.

Synopsis:

By Act 250 effective June 17, 2004, a tattooing chapter was added to the S.C. Code of Laws at Section 44-34-10, *et seq*. The law established requirements and procedures for tattooing in South Carolina, including provisions for the issuance of the promulgation of regulations by the Department of Health and Environmental Control.

Pursuant to the Act, this regulation will include, but not be limited to: definitions; a reference listing of Departmental and non-Departmental publications; fees required; facility licensing requirements; methods used in enforcing regulations, i.e., investigations, inspections, and consultations; reference to the types of enforcement actions which may be taken by the Department, the classifications of violations, range of monetary penalty amounts, and the appeal process; policies and procedures; staff training; reporting requirements to the Department; client record content and maintenance; client procedures and services provided; client rights; grievance and complaint procedure; facility maintenance; infection control and equipment sterilization including housekeeping; infectious waste; emergency procedures and disaster preparedness; fire prevention; facility accommodations; temporary and mobile units; and a severability clause.

Discussion of New Regulation

Section 100 of the new proposed regulation addresses definitions and references used in this regulation.

Section 200 addresses application and licensing requirements, fees, and exceptions to the standards.

Section 300 addresses investigations, inspections, consultations, and other requirements in order to enforce the regulation.

Section 400 addresses enforcement actions including denial, revocation, suspension or refusal of a license, violation classifications, and provisions for appeal of an enforcement action.

Section 500 addresses the requirements for facility policies and procedures.

Section 600 addresses staff training.

Section 700 addresses facility reporting requirements.

Section 800 addresses client records, content, and record maintenance.

Section 900 addresses the requirements for client procedures and services provided.

Section 1000 addresses client rights, informed consent, and the grievance/complaint procedure.

Section 1100 addresses facility maintenance.

Section 1200 addresses infection control sterilization of tattoo equipment and the practices that promote the prevention of the spread of infectious diseases.

Section 1300 addresses emergency procedures and medical emergencies.

Section 1400 addresses fire prevention, evacuation, fire response training and arrangements for fire department response.

Section 1500 addresses the design and construction requirements of the facility.

Section 1600 addresses the required accommodations of the tattoo facility.

Section 1700 addresses fire protection equipment and firefighting systems.

Section 1800 addresses mobile tattoo units and temporary tattoo locations.

Section 1900 addresses a severability clause that indicates that if a court of competent jurisdiction determines that part of the regulation is invalid or otherwise unenforceable then the remainder of the regulation will not be affected and will still be in force.

Section 2000 addresses conditions that have not been referenced in the regulation.

Instructions:

Add new R.61-111 to Chapter 61 regulations.

Text:

REGULATION 61-111 - STANDARDS FOR LICENSING TATTOO FACILITIES

SECTION SUBJECT

SECTION 100 - DEFINITIONS AND REFERENCES 101. Definitions 102. References
SECTION 200 - LICENSE REQUIREMENTS AND FEES 201. License Requirements 202. Exceptions to the Standards
SECTION 300 - ENFORCING REGULATIONS 301. General 302. Inspections/Investigations 303. Consultations
SECTION 400 - ENFORCEMENT ACTIONS

- 401. General
- 402. Violation Classifications
- SECTION 500 POLICIES AND PROCEDURES

501. General SECTION 600 - STAFF 601. General 602. Inservice Training **SECTION 700 - REPORTING** 701. Incidents/Accidents 702. Fire/Disasters 703. Administrator Change 704. Facility Closure **SECTION 800 - CLIENT RECORDS** 801. Content 802. Record Maintenance SECTION 900 - CLIENT PROCEDURES AND SERVICES PROVIDED 901. General **SECTION 1000 - CLIENT RIGHTS** 1001. Informed Consent 1002. Grievances/Complaints 1003. Procedures and Charges **SECTION 1100 - MAINTENANCE** 1101. General SECTION 1200 - INFECTION CONTROL AND ENVIRONMENT 1201. Staff Practices 1202. Hepatitis B Vaccination 1203. Infection Control 1204. Sterilization of Equipment 1205. Housekeeping 1206. Infectious Waste SECTION 1300 - EMERGENCY PROCEDURES 1301. Emergency Call Numbers 1302. Medical Emergencies **SECTION 1400 - FIRE PREVENTION** 1401. Arrangements for Fire Department Response 1402. Inspections 1403. Evacuation Plan 1404. Fire Response Training SECTION 1500 - DESIGN AND CONSTRUCTION 1501. General 1502. Local and State Codes and Standards SECTION 1600 - FACILITY ACCOMMODATIONS 1601. General 1602. Restrooms 1603. Location SECTION 1700 - FIRE PROTECTION EQUIPMENT AND SYSTEMS 1701. Firefighting Equipment 1702. Flammable Liquids 1703. Furnishings/Equipment SECTION 1800 - MOBILE UNITS AND TEMPORARY LOCATIONS 1801. General **SECTION 1900 - SEVERABILITY** 1901. General **SECTION 2000 - GENERAL** 2001. General

SECTION 100 - DEFINITIONS AND REFERENCES

101. Definitions.

For the purpose of this regulation, the following definitions shall apply:

A. Administrator. The individual designated by the facility licensee who has the authority and responsibility to manage the facility.

B. Aftercare Suggestions. Specific written information presented on how to promote successful healing of various tattoo sites, including infection control information and instruction.

C. Aseptic Technique. Any health care procedure in which added precautions are used to prevent contamination of a person, object, or area by microorganisms, such as by use of sterile gloves and instruments.

D. Biohazardous. Any biological material capable of causing harm to humans, animals or plants, including both biohazardous organisms and agents.

E. Church. An establishment, other than a private dwelling, where religious services are usually conducted.

F. Client. A person who has a tattoo procedure performed on his or her body.

G. Consultation. A visit to a licensed facility by individuals authorized by the Department to provide information to the licensee to enable/encourage facilities to better comply with the regulations.

H. Contaminated or Contamination. The presence of blood, infectious materials, or other types of impure materials that have corrupted a surface or item through contact.

I. Department. The S.C. Department of Health and Environmental Control (DHEC).

J. Direct Supervision. The on-site training, observation, and evaluation of a supervisee by an experienced tattoo artist, including the provision of consultation and instruction.

K. Disinfection. The action of using an agent, e.g. 70% alcohol solution, that kills germs or microorganisms.

L. Experienced Tattoo Artist. An individual who has a current and valid tattoo license or permit from a state with requirements that meet the minimum requirements of this regulation, *i.e.*, training, age, or who has 1000 or more hours during the last three years performing tattooing procedures in a licensed or permitted tattoo facility, as confirmed in writing by the licensee, from a state with requirements that meet the minimum requirements of this regulation, *i.e.*, training, age.

M. Facility. Any room, space, location, area, structure, mobile unit, or business, or any part of any of these places, where tattooing is practiced or where the business of tattooing is conducted and which is licensed by the Department as a tattoo facility.

N. Germicidal. Preventing infection by inhibiting the growth or action of microorganisms.

O. Injection Equipment. Equipment used in the practice of tattooing, including the needle(s) and the needle bar. Injection equipment does not include other parts of the tattoo machine such as grips, tubes (barrels), motors, coils, frames, binding posts, rubber bands, foot pedals, and power units.

P. Inspection. A visit by authorized individuals to a facility or to a proposed facility for the purpose of determining compliance with this regulation.

Q. Investigation. A visit by an authorized individual(s) to a licensed or unlicensed facility for the purpose of determining the validity of allegations received by the Department relating to this regulation.

R. Legally Authorized Healthcare Provider. An individual authorized by law and currently licensed in South Carolina (S.C.) to provide specific medical treatments, care, or services to staff members and/or clients. Examples of individuals who may be authorized by law to provide the aforementioned treatment/care/services include, but are not limited to, advanced practice registered nurses, physician's assistants.

S. License. A certificate issued by the Department to a facility that authorizes tattooing at that facility subject to the provisions of this regulation.

T. Licensee. The individual, corporation, partnership, organization, or public entity that has received a license to provide tattoo services and with whom rests the ultimate responsibility for compliance with this regulation.

U. Micropigmentation or Application of Permanent Cosmetics. A medical procedure performed above the jaw line and anterior to the ear and frontal hairline in which color or pigment is applied with a needle or electronic machine to produce a permanent mark visible through the skin. The procedure includes, but is not limited to, the application of eyeliner; eye shadow; and lip, eyebrow, or cheek color for purposes of enhanced aesthetics; scar concealment; and/or repigmentation of areas involving reconstructive surgery or trauma. Micropigmentation shall not include placing on the body any pictures, images, numbers, signs, letters of the alphabet, or designs. Medical micropigmentation shall not be construed to be included in the definition of tattooing as provided in Section 101.OO.

V. Minor. A person who has not attained the age of eighteen years.

W. Mobile Unit. A vehicle, trailer, or portable unit from which tattooing is performed.

X. New Facility. All new and existing buildings or portions of buildings that are being licensed for the first time, or being licensed after the previous licensee's license has been revoked, suspended, or voluntarily surrendered.

Y. Parental Consent. Written affirmative agreement from a parent or legal guardian that he/she authorizes the tattoo procedure, in person, before the tattoo is applied.

Z. Picture Identification. A valid driver's license from any state or an official photographic identification card issued by the South Carolina Department of Revenue, a federal or state law enforcement agency, an agency of the United States Department of Defense, or the United States Department of State, *e.g.*, military ID, passport.

AA. Playground. A place, other than grounds at a private dwelling, that is provided by the public or members of a community for recreation.

BB. Release. The point at which the client's active involvement with a facility is terminated and the facility no longer maintains active responsibility for the client.

CC. Repeat Violation. The recurrence of any violation cited under the same section of the regulation within a 36-month period. The time-period determinant of repeat violation status is not interrupted by ownership changes.

DD. Revocation of License. An action by the Department to cancel or annul a license by recalling, withdrawing, or rescinding its authority to operate.

EE. Sanitized or Sanitization. A procedure that reduces the level of microbial contamination so that the item or surface is considered safe.

FF. School. An establishment, other than a private dwelling, where the customary processes of education are conducted.

GG. Sharps. Any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin including, but not limited to, pre-sterilized, single-use needles, scalpel blades and razor blades.

HH. Single-use. An item that is used 1 time on 1 client and then is properly disposed of by appropriate measures.

II. Staff Member. An individual who is a compensated employee of the facility on either a full or part-time basis.

JJ. Sterile. The condition of an object when it is free of live bacteria, spores or other microorganisms, including pathogens (usually achieved by heat or chemical means).

KK. Sterilize or Sterilization. The approved procedure of making an object free of live bacteria, spores or other microorganisms including pathogens (usually by heat or chemical means).

LL. Suspension of License. An action by the Department requiring a licensee to cease operation for a period of time until such time as the Department rescinds that restriction.

MM. Tattoo Artist. A staff member 21 years of age or older who practices body tattooing at the tattoo facility and who meets the requirements of this regulation, including both experienced tattoo artists and tattoo artist trainees.

NN. Tattoo Artist Trainee. A staff member under the tutelage of an experienced tattoo artist who is in the process of acquiring 1000 hours of tattoo procedures training as required in Section 601.F.

OO. Tattoo or Tattooing. To indelibly mark or color the skin by subcutaneous introduction of nontoxic dyes or pigments. The practice of tattooing does not include the removal of tattoos, nor the practice of branding, cutting, scarification, skin braiding, or the mutilation of any part of the body.

PP. Tattoo Procedures Training. Training that includes hands-on tattooing performed on clients and other tattooing-related activities including sterilization techniques.

QQ. Temporary Location. A short-term fixed location at which tattooing is licensed and performed for a specified period of not more than fourteen (14) days.

RR. Work Station. A work area where tattoo procedures are performed and that meets the requirements as set forth in Section 1601.A.

102. References

The following publications are referenced in these regulations:

A. Regulation 61-9, Water Pollution Control Permits;

- B. Regulation 61-67, Standards of Wastewater Facility Construction;
- C. Regulation 61-105, Infectious Waste Management;

D. American Association of Blood Banks (Blood Products Advisory Committee, March 14, 2002);

E. Bloodborne Pathogens Standards, Occupational Safety and Health Act of 1970 (OSHA 29 CFR 1910.1030, January, 18, 2001);

F. Centers for Disease Control and Prevention (CDC Personnel Health Guideline, June, 1998);

G. National Fire Protection Association (NFPA 30, 2003; NFPA 99, 2002; NFPA 701, 2004).

SECTION 200 - LICENSE REQUIREMENTS AND FEES

201. License Requirements (II)

A. License. (I)

1. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent his/her/itself (advertise or market) as a tattoo facility in S.C. without first obtaining a license from the Department. Facilities that perform tattooing prior to the effective date of licensing are in violation of S.C. Code Ann. Section 44-34-10, *et seq.*, (1976, as amended).

2. When it has been determined by the Department that tattooing is being performed at a location, and the owner has not been issued a license from the Department to perform such procedures, the owner shall cease operation immediately.

3. Current or previous violations of the S.C. Code of Laws and/or Department regulations may jeopardize the issuance of a license for the facility or the licensing of any other facility or addition to an existing facility that is owned or operated by the licensee. The facility shall provide only the procedures or services it is permitted to provide pursuant to the definition in Section 101.S. of this regulation.

B. Compliance. An initial license shall not be issued to an owner/operator until the licensee has demonstrated to the Department that the facility is in substantial compliance with the licensing standards. In the event a licensee who already has a facility or activity licensed by the Department makes application for another facility or activity, the currently licensed facility or activity shall be in substantial compliance with the applicable standards prior to the Department issuing a license to the proposed facility or activity.

C. A copy of the licensing standards for tattooing shall be maintained by the licensee and accessible to all staff members.

D. No licensee who has been issued a license for a facility at a specific address shall establish a new facility without first obtaining authorization from the Department. (I)

E. Issuance and Terms of License.

1. A license is issued by the Department and shall be displayed in a conspicuous place in a public area in the facility.

2. The facility shall maintain a business address and telephone number at which the facility may be reached during business hours.

3. The issuance of a license does not guarantee adequacy of individual care, treatment, procedures, and/or services, personal safety, fire safety or the well-being of any client.

4. A license is not assignable or transferable and is subject to revocation at any time by the Department for the licensee's failure to comply with the laws and regulations of this State.

5. A license shall be effective for a specific facility, at a specific location(s), for a specified period following the date of issue as determined by the Department. Except for temporary locations, a license shall remain in effect until the Department notifies the licensee of a change in that status.

F. Application.

1. Applicants for a tattoo facility license shall submit to the Department:

a. A completed application on a form prescribed and furnished by the Department prior to initial licensing and annually thereafter. The application includes the applicant's oath, assuring that the contents of the application are accurate and true and that the applicant will comply with this regulation. The application shall be signed by the owner(s) of the facility if an individual or partnership; in the case of a corporation, by two of its officers. Corporations or limited partnerships shall be registered with the S.C. Office of the Secretary of State.

b. A certified copy of an ordinance passed by the local governing body where the business will be located that authorizes the tattooing of persons within its jurisdiction;

c. A written statement that the applicant has advertised in the legal section of a newspaper nearest the location of the business at least once a week for three consecutive weeks, in compliance with S.C. Code Ann. Section 44-34-110(C) (1976, as amended), of their intent to apply for a tattoo facility license;

d. A copy of the business license, as applicable;

e. A licensing fee and a certification fee, if applicable;

f. Written acknowledgement of compliance with all applicable federal OSHA requirements or guidelines, and copies of certificates attesting to the successful completion by tattoo artists of courses in:

(1) Bloodborne pathogens as approved by the Department;

(2) Tattoo infection control as approved by the Department;

(3) American Red Cross First Aid;

(4) Adult cardiopulmonary resuscitation (CPR) from the American Red Cross or the American Heart Association.

g. Written evidence that the individual(s) performing tattooing procedures is an experienced tattoo artist as defined in Section 101.L., or that the individual is a tattoo artist trainee as defined in Section 101.NN.;

h. A description of the method of discharge of dyes, inks, and pigments including written authorization for this discharge from the local wastewater treatment plant or statement from landfill that disposal is in accordance with its waste acceptance plan (see Section 1205.C.);

i. A written agreement with a public fire department arranging for emergency response in case of fire, if applicable (see Section 1401.);

j. A legible facility floor plan, drawn to scale. The floor plan shall include location of the work station(s) and the identification of sterilization equipment. Preparation by an architect is not required.

2. A license shall not be granted nor issued to a tattooing business, nor shall a business conduct tattooing operations within 1,000 feet of a church, school, or playground. This distance shall be the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of the church, school, or playground. These restrictions shall not apply to the renewal of an existing license or to ownership changes for locations that are licensed at the time the application is filed with the Department.

3. Mobile units shall have a permanent mailing address; licenses will indicate that address, and that the facility is mobile. Schedules of mobile locations shall be submitted three months in advance to the Department's Division of Health Licensing and shall include written evidence that the mobile unit is in compliance with the location requirements in Sections 201.F.1.b., 201.F.1.c., 201.F.1.d., and 201.F.2.

4. Temporary locations shall have a permanent mailing address. Licenses will indicate the address of the temporary location and that the license is temporary for a specified number of work stations for a specified length of time.

G. Licensing and Certification Fees. Fees shall be made payable by check or money order to the Department and shall be used exclusively in support of activities pursuant to this regulation.

1. A nonrefundable initial and annual license fee of \$400 plus \$50 for each additional tattoo work station over eight shall be submitted to the Department, which may charge an additional amount, if necessary, to cover the cost of inspection or investigation.

2. An applicant for a new license shall pay an initial certification fee of \$50 to determine if the exemptions provided for in Section 201.F.2. (above) are met. There will be no certification fee for applicants seeking licensing for mobile units.

3. Late Fee. Failure to submit a renewal application or fee after the license expiration date may result in a late fee of 25% of the licensing fee amount in addition to the licensing fee. Continual failure to submit completed and accurate renewal applications and/or fees by the time period specified by the Department may result in an enforcement action.

4. License Renewal. For a license to be renewed, applicants shall file an application with the Department, pay a licensing fee, and shall not be under consideration for or undergoing enforcement actions by the Department. If the license renewal is delayed due to enforcement actions, the renewal license shall be issued only when the matter has been resolved satisfactorily by the Department or when the adjudicatory process is completed, whichever is applicable. If an application is denied, a portion of the fee shall be refunded based upon the remaining months of the licensure period, or \$75, whichever is greater. Licenses for temporary locations shall not be renewed.

H. Change of License. A licensee shall request issuance of a new or amended license by application to the Department prior to any of the following circumstances:

1. Change of ownership of the facility; or

2. Change of facility location (mobile facilities must comply with Section 201.F.2. (above) by a written statement of such compliance).

3. Changes in the number of tattoo work stations in the facility.

4. Changes in address as notified by the post office shall be accomplished by application or by letter from the licensee.

I. This regulation does not restrict the activities of a physician or surgeon licensed pursuant to the laws of this State.

J. Tattoo artists shall perform tattooing only in licensed facilities. (I)

202. Exceptions to the Standards

The Department has the authority to make exceptions to these standards when it is determined that the health, safety, and well-being of the clients will not be compromised and provided the standard is not specifically required by statute.

SECTION 300 - ENFORCING REGULATIONS

301. General

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation in order to enforce this regulation.

302. Inspections/Investigations

A. An inspection shall be conducted prior to initial licensing of facilities and subsequent inspections shall be conducted as deemed appropriate by the Department. Regulatory-related accreditations may be considered in determining the appropriateness of Department inspections.

B. All facilities are subject to inspection or investigation at any time without prior notice, by individuals authorized by the Department.

C. Individuals authorized by the Department shall be granted access to all properties and areas, objects, and records that are pertinent to the operation of the facility and have the authority to require the licensee to provide photocopies of those documents required in the course of inspections or investigations. Photocopies shall be used for purposes of enforcement of regulations, and confidentiality shall be maintained except to verify the identity of individuals in enforcement action proceedings. (II)

D. A licensee found noncompliant with the standards of this regulation shall submit an acceptable written plan of correction to the Department that shall be signed by the administrator and returned by the date specified on the report of inspection or investigation. The written plan of correction shall describe: (II)

- 1. The actions taken to correct each cited deficiency;
- 2. The actions taken to prevent recurrences (actual and similar);
- 3. The actual or expected completion dates of those actions.

E. Reports of inspections or investigations conducted by the Department, including the response(s) by the facility, shall be made available to the public upon written request with the redaction of the names of those individuals in the report as provided by S.C. Code Ann. Sections 44-7-310 and -315 (1976, as amended).

303. Consultations

Consultations may be provided by the Department as requested by the facility or as deemed appropriate by the Department.

SECTION 400 - ENFORCEMENT ACTIONS

401. General

When the Department determines that a licensee is in violation of any statutory provision, rule, or regulation relating to the operation of a facility, the Department, upon proper notice to the licensee, may impose a monetary penalty and/or deny, suspend, revoke, or refuse to issue or renew a license.

402. Violation Classifications

Violations of standards in regulation are classified as follows:

A. Class I violations are those that the Department determines present an immediate threat to the health, safety, or well-being of persons in the facility or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of the time established by the Department may be considered a subsequent violation;

B. Class II violations are those, other than Class I violations, that the Department determines have a negative impact on the health, safety or well-being of persons in the facility. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation;

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation;

D. The notations, "(I)" or "(II)," placed within sections of this regulation, indicate those standards are considered Class I or II violations if they are not met, respectively. Standards not so annotated are considered Class III violations.

E. In arriving at a decision to take enforcement actions, the Department will consider the following factors: the number and classification of violations, including repeat violations; specific conditions and their impact or potential impact on health, safety or well-being of the clients; efforts by the facility to correct cited violations; behavior of the licensee that would reflect negatively on the licensee's character, such as illegal or illicit activities; overall conditions of the facility; history of compliance; any other pertinent conditions that may be applicable to statutes and regulations.

F. Any decision by the Department to grant, deny, revoke, suspend, refuse to renew a license, or impose monetary penalties may be appealed by a party with standing pursuant to the Administrative Procedures Act, S.C. Code Ann. Section 1-23-310 (1976, as amended).

FREQUENCY	CLASS I	CLASS II	CLASS III
1 st	\$500 - 1,500	\$300 - 800	\$100 - 300
2 nd	1,000 - 3,000	500 - 1,500	300 - 800
3 rd	2,000 - 5,000	1,000 - 3,000	500 - 1,500
4 th	5,000	2,000 - 5,000	1,000 - 3,000
5 th	7,500	5,000	2,000 - 5,000
6 th and more	10,000	7,500	5,000

MONETARY PENALTY ACTIONS

SECTION 500 - POLICIES AND PROCEDURES

501. General (II)

A. Policies and procedures addressing each section of this regulation regarding client procedures or services, rights, infection control, the operation of the facility, including emergency procedures in the event of an adverse reaction shall be developed and implemented by the facility, and revised as appropriate in order to accurately reflect actual facility operation. Facilities shall establish a time-period for review of all policies and procedures. These policies and procedures shall be accessible printed or electronically at all times.

B. The policies and procedures shall describe the means by which the facility shall assure that the standards described in this regulation, which the licensee has agreed to meet as confirmed by his or her application, are met.

C. A legible notice informing patrons of any disqualification which tattooing may confer upon a prospective blood donor according to the standards of the American Association of Blood Banks shall be conspicuously displayed in a public area of the facility.

SECTION 600 - STAFF

601. General (II)

A. Staff members at the facility shall be trained in order to provide any emergency on-site action that may arise. Training requirements and qualifications for the tasks each performs shall be in compliance with all local, state, and federal laws, and professional organizational standards.

B. A tattoo artist shall be at least 21 years of age and shall not be under the influence of any substance that would impair his or her ability to perform tattooing. (I)

C. Administrator.

1. The licensee shall ensure that there is an administrator responsible for the day-to-day operation of the facility to ensure compliance with these regulations.

2. An individual shall be designated, in writing, to act in the absence of the administrator.

3. The administrator and a facility tattoo artist may be the same individual.

D. All new staff members shall be oriented to acquaint them with the organization and environment of the facility, their specific duties and responsibilities (including the necessary training to perform the duties), and clients' needs.

E. Accurate information shall be maintained regarding all staff members of the facility, to include at least current address, phone number, hepatitis B vaccination results, work, and training background. All staff members shall be assigned certain duties and responsibilities that shall be in writing and in accordance with the individual's capability and training.

F. Prior to independently performing tattooing procedures, a tattoo artist trainee shall have a minimum of 1000 hours of tattoo procedures training during the last 36 months under the direct supervision of an experienced tattoo artist who shall sign and maintain a written statement attesting to the completion of such training.

602. Inservice Training (II)

A. Prior to performing tattoo procedures, tattoo artists shall have the following training as approved by the Department:

- 1. Bloodborne pathogens, and annually thereafter;
- 2. Tattooing infection control, and annually thereafter.
 - 3. Current certifications in:
 - a. Adult CPR (American Red Cross or the American Heart Association); and
 - b. American Red Cross First Aid.

B. A tattoo artist must conspicuously display in a public area at the facility the certificates of successful completion of a course in CPR, First Aid, bloodborne pathogens, and tattoo infection control.

SECTION 700 - REPORTING

701. Incidents/Accidents (II)

A. A record of each accident and incident involving clients, or staff occurring in the facility shall be retained. Incidents or accidents resulting in serious medical conditions, *e.g.*, lacerations, hematomas, actual or suspected abuse of clients by staff, in which the client is hospitalized, shall be reported via telephone to the next-of-kin or responsible person at the earliest practicable hour, but not to exceed 24 hours of the occurrence, and in writing to the Department's Division of Health Licensing within 10 days of the occurrence.

B. Reports shall contain at a minimum: facility name, staff member name, client age and sex, date of incident or accident, location, witness names, identified cause of incident or accident, extent and type of injury and how treated, *e.g.*, hospitalization, and the date of the report.

702. Fire/Disasters (II)

Any fire or natural disaster in the facility shall be reported to the Division of Health Licensing via telephone or fax immediately, with a complete written report that includes the fire report from the local fire department, if appropriate, submitted within a time-period as determined by the facility, but not to exceed 72 hours.

703. Administrator Change (II)

The licensee shall notify the Division of Health Licensing in writing within 10 days of any change in administrator. The notice shall include at a minimum the name of the newly-appointed individual and effective date of the appointment.

704. Facility Closure

A. Prior to permanent closure of a facility, the Department's Division of Health Licensing shall be notified in writing of the intent to close and the effective closure date. Within 10 days of closure, the facility shall notify the Division of Health Licensing of the provisions for the maintenance of the records. On the date of closure, the current original license shall be returned to the Division of Health Licensing.

B. In cases where a facility temporarily closes, the Division of Health Licensing shall be given written notice within a reasonable time in advance of closure. At a minimum this notification shall include, but not be limited to: the reason for the temporary closure, the manner in which the records are being stored, and the anticipated date for reopening. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current construction standards to the facility prior to its reopening. If the facility is closed for a period longer than one year, and plans to re-open, the facility shall re-apply to the Department and shall be subject to all licensing requirements in effect at the time of that application, including construction-related requirements for a new facility.

SECTION 800 - CLIENT RECORDS

801. Content (II)

A. The facility shall initiate and maintain a record for every client. All entries shall be written legibly in ink or typed, signed and dated, and shall identify the author.

B. Specific entries shall include at a minimum:

1. Identification of the client including a means of verification of client's identity, *e.g.*, a copy of the identification picture;

2. Explanation of client rights (see Section 1000), as evidenced by the tattoo artist and client signature, including a clearly legible notice informing him or her of any disqualification which tattooing may confer upon a prospective blood donor according to the standards of the American Association of Blood Banks;

3. Tattoo procedure performed, to include the site of the tattoo;

4. Procedures followed if an unexpected event occurs and emergency procedures taken if there is an adverse reaction;

5. Parental consent, if applicable;

6. Physician or other legally authorized healthcare provider signed statement that the tattoo procedure is not contraindicated, if applicable (see Section 901.H.).

C. The facility shall obtain a client's signed statement attesting that he or she is not intoxicated or under the influence of drugs or alcohol.

D. There shall be a release/aftercare note completed at the time of release, which shall include at minimum:

- 1. The date and time of release, including client's condition at release;
- 2. The aftercare suggestions for the specific tattoo site, with a copy provided to the client;
- 3. The signature of the client indicating receipt of the release/aftercare note.

802. Record Maintenance

A. The facility shall provide accommodations, space, supplies, and equipment adequate for the protection and storage of client records.

B. The client record is confidential. Records containing protected or confidential information shall be made available only to individuals granted access to that information, in accordance with state and federal laws. The facility shall have a written policy designating the persons allowed to access confidential client information. (II)

C. Client records shall be maintained for at least six years following the release of the client. Other documents required by the regulation, *e.g.*, endospore testing, shall be retained at least 12 months or until the next Division of Health Licensing inspection, whichever is longer, unless otherwise specified in this regulation. The facility shall determine the medium in which information is stored. The information shall be readily retrievable and accessible by facility staff, as needed, and for regulatory compliance inspections.

SECTION 900 - CLIENT PROCEDURES AND SERVICES PROVIDED

901. General (I)

A. A facility shall only provide tattooing and shall not engage in any other retail business including, but not limited to, the sale of goods or performing any form of body piercing, other than tattooing. The sale of specific tattoo aftercare goods and services is permitted.

B. A tattoo artist shall verify by means of a picture identification that a client is at least 21 years of age and shall not perform or offer to perform tattooing upon a person under the age of 21 years, unless the person is at least 18 and has parental consent.

1. A person who has his or her body tattooed while under the age of eighteen, in violation of the S.C. Code of Laws, may bring an action in the circuit court against the person convicted of the violation to recover actual damages and punitive damages plus costs of the action and attorney's fees.

2. The minor upon whom tattooing is performed, or the parent or legal guardian of that minor, or any other minor is not liable for punishment pursuant to S.C. Code Ann. Section 44-34-100 (1976, as amended).

C. The facility shall perform tattooing only for those persons for which the facility can provide the appropriate accommodations and services.

D. Tattooing shall be rendered safely.

E. Tattooing shall not be performed upon a person impaired by drugs or alcohol. A person impaired by drugs or alcohol is considered incapable of consenting to tattooing and incapable of understanding tattoo procedures and aftercare suggestions.

F. Tattooing shall not be performed on skin surfaces having rash, pimples, boils, keloids, sunburn, open lesions, infections, or that manifest any evidence of unhealthy conditions.

G. A tattoo artist shall not tattoo any part of the head, face, or neck of another person.

H. Prior to performing a procedure on a client, the tattoo artist shall obtain information from the client regarding any existing condition(s) that could affect the healing process, *e.g.*, allergies to medications, tattoo dyes or inks, or to latex, or taking medications such as anticoagulants that thin the blood and/or interfere with blood clotting. If a client indicates the presence of such a condition, the facility shall obtain documentation from a physician or other legally authorized healthcare provider that the procedure is not contraindicated prior to the tattooing procedure.

I. Inks, dyes or pigments used in tattooing shall be nontoxic, obtained from a commercial supplier or manufacturer and specifically manufactured for tattooing, and shall be used according to manufacturer's instructions and standard professional practice. Products banned or restricted by the Food and Drug Administration shall not be used.

- J. The facility shall provide aftercare suggestions to the client to include but not be limited to:
 - 1. Instructions for care following service;
 - 2. Possible side effects;
 - 3. Restrictions; and
 - 4. Infection control information.

K. Clients shall be given the opportunity to participate in aftercare programs if offered by the facility. (II)

L. During all operating hours, tattooing shall not be performed unless there is an experienced tattoo artist present in the facility.

M. The tattoo artist is not authorized to remove a tattoo(s) or perform micropigmentation or permanent cosmetic procedures. Tattoo removal, micropigmentation or permanent cosmetic procedures shall be provided only by physicians or other legally authorized healthcare providers.

SECTION 1000 - CLIENT RIGHTS

1001. Informed Consent (II)

The facility shall inform the client of the potential for any risks, and/or adverse effects or consequences, *e.g.*, allergic reactions to dyes or inks, regarding the tattoo procedure(s) to be performed. In all instances of tattooing, the client must voluntarily choose, in writing, to receive the procedure.

1002. Grievances/Complaints (II)

There shall be a written grievance/complaint procedure and clients shall be informed of this procedure, including the address and phone number of the Department's Division of Health Licensing.

1003. Procedures and Charges

Tattooing procedures performed by the facility and the charges for such procedures shall be stated in writing, and the client shall be made aware of such charges and procedures as verified by his or her signature, prior to the procedure.

SECTION 1100 - MAINTENANCE

1101. General (II)

The facility, including its component parts and equipment, shall be properly maintained to perform the functions for which it is designed.

SECTION 1200 - INFECTION CONTROL AND ENVIRONMENT

1201. Staff Practices (I)

Staff practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances and for the sanitization of surfaces with an appropriate sanitizing solution. These preventive measures or practices shall be in compliance, as applicable, with OSHA Bloodborne Pathogens Standards, the Department's R.61-105, applicable guidelines of the CDC, other applicable federal, state, and local laws and regulations, and other professionally recognized organizations.

1202. Hepatitis B Vaccination (I)

All tattoo artists shall have the hepatitis B vaccination series, or be offered the series and decline, in writing.

1203. Infection Control (I)

A. A tattoo artist shall utilize the following infection control measures:

1. Before and after each tattoo procedure, wash his or her hands thoroughly for a minimum of 20 seconds with water and a liquid germicidal solution approved by the Department, used in accordance with the manufacturer's directions, and dry them with single-use disposable paper towels or electric air dryer;

2. When necessary to perform a procedure on individuals who must undergo shaving of hair, utilize a single-use disposable razor;

3. The site of the tattoo shall be cleaned in a sterile surgical manner with a liquid germicidal solution approved by the Department and used in accordance with the manufacturer's direction and then swabbed with a disinfectant before tattooing.

4. Utilize single-use sterile disposable gloves when setting up equipment and performing procedures on a client and immediately replace upon notice of a tear, any contamination, or other defect;

5. Prior to any direct contact with the client, place in a sterile manner all sterile instruments and sterile tattoo items on a sterile disposable towel or drape to be used as a single sterile field throughout the procedure;

6. When conducting a procedure, use single-use disposable needles and injection equipment which are designated and sterilely packaged as single-use only; these needles and injection equipment shall not be cleaned or reused in any manner on another client;

7. Re-gloving with single-use sterile disposable surgical gloves must occur prior to initiation of the procedure, which is to be performed using aseptic techniques. Any contamination of the instruments or field shall immediately result in cessation of the procedure and nonuse of sterilized equipment until re-sterilized;

8. At all times when preparing the skin and while applying the actual tattoo, the tattoo artist shall wear single-use sterile disposable surgical gloves, which must be discarded upon completion of the tattoo.

9. After use, all single-use needles, razors, and other sharps shall be immediately disposed of in approved sharps containers; these used containers shall be labeled with the Universal Biohazard Symbol and the word "BIOHAZARD" and be disposed of in a manner prescribed by the Department.

10. The work station shall be supplied with an adequate supply of paper or plastic barrier film to protect equipment and any other item that must be protected to prevent cross-contamination.

B. The use of gauze, alum, styptic pencils, or medical supplies considered necessary to control bleeding is permissible provided that a separate disposable single-use sterile item is used on each client.

C. Single-service individual containers of ink or dye shall be used for each client and the container shall be discarded immediately after completing the procedure. Any dye or ink in which the needles were dipped shall be discarded and not used on another person.

D. If pens and/or stencils are used, only clean disposable single-use pens and stencils for transferring the design to the skin shall be used.

E. If any type of ointment is used, a single-use ointment tube or applicator shall be used.

F. While tattooing all tattoo artists shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices. If lap cloths or lap towels are used, they shall be single-use.

G. Food, drink, and the use of tobacco products in the procedure and disinfection/sterilization areas shall be prohibited.

H. Live animals shall not be permitted in the procedure and disinfection/sterilization areas.

EXCEPTION: This standard does not apply to patrol dogs accompanying security or police officers, guide dogs, or other service animals accompanying individuals with a disability into the procedure area.

1204. Sterilization of Equipment (I)

A. All used equipment intended for reuse (*e.g.* tubes, grips) shall be properly scrubbed clean of visible materials and soaked for a minimum of 20 minutes in a liquid germicidal solution approved by the Department, which shall be used in accordance with the manufacturer's direction. The equipment shall then be immediately placed in a mechanical ultrasonic cleanser for at least 25 minutes prior to being re-sterilized in the facility's autoclave. The ultrasonic cleanser shall be clearly labeled as "BIOHAZARDOUS" and shall be located as far apart as possible from the autoclave within the disinfection/sterilization area.

B. Facilities shall properly package and sterilize by autoclave those instruments, equipment, and other tattoo items other than inks and electrical instruments that are not single-use/disposable, include a sterile indicator, and label with the date of sterilization. Sterile items shall not be used if the package integrity has been breached.

C. Each facility shall keep a current written log for the previous two years of autoclave use, including, but not limited to, the date and time of use and results of sterilization spore test strip tests.

D. The effectiveness of the autoclave in killing bacterial endospores shall be tested at least once each month.

1205. Housekeeping (II)

The interior and exterior of the facility shall be neat, clean, and free of safety impediments, vermin, and offensive odors.

A. Interior housekeeping shall at a minimum include:

1. Cleaning each specific area of the facility;

2. Cleaning and disinfection, as needed, of equipment and supplies used and/or maintained in each area, appropriate to the area and purpose or use of the equipment or supplies;

3. Safe storage of harmful chemicals (as indicated on the product label), cleaning materials, and supplies, *e.g.*, mops, brooms, in cabinets or well-lighted closets or rooms. Such storage shall not occur in areas where sterilization equipment/supplies are stored or where sterilization or tattoo procedures are performed.

B. All garbage and waste shall be collected, stored, and disposed of in a manner designed to prevent the transmission of disease.

1. Refuse shall be stored in containers that shall be emptied at sufficient frequencies and manner so as not to create a rodent, insect, or other vermin problem. The containers shall be sanitized prior to their return to work areas.

2. Dumpsters utilized by the facility shall be enclosed/covered.

C. The discharge of dyes, inks, and pigments shall be accomplished in a safe manner with written consent prior to discharge from the local wastewater treatment plant, *i.e.*, publicly owned treatment works. Should the treatment of dyes, inks, or pigments for discharge be accomplished by the facility, or if there is direct discharge into the environment, such options shall be regulated in compliance with R.61-67 and/or R.61-9. The discharge of dyes, inks, and pigments into a septic tank system is prohibited. Small amounts absorbable in towels may be disposed of via dumpster provided the landfill waste acceptance plan permits such disposal.

D. Exterior housekeeping shall at a minimum include the cleaning of all exterior areas, *e.g.*, porches and ramps, and removal of safety impediments such as water, snow, and ice.

1206. Infectious Waste (I)

Accumulated waste, including all contaminated sharps, dressings, pathological, and/or similar infectious waste, shall be disposed of in a manner compliant with the Department's R.61-105 and OSHA Bloodborne Pathogens Standards.

SECTION 1300 - EMERGENCY PROCEDURES

1301. Emergency Call Numbers (I)

Emergency call data shall be posted in a conspicuous place and shall include, in addition to "911", the telephone numbers of fire and police departments and ambulance service.

1302. Medical Emergencies (I)

Medical emergencies shall be managed in a manner to insure the health, safety and well-being of clients and staff.

SECTION 1400 - FIRE PREVENTION

1401. Arrangements for Fire Department Response (I)

Facilities located outside of a service area or range of a public fire department shall arrange, by written agreement, for the nearest fire department to respond in case of fire. A copy of the agreement shall be kept on file in the facility and a copy shall be forwarded to the Division of Health Licensing. If the agreement is changed, a copy shall be forwarded to the Division of Health Licensing.

1402. Inspections (I)

Each facility shall be inspected by the fire inspector or marshal prior to licensing and thereafter as determined by the Department.

1403. Evacuation Plan (I)

A plan for the evacuation of clients, staff members, and visitors in case of fire or other emergency shall be posted in conspicuous public areas throughout the facility.

1404. Fire Response Training (I)

Each staff member shall receive training within one week of hiring, and at a frequency determined by the facility, but at least annually thereafter, addressing at a minimum, the following:

- A. Fire plan, to include evacuation routes and procedures, and the training of staff members;
- B. Reporting a fire;
- C. Use of the fire alarm system, if applicable;
- D. Location and use of fire-fighting equipment;
- E. Methods of fire containment;
- F. Specific responsibilities and duties of each staff member.

SECTION 1500 - DESIGN AND CONSTRUCTION

1501. General (II)

The building in which equipment is utilized shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each client.

1502. Local and State Codes and Standards (II)

Buildings shall meet requirements for "Business Occupancy," and shall comply with State Fire Marshal regulations and pertinent local and state laws, codes, ordinances, and standards with reference to design and construction. No facility shall be licensed unless the Department has written assurance that responsible local officials (zoning and building) have approved the structure in which tattooing procedures will be performed.

SECTION 1600 - FACILITY ACCOMMODATIONS

1601. General (II)

A. A facility shall include an area for the purpose of disinfecting and sterilization of equipment that shall be physically separate from the area used for tattoo procedures to avoid cross-contamination of equipment. These areas shall be separated from each other and from waiting clients by a door, divider, curtain, wall or partition. The work station shall be sized to accommodate necessary equipment or supplies, staff, and procedure table, but not less than 64 square feet of floor space, exclusive of fixed cabinets or shelves. The work station shall be utilized exclusively for tattooing. Multiple tattoo work stations shall be separated by dividers, curtains, walls or partitions.

1. Wall surfaces of the work station and disinfection/sterilization areas shall be nonporous and easily cleanable. Flooring in each area must be composed of material which is sanitizable.

2. A separate, properly identified sink (with hot and cold running water) used for disinfection practices only shall be located in the disinfection/sterilization area.

3. At least one sink (with hot and cold running water) shall be provided for every five work stations for hand washing. Adjacent to each sink there shall be a wall-mounted single-use paper dispenser or electric air dryer. Restroom sinks are included in this one-to-five ratio.

B. Procedure tables shall be constructed of a nonporous, sanitizable material.

C. A standard first aid kit or equivalent first aid supplies shall be readily accessible in the facility and shall contain as a minimum:

- 1. 4" X 4" gauze pads;
- 2. Benzalkonium swabs;
- 3. 2" X 2" gauze pads;
- 4. Gauze roller bandage;
- 5. Cardio-pulmonary resuscitation (CPR) mouth barrier device;
- 6. Eyewash solution;
- 7. Smelling salts or ammonia inhalants.

D. Medications shall be properly stored in a manner which provides for separation between topical and oral medications and from other supplies and safeguarded to prevent access by unauthorized persons. Medication storage areas shall be of sufficient size for clean and orderly storage and shall not be located near sources of heat, humidity, or other hazards that may negatively impact medication effectiveness or shelf life. Expired and out-dated medications and supplies shall be removed from the facility and destroyed. (I)

E. Lighting in the procedure and disinfection/sterilization areas shall be not less than 100 foot-candles.

F. Emergency electric services shall be provided for work station illumination, corridor egress, and exit sign lighting.

G. Adequate potable water for the needs of the facility shall be provided from an approved source and shall be available and accessible to clients.

H. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes.

1602. Restrooms (II)

A. There shall be an appropriate number of restrooms in the facility, to accommodate clients, staff, and visitors. The minimum requirement is one toilet fixture for every five tattoo work stations.

B. The restrooms shall be accessible during all operating hours of the facility.

C. A restroom(s) shall be equipped with at least one toilet fixture, toilet paper installed in a holder, a sink equipped with wrist or foot operated or touchless controls and supplied with hot and cold running water, liquid or granulated soap, single-use disposable paper towels or electric air dryer, and a covered waste receptacle. Equipment and supplies used in the course of tattoo procedures or disinfection and sterilization procedures shall not be stored or utilized in the restroom.

D. Restroom floor areas shall not be less than 15 square feet.

E. There shall be at least one sink per every two toilet fixtures located within a restroom.

F. Privacy shall be provided at toilet fixtures and urinals.

G. Facilities for persons with disabilities shall be provided as required by codes whether or not any of the staff or clients are classified as disabled.

H. All restroom floors shall be entirely covered with an approved nonabsorbent covering. Walls shall be nonabsorbent, washable surfaces to the highest level of splash.

1603. Location

A. Transportation. The facility shall be served by roads that are passable at all times and are adequate for the volume of expected traffic.

B. Parking. The facility shall have a parking area to reasonably satisfy the needs of clients, staff members, and visitors.

C. Access to firefighting equipment. Facilities shall maintain adequate access to and around the building(s) for firefighting equipment. (I)

SECTION 1700 - FIRE PROTECTION EQUIPMENT AND SYSTEMS

1701. Firefighting Equipment (I)

Firefighting equipment such as fire extinguishers, standpipes and automatic sprinklers shall be provided as required by the State Fire Marshal.

1702. Flammable Liquids (I)

The storage and handling of flammable liquids shall be in accordance with NFPA 30 and 99.

1703. Furnishings/Equipment (I)

A. The physical plant shall be maintained free of fire hazards and impediments to fire prevention.

B. No portable electric or unvented fuel heaters shall be permitted at the facility location except as permitted by the State Fire Marshal Regulations.

C. Wastebaskets, window dressings, portable partitions and dividers, cubicle curtains, mattresses, and pillows shall be noncombustible, inherently flame-resistant, or treated or maintained flame-resistant in accordance with NFPA 701, Standard Methods of Fire Tests for Flame-Resistant Textiles and Films.

EXCEPTION: Window blinds require no flame treatments or documentation thereof.

SECTION 1800 - MOBILE UNITS AND TEMPORARY LOCATIONS

1801. General (II)

All mobile units and temporary locations shall meet the standards of this regulation. Mobile units shall meet the standards of the state, federal, and local departments of transportation for the permitting and safe operation of the unit. Mobile units and temporary locations shall not be located within 1,000 feet of a church, school, or playground.

SECTION 1900 - SEVERABILITY

1901. General

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

SECTION 2000 - GENERAL

2001. General

Conditions that have not been addressed in these regulations shall be managed in accordance with the best practices as interpreted by the Department.

Fiscal Impact Statement:

The Department estimates that the State and its political subdivisions will incur a fiscal impact of \$79,718 (1 Inspector, and 0.5 Administrative Specialists to provide clerical support for the issuance of licenses) plus \$4,500 (one-time office set-up cost for the two employees) in non-recurring funds by the promulgation of these regulations. Cost of implementation will be met, in part, by licensing fees imposed by the new proposed regulation. There will be costs to the regulated community. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and S.C. Code, Section 44-34-20.

DESCRIPTION OF REGULATION: R.61-111, Standards For Licensing Tattoo Facilities.

Purpose: This regulation includes, but is not limited to: definitions; a reference listing of Departmental and non-Departmental publications; facility licensing requirements; methods used in enforcing regulations, *i.e.*, investigations, inspections, and consultations; reference to the types of enforcement actions which may be taken by the Department, the classifications of violations, range of monetary penalty amounts, and the appeal process; policies and procedures; staff training; reporting requirements to the Department; client record content and maintenance; client procedures/services provided; client rights; facility maintenance; infection control and housekeeping; emergency procedures/disaster preparedness; fire prevention; mobile units; and a severability clause. See Determination of Need and Reasonableness below.

Legal Authority: The legal authority for R.61-111 is S.C. Code Ann. Section 44-34-10, et seq., (1976, as amended).

Plan for Implementation: This regulation will take effect upon publication in the *State Register* following approval by the S.C. General Assembly. The regulation will be implemented by providing the regulated community with copies of the regulation and enforced through inspections by the Department.

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

This regulation is needed and reasonable because its development will satisfy a legislative mandate pursuant to the S.C. Code Ann. Section 44-34-10, *et seq.*, (1976, as amended).

The regulation is reasonable because it will promote public health by providing standards for tattoo facilities thereby reducing the likelihood of adverse outcomes as a result of unsafe procedural conditions; can be implemented using staff authorized by the Act; provides procedures, standards and criteria to license tattoo establishments; informs interested persons on the procedures for applying for a tattoo facility license; requires only the basics that are needed to ensure protection of health for the citizens of South Carolina.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: The Department estimates that the State and its political subdivisions will incur a fiscal impact of \$79,718 (1 Inspector, and 0.5 Administrative Specialists to provide clerical support for the issuance of licenses) plus \$4,500 (one-time office set-up cost for the two employees) in non-recurring funds by the promulgation of these regulations. Cost of implementation will be met, in part, by licensing fees imposed by the proposed regulation.

External Costs: There will be costs to the regulated community through a fee for licensing a tattoo facility. The licensing fee will be \$400.00 for a tattoo facility that has no more than eight tattoo work stations and an additional \$50.00 fee for each tattoo work station over eight. There is no maximum licensing fee. A certification fee of \$50.00 will also be charged to an applicant that covers the costs associated with determining if a proposed tattoo facility conforms to S.C. Code, Section 44-34-110. The licensing and certification fees will be utilized in order to recover a portion of increased licensing, inspection/investigation operational costs.

UNCERTAINTIES OF ESTIMATES: None

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

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE PROPOSED REGULATION IS NOT IMPLEMENTED: There will be an adverse effect on the public health if the regulation is not implemented since it is likely that adverse health outcomes from unregulated tattoo facilities will be more prevalent. In addition, if not implemented, uniform and comprehensive standards based on effective established sanitary and infection control procedures and practices would not be realized, thus denying the public these protections thereby increasing the potential that the public may be harmed. Also, if this

regulation is not implemented, the Department would not be expeditiously meeting the legislative mandate to promulgate regulations as required by Act 250, effective June 17, 2004.

Statement of Rationale:

See the Statement of Determination of Need and Reasonableness above for more information regarding the factors influencing the Department to promulgate the regulation.

Document No. 2966 **DEPARTMENT OF INSURANCE** CHAPTER 69 Statutory Authority: 1976 Code Sections 38-3-110; 1-23-10, *et seq*.

69-2. Annual Renewal Plan

Synopsis:

The South Carolina Department of Insurance proposes to repeal Regulation 69-2 related to Annual Renewal Plan. The regulation is outdated and this proposal is in line with the Department's efforts to update Code of Regulations to accurately reflect changes made in the Code of Laws. The regulation is no longer valid as it does not accurately correspond to and reflect current law.

Instructions:

Repeal regulation 69-2 in its entirety.

Text:

There will be no text as the regulation will be repealed in its entirety.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Rationale:

No studies or reports were relied upon for this proposal, rather it is in response to and an effort to coordinate with changes made in the Code of Laws.

Document No. 2978 **DEPARTMENT OF INSURANCE** CHAPTER 69 Statutory Authority: 1976 Code Sections 38-3-110, 38-9-180, 38-63-510 et seq., 1-23-110 et seq.

69-57.1. Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits.

Synopsis:

The South Carolina Department of Insurance proposes to create Regulation 69-57.1 in order to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with South Carolina Code Section 38-9-180 and Section 38-63-510 et seq. as well as Regulation 69-57, Valuation of Life Insurance Policies.

Instructions:

Create new Regulation 69-57.1 using the language provided in the Text portion below.

Text:

69-57.1. Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits.

Section 1. Authority
Section 2. Purpose
Section 3. Definitions
Section 4. 2001 CSO Mortality Table
Section 5. Conditions
Section 6. Applicability of the 2001 CSO Mortality Table to South Carolina Insurance Regulation 69-57
Section 7. Gender-Blended Tables
Section 8. Separability
Section 9. Effective Date

Section 1. Authority

This regulation is promulgated by the Director of Insurance pursuant to South Carolina Code Sections 38-9-180 and 38-63-510 et seq. as well as Regulation 69-57, Valuation of Life Insurance Policies.

Section 2. Purpose

The purpose of this regulation is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with South Carolina Code Section 38-9-180 and Section 38-63-510 et seq. as well Regulation 69-57, Valuation of Life Insurance Policies.

Section 3. Definitions

A. "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

B. "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

C. "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

D. "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

E. "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

Section 4. 2001 CSO Mortality Table

A. At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this regulation, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after January 1, 2005 and before the date specified in Subsection B to which South Carolina Code Sections 38-9-180 and 38-63-510 et seq. and South Carolina Insurance Regulation 69-57 are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.

B. Subject to the conditions stated in this regulation, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which South Carolina Code Sections 38-9-180 and 38-63-510 et seq. and Regulation 69-57 are applicable.

C. The new minimum basis for the computation of values related to extended term benefits shall be the 2001 CSO Mortality Table, subject to the transition dates for use of the 2001 CSO Mortality Tables set forth in this section.

Section 5. Conditions

A. For each plan of insurance with separate rates for smokers and nonsmokers an insurer may use:

(1) Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

(2) Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by South Carolina Code Section 38-9-180 and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

(3) Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

B. For plans of insurance without separate rates for smokers and nonsmokers the composite mortality tables shall be used.

C. For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of Section 6 and South Carolina Insurance Regulation 69-57 relative to use of the select and ultimate form.

D. When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the Director shall be based on an asset adequacy analysis as specified in South Carolina Insurance Regulation 69-52. A Director may exempt a company from this requirement if it only does business in this state and in no other state.

Section 6. Applicability of the 2001 CSO Mortality Table to South Carolina Insurance Regulation 69-57

A. The 2001 CSO Mortality Table may be used in applying South Carolina Insurance Regulation 69-57 in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table in Section 4 of this regulation unless otherwise noted, the references in this section are to the South Carolina Insurance Regulation 69-57:

(1) Section 3A(2)(b): The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table.

(2) Section 4B: All calculations are made using the 2001 CSO Mortality Rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in Section 6A(4) of this regulation. The value of "qx+k+t-1" is the valuation mortality rate for deficiency reserves in policy year k+t, but using the unmodified select mortality rates are used in the computation of deficiency reserves.

(3) Section 5A: The 2001 CSO Mortality Table is the minimum standard for basic reserves.

(4) Section 5B: The 2001 CSO Mortality Table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in Sections 5B(3)(a) to (i). In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant Actuarial Standards of Practice.

(5) Section 6C: The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table.

(6) Section 6E(4): The calculations specified in Section 6E shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

(7) Section 6F(4): The calculations specified in Section 6F shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

(8) Section 6G(2): The calculations specified in Section 6G shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

(9) Section 7A(1)(b): The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

B. Nothing in this section shall be construed to expand the applicability of South Carolina Insurance Regulation 69-57 to include life insurance policies exempted under Section 3A of South Carolina Insurance Regulation 69-57.

Section 7. Gender-Blended Tables

A. For any ordinary life insurance policy delivered or issued for delivery in this state on and after January 1, 2005, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection of the regulation.

B. The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

C. It shall not, in and of itself, be a violation of South Carolina Code of Laws Chapter 57 of Title 38 for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

Section 8. Separability

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of the provision to other persons or circumstances shall not be affected.

Section 9. Effective Date

This regulation shall be effective January 1, 2005.

Fiscal Impact Statement:

No additional state funding is requested.

Statement of Rationale:

The basis for this regulation are tables developed by the American Academy of Actuaries and the National Association of Insurance Commissioners.

Document No. 2968 DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-73-70; 38-73-640; 1-23-10, et seq

69-55. Workers' Compensation Assigned Risk Rates.

Synopsis:

The South Carolina Department of Insurance proposes to create a new regulation related to Workers' Compensation Assigned Risk Rates. The regulation will describe the process for notification of possible changes to assigned risk rates as well as the process to be followed by the Director when making a determination of such rates.

Instructions:

Create Regulation 69-55 using the language provided in the Text portion below.

Text:

The rating organization for workers' compensation that is charged by the Department with monitoring the assigned risk plan shall evaluate the adequacy of assigned risk rates every year. By October 1st of each year, the rating organization shall send an analysis to the Department regarding such rates.

The Department shall provide a copy of the analysis to the Consumer Advocate and make such analysis publicly available upon request.

By December 1st of each year, the Department shall make available to the Consumer Advocate, and to requests from the public, the Department's proposed action and provide for a ten-day comment period. After the expiration of the comment period, the Department may issue an order making the changes as necessary.

Preliminary Fiscal Impact Statement:

No additional state funding is requested and no impact is anticipated.

Statement of Rationale:

No studies or reports were relied upon for this proposal.