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SOUTH CAROLINA STATE REGISTER

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2010 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	1/8	2/12	3/12	4/9	5/14	6/11	7/9	8/13	9/10	10/8	11/12	12/10
Publishing Date	1/22	2/26	3/26	4/23	5/28	6/25	7/23	8/27	9/24	10/22	11/26	12/24

REPRODUCING OFFICIAL DOCUMENTS

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

PUBLIC INSPECTION OF DOCUMENTS

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) 212-4500.

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.

SUBSCRIPTIONS

Subscriptions to the *South Carolina State Register* are available electronically through the South Carolina Legislature Online website at www.scstatehouse.gov via an access code, or in a printed format. Subscriptions run concurrent with the State of South Carolina's fiscal year (July through June). The annual subscription fee for **either** format is \$100.00. Payment must be made by check payable to the Legislative Council. To subscribe complete the form below and mail with payment. Access codes for electronic subscriptions will be e-mailed to the address submitted on this form.

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In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.htm>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
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2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.htm>

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
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Executive Order No. 2010-14

WHEREAS, Robert L. Waldrep, Jr. resigned as a member of the Anderson County Council, District One, effective June 30, 2010;

WHEREAS, the undersigned is authorized to appoint county officers in the event of a vacancy pursuant to Sections 1-3-220(2) and 4-11-20 of the South Carolina Code of Laws, as amended; and

WHEREAS, Francis Marion Crowder, Sr., residing at 326 Avenue of Oaks, Anderson, South Carolina 29621, is a fit and proper person to serve as a member of the Anderson County Council.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Francis Marion Crowder, Sr. as a member of the Anderson County Council, District One, effective immediately, and shall remain effective until Robert L. Waldrep, Jr.'s successor qualifies and takes office.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 1st DAY OF JULY 2010.**

**MARK SANFORD
Governor**

4 NOTICES

STATE BUDGET AND CONTROL BOARD

NOTICE

This notice is published pursuant to Sections 1-23-40(2) and 1-34-30(A).

Section 10-1-180 charges the State Engineer with the enforcement and interpretation of building codes applicable to state buildings. Section 1-34-30(A) requires that an agency adopt the latest edition of all nationally recognized codes which the agency is charged by statute with enforcing and allows the agency to propose such adoption by publishing a notice in the State Register.

The State Engineer proposes to adopt the below listed codes, edition noted, effective January 1, 2011. Consistent with Section 10-1-180, information regarding the adoption of these codes, including the code editions, revision years, and any deletions, will be published in the Manual for Planning and Execution of State Permanent Improvements.

The predecessors of these codes were originally adopted pursuant to enactments of the General Assembly now codified as Section 10-1-180, with information regarding the code editions, revision years, and any deletions appearing in the Manual for Planning and Execution of State Permanent Improvements.

Interested persons are invited to submit comments concerning particular sections of the proposed edition. Comments should be sent to John White, State Engineer, Office of the State Engineer, 1201 Main Street, Suite 600, Columbia, SC 29201.

International Building Code (IBC), 2009 Edition
International Existing Building Code (IEBC), 2009 Edition
International Fire Code (IFC), 2009 Edition
International Fuel Gas Code (IFGC), 2009 Edition
International Mechanical Code (IMC), 2009 Edition
International Plumbing Code (IPC), 2009 Edition
International Private Sewage Disposal Code (IPSDC), 2009 Edition
International Property Maintenance Code (IPMC), 2009 Edition,
International Residential Code for One and Two Family Dwellings (IRC), 2009 Edition
International Wildland – Urban Interface Code (IUWIC), 2009 Edition
International Code Council Performance Code (ICCPC), 2009 Edition

The following organization issued the above listed nationally recognized codes:

International Code Council Inc.
500 New Jersey Avenue, NW, 6th Floor
Washington, DC 2001-2070

National Electrical Code (NEC) [NFPA-70], 2008 Edition

The following organization issued the above listed nationally recognized code:

National Fire Protection Association
1 Battery March Park
Quincy, MA 02269

National Electrical Safety Code, ANSI/IEEE-C2-2007 Edition

The following organization issued the above listed nationally recognized code:

IEEE
3 Park Avenue, 17th Floor
New York, NY 10016-5997

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication August 27, 2010, 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 Mrs. Sarah "Sallie" C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Charleston County

Renovation and expansion of the existing cardiac rehabilitation center located on the first floor of Roper Hospital
Roper Hospital
Charleston, South Carolina
Project Cost: \$4,224,744

Affecting Florence County

Renovation to an existing operating room (OR) for conversion to a Hybrid Vascular operating room to perform endovascular procedures
McLeod Regional Medical Center
Florence, South Carolina
Project Cost: \$3,854,230

Affecting Laurens County

Construction of a three-story addition to the hospital to replace the emergency department, maternity unit, and pharmacy department without any change to licensed bed capacity
Laurens County Hospital
Clinton, South Carolina
Project Cost: \$17,987,695

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from August 27, 2010. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200.

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Affecting Calhoun and Orangeburg Counties

Expansion and renovation of the medical oncology area of the Mabry Cancer Center to include the addition of a second (2nd) linear accelerator
The Regional Medical Center of Orangeburg and Calhoun Counties
Orangeburg, South Carolina
Project Cost: \$9,083,315

Affecting Horry County

Construction of a sixty (60) bed nursing home that will not participate in the Medicaid (Title XIX) program
Seaside Living Center
Myrtle Beach, South Carolina
Project Cost: \$13,199,222

Affecting Richland County

Addition of a da Vinci Si Surgical System to be located within the perioperative department at Palmetto Health Baptist
Palmetto Health Baptist
Columbia, South Carolina
Project Cost: \$2,611,285

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

CHAPTER 61

Statutory Authority: S.C. Code Ann. Section 48-1-10 et seq.
August 27, 2010

Development of Registration Permits:

The South Carolina Department of Health and Environmental Control (Department) proposes to develop a registration permit for temporary crushing and screening operations. Registration Permits, as provided under S.C. Regulation 61-62.1, Section II (I) are applicable to similar sources, and any registration permit developed will specify compliance with all requirements applicable to the construction or operation of that specific category of stationary sources and will identify criteria by which sources may qualify for the registration permit. Because the registration permit contains the same emission limits and monitoring requirements as a construction and operating permit may contain, a source that qualifies may elect to apply to the Department for coverage under a registration permit in lieu of a construction and operating permit as provided in Regulation 61-62.1, Section II (A) and (F). Interested persons are invited to present their views in writing to Tracey Stewart, Manager, General Permit and Support Section; Engineering Services Division; 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, September 27, 2010, the close of the comment period.

If these registration permits involve land disturbing activities in one of the eight coastal counties of the Coastal Zone under SCDHEC-OCRM's jurisdiction, then a coastal zone consistency certification may be required prior to land disturbing activities.

Specific Category:

Temporary Crushing and Screening Operations

Synopsis:

The Department is considering the development and implementation of a registration permit for Temporary Crushing and Screening Operations with uncontrolled potential to emit less than the threshold for major source groups, and where equipment similarities and simplicity remove the need for in-depth site-specific review. Temporary Crushing and Screening Operations may consist of nonmetallic mineral crushers, size separating screens, and/or material conveyors. Examples operations may include concrete structure crushing and screening and asphalt pavement crushing and screening.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

August 27, 2010

Notice:

Section 5 of the "Permit Extension Joint Resolution of 2010", H.4445, requires that the Department of Health and Environmental Control list the types of development approvals that are provided for in that joint resolution. This notice supersedes the previous notice regarding H.4445, which was published in the State Register on June 25, 2010.

Synopsis:

The Permit Extension Joint Resolution of 2010 (also named H.4445), ratified by the South Carolina General Assembly on May 13, 2010, and approved by the governor on May 19, 2010, suspends the running of the normal time periods of development approvals issued by the Department of Health and Environmental Control, during the period of January 1, 2008 and December 31, 2012, and resumes on January 1, 2013. The joint resolution postpones the expiration of such approvals until a date following December 31, 2012, as described below. All permits are effective when issued and may be used at any time prior to the expiration of the time period as extended by the joint resolution. The joint resolution applies retroactively.

Pursuant to H.4445, the running of the time periods of the development approval types listed below is affected as follows:

- EXPIRED DEVELOPMENT APPROVALS, which expired between January 1, 2008 and May 19, 2010 (the effective date of H.4445) are re-activated and remain active through December 31, 2012, and will effectively expire on January 1, 2013;
- ACTIVE DEVELOPMENT APPROVALS, which are current and valid as of May 19, 2010, the time periods of these approvals are tolled until December 31, 2012 and whatever time was remaining as of May 19, 2010 in the time period of that development approval resumes running on January 1, 2013;
- NEW DEVELOPMENT APPROVALS, which are issued after May 19, 2010 and before January 1, 2013, the time periods of these approvals does not begin to run until January 1, 2013.

8 NOTICES

If there are any questions concerning this notice, please contact Mr. Carl Richardson, P.E., Environmental Permit Liaison via electronic mail at richarcw@dhec.sc.gov or by phone at 803.896.8983. A copy of this legislation (also named H.4445) can be found electronically at http://www.scstatehouse.gov/cgi-bin/query.exe?first=DOC&querytext=h4445&category=Legislation&session=118&conid=5587055&result_pos=0&keyval=1184445.

Permit Regulation	Permit Type/Description
Solid Waste Management	
R.61-107.19	Class 1 Landfill, land clearing debris
R.61-107.19	Class 2 Landfill, construction and demolition debris
R.61-107.19	Class 3 Landfill, municipal solid waste
R.61-107.3	Waste Tire Facility (collection, processing, disposal)
R.61-107.279	Used Oil Facility (collection, processing, marketing, burning)
R.61-107.15	Land Application
R.61-107.6	Solid Waste Transfer Station
R.61-107.10	Research, Development, & Demonstration
R.61-107.6	Solid Waste Processing Facility
R.61-107.18	Off-Site Treatment of Contaminated Soils
R.61-107.19	Structural Fill
R.61-107.11	Composting/Woodgrinding Facility
R.61-107.12	Incinerator/Pyrolysis Facility
R.61-79	Hazardous Waste Permits
R.61-63	Radioactive Waste Licenses
Mining	
R.89-10 through 89-350	Individual Mine Permit (>5 acres)
R.89-10 through 89-350	General Mine Permit (<5 acres)
Air Quality	
R.61-62.1.II.A	Construction Permits Exceptions, this extension does not apply to: 1-Construction permits issued under R.61-62.5 Standard No. 7 Prevention of Significant Deterioration; 2- Construction permits issued under R.61-62.43 Maximum Achievable Control Technology (MACT) Determinations for Constructed and Reconstructed Major Sources; 3- Facilities with non-PSD construction permits that have not begun construction prior to July 01, 2011 and whose potential project emissions, without enforceable permit limitations, for the Environmental Protection Agency's defined Greenhouse Gas emissions are at or above 75,000 or 100,000 tons per year
R.61-62.1.II. D	General Construction Permits
R.61-62.1.II. E.	Synthetic Minor Construction Permits
R.61-62.1.II. I.	Registration Permits
Water	
R.61-58	Drinking Water Construction Permits
R.61-67	Wastewater Construction Permits
R.61-51	Recreational Waters Construction Permits

Permit Regulation	Permit Type/Description
R.61-9	NPDES General Permit For Stormwater Discharges From Large and Small Construction Activities (General permit coverage: SCR100000) Note: New standards imposed by federal regulations and the federal NPDES construction general permit for stormwater discharges must still be met by project operators as they become effective.
R.61-43	Construction of Agricultural Animal Facilities
R.61-101	401 Water Quality Certifications
R.19-450	Permits for Construction in Navigable Waters
R.61-87	Underground Injection Control Permit to Construct
R.61-113	Groundwater Withdrawal Permit to Construct
R.72-300	State Stormwater Construction Permits
Ocean & Coastal Resource Management (OCRM)	
R.30	Direct Critical Area Permits, including individual and general permits. Exception: The legislation excluded permits issued under R.30-12.N Access to Coastal Islands
Environmental Health	
R.61-56	Permit to Construct and Operate: Onsite Wastewater System (Septic Tank Permits)

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

August 27, 2010

Revision of Air Permit Modeling Exemption and Deferral Guidelines

The South Carolina Department of Health and Environmental Control (Department) is considering revisions to sections of the Air Permit Modeling Guidelines which address criteria that are used to determine which emissions subject to South Carolina Regulation 61.62.5, Standard 2 and 7 may be exempted or deferred from air dispersion modeling at the time of a request for a construction permit or operating permit modification. The Department is seeking input on the types of sources and levels of emissions that may be included in these criteria. The document containing the proposed revisions to these criteria is available via the Department's website at http://www.scdhec.gov/environment/baq/docs/modeling/08-27-10_modeling_exemptions_and_deferrals.pdf. Interested persons are invited to present their comments in writing, along with supporting documentation, to John Glass, Manager, Air Modeling Section; Emissions, Evaluation, and Support Division; Bureau of Air Quality, 2600 Bull Street; Columbia, South Carolina 29201. Comments may also be submitted via email to glassjp@dhec.sc.gov. To be considered, written suggestions must be received no later than 5:00 p.m. on Monday, September 27, 2010, the close of the comment period.

Synopsis:

The Department is considering revisions to criteria that are used to determine which emissions subject to Air Quality Standards 2 and 7 may be exempted or deferred from air dispersion modeling at the time of a request

10 NOTICES

for a construction permit or operating permit modification. Those emissions that are exempted are not required to be included in the air dispersion modeling inventory of the facility. Those emissions that are deferred are not required to be included in the air dispersion modeling inventory of the facility at the time of the permit request, but will be required to be included when the facility's operating permit is renewed. Sources that are proposed to be included for exemption are small emitting sources that are not required to have a permit to construct as well as other sources emitting small amounts of pollutants subject to Air Quality Standards 2 and 7. Sources that are proposed to be included for deferral are those that increase emissions less than a minimal level as defined in the criteria.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Public Notice #10-539-GP-N
August 27, 2010

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality, does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-04) "Concrete Batch Plants." This general permit was previously opened for a 30 day public comment period on June 9, 2006, with final issuance on July 10, 2006. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), the 1976 Code of Laws of South Carolina, as amended, and Regulation 61-62 "Air Pollution Control Regulations and Standards," the following source(s) are hereby granted permission to discharge air contaminants into the ambient air. The Bureau of Air Quality authorizes the operation of these sources in accordance with the plans, specifications and other information submitted by each facility in the General Conditional Major Permit application. Any facility operating under this permit seeks to limit their potential to emit to below the thresholds which define a major source by complying with the federally enforceable conditions contained in this permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

Interested persons may review the final general permit, materials submitted by the applicant, and any written comments received, during normal business hours, at the following location: SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

This notice is given pursuant to the requirements of South Carolina Regulation 61-62.1, Section II G(7)(c). Comments and questions concerning any of the following individual facility's coverage under this permit should be directed to: Ms. Elizabeth J. Basil, Director, Engineering Services Division, Bureau of Air Quality, SC DHEC, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

FAIRFIELD COUNTY

Virgil C Summer Nuclear Station (1000-0036)
1162 State Hwy 213
Jenkinsville, SC

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

ERRATA

Regulation 61-79, Hazardous Waste Management Regulations
August 27, 2010

The U.S. Environmental Protection Agency (EPA) published a list of corrections to the Code of Federal Regulations in the Federal Register on July 14, 2006, at 71 FR 40254. These corrections affect South Carolina's Regulation 61-79, Hazardous Waste Management Regulations.

This Errata does not create new regulatory requirements; rather, the document corrects incorrect citations and similar technical mistakes made in final rules published in the Federal Register. The application, implementation, and enforcement of the regulations addressed in this rule are not changed in any way. This state action mirrors the EPA action taken in the July 14, 2006 Federal Register, at 71 FR 40254.

South Carolina adopted the corrections published in the July 14, 2006 Federal Register in a State Register Errata document published July 25, 2008, Volume 32, No. 7 with the exception of 40 CFR 261.21(a)(3) and 261.21(a)(4) which was inadvertently omitted at that time. This errata corrects that omission.

40 CFR 261.21(a)(3) and 261.21(a)(4): When EPA first promulgated the ignitability characteristic for hazardous waste identification, the Agency incorporated, by reference, U.S. Department of Transportation (DOT) regulations (contained in Title 49 of the CFR) that defined an ignitable compressed gas and an oxidizer. In 1990, DOT revised and recodified its regulations governing transportation of hazardous materials, including the sections of 49 CFR referenced by 40 CFR 261.21.1 The referenced DOT regulations were both revised and moved within 49 CFR; as a result, the hazardous characteristic definitions at 40 CFR 261.21(a)(3) and 261.21(a)(4) now refer to nonexistent or irrelevant sections of the DOT regulations.

Since these original DOT regulations are still required under the federal Resource Conservation and Recovery Act (RCRA), EPA is replacing the obsolete references to the DOT regulations contained in the definitions for an ignitable compressed gas and an oxidizer, 40 CFR 261.21(a)(3) and 261.21(a)(4), respectively, with the actual language from the referenced sections of the DOT regulations that was published in Title 49 of the CFR at the time of the finalization of the RCRA regulations (1980). Because it can be difficult to obtain copies of the CFR from 1980, this revision will make it easier for the regulated community to find and apply the definitions of ignitable compressed gas and oxidizer for the purposes of 261.21. The implementation and enforcement of the ignitability characteristic will not change in any way. The EPA is simply publishing the original definitions to ease the burden on the regulated community.

South Carolina is publishing this errata sheet to provide the regulated community with the actual language contained in the definitions for an ignitable compressed gas and an oxidizer, replacing the obsolete references to the DOT regulations that have since changed. The corrections listed below were previously promulgated in Regulation 61-79 by referencing them and still remain in the South Carolina regulation but need to be published in full text form to mirror the text in the Code of Federal Regulations. The rule citation and corrections are listed along with the date of the State Register in which the rule was promulgated.

Instructions

Citation & Text

Promulgation date and State Register citation

The text at 261.21(a)(3) & (4) was initially adopted in Document 894, South Carolina State Register Vol. 11(11) Part II; November 27, 1987.

12 NOTICES

Instructions:

261.21(a)(3) introductory paragraph - remove existing paragraph (a)(3) and add new paragraph (a)(3) to read:

261.21(a)(3) It is an ignitable compressed gas.

Add the following text at 261.21(a)(3)(i),(ii), and (A)-(D) to read:

261.21(a)(3)(i) - The term "compressed gas" shall designate any material or mixture having in the container an absolute pressure exceeding 40 p.s.i. at 70 degrees F or, regardless of the pressure at 70 degrees F, having an absolute pressure exceeding 104 p.s.i. at 130 degrees F; or any liquid flammable material having a vapor pressure exceeding 40 p.s.i. absolute at 100 degrees F as determined by ASTM Test D-323.

261.21(a)(3)(ii) A compressed gas shall be characterized as ignitable if any one of the following occurs:

261.21(a)(3)(ii)(A) - Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure. The method of sampling and test procedure shall be acceptable to the Bureau of Explosives and approved by the Department, Pipeline and Hazardous Materials Technology, US. Department of Transportation (see Note 2).

261.21(a)(3)(ii)(B) - Using the Bureau of Explosives' Flame Projection Apparatus (see Note 1), the flame projects more than 18 inches beyond the ignition source with valve opened fully, or, the flame flashes back and burns at the valve with any degree of valve opening.

261.21(a)(3)(ii)(C) Using the Bureau of Explosives' Open Drum Apparatus (see Note 1), there is any significant propagation of flame away from the ignition source.

261.21(a)(3)(ii)(D) Using the Bureau of Explosives' Closed Drum Apparatus (see Note 1), there is any explosion of the vapor-air mixture in the drum.

261.21(a)(4) introductory paragraph - remove existing paragraph (a)(4) and add new subparagraph to read:

261.21(a)(4) It is an oxidizer. An oxidizer for the purpose of this subchapter is a substance such as a chlorate, permanganate, inorganic peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter. (See Note 4)

Add the following text at (a)(4)(i) and (A)-(D) to read:

261.21(a)(4)(i) An organic compound containing the bivalent -O-O- structure and which may be considered a derivative of hydrogen peroxide where one or more of the hydrogen atoms have been replaced by organic radicals must be classed as an organic peroxide unless:

261.21(a)(4)(i)(A) The material meets the definition of a Class A explosive or a Class B explosive, as defined in 261.23(a)(8), in which case it must be classed as an explosive,

261.21(a)(4)(i)(B) The material is forbidden to be offered for transportation according to 49 CFR 172.101 and 49 CFR 173.21,

261.21(a)(4)(i)(C) It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide, or

261.21(a)(4)(i)(D) According to data on file with the Pipeline and Hazardous Materials Safety Administration in the U.S. Department of Transportation (see Note 3), it has been determined that the material does not present a hazard in transportation.

261.21 - add notes 1 through 4 to the end of 261.21 to read:

261.21 Note 1: A description of the Bureau of Explosives' Flame Projection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of tests may be procured from the Bureau of Explosives.

Note 2: As part of a U.S. Department of Transportation (DOT) reorganization, the Office of Hazardous Materials Technology (OHMT), which was the office listed in the 1980 publication of 49 CFR 173.300 for the purposes of approving sampling and test procedures for a flammable gas, ceased operations on February 20, 2005. OHMT programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

Note 3: As part of a U.S. Department of Transportation (DOT) reorganization, the Research and Special Programs Administration (RSPA), which was the office listed in the 1980 publication of 49 CFR 173.151a for the purposes of determining that a material does not present a hazard in transport, ceased operations on February 20, 2005. RSPA programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

Note 4: The DOT regulatory definition of an oxidizer was contained in 173.151 of 49 CFR and the definition of an organic peroxide was contained in paragraph 173.151a. An organic peroxide is a type of oxidizer.

14 DRAFTING NOTICES

CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27
Statutory Authority: 1976 Code Sections 47-4-30 and 47-17-130

Notice of Drafting:

The Livestock-Poultry Health Commission is considering modernizing, clarifying and updating existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce.

Interested parties should submit written comments to Dr. Clyde B. Hoskins, Interim Director, State Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, S. C. 29224-2406. To be considered, comments should be received no later than October 1, 2010, the close of the drafting comment period.

Synopsis:

This regulation is being promulgated to comply with the Federal Meat Inspection Act (21 USDA 661, Section 301) which establishes Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations at least as stringent as those adopted by the United States Government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements, such as utilizing state marks of inspection, designating use of state holidays and other similar requirements.

This regulation will not require legislative action.

CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27
Statutory Authority: 1976 Code Sections 47-4-30, 47-19-30, and 47-19-170

Notice of Drafting:

The Livestock-Poultry Health Commission is considering modernizing, clarifying and updating existing regulations which govern, to the extent authorized by S.C. Code, Title 47, Chapter 4, the inspection of poultry products produced for intrastate commerce.

Interested parties should submit written comments to Dr. Clyde B. Hoskins, Interim Director, State Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, S.C. 29224-2406. To be considered, comments should be received no later than October 1, 2010, the close of the drafting comment period.

Synopsis:

This regulation is being promulgated to comply with the Poultry Products Inspection Act (21 USCA 454, Section 5) which establishes Federal-State Cooperative Poultry Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations at least as stringent as those adopted by the United States Government. This regulation will, in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements, such as utilizing state marks of inspection, designating use of state holidays, and other similar requirements.

This regulation will not require legislative action.

STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004) and 59-29-170 (amended 1986)

Notice of Drafting:

The South Carolina Department of Education proposes to amend regulation 43-220, Gifted and Talented. Interested persons may submit their comments in writing to Rick Blanchard, Office of Standards and Support, Division of Standards and Learning, 1429 Senate Street, Room 802-B, Columbia, South Carolina 29201 or by e-mail to rblancha@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on September 27, 2010.

Synopsis:

Regulation 43-220, Gifted and Talented, Gifted and Talented, establishes the criteria for student eligibility in gifted and talented programs and sets forth the program service and curriculum requirements. Academic and artistic gifted programs are addressed in this regulation. The provisions of this regulation include, but are not limited to, program, identification of population to be served, staff, reporting, funding, and expenditures and accounting procedures. With the development of a new state assessment (Palmetto Assessment of State Standards), the increase in public school choices (charters, single gender, etc.), and other common issues for districts, the regulation revision will attempt to resolve some of these challenges.

Legislative review of this proposal will be required.

SOUTH CAROLINA ENVIRONMENTAL CERTIFICATION BOARD
CHAPTER 51

Statutory Authority: 1976 Code Sections 40-1-70, 40-23-10, and 40-23-40

Notice of Drafting:

The South Carolina Environmental Certification Board proposes to promulgate regulations to implement Act 223 of 2008 and to reflect other developments in environmental regulation since 2005. The Board specifically solicits comments concerning requirements for continuing education and for comity recognition of credentials from other licensing jurisdictions. Interested persons may submit comments to Lenora Addison-Miles, Board Administrator, South Carolina Environmental Certification Board, Post Office Box 11409, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Environmental Certification Board proposes to promulgate amended regulations which may address examinations, levels of licensure and permit, license renewal, continuing education, and recognition of credentials from other licensing jurisdictions.

16 DRAFTING NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-30, 44-1-60, 44-55-10 et seq., 44-55-100(4), 44-56-10 et seq., 44-56-30, and 48-1-10 et seq.

Notice of Drafting:

The South Carolina Department of Health and Environmental Control (Department) proposes to amend Regulation 61-81, State Environmental Laboratory Certification. Interested persons are invited to submit their views and recommendations in writing to Ms. Carol F. Smith, 2600 Bull Street, Columbia, South Carolina 29201. To be considered, written comments must be received no later than 5:00 p.m. on September 27, 2010, the close of the drafting comment period.

Synopsis:

Regulation 61-81 provides the mechanism to assure the validity and quality of the data being generated for compliance with State regulations. This regulation applies to any laboratory performing analyses to determine the quality of air, drinking water, hazardous waste, solid waste, or wastewater; performing bioassays; or performing any other analyses related to environmental quality evaluations required by the Department or which will be officially submitted to the Department.

This regulation has not been amended since its effective date of January 1, 1981. The Department is proposing to rewrite this regulation to bring it up-to-date with current laboratory certification practices and standards as well as incorporate other changes and/or additions necessary to assure the validity and quality of data being generated for compliance with State and Federal regulations. It will also be updated to reflect current language and references related to laboratory certification, laboratory practices and standards. Other changes may be made to improve the overall quality of the regulation.

Additionally, the Department proposes to amend the appeals section of R.61-81 to comply with statutory changes in the Administrative Appeals Process

Legislative review is required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 49-4-10 et seq. and 2010 Act No. 247

- (1) Proposed New Regulation 61-xx, Surface Water Withdrawal, Permitting, Use and Reporting
- (2) Proposed Amendment of Regulation 61-30, Environmental Protection Fees
- (3) Proposed Repeal of Regulations 121-10, Water Use Reporting and Coordination, and 121-12, Interbasin Transfer of Water

Notice of Drafting:

The Department of Health and Environmental Control proposes to promulgate new Regulation 61-xx, Surface Water Withdrawal, Permitting, Use and Reporting, amend Regulation 61-30, Environmental Protection Fees, and simultaneously repeal Regulations 121-10, Water Use Reporting and Coordination, and 121-12, Interbasin Transfer of Water. Interested persons are invited to present their views in writing to Charles Gorman, P.G., Bureau of Water, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received by 5:00 p.m. on September 27, 2010, the close of the drafting comment period.

Synopsis:

Act 247 of 2010 substantially amended Section 49-4-10 et seq. of the 1976 Code of Laws, renaming these sections as the South Carolina Surface Water Withdrawal, Permitting, Use and Reporting Act. As authorized by the Act, the Department intends to promulgate a new regulation to implement the provisions of this Act, amend Regulation 61-30 to incorporate fees authorized by this Act, and simultaneously repeal Regulations 121-10 and 121-12, which would become obsolete upon promulgation of the new regulation.

Legislative review will be required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
DIVISION OF LABOR**

CHAPTER 71

Statutory Authority: 1976 Code Sections 41-3-40 and 41-13-20

Notice of Drafting:

The Division of Labor proposes to delete and replace obsolete regulations to conform to changes in the regulations of the United States Department of Labor. Written comments can be submitted to Mark Dorman, Administrator, at 110 Centerview Drive, 3rd Floor, Columbia, South Carolina, 29211-1329.

Synopsis:

The purpose of amending these regulations is to prevent employers in South Carolina who are subject to both state and federal child labor laws from having to conform to two sets of regulations.

BOARD OF LANDSCAPE ARCHITECTURAL EXAMINERS

CHAPTER 76

Statutory Authority: 1976 Code Sections 40-1-70 and 40-28-90

Notice of Drafting:

The South Carolina Board of Landscape Architectural Examiners proposes to draft regulations to conform to changes in S.C. Code Section 40-28-10 et seq., Act 249, effective June 11, 2010. The Board requests comments concerning the proposed amendments. Written comments may be submitted to Sherri Moorer, Program Assistant, at P.O. Box 11329, Columbia, SC 29211-1329 or by e-mail to moorers@llr.sc.gov. To be considered, comments must be received no later than 5:00 p.m. Friday, September 10, 2010.

Synopsis:

The purpose of the amendments is to clarify the intent of the recently enacted legislation and to add requirements for continuing education, Emeritus Landscape Architects, eligibility for two public members, and seal descriptions and graphic depictions for individuals and firms licensed under Section 40-28-10 et seq.

18 DRAFTING NOTICES

COMMISSIONERS OF PILOTAGE

CHAPTER 136

Statutory Authority: 1976 Code Sections 40-1-70 and 54-15-140

Notice of Drafting:

The Commissioners of Pilotage proposes to add new Regulation 136-018 for licensure of pilots at Savannah River. Written comments can be submitted to Randall L. Bryant, Board Administrator, at 110 Centerview Drive, 2nd Floor, Columbia, South Carolina, 29211-1329.

Synopsis:

The purpose of this regulation is to add a provision for Savannah River pilotage licensure.

Document No. 4139
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 48-2-10 et seq.

61-30. Environmental Protection Fees

Preamble:

The Department proposes to amend R.61-30 to adjust the Safe Drinking Water Act fee structure to ensure adequate funds are available to cover costs associated with new federal drinking water regulations. This proposed regulation would allow the South Carolina Department of Health and Environmental Control (Department) to continue to provide monitoring and compliance services for recently promulgated federal drinking water regulations. See Statement of Need and Reasonableness herein.

A Notice of Drafting for this proposed amendment was published in the *State Register* on May 28, 2010.

Discussion of Proposed Revisions:

(2) DHEC: Safe Drinking Water Act

At R.61-30.G.2(a)(i) - Community and Non-Transient Non-Community Water Systems fees for the following fee schedules are revised:

Program Administration Component;

Distribution Monitoring Component;

Program Administration Component of Fee (Base Amount + Rate Per Tap); and

Distribution and Source Monitoring Components of Fee.

The fee schedule on Source Monitoring Component remains the same.

At R.61-30.G.2(a)(ii), the fee schedule for Other Public Water Systems is revised.

Notice of Staff Informational Forum and Public Comment Period:

Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum to be held on September 29, 2010 at 3:00 in room 1625 of the Sims Building at 2600 Bull Street, Columbia, South Carolina. The purpose of the forum is to answer questions, clarify issues, and receive public comments from interested parties on the proposed amendment to R.61-30. Due to admittance procedures at this building, all visitors must enter through the Bull Street entrance and register at the front desk.

Interested persons are also provided an opportunity to submit written comments on the proposed amendment of R.61-30 by writing Douglas B. Kinard at Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; Fax number (803) 898-4215. Written comments must be received no later than 5:00 p.m. on September 30, 2010. Comments received by the deadline shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing, as noticed below.

Copies of the text of the proposed amendments for public notice and comment may be obtained by contacting Douglas B. Kinard at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201: Telephone number (803) 898-4300; Fax number (803)

20 PROPOSED REGULATIONS

898-4215. An electronic copy of the proposed regulations may also be obtained from the Department's Regulatory information website in its DHEC Regulation Development Update at <http://www.scdhec.gov/administration/regs/>. Click on the Update, then the Water category and scroll down to the proposed amendments of R.61-58, State Primary Drinking Water Regulations.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment to R.61-30 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting November 10, 2010. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items in the order presented on its agenda. The agenda is published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Preliminary Fiscal Impact Statement:

No costs to the State or significant cost to its political subdivisions as a whole should be incurred by this amendment. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

Amendment to Regulation 61-30, Environmental Protection Fees.

Purpose: The Department is proposing to amend R.61-30 increase Safe Drinking Water Act fees to adequately fund new monitoring and compliance requirements necessary to comply with the federal Safe Drinking Water Act.

Legal Authority: S.C. Code Ann. Sections 48-2-10 et seq., 48-2-30, and 48-2-50.

Plan for Implementation: The proposed amendments would be incorporated within R.61-30 upon approval by the Board of Health and Environmental Control, the South Carolina General Assembly, and publication in the *State Register* as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented.

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

The adoption of these regulations will allow the Department to continue to provide monitoring and compliance services for public water systems in the state to ensure that they maintain compliance with the federal Safe Drinking Water Act, the state Safe Drinking Water Act and the State Primary Drinking Water Regulations.

DETERMINATION OF COSTS AND BENEFITS:

Cost to State:

No costs to the State or significant cost to its political subdivisions as a whole should be incurred by this amendment.

Cost to Regulated Community:

The cost and benefit of this proposed regulation will vary depending on system size and type. Costs will be limited to the amount of increase in the fee. Benefits will vary based on requirements of the new regulations and the cost of compliance with those regulations.

UNCERTAINTIES OF ESTIMATES:

Minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The amendments will promote public health through maintaining compliance with drinking water regulations.

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

There will be no detrimental effect on the environment if the amendments are not implemented. Public health may be compromised if public water systems are unable or unwilling to comply with requirements of complex drinking water regulations. The Department, under the current fee system, conducts most compliance monitoring for public water systems. As such, the state as a whole maintains a very high rate of compliance with drinking water regulations. This amendment would allow the Department to continue to conduct compliance monitoring for public water systems in the state. If the amendments are not implemented, public water systems will be required to schedule and collect their own compliance monitoring and individually contract with and pay private laboratories to conduct the monitoring required under new federal regulations.

Statement of Rationale:

The statement of rationale was determined by staff analysis pursuant to S.C. Code Section 1-23-110(A)(3)(h).

The proposed amendments to R.61-30 will allow the Department to continue to provide monitoring and compliance services for public water systems in the state to ensure that they maintain compliance with the federal Safe Drinking Water Act, the state Safe Drinking Water Act and the State Primary Drinking Water Regulations. See Statement of Need and Reasonableness.

Text:

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

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Document No. 4141
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-96, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210

123-40. Wildlife Management Area Regulations

123-51. Turkey Hunting Rules and Seasons

Preamble:

The South Carolina Department of Natural Resources is proposing to amend the existing regulations that set seasons, bag limits and methods of hunting and taking of wildlife. The following is a section by section summary of the proposed changes and additions:

123-40.

(A) Game Zone 1 – adds 2 weeks of archery only deer hunting in October, corrects calendar dates in the archery season for Glassy Mountain Archery area. No change in season or limits. Changes the new Clemson office address. Under Hogs and Coyotes, adds no dogs “during turkey season”. Increases the limit for bear party dog hunts from 3 to 5 per party.

(B) Game Zone 2 – Under Hogs and Coyotes, adds no dogs “during turkey season”. For Keowee, Under Hogs and Coyotes, added no dogs “during turkey season”. For Fants Grove, Under Hogs and Coyotes, adds no dogs “during turkey season”. Extends the archery only deer season for Fants Grove from Dec. 7 to Dec. 22, adding 2 weeks.

(C) Crackerneck WMA and Ecological Reserve – adds Quality Deer Management restrictions.

(G) Francis Marion National Forest – sets the current deer seasons for Hellhole, Waterhorn, Wambaw, Northampton and Santee WMAs and adds additional check stations.

(I) Santee Cooper WMA – adds deer tree stand restrictions and requirements.

(Z) Donnelley WMA – allows the addition of special antlerless only deer hunts.

(YY) Botany Bay Plantation WMA – adds 8 days to the raccoon season.

2.14 – prohibits hunting coyotes, hogs or armadillos at night on WMAs.

3.4 – requires firearms to be unloaded and secured on WMAs when being transported in vehicles at all times, not just during the hunting seasons.

10.11 – clarifies the access restrictions during waterfowl seasons on Potato Creek Hatchery Waterfowl Area.

123-51 combines turkey season regulations for adjacent Webb, Palachucola and Hamilton Ridge WMAs. No changes in season or limits.

123-53 deletes entire regulation now in statute.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at 1000 Assembly Street on October 21, 2010, at 10:00 am in room 335, third floor, Rembert C. Dennis Building. Written comments may be directed to Breck Carmichael, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202. Comments must be received no later than 5:00 pm on October 1, 2010.

Preliminary Fiscal Impact Statement:

This amendment of Regulations 123-40, 123-51 and 123-53 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Statement of Need and Reasonableness:

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

DESCRIPTION OF THE REGULATION:

Purpose: These regulations amend Chapter 123-40, 123-51 and 123-53 in order to set seasons, bag limits and methods of hunting and taking of wildlife on existing and additional Wildlife Management Areas.

Legal Authority: Under Sections 50-11-2200 and 50-11-2210 of the S.C. Code of Laws, the Department of Natural Resources has jurisdiction over all Wildlife Management Areas to establish open and closed seasons, bag limits, and methods of taking wildlife; special use restrictions related to hunting and methods for taking wildlife on Department-owned Wildlife Management Areas. Under Section 50-11-96 of the S.C. Code of Laws, the Department of Natural Resources is authorized to promulgate regulations to implement and regulate the provisions of this section.

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

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

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

DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state or to the sporting community. There are no significant new costs imposed by the addition of new WMAs since the funding of leasing WMAs is provided through the existing WMA permit program. Clarification of existing regulations under appropriate authority will improve enforcement ability and therefore reduce staff time in handling prosecution of offenses. This amendment of Regulations 123-40 and 123-51 will result in increased public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

UNCERTAINTIES OF ESTIMATES:

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

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EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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

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

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

Statement of Rationale:

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

Text:

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

Filed: August 11, 2010 4:00pm

Document No. 4140
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210

123-40. Wildlife Management Area Regulations

Emergency Situation:

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Numbers 123-40. These regulations set open and closed seasons, bag limits and methods of taking wildlife; define special use restrictions related to hunting and methods for taking wildlife on Wildlife Management Areas. Because the hunting seasons on many of these areas begin August 15, it is necessary to file these regulations as emergency.

Text:

(G) Francis Marion National Forest

During still gun hunts for deer there shall be no hunting or shooting from, on or across any road open to vehicle traffic. No buckshot on still gun hunts. During deer hunts when dogs are used buckshot only is permitted. On either-sex deer hunts with dogs, all deer must be checked in by one hour after legal sunset. On all still gun and muzzleloader either-sex hunts for all units, all does must be tagged with an individual antlerless deer tag except when harvested on county-wide either-sex days. Individual antlerless deer tags are valid on days not designated as either-sex on or after Oct. 1 for still hunting only. Tibwin Special Use Area (in Wambaw) is closed to hunting except for Special hunts. On youth deer hunts, only youths 17 and younger may carry a gun and must be accompanied by an adult 21 years old or older. It is unlawful to attempt to harvest a deer with a gun or muzzleloader once the season bag limit for deer has been reached.

Total of 4 deer for all gun and muzzleloader hunts on the Francis Marion.

Hellhole WMA

Deer

Archery	Sept. 1 - 30.	2 deer per day, either-sex. Sept. 15 - 30. Hogs no limit.
Dog Hunts (Shotguns only, no still gun hunting)	1 st Sat. in Dec. 1 st Sat. in Nov.	2 deer per day, buck only. Hogs no limit. 2 deer per day, either sex. Hogs no limit.

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On the either-sex deer hunt with dogs (except youth only hunts) all deer must be checked in at Hellhole Check Station, Bonneau Ferry entrance or M&B Alvin Community Mart.

Waterhorn WMA

Deer

Archery	Sept. 1 - 30.	2 deer per day, either-sex. Sept. 15 - 30. Hogs no limit.
Still Gun Hunts	1 st & 2 nd Fri. & Sat. in Oct. 2 nd and last Fri. & Sat. in Nov.	2 deer per day, buck only. Hogs no limit.
	1 st full week in Dec. Dec. 26 - Jan. 1.	2 deer per day, either-sex. Hogs no limit.

Wambaw WMA

Deer

Archery	Sept. 1 - 30.	2 deer per day, either-sex. Sept. 15 - 30. Hogs no limit.
Still Gun Hunts	Oct. 1-Jan. 1 except during scheduled dog drive hunts.	2 deer per day. Hogs no limit.
Dog Hunts (Shotguns only)	Fri. in Sept. before the last Sat. Northampton dog hunt & Wed. & Thurs. before the 3 rd Sat. in Nov. & 2 nd Sat. in Oct. & 2 hunting days after Dec. 25.	2 deer per day, buck only. Hogs no limit.
	2 nd Sat. in Dec.	2 deer per day, either-sex. Hogs no limit.

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at Awendaw check station on Hwy 17 or Honey Hill Lookout Tower, P&C Grocery, or Kangaroo in Jamestown.

Northampton WMA

Deer

Archery	Sept. 1 - 30.	2 deer per day, either-sex. Sept. 15 - 30. Hogs no limit.
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Still Gun Hunts	Oct. 1 - Jan. 1 except during scheduled dog drive hunts.	2 deer per day. Hogs no limit.
Dog Hunts (Shotguns only)	Last Sat. in Sept. & Wed. & Thurs. before the 2 nd Sat. in Oct. & Fri. before the 4 th Sat. in Nov. & 3 rd hunting day after Dec. 25.	2 deer per day, buck only. Hogs no limit.
	2 nd Sat. in Dec.	2 deer per day, either-sex. Hogs no limit.

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at P&C Grocery, Kangaroo in Jamestown, Awendaw check station on Hwy 17, or Honey Hill Lookout Tower.

Santee WMA

Deer

Archery	Sept. 1 - 30.	2 deer per day, either-sex. Sept. 15 - 30. Hogs no limit.
Still Gun Hunts	Oct. 1 - Jan. 1 except during scheduled dog drive hunts.	2 deer per day. Hogs no limit.
Dog Drive Hunts (Shotguns only)	2 nd Fri. & Sat. in Sept. Wed. & Thurs. before the 4 th Sat. in Oct. & 1 st Fri. in Dec.	2 deer per day, buck only. Hogs no limit.
	1 st Sat. in Nov.	2 deer per day, either-sex. Hogs no limit.

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at Bonneau Ferry Entrance, M & B Alvin Community Mart, or Hellhole check station.

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow additional opportunity. Because some hunts begin on August 15, it is necessary to file these regulations as emergency so they take effect immediately.

28 EMERGENCY REGULATIONS

Fiscal Impact Statement:

This amendment of Regulation 123-40 will result in increased public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.