

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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GENERAL ASSEMBLY

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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.

2012 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	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/27	2/24	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

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

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In order by General Assembly review expiration date
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 South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regsrch.php>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4163		SR36-2	Board of Landscape Architectural Examiners	1/19/12	Board of Landscape Architectural Exam
4161		SR36-2	Water Classifications and Standards	1/24/12	Department of Health and Envir Control
4162		SR36-2	Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	1/26/12	Environmental Certification Board
4139		SR36-2	Environmental Protection Fees (Drinking Water Fees)	1/31/12	Department of Health and Envir Control
4174		SR36-3	Hazardous Waste Management Regulations	2/21/12	Department of Health and Envir Control
4175		SR36-3	Hazardous Waste Management Planning	2/21/12	Department of Health and Envir Control
4176		SR36-3	Capital Expenditure Reviews Under Section 1122, Social Security Act	2/21/12	Department of Health and Envir Control
4180		SR36-3	Minimum Standards for Licensing Chiropractic Facilities	2/21/12	Department of Health and Envir Control
4191		SR36-5	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	5/09/12	Department of Natural Resources
4200	R.140	SR36-4	End-of-Course Tests	5/09/12	Board of Education
4189		SR36-5	Financing Applications	5/09/12	Public Service Commission
4206		SR36-5	Credential Classification	5/09/12	Board of Education
4207		SR36-5	Requirements for Additional Areas of Certification	5/09/12	Board of Education
4208	R.139	SR36-4	At-Risk Students	5/09/12	Board of Education
4205		SR36-5	Physical Fitness Services Center - Certificate of Authority	5/09/12	Department of Consumer Affairs
4216		SR36-5	Practice Privileges, Continuing Professional Education, Peer Review, and Professional Standards	5/09/12	Board of Accountancy
4197		SR36-5	Access to Restricted Information	5/10/12	Department of Health and Envir Control
4181		SR36-5	Certification of Need for Health Facilities and Services	5/11/12	Department of Health and Envir Control
4199			Adult Education Program	5/12/12	Board of Education
4193			Surface Water Withdrawal, Permitting, Use and Reporting; Water Use Reporting and Coordination; and Interbasin Transfer of Water	5/16/12	Department of Health and Envir Control
4186			Soil Classifiers	5/24/12	LLR - Soil Classifiers Advisory Council
4217			Mixed Martial Arts	5/24/12	Athletic Commission
4256			Offers of Work	5/25/12	Department of Employment and Workforce
4212			Water Classifications and Standards; and Classified Waters	5/29/12	Department of Health and Envir Control
4257			Mortgage Lending	6/02/12	State Board of Financial Institutions - CFD
4223			Reinstatement and Continuing Professional Education	6/05/12	Board of Accountancy
4225			Requirements of Licensure in the Field of Barbering	6/05/12	Board of Barber Examiners
4228			Organization, Administration and Procedure	6/05/12	Board of Chiropractic Examiners
4229			Requirements of Licensure for Contractors	6/05/12	Contractors' Licensing Board
4230			Requirements of Licensure for Cosmetologists, Estheticians, and Nail Technicians	6/05/12	Board of Cosmetology
4232			Registration of Licenses or Certificates; Annual Election of the Board; and Executive Director	6/05/12	Board of Dentistry
4235			General Licensing Provisions for Embalmers and Funeral Directors; Provisions for Annual Renewal of Licenses and Reactivation of Expired Licenses	6/05/12	Board of Funeral Service
4236			General Registration Provisions for Geologists-in-Training	6/05/12	Board of Registration for Geologists
4270			Special Inspectors	6/05/12	LLR - Office of Elevators and Amusement Rides
4238			Licensing and Permitting Fees; Licensing Requirements	6/05/12	LLR - Division of Labor
4240			Requirements of Licensure for Soil Classifiers	6/06/12	LLR - Soil Classifiers Advisory Council
4241			Requirements of Licensure for Landscape Architects	6/06/12	Board of Landscape Architectural Examiners
4242			Requirements of Licensure for Long Term Health Care Admin.	6/06/12	Board of Long Term Health Care Administrators
4244			Requirements of Licensure for Medical Professionals	6/06/12	Board of Medical Examiners
4271			Fees	6/06/12	Board of Medical Examiners
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4248			Requirements of Licensure for Physical Therapists	6/06/12	Board of Physical Therapy Examiners
4249			Requirements of Licensure for Pilots	6/06/12	Commissioners of Pilotage
4250			Requirements of Licensure for Podiatrists	6/06/12	Board of Podiatry Examiners
4251			Continuing Education Credits	6/06/12	Board of Examiners in Psychology
4273			Insurance Required for Time Sharing Facilities and Accommodations	6/06/12	Real Estate Commission
4274			Provider, Course, and Instructor Fees; Fees	6/06/12	Real Estate Commission
4275			Emergency License and Registration	6/06/12	Residential Builders Commission
4253			Requirements of Licensure for Social Workers	6/06/12	Board of Social Work Examiners
4254			Requirements of Licensure for Speech-Language Pathologists and Audiologists	6/06/12	Board of Examiners in Speech-Language Pathology and Audiology
4255			Requirements of Licensure for Veterinary Medical Professionals	6/06/12	Board of Veterinary Medical Examiners
4276			Fees	6/06/12	Board of Veterinary Medical Examiners

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4234	Requirements of Licensure for Foresters	6/07/12	Board of Registration for Foresters
4233	Requirements of Licensure for Engineers and Surveyors	6/07/12	Board of Registration for Professional Engineers and Surveyors
4237	Definitions	1/11/13	LLR - Panel for Dietetics
4261	Graduation Requirements	1/12/13	Board of Education
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4258	Defined Program, Grades 9-12	1/20/13	Board of Education
4226	Duties and Responsibilities of Department; Modular Buildings Construction	1/21/13	Building Codes Council
4269	Requirements of Licensure for Funeral Service Providers	1/21/13	Board of Funeral Service
4231	Requirements of Licensure for Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists	1/22/13	Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists
4268	Fees	1/26/13	Board of Funeral Service
4243	Board Authorized to Make Investigations and Deny, Suspend or Revoke Licenses	2/01/13	Manufactured Housing Board
4260	Preneed Funeral Contracts	2/02/13	Department of Consumer Affairs
4279	Administrative Citations and Penalties	2/06/13	Board of Cosmetology
4284	Limited Herbicide Applicators License	4/07/13	Clemson University-State Crop Pest Comm.
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4132	Environmental Protection Fees (Radioactive Material Licenses Fees)	Tolled	Department of Health and Envir Control
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4164	Child Labor	Tolled	Division of Labor
4183	International Residential Code	Tolled	LLR-Building Codes Council
4184	Update of International and National Codes	Tolled	LLR-Building Codes Council
4168	Perpetual Care Cemetery Board	Tolled	SC Perpetual Care Cemetery Board
4227	Requirements of Licensure for Perpetual Care Cemeteries	Tolled	Perpetual Care Cemetery Board
4252	Residential Specialty Contractors License	Tolled	Residential Builders Commission
4267	Emergency Licensure	Tolled	Contractors' Licensing Board
4265	Fees	Tolled	Board of Barber Examiners
4264	Duplicate Wall or Pocket Card License	Tolled	Auctioneers' Commission
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4182	Licensure for the Savannah River	Tolled	Commissioners of Pilotage
4222	Communications Services	Tolled	Department of Revenue
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4126	South Carolina Pesticide Control (R.27-1079 only)	Tolled	Clemson University-State Crop Pest Comm.
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4278	Examinations; Reexaminations	Tolled	Board of Cosmetology
4198	Accreditation Criteria	Tolled	Board of Education
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4179	Electronic Equipment Collection and Recovery		Department of Health and Envir Control
4245	Procedure for Disciplinary Hearings; Fees		Board of Nursing
4188	Maximum Allowable Payments to Medical Practitioners		Workers' Compensation Commission
4262	Fees		Athletic Commission
4201	Gifted and Talented		Board of Education
4239	Qualification for Licensure		LLR - Massage/Bodywork Therapy Panel
4263	Reporting of Continuing Education		Auctioneers' Commission

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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.php>

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4161	Water Classifications and Standards	Agriculture and Natural Resources	Agriculture and Natural Resources
4162	Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	Agriculture and Natural Resources	Labor, Commerce and Industry
4139	Environmental Protection Fees (Drinking Water Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
4174	Hazardous Waste Management Regulations	Agriculture and Natural Resources	Medical Affairs
4175	Hazardous Waste Management Planning	Agriculture and Natural Resources	Medical Affairs
4176	Capital Expenditure Reviews Under Section 1122, Social Security Act	Ways and Means	Medical Affairs
4180	Minimum Standards for Licensing Chiropractic Facilities	Medical, Military, Pub & Mun Affairs	Medical Affairs
4191	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Agriculture and Natural Resources	Fish, Game and Forestry
4200	End-of-Course Tests	Education and Public Works	Education
4189	Financing Applications	Labor, Commerce and Industry	Judiciary
4206	Credential Classification	Education and Public Works	Education
4207	Requirements for Additional Areas of Certification	Education and Public Works	Education
4208	At-Risk Students	Education and Public Works	Education
4205	Physical Fitness Services Center - Certificate of Authority	Medical, Military, Pub & Mun Affairs	Medical Affairs
4216	Practice Privileges, Continuing Professional Education, Peer Review, and Professional Standards	Labor, Commerce and Industry	Labor, Commerce and Industry
4197	Access to Restricted Information	Judiciary	Judiciary
4181	Certification of Need for Health Facilities and Services	Medical, Military, Pub & Mun Affairs	Medical Affairs
4199	Adult Education Program	Education and Public Works	Education
4193	Surface Water Withdrawal, Permitting, Use and Reporting; Water Use Reporting and Coordination; and Interbasin Transfer of Water	Agriculture and Natural Resources	Agriculture and Natural Resources
4186	Soil Classifiers	Agriculture and Natural Resources	Labor, Commerce and Industry
4217	Mixed Martial Arts	Labor, Commerce and Industry	Labor, Commerce and Industry
4256	Offers of Work	Labor, Commerce and Industry	Labor, Commerce and Industry
4212	Water Classifications and Standards; and Classified Waters	Agriculture and Natural Resources	Agriculture and Natural Resources
4257	Mortgage Lending	Labor, Commerce and Industry	Banking and Insurance
4223	Reinstatement and Continuing Professional Education	Labor, Commerce and Industry	Labor, Commerce and Industry
4225	Requirements of Licensure in the Field of Barbering	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4228	Organization, Administration and Procedure	Medical, Military, Pub & Mun Affairs	Medical Affairs
4229	Requirements of Licensure for Contractors	Labor, Commerce and Industry	Labor, Commerce and Industry
4230	Requirements of Licensure for Cosmetologists, Estheticians, and Nail Technicians	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4232	Registration of Licenses or Certificates; Annual Election of the Board; and Executive Director	Medical, Military, Pub & Mun Affairs	Medical Affairs
4235	General Licensing Provisions for Embalmers and Funeral Directors; Provisions for Annual Renewal of Licenses and Reactivation of Expired Licenses	Labor, Commerce and Industry	Labor, Commerce and Industry
4236	General Registration Provisions for Geologists-in-Training	Agriculture and Natural Resources	Labor, Commerce and Industry
4270	Special Inspectors	Labor, Commerce and Industry	Labor, Commerce and Industry
4238	Licensing and Permitting Fees; Licensing Requirements	Labor, Commerce and Industry	Labor, Commerce and Industry
4240	Requirements of Licensure for Soil Classifiers	Agriculture and Natural Resources	Labor, Commerce and Industry
4241	Requirements of Licensure for Landscape Architects	Labor, Commerce and Industry	Labor, Commerce and Industry
4242	Requirements of Licensure for Long Term Health Care Admin.	Medical, Military, Pub & Mun Affairs	Medical Affairs
4244	Requirements of Licensure for Medical Professionals	Medical, Military, Pub & Mun Affairs	Medical Affairs
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4246	Definitions; Licensure by Endorsement; and Fees	Labor, Commerce and Industry	Medical Affairs
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4249	Requirements of Licensure for Pilots	Labor, Commerce and Industry	Transportation
4250	Requirements of Licensure for Podiatrists	Medical, Military, Pub & Mun Affairs	Medical Affairs
4251	Continuing Education Credits	Medical, Military, Pub & Mun Affairs	Medical Affairs
4273	Insurance Required for Time Sharing Facilities and Accommodations	Labor, Commerce and Industry	Labor, Commerce and Industry
4274	Provider, Course, and Instructor Fees; Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4275	Emergency License and Registration	Labor, Commerce and Industry	Labor, Commerce and Industry
4253	Requirements of Licensure for Social Workers	Medical, Military, Pub & Mun Affairs	General
4254	Requirements of Licensure for Speech-Language Pathologists and Audiologists	Medical, Military, Pub & Mun Affairs	Medical Affairs
4255	Requirements of Licensure for Veterinary Medical Professionals	Agriculture and Natural Resources	Agriculture and Natural Resources
4276	Fees	Agriculture and Natural Resources	Agriculture and Natural Resources
4272	Fees and APRNs	Medical, Military, Pub & Mun Affairs	Medical Affairs
4234	Requirements of Licensure for Foresters	Agriculture and Natural Resources	Fish, Game and Forestry
4233	Requirements of Licensure for Engineers and Surveyors	Labor, Commerce and Industry	Labor, Commerce and Industry

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4261	Graduation Requirements	Education and Public Works	Education
4224	Requirements of Licensure in the Field of Architecture	Labor, Commerce and Industry	Labor, Commerce and Industry
4258	Defined Program, Grades 9-12	Education and Public Works	Education
4226	Duties and Responsibilities of Department; Modular Buildings Construction	Labor, Commerce and Industry	Labor, Commerce and Industry
4269	Requirements of Licensure for Funeral Service Providers	Labor, Commerce and Industry	Labor, Commerce and Industry
4231	Requirements of Licensure for Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4268	Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4243	Board Authorized to Make Investigations and Deny, Suspend or Revoke Licenses	Labor, Commerce and Industry	Labor, Commerce and Industry
4260	Preneed Funeral Contracts	Labor, Commerce and Industry	Judiciary
4279	Administrative Citations and Penalties	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4284	Limited Herbicide Applicators License	Agriculture and Natural Resources	Agriculture and Natural Resources

Committee Request Assessment Report

4132	Environmental Protection Fees (Radioactive Material Licenses Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
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Committee Request Withdrawal

4164	Child Labor	Labor, Commerce and Industry	Labor, Commerce and Industry
4183	International Residential Code	Labor, Commerce and Industry	Labor, Commerce and Industry
4184	Update of International and National Codes	Labor, Commerce and Industry	Labor, Commerce and Industry
4168	Perpetual Care Cemetery Board	Labor, Commerce and Industry	Labor, Commerce and Industry
4227	Requirements of Licensure for Perpetual Care Cemeteries	Labor, Commerce and Industry	Labor, Commerce and Industry
4252	Residential Specialty Contractors License	Labor, Commerce and Industry	Labor, Commerce and Industry
4267	Emergency Licensure	Labor, Commerce and Industry	Labor, Commerce and Industry
4265	Fees	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4264	Duplicate Wall or Pocket Card License; Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4187	Jurisdiction of the Administrative Law Court to Review Citations (Enforcement of Violations)	Judiciary	Labor, Commerce and Industry

Agency Request Withdrawal

4182	Licensure for the Savannah River	Agriculture and Natural Resources	Labor, Commerce and Industry
4222	Communications Services	Ways and Means	Finance

Resolution Introduced to Disapprove

4126	South Carolina Pesticide Control (R.27-1079 only)	Agriculture and Natural Resources	Agriculture and Natural Resources
4218	Board of Cosmetology	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4278	Examinations; Reexaminations	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4198	Accreditation Criteria	Education and Public Works	Education

Permanently Withdrawn

4179	Electronic Equipment Collection and Recovery	Agriculture and Natural Resources	Medical Affairs
4245	Procedure for Disciplinary Hearings; Fees	Medical, Military, Pub & Mun Affairs	Medical Affairs
4188	Maximum Allowable Payments to Medical Practitioners	Labor, Commerce and Industry	Judiciary
4262	Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4201	Gifted and Talented	Education and Public Works	Education
4239	Qualification for Licensure	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4263	Reporting of Continuing Education	Labor, Commerce and Industry	Labor, Commerce and Industry

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

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 May 25, 2012, 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. Paula J. Bracey, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Lexington County

Renovation for the addition of a dedicated Electrophysiology (EP) laboratory
Lexington Medical Center
West Columbia, South Carolina
Project Cost: \$2,675,566

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 May 25, 2012. "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.

Affecting Bamberg and Barnwell Counties

Construction of a new 25-bed acute care hospital to consolidate and replace Bamberg County Memorial Hospital (currently licensed for 59 acute care beds) and Barnwell County Hospital (currently licensed for 53 acute care beds), both operating under bankruptcy protection, by transferring beds from both hospitals through the acquisition of the assets of the two hospitals. During the transition period, the hospitals will operate from the existing Barnwell location until the replacement hospital is built.
South Carolina Regional Hospital
Denmark, South Carolina
Project Cost: \$32,326,872

Affecting Charleston County

Renovation for the addition of a pediatric cardiac hybrid catheterization laboratory at the Children's Hospital.
Medical University of South Carolina Medical Center
Charleston, South Carolina
Project Cost: \$4,706,541

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Affecting Lancaster County

Addition of twelve (12) acute psychiatric beds for a total of one hundred ninety-nine (199) general acute beds, eighteen (18) substance abuse beds, and (12) twelve psychiatric beds. The project also involves relocation of the fourteen (14) bed Transitional Care Unit.

Springs Memorial Hospital
Lancaster, South Carolina
Project Cost: \$688,544

Affecting Richland County

Construction for the addition of forty-four (44) nursing care beds that will not participate in the Medicaid (Title XIX) program and expansion of rehabilitative therapy and other support services, resulting in a total of eighty (80) nursing care beds.

Rice Estate Rehabilitation and Healthcare
Columbia, South Carolina
Project Cost: \$11,321,988

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

(Bureau of Air Quality Public Notice #12-035-GCM-REVISION)

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

The South Carolina Department of Health and Environmental Control (DHEC) is proposing to revise the General Conditional Major air pollution operating permit for Fuel Combustion Operations. Interested persons may review the materials drafted and maintained by DHEC for these permits and submit written comments by 5:00 p.m. on June 25, 2012, to Karen Lee at SC DHEC, Engineering Services Division, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201 or by e-mail at: leeka@dhec.sc.gov. This public notice is being published in the State Register on May 25, 2012, and may also be viewed, along with the draft permit, through June 25, 2012, on DHEC's website at: <http://www.scdhec.gov/BAQpublicnotices>.

Where there is a significant amount of public interest, DHEC may hold a public hearing to receive additional comments. If a public hearing is scheduled, notice will be given in the State Register and local newspapers thirty (30) days in advance. Public hearing requests can be made in writing or be e-mailed to Karen Lee at the address or e-mail above. All comments received by June 25, 2012, will be considered when making a decision to approve, disapprove, or modify the draft permits.

If you have questions concerning the draft permit, please contact Alyson Hayes at (803) 898-3836. A final review request may be filed after the permit decision has been made. Information regarding final review procedures is available from DHEC's legal office by calling (803) 898-3350.

Synopsis:

The purpose of this revision to the general permit is to update emission limitations to include Greenhouse Gas federally enforceable limitations. The permit limits a facility's potential to emit below major source thresholds for the Title V permit program and New Source Review and contains conditions to assure that these facilities are operated as non-major sources.

DHEC has examined fuel combustion operations and has concluded that the general permit, as proposed, is consistent with state and federal air pollution regulations.

Fuel Combustion Operations, for purposes of this permit, are defined as facilities which are comprised of one or more fuel combustion sources (including boilers, emergency generators, and non-emergency generators) fired on natural gas, propane, virgin fuel oil and/or used spec. oil (as defined in S.C. Regulation 61-62.1, Section I), fuel storage tanks, ethylene oxide sterilizers located at hospitals, or other sources approved by DHEC.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

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

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality (BAQ), does hereby give notice of authorization being granted to the below listed sources who have requested coverage under the General Conditional Major Operating Permits for Textile Greige Operations, Fuel Combustion Operations, and Concrete Plants. Interested persons may review the general permit and the individual facility information on our website at: <http://www.scdhec.gov/environment/baq/Permitting/GeneralPermits/>

The Textile Griegge Operations and Fuel Combustion Operations permits were previously open for a thirty (30) day public comment period starting on February 25, 2011, with issuance on April 1, 2011. The Concrete Plant permit was previously open for a thirty (30) day public comment period starting on May 27, 2011, with issuance on June 30, 2011. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a) and (b), DHEC may now grant coverage to any qualified sources seeking to operate under the terms and conditions of these general permits.

Company Name	Permit Number	County	Physical Location	Permit Type
Naval Hospital Beaufort	0360-0005	Beaufort	1 Pinckney Blvd., Beaufort, SC 29902	Fuel Combustion Operations
Resort Services Inc.	0360-0046	Beaufort	336 Buck Island Rd., Bluffton, SC 29910	Fuel Combustion Operations
Beaufort-Jasper Water and Sewer Authority	0360-0050	Beaufort	14 Snake Rd., Okatie, SC 29909	Fuel Combustion Operations
South Island Public Service District	0360-0051	Beaufort	2 Lawton Canal Rd., Hilton Head Island, SC 29928	Fuel Combustion Operations
South Island Public Service District	0360-0061	Beaufort	106 A Cordillo Pkwy., Hilton Head Island, SC 29928	Fuel Combustion Operations
Roper Hospital	0560-0046	Charleston	316 Calhoun St., Charleston, SC 29401	Fuel Combustion Operations
Medical University of SC	0560-0024	Charleston	173 Ashley Ave., Charleston, SC 29425	Fuel Combustion Operations

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Company Name	Permit Number	County	Physical Location	Permit Type
US Dept. of Justice Federal Bureau of Prisons Edgefield	0980-0026	Edgefield	501 Gary Hill Rd., Edgefield, SC 29824	Fuel Combustion Operations
McLeod Regional Medical Center	1040-0048	Florence	555 East Cheves St., Florence, SC 29501	Fuel Combustion Operations
City of Florence Regional WWMF	1040-0079	Florence	1000 Stockade Dr., Florence, SC 29501	Fuel Combustion Operations
Columbia Farms Inc. Greenville	1200-00232	Greenville	1354 Rutherford Rd., Greenville, SC 29608	Fuel Combustion Operations
Renewable Water Resources – Georges Creek	1200-0424	Greenville	3635 Old Easley Bridge Rd., Greenville, SC 29611	Fuel Combustion Operations
Renewable Water Resources – Grove Creek	1200-0498	Greenville	250 Owens Rd., Piedmont, SC 29673	Fuel Combustion Operations
Greenville Hospital Systems GMMC Campus	1200-0145	Greenville	701 Grove Rd., Greenville, SC 29605	Fuel Combustion Operations
Self Regional Healthcare	1240-0028	Greenwood	1325 Spring St., Greenwood, SC 29646	Fuel Combustion Operations
Lee Correctional Institution	1540-0027	Lee	1204 East Church St., Bishopville, SC 29010	Fuel Combustion Operations
Lexington Medical Center	1560-0055	Lexington	2720 Sunset Blvd., West Columbia, SC 29169	Fuel Combustion Operations
SOPAKCO, Inc.	1680-0104	Marlboro	320 South Broad St., Bennettsville, SC 29512	Fuel Combustion Operations
Kraft Foods – Louis Rich Facility	1780-0021	Newberry	3704 Louis Rich Dr., Newberry, SC 29108	Fuel Combustion Operations
South Carolina State University	1860-0065	Orangeburg	300 College St., NE, Orangeburg, SC 29117	Fuel Combustion Operations
Easley Combined Utilities Peak Plant	1880-0051	Pickens	150 Utility St., Bldg. 5, Easley, SC 29640	Fuel Combustion Operations
Palmetto Health Baptist	1900-0044	Richland	Taylor at Marion St., Columbia, SC 29220	Fuel Combustion Operations
Palmetto Richland Memorial Hospital	1900-0062	Richland	5 Medical Park Dr., Columbia, SC 29203	Fuel Combustion Operations
Office of General Services FM	1900-0162	Richland	1121 College St., Columbia, SC 29201	Fuel Combustion

Company Name	Permit Number	County	Physical Location	Permit Type
Energy Facility				Operations
SC Department of Mental Health	1900-0055	Richland	2100 Bull St., Columbia, SC 29201	Fuel Combustion Operations
Spartanburg Hospital for Restorative Care	2060-0128	Spartanburg	389 Serpentine Dr., Spartanburg, SC 29303	Fuel Combustion Operations
Spartanburg Regional Medical Center	2060-0142	Spartanburg	101 East Wood St., Spartanburg, SC 29303	Fuel Combustion Operations
Spartanburg Waster System R.B. Simms Filtration Plant	2060-0334	Spartanburg	390 Spartanburg Water Works, Rd., Chesnee, SC 29323	Fuel Combustion Operations
Lawson Fork Wastewater Treatment Plant	2060-0511	Spartanburg	2736 Country Club Rd., Spartanburg, SC 29306	Fuel Combustion Operations
Fairforest Wastewater Treatment Plant	2060-0512	Spartanburg	1450 Southport Rd., Spartanburg, SC 29306	Fuel Combustion Operations
Lockhart Power City West Diesel Generating Facility	2180-0033	Union	198 Times Blvd., Union, SC 29379	Fuel Combustion Operations
City of Rock Hill Utility Operation Center	2440-0207	York	727 South Anderson Rd., Rock Hill, SC 29730	Fuel Combustion Operations
Winthrop University	2440-0084	York	701 Oakland Ave., Rock Hill, SC 29733	Fuel Combustion Operations
Hamrick Mills – Hamrick Plant	0600-0004	Cherokee	2526 Cherokee Ave., Gaffney, SC 29342	Textile Griege Operations
Springfield LLC Limestone Plant	0600-0014	Cherokee	1206 Cherokee Ave., Gaffney SC 29342	Textile Griege Operations
Hamrick Mills – Musgrove Plant	0600-0062	Cherokee	150 Hamrick St., Gaffney, SC 29342	Textile Griege Operations
Greenwood Mills Inc. – Harris Plant	1240-0024	Greenwood	1820 Calhoun Rd., Greenwood, SC 29646	Textile Griege Operations
Deroyal Textiles, Inc.	1380-0019	Kershaw	125 E. York St., Camden, SC 29020	Textile Griege Operations
Inman Mills – Saybrook Plant	2060-0042	Spartanburg	1 First St., Inman, SC 29349	Textile Griege Operations
Inman Mills – Ramey Plant	2060-0271	Spartanburg	15980 Hwy. 221, Enoree, SC 29335	Textile Griege Operations
J&S, Inc. – Plant #2	9900-0304	Lancaster	5554 Charlotte Hwy., Lancaster, SC 29721	Concrete Plants
Wando Concrete, LLC	9900-0385	Charleston	2025 Cherry Hill Ln., Charleston, SC 29419	Concrete Plants

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DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

South Carolina Department of Health and Environmental Control vs. Horton Sales Development Corp., et al.,
Civil Action No. 6:11cv1657-HMH

DHEC-Bureau of Land and Waste Management, File #56198
Horton Sales Development Corporation—Piedmont Site

NOTICE OF: SETTLEMENTS, CONTRIBUTION PROTECTION, AND COMMENT PERIOD

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (DHEC) intends to enter into four separate Settlement Agreements (Agreements) with Settling Defendants:

- T. Alexander Beard in which the exact settlement amount is based on Mr. Beard's sale of the facility's real property (sale price to be approved by DHEC);
- Sonoco Products Company for \$50,000;
- Appleton Papers, Inc.; Ashland, Inc.; BMW Manufacturing Company, LLC, Goodrich Corporation; The Lubrizol Corporation; Milliken & Company; Mount Vernon Mills; Rhodia, Inc.; and Southern Container, LLC (Group of 9) for \$600,000; and
- Textile Rubber and Chemical Company, Inc. for \$20,000.

Upon approval by the Court, the Agreements provide each shall be entered as a final judgment against the Settling Defendants. The Agreements are subject to a thirty-day public comment period, consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9622, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200 (2002, as amended).

The Agreements relate to the release, and threatened release, of hazardous substances, pollutants, or contaminants at the former Horton Sales Development Corporation—Piedmont Site located in Greenville County, at 1870 Piedmont Highway, Piedmont, South Carolina. In consideration of the foregoing, the Agreements provide for a release of the Settling Defendants from further liability and confer contribution protection to each Settling Defendant pursuant to CERCLA 42 U.S.C. § 9613.

Notice of Settlements, Contribution Protection and Comment Period will be provided to potentially responsible parties via email or alternatively via US mail. The Agreements are available:

- (1) On-line at http://www.dhec.sc.gov/environment/lwm/public_notice.asp; or
- (2) By contacting Pat Vincent at 803-896-4074 or vincenpl@dhec.sc.gov.

Any comments to the Agreements must be submitted in writing, postmarked no later than June 25, 2012, and addressed to: Pat Vincent, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201. The Agreements will be filed with the Court for approval.

UPON APPROVAL AND ENTRY OF THE AGREEMENTS BY THE COURT, ANY AND ALL CLAIMS BY ANY AND ALL PERSONS AGAINST SETTLING DEFENDANTS SEEKING CONTRIBUTION PROTECTION FOR MATTERS ENCOMPASSED BY THE AGREEMENT SHALL BE FORECLOSED.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE TO AMEND AIR QUALITY STATE IMPLEMENTATION PLAN

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

South Carolina Air Quality Implementation Plan:

The Department of Health and Environmental Control (Department) proposes to amend the South Carolina Air Quality Implementation Plan, also known as the State Implementation Plan, or SIP. Interested persons are invited to present their views in writing to Melinda C. Mathias; Division of Air Assessment, Innovations and Regulation, Bureau of Air Quality; 2600 Bull Street; Columbia, SC 29201. Comments may also be submitted via email to mathiamc@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on June 25, 2012, the close of the comment period. The Department is also providing the public with the opportunity to request a public hearing on the proposed SIP amendment. As such, a public hearing has been scheduled for July 2, 2012, at 1 p.m. in the Wallace Room (3141), 2600 Bull Street, Columbia, South Carolina. The public is invited to attend. However, pursuant to 40 CFR 51.102 (2011), if the Department does not receive a request for a public hearing by the close of the comment period (June 25, 2012), the Department will cancel the hearing. If the Department cancels the public hearing, then the Department will notify the public at least one week prior to the scheduled hearing on the SIP Public Hearings webpage at: http://www.scdhec.gov/environment/baq/Regulation-SIPManagement/public_hearings.asp. Interested parties are also encouraged to contact Melinda C. Mathias at (803) 898-3269 or mathiamc@dhec.sc.gov for more information or to determine if the Department has cancelled the public hearing.

Synopsis:

The United States Environmental Protection Agency (EPA) recently informed the Department of the need to public notice a certification letter that the Department submitted to the EPA on October 24, 2011, to address the “infrastructure” SIP requirements under Clean Air Act (CAA) Sections 110(a)(1) and (2) for the 2008 ozone National Ambient Air Quality Standards (NAAQS). The infrastructure SIP requirements provide for the implementation, maintenance, and enforcement of the NAAQS. On March 27, 2008, the EPA issued the revised NAAQS for ozone. In September 2009, the EPA announced they were reconsidering the 2008 ozone NAAQS. On September 2, 2011, after several postponements of the final reconsideration, the President of the United States released a statement asking the EPA to withdraw the reconsideration. This move prompted the EPA to announce on September 22, 2011, its intention to proceed with certain required actions to implement the 2008 ozone NAAQS, to include infrastructure SIP submittals. During the Department’s October 9, 2011, quarterly call with EPA Region 4 staff, the Department was informed that as long as the current SIP includes all of the required infrastructure elements to implement, maintain, and enforce the 2008 ozone NAAQS, states could rely on previous ozone infrastructure submittals. This reliance meant that states need only certify the current SIP as adequate in addressing the 2008 ozone NAAQS, and that public notice was not required. This was affirmed by the EPA in the July 13, 2011, (76 FR 41111) final rule approving the December 13, 2007, submission by the Department demonstrating that South Carolina meets the SIP requirements of sections 110(a)(1) and (2) of the CAA for the 1997 ozone NAAQS. The final rule (76 FR 41111) stated that South Carolina’s “infrastructure submission” provided to the EPA on December 13, 2007, addressed all the required infrastructure elements for the 1997 ozone NAAQS. Based on this action, the Department believes our SIP is sufficient in addressing the

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necessary requirements for implementing, maintaining, and enforcing the 2008 ozone NAAQS and certified such to the EPA on October 24, 2011. In this letter, the Department further applauded EPA's efforts to "simplify" the requirements for these types of SIP submittals by allowing states to certify their SIP adequacy. However, the EPA has since verbally notified the Department of its requirement to provide the public with the ability to comment on this certification. As such, the Department is providing the public with opportunity to comment on this certification and/or request a public hearing.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

ERRATA

May 25, 2012

The Department of Health and Environmental Control has conducted an audit of Regulation 61-62, Air Pollution Control Regulations and Standards, and is publishing these errata to correct errors in the regulations pertaining to 61-62.5, Standard 1 and 7.1. These corrections do not create new regulatory requirements, the corrections are nonsubstantive, do not change the legal meaning, and are made pursuant to regulation drafting guidelines to improve the overall quality of the Department's regulations.

R.61-62.5, Standard 1, Emissions from Fuel Burning Operations

State Register Doc. 4130, May 27, 2012

At R.61-62.5, Standard 1, (I)(C), add a serial comma after the word "duration" for consistency to read:

The opacity standards set forth above do not apply during startup or shutdown. Owners and operators shall, to the extent practicable, maintain and operate any source including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. In addition, the owner or operator of fuel burning sources except natural gas fired units, shall maintain a log of the time, magnitude, duration, and any other pertinent information to determine periods of startup and shutdown and make available to the Department upon request.

At R.61-62.5, Standard 1, (III)(A), replace the references "paragraph B" and "paragraph C of this Section" with "Section (III)(B)" and "Section (III)(C)," respectively, for citation consistency and clarity to read:

The maximum allowable discharge of sulfur dioxide (SO₂) from fuel burning operations shall be in accordance with a system of priorities as specified hereinafter in Section (III)(B). The classifications shall be delineated on a county basis. The maximum allowable discharge for the various classes is specified in Section (III)(C).

At R.61-62.5, Standard 1, (III)(B)(3), add codification denotations "a" through "c" for codification consistency and ease of use to read:

3. The following classifications are assigned:
 - a. Class I - Charleston County
 - b. Class II - Aiken County; Anderson County
 - c. Class III - All others

At R.61-62.5, Standard 1, (IV)(A)(1), Introductory Paragraph, replace the reference “Paragraph D of this Section” with “Section (IV)(D)” for citation consistency and clarity to read:

1. Fossil Fuel Fired Boilers

The owner or operator of any fossil fuel-fired steam generator of more than 250 million BTU per hour heat input capacity shall install, calibrate, operate, and maintain no later than June 14, 1978, continuous monitoring system(s) for the measurement of opacity which meets the performance specifications of Section (IV)(D) except where:

At R.61-62.5, Standard 1, (IV)(A)(1)(a), replace the semicolon with a period for punctuation consistency to read:

- a. Gaseous fuel is the only fuel burned.

At R.61-62.5, Standard 1, (IV)(A)(1)(b), format “Section I and II” and “Section I” reference to read “Section (I) and (II)” and “Section (I),” respectively, for citation consistency to read:

b. Oil or a mixture of gas and oil are the only fuels burned and the steam generator is able to comply with the provisions of Sections (I) and (II) of this Standard without utilization of particulate matter collection equipment, and where the steam generator has never been found, through any administrative or judicial proceedings, to be in violation of Section (I) of this Standard.

At R.61-62.5, Standard 1, (IV)(A)(2), Introductory Paragraph, add a serial comma after the word “operate” for consistency to read:

The owner or operator of any woodwaste boiler, not equipped with a wet scrubber, will be required to install, calibrate, operate, and maintain continuous monitoring system(s) approved by this Department for the measurement of opacity, if it meets one or more of the following criteria:

At R.61-62.5, Standard 1, (IV)(B)(1), replace the reference “Paragraph A of this Section” with “Section (IV)(A)” for clarity and strike the hard return after the word and period “quarter.” and before the word “The” of the second paragraph to combine the text into one paragraph to ensure consistent codification to read:

1. The owner or operator of any fossil fuel-fired steam generator subject to the provisions of Section (IV)(A) shall submit a written Continuous Opacity Monitor report to the Department quarterly or more often if requested. All quarterly reports must be postmarked by the 30th day following the end of each calendar quarter. The report shall include the following minimum information:

At R.61-62.5, Standard 1, (IV)(B)(1)(a), format “Section I” reference to read “Section (I)” for citation consistency to read:

a. All integrated six minute opacity measurements for periods during which the applicable provisions of Section (I) have been exceeded, together with their nature and cause.

At R.61-62.5, Standard 1, (IV)(B)(1)(c), format “Section I” reference to read “Section (I)” for citation consistency to read:

- c. Boiler system repairs or adjustments made to correct violations of the provisions of Section (I).

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At R.61-62.5, Standard 1, (IV)(C), replace the reference “this Section” with “Section (IV)” for citation consistency and clarity to read:

A temporary exemption from the opacity monitoring and reporting requirements of Section (IV) may be granted during any period of monitoring system(s) malfunction, provided the owner or operator shows, to the satisfaction of the Department, that the malfunction was unavoidable and is being repaired as expeditiously as possible.

At R.61-62.5, Standard 1, (IV)(D), replace the reference “Paragraph A.1. of this Section” with “Section (IV)(A)(1)” for citation consistency and clarity. Add a comma after “July 1, 1986” (in two places) and “February 11, 1971” for consistency and add codification denotations “1” through “3” for codification consistency and ease of use to read:

D. Equipment Performance Specifications

1. The continuous opacity monitoring system(s) required by Section (IV)(A)(1) (for fossil fuel fired steam generators) shall conform with the performance specifications set forth in 40 CFR, Part 60, Appendix B, Performance Specification 1 as revised July 1, 1986, which is incorporated by reference as a part of this Standard except that where the term “Administrator” is used the term “Department” shall be substituted. In addition, the opacity monitoring system(s) shall complete a minimum of one cycle of operation for each successive 10-second period; be installed such that representative measurements of opacity from the affected steam generator are obtained; and have an instrument span of approximately 80 percent opacity.

2. The owner or operator shall record the zero and span drift in accordance with method prescribed by the manufacturer of such opacity monitoring system(s); subject the system(s) to the manufacturer’s recommended zero and span check at least once daily unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; adjust the zero and span whenever the 24-hour zero drift or 24-hour calibration drift limits of 40 CFR, Part 60, Appendix B, Performance Specification 1 as revised July 1, 1986, are exceeded; adjust the opacity monitoring system(s) purchased prior to September 11, 1974, whenever the 24-hour zero drift or 24-hour calibration drift exceeds 4 percent opacity for those generators constructed prior to February 11, 1971, and 2 percent opacity for those generators constructed after February 11, 1971.

3. The monitoring systems must be approved by this agency prior to installation.

At R.61-62.5, Standard 1, (IV)(E), replace the reference “this Section” with “Section (IV)” for clarity to read:

E. Monitor Location

When the effluents from two or more affected steam generators of similar design and operating characteristics are combined before released to the atmosphere, the opacity monitoring system(s) shall be installed on the combined effluent. When the affected steam generators are not of similar design and operating characteristics, or when the effluent from one affected steam generator is released to the atmosphere through more than one point, the owner or operator shall apply for an alternate procedure to comply with the requirements of Section (IV).

At R.61-62.5, Standard 1, (IV)(F)(2), strike comma after “and” for consistency to read:

2. A proposal of the alternate monitoring and reporting requirements; and

At R.61-62.5, Standard 1, (IV)(F)(3), replace the reference “this Section” with “Section (IV)” for citation consistency and clarity to read:

3. Any other information needed by the Department to make a determination that the alternate requirements are adequate to meet the intent of this Section (IV).

At R.61-62.5, Standard 1, Section (VI), Introductory Paragraph, replace the abbreviation “R.” with the word “Regulation” for clarity to read:

An owner or operator of any source listed below shall ensure that scheduled periodic tests for particulate matter emissions are conducted every two years or as required by permit conditions and are performed in accordance with the provisions of Regulation 61-62.1, Section IV, Source Tests. An owner or operator shall demonstrate compliance with sulfur dioxide emissions by source testing, continuous monitoring, or fuel analysis as required by permit conditions.

R.61-62.5, Air Pollution Control Standards, Standard 7.1, Nonattainment New Source Review
State Register Doc. 4130, May 27, 2011

At R.61-62.5, Standard 7.1, (b)(2), replace the abbreviation “i.e.” which stands for the phrase “that is” with the words “that is” in two instances in order to avoid confusion and provide clarity to read:

(2) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (that is, the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs (b)(1) through (6). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (that is, the second step of the process) is contained in the definition in paragraph (c)(8). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

At R.61-62.5, Standard 7.1, (b)(4), reformat the phrase “Prevention of Significant Deterioration” to remove italics per regulation drafting guidelines to read:

(4) **Actual-to-potential test for projects that only involve construction of a new emissions unit(s)**. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in paragraph (b)(37) of Regulation 61-62.5 Standard 7, “Prevention of Significant Deterioration” (“Standard 7”)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in paragraph (c)(2)(C)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in paragraph (c)(14)).

At R.61-62.5, Standard 7.1, (c)(2)(B)(iii), correct the paragraph to make the word “State” lowercase for consistency to read:

(iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of paragraph (d)(1)(c)(viii).

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At R.61-62.5, Standard 7.1, (c)(5)(A), correct the paragraph to make the word “State” lowercase for consistency to read:

(A) The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

At R.61-62.5, Standard 7.1, (c)(11)(B)(i), correct the paragraph to make the words “State” and “Federal” lowercase for consistency to read:

(i) Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved plan; and

At R.61-62.5, Standard 7.1, (c)(13)(C)(c), correct the paragraph to make the word “State” lowercase for consistency to read:

(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all PM_{2.5} nonattainment areas, unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations;

At R.61-62.5, Standard 7.1, (c)(13)(C)(d), correct the paragraph to make the word “State” lowercase for consistency to read:

(d) Volatile organic compounds and ammonia are presumed not to be precursors to PM_{2.5} in any PM_{2.5} nonattainment area, unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations; or

At R.61-62.5, Standard 7.1, (c)(16), reformat the word “Definitions” to remove italics per regulation drafting guidelines to read:

(16) “**Volatile organic compounds (VOC)**” is as defined in Regulation 61-62.1, Section I, Definitions.

At R.61-62.5, Standard 7.1, (d)(1)(B), correct the paragraph to make the words “State” and “Federally” lowercase for consistency to read:

(B) The applicant must certify that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in the same state as the proposed source are in compliance with all applicable emission limitations and standards under the Clean Air Act (or are in compliance with an expeditious schedule which is federally enforceable or contained in a court decree).

At R.61-62.5, Standard 7.1, (d)(1)(C)(v)(a)(4)(A)(i), reformat the phrases “Prevention of Significant Deterioration” and “Nonattainment New Source Review (NSR)” to remove italics per regulation drafting guidelines to read:

(i) Emission reductions that have previously been used to avoid Regulation 61-62.5 Standard No. 7, Prevention of Significant Deterioration, or Regulation 61-62.5 Standard No. 7.1, Nonattainment_New Source Review (NSR), through a netting demonstration;

At R.61-62.5, Standard 7.1, (d)(1)(C)(v)(a)(4)(A)(ii), reformat the phrases “National Emission Standards for Hazardous Air Pollutants (NESHAP),” “National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories,” “NESHAP, and,” and “NESHAP for Source Categories” to remove italics per regulation drafting guidelines to read:

(ii) Emission reductions of hazardous air pollutants, listed in Section 112(b) of the Clean Air Act, to the extent needed to comply with Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP), and Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, (however, emission reductions of hazardous volatile organic compound (VOC) and/or hazardous particulate matter (PM) air pollutants beyond the amount of reductions necessary to comply with Regulation 61-62.61, NESHAP, and Regulation 61-62.63, NESHAP for Source Categories, are considered surplus);

At R.61-62.5, Standard 7.1, (d)(1)(C)(v)(a)(4)(A)(iii), reformat the phrases “South Carolina Designated Facility Plan and New Source Performance Standards (NSPS)” and “South Carolina Designated Facility Plan and NSPS,” to remove italics per regulation drafting guidelines to read:

(iii) Emission reductions of nitrogen oxides (NO_x), sulfur dioxide (SO₂), particulate matter (PM) and VOCs to the extent needed to comply with Section 111 of the CAA and Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards (NSPS), (however, emission reductions of VOCs, NO_x, SO₂, PM and VOCs beyond the amount of reductions necessary to comply with Regulation 61-62.60, South Carolina Designated Facility Plan and NSPS, are considered surplus);

At R.61-62.5, Standard 7.1, (d)(1)(C)(v)(a)(4)(A)(vi), correct the paragraph to make the words “State” and “Federal” lowercase throughout for consistency to read:

(vi) Emission reductions required in order to comply with any state or federal regulation not listed above, unless these reductions are in excess of the amount required by the state or federal regulation; or

At R.61-62.5, Standard 7.1, (d)(1)(D), reformat the phrase “Emission Offset Interpretative Ruling” to remove italics per regulation drafting guidelines to read:

(D) The emission offsets must provide a positive net air quality benefit in the affected area as determined by 40 CFR 51, Appendix S, Emission Offset Interpretative Ruling.

At R.61-62.5, Standard 7.1, (d)(2)(C), correct the paragraph to make the words “State” and “Federal” lowercase for consistency. Add a serial comma after “State” for grammatical correctness and consistency to read:

(C) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the plan and any other requirements under local, state, or federal law.

At R.61-62.5, Standard 7.1, (d)(3)(A), reformat the phrase “Permit Requirements” and the succeeding comma in two places to remove italics per regulation drafting guidelines to read:

(A) If the project requires construction permitting under Regulation 61-62.1, Section II “Permit Requirements,” the owner or operator shall provide a copy of the information set out in paragraph (d)(3)(B) as part of the permit application to the Department. If construction permitting under Regulation 61-62.1, Section II “Permit Requirements,” is not required, the owner or operator shall maintain the information set out in paragraph (d)(3).

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At R.61-62.5, Standard 7.1, (d)(3)(E)(iii), replace the abbreviation “e.g.” which stands for the phrase “for example” with the words “for example,” in order to avoid confusion and provide clarity to read:

(iii) Any other information needed for to make a compliance determination (for example, an explanation as to why the emissions differ from the preconstruction projection).

At R.61-62.5, Standard 7.1, (d)(4), reformat the phrase “Permit Requirements” to remove italics per regulation drafting guidelines to read:

(4) If a project at a source with a PAL requires construction permitting under Regulation 61-62.1, Section II, “Permit Requirements,” the owner or operator shall provide notification of source status as part of the permit application to the Department.

At R.61-62.5, Standard 7.1, (d)(7), reformat the phrase “*Environmental Protection Fees*” to remove italics per regulation drafting guidelines to read:

(7) In accordance with Regulation 61-30, Environmental Protection Fees, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner:

At R.61-62.5, Standard 7.1, (d)(7)(i), reformat the phrase “*Environmental Protection Fees*” to remove italics per regulation drafting guidelines to read:

(i) For the purposes of this paragraph (d)(7), the time frame for making a final determination shall be consistent with R. 61-30, Environmental Protection Fees, paragraph (H)(2)(c)(iii).

At R.61-62.5, Standard 7.1, (i)(1)(iii)(B), reformat the phrase “*Nonattainment New Source Review*” and the phrase “*Permit Requirements*” and the succeeding comma to remove italics per regulation drafting guidelines to read:

(B) Does not have to be approved through Regulation 61-62.5, Standard 7.1, “Nonattainment New Source Review”; however, will be reviewed through Regulation 61-62.1, Section II A. “Permit Requirements,” and

At R.61-62.5, Standard 7.1, (i)(1)(iv), correct the paragraph to make the words “Federal” and “State” lowercase for consistency to read:

(iv) Except as provided under paragraph (i)(1)(iii)(C), a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

At R.61-62.5, Standard 7.1, (i)(2), reformat the phrase “*Prevention of Significant*” to remove italics per regulation drafting guidelines to read:

(2) **Definitions.** The definitions in paragraphs (i)(2)(i) through (xi) shall apply to actuals PALs consistent with paragraphs (i)(1) through (15). When a term is not defined in these paragraphs, it shall have the meaning given in paragraph (c) of this regulation; paragraph (b) of Regulation 61-62.5, Standard 7, “Prevention of Significant Deterioration”(“Standard 7”); or in the Clean Air Act.

At R.61-62.5, Standard 7.1, (i)(2)(ix), correct the paragraph to make the word “State” lowercase for consistency. Add a comma between “61-62.1” and “Section” for grammatical correctness and consistency. Capitalize the word “title” before “V” for consistency to read:

(ix) **PAL permit** means the major NSR permit, the minor NSR permit, or the state operating permit under Regulation 61-62.1, Section II G, or the Title V permit issued by the Department that establishes a PAL for a major stationary source.

At R.61-62.5, Standard 7.1, (i)(6), correct the paragraph to make the words “Federal” and “State” lowercase for consistency to read:

(6) Setting the 10-year actuals PAL level. (i) Except as provided in paragraph (i)(6)(ii), the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in paragraph (c)(2)) of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under paragraph (c)(14) or under the Clean Air Act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Department shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Department is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).

At R.61-62.5, Standard 7.1, (i)(8)(ii)(B)(1), correct the paragraph to make the word “Federal” lowercase for consistency to read:

(1) Reduce the PAL to reflect newly applicable federal requirements (for example, NSPS) with compliance dates after the PAL effective date.

At R.61-62.5, Standard 7.1, (10)(v), correct the paragraph to make the words “State” and “Federal” lowercase for consistency. Capitalize the word “title” before “V” for consistency to read:

(v) If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Department has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or Title V permit renewal, whichever occurs first.

At R.61-62.5, Standard 7.1, (i)(13)(ii)(B), capitalize the word “title” before “V” for consistency to read:

(B) Each annual certification of compliance pursuant to Title V and the data relied on in certifying the compliance.

20 DRAFTING NOTICES

DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110, 38-72-10, 38-72-60, and 38-72-70

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-44, Long Term Care Insurance. Interested persons should submit their comments in writing to: Leslie M. Jones, Deputy Director, Actuarial & Market Services, South Carolina Department of Insurance, 145 King Street, Suite 228, Charleston, South Carolina 29401. To be considered, comments must be received no later than 5:00 p.m. on June 25, 2012, the close of the drafting comment period.

This Notice of Drafting supersedes the Notice of Drafting published in the October 28, 2011 edition of the *South Carolina State Register*.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-44, Long Term Care Insurance. Proposed amendments to Regulation 69-44, Long Term Care Insurance, will make changes to the types of long term care policies that may be offered for sale in South Carolina and rate increases that may be implemented on policies.

No long term care policy may be offered for sale unless (1) it is non-cancellable; or (2) rates may not be increased after ten years from the date of issuance and the total amount of rate increases over the life of the policy cannot exceed 50%.

Policies issued on a non-cancellable basis may not be cancelled for any reason other than non-payment of premiums and premiums may not be increased. In the event an insurer offers a policy limiting future premium increases, insurers will be required to include a notice to consumers upon application for and issuance of a long term care insurance policy of the maximum amounts of future rate increases allowed by law and note that rates may not be increased after ten years of issuance.

For long term care policies that are already in-force, rates may not be increased after twenty years from the date of issuance and the total amount of rate increases over the life of the policy cannot exceed 100%.

The proposed regulation will require legislative review.

Document No. 4288
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-70-10 et seq.

61-___. Standards for Licensing In-Home Care Providers

Preamble:

South Carolina Act No. 0018, effective May 11, 2011, enacted the In-Home Care Providers Act, Section 44-70-10 et seq. S.C. Code of Laws, 1976, as amended. The Act at Section 44-70-40 directed the Department to promulgate regulations for the licensure of in-home care providers. To comply with the Act, the Department is proposing a regulation to address the minimum standards for licensing in-home care providers.

A Notice of Drafting for the proposed regulation was published in the *State Register* on December 23, 2011.

Section-by-Section Discussion of Proposed New Regulation

Section 100 provides the purpose and scope of the regulation, definitions of key terms in the regulation, references, and requirements for licensure.

Section 200 discusses inspections and investigations and provides for consultations.

Section 300 describes violation classifications, factors the Department considers before initiating enforcement actions, and the process for hearings and appeals to decisions made by the Department.

Section 400 requires in-home care providers to develop written policies and procedures.

Section 500 addresses minimum requirements of in-home care provider staff including criminal background and drug screening, training, and the health status of employees.

Section 600 provides the requirements for when in-home care providers must report incidents to the Department, as well as reporting when an administrator changes, and closure of the in-home care provider business.

Section 700 discusses the contents of clients' records. It requires clients to be assessed and a care plan initiated for the clients. It describes maintenance procedures for client records.

Section 800 requires in-home care providers to only accept clients that are appropriate for the level of care the in-home care provider is authorized to provide.

Section 900 discusses the care in-home care providers are authorized to provide to clients.

Section 1000 provides a declaration of clients' rights.

Section 1100 requires planning for disasters and notification of clients and responsible parties or family in the event of a disaster.

Section 1200 addresses the severability of portions of the regulation.

Section 1300 provides for situations not covered by the regulation to be managed in accordance with best practices as determined by the Department.

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Notice of Staff Informational Forum and Public Comment Period:

The Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum on June 22, 2012, at 9:00 a.m. at Peeple's Auditorium, Sims-Aycock Building, Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. The purpose of the forum is to answer questions, clarify any issues, and receive oral or written public comments from interested persons on the proposed regulation.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations during a public comment period by writing to Gwendolyn Thompson, Director, Division of Health Licensing, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 4:00 p.m. on June 25, 2012, the close of the public comment period.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Ed Chmiel at the above address. A copy may also be obtained on the Department's Regulatory Information Internet Site at <http://www.scdhec.gov/administration/regs/> in its DHEC Regulation Development Update. To access this document, click on the Health Licensing category, then scan down for this proposed amendment.

Comments received at the forum or during the write-in public comment period above-noticed shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting August 9, 2012. The public hearing is to be held in Room 3420 (Board Room) of the Director's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. Please use the front entrance to the building facing Bull Street. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 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 or less, and, as a courtesy, are asked to provide written copies of their presentation for the record.

Preliminary Fiscal Impact Statement:

The regulation will have no substantial fiscal or economic impact on the state or its political subdivisions. Upon approval by the General Assembly, the program will be funded by the regulated community through initial and annual license renewal fees. The cost to the regulated community will consist of an initial license fee and annual license renewal fees.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: R.61-___, Standards for Licensing In-Home Care Providers.

Purpose: This regulation will implement the provisions of the Licensure of In-Home Care Provider Act codified at Sections 44-70-10 et seq., S.C. Code of Laws, 1976, as amended.

Legal Authority: Sections 44-70-10 et seq., S.C. Code of Laws, 1976, as amended. (2011 Act 0018, Section 1, effective May 11, 2011)

Plan for Implementation: Copies of the regulation will be available electronically on the South Carolina Legislature Online website, and the Department regulation development website (<http://www.scdhec.gov/regulatory.htm>). Printed copies will be available for a fee from the Department's Freedom of Information Office. Staff will educate the regulated community on the provisions of the Act and the requirements of the regulation.

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

The regulation is needed and reasonable because it will satisfy a legislative mandate to implement the provisions of the Licensure of In-Home Care Providers Act. This regulation will provide standards and procedures including license application and renewal procedures; criminal records checks for licensure applicants, which may include criminal offenses that may preclude licensure; drug testing of licensure applicants; responsibilities and duties of a licensee, including the requirements for bonding, record keeping and reporting; fees the Department may charge to process an application for a license, the issuance of a license, the renewal of a license, and the reinstatement of a revoked or suspended license; criteria that a licensee's employee, agent, independent contractor, or referral must satisfy before providing in-home care service. These criteria must include, but are not limited to, personal information, completion of a minimum education requirement, completion of minimum training and continuing education requirements and screening for communicable diseases; standards for liability and other appropriate insurance coverage; and sanctions the Department may impose for violation of this chapter, including the suspension or revocation of a license or the imposition of a monetary penalty.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of this regulation will not require additional resources beyond those allowed for in the Act. Existing Department funding and staffing levels do not allow for the implementation of new programs. The Act states that the Department may propose by regulation a fee for processing an application, a fee for issuance of a license, a fee for renewal of a license and a fee for reinstatement of a revoked or suspended license, the proceeds of which are to be used solely to the purposes of implementing the provisions of the Act. Staff anticipates that there will be a minimal cost to the Department for the creation of the staff positions necessary to implement the provisions of the Act, however, these costs will be funded from the licensing fees paid by the licensees, in accordance with the regulation and as allowed by the Act. Additional costs to State government are not anticipated.

External Costs: There will be a cost to the licensees of in-home care providers as allowed by, and in accordance with the Act. Fees established by the regulation include initial licensing fees, annual fees, reinstatement fees, and amended license fees. Fees are set out in Sections 103.F, G, H, and I. There will be no cost to the public for implementation of the regulation.

External benefits: Consumers of the services furnished by in-home care providers can be reasonably certain that the caregivers have been screened for criminal backgrounds and substance abuse. The consumer can be reasonably certain that the caregivers have been trained to provide the care for which the consumer contracted with the in-home care provider. This regulation will provide in-home care providers with licensing requirements that set standards for the in-home care industry across South Carolina.

UNCERTAINTIES OF ESTIMATES:

None.

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EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment.

The regulation will provide minimum standards for a growing in-home care industry in South Carolina. The public will benefit from caregivers that have met minimum training requirements, passed a criminal background check and are subject to random drug screening. The public will receive appropriate care from appropriate sources.

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

There would not be a detrimental effect on the environment.

However, if the regulation is not implemented, consumers of services from in-home care providers would not have reasonable assurances that the caregivers have completed a minimum amount of training to provide the proper care for the consumer. The consumers would not have a reasonable assurance that the caregivers do not have a record of criminal convictions or are free from drug abuse. The consumers would have no assurance that the provider they contract to provide care meets minimum licensing standards.

Statement of Rationale:

The Department promulgated this regulation to implement the provisions of the Licensure of In-Home Care Providers Act codified at Sections 44-70-10 et seq., S.C. Code of Laws, 1976, as amended.

Text:

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

Document No. 4216
BOARD OF ACCOUNTANCY
 CHAPTER 1

Statutory Authority: 1976 Code Sections 40-1-70 and 40-2-70

- 1-03. Practice Privileges
- 1-08. Continuing Professional Education
- 1-09. Peer Review
- 1-10. Professional Standards

Synopsis:

The South Carolina Board of Accountancy deletes Regulation 1-03 and amends Regulations 1-08 through 1-10 in order to update the regulations.

The Notice of Drafting was published in the *State Register* on October 28, 2011.

Instructions:

The following sections of Chapter 1 are modified as provided below. All other items and sections remain unchanged.

Text:

1-08. Continuing Professional Education.

(A) General Standards for Continuing Professional Education (CPE)

(1) Continuing Professional Education requirements apply to all licensees. Each licensee shall complete CPE, which contributes directly to his or her professional competence.

(2) Each person to whom the CPE requirement applies shall complete forty (40) hours of acceptable CPE each calendar year as a condition of obtaining a renewal license.

(a) Not more than twenty (20%) percent (8 hours) of the required hours may be in personal development subjects. Personal development subjects that exceed twenty (20%) percent of the required hours shall not be available for carry-over credit.

(b) Not more than fifty (50%) percent (20 hours) of the required hours may be in self study programs. Self study credits are not available for carry-over credit.

(c) No more than ten (10) hours of CPE can be earned in a calendar day.

(d) When a meal is scheduled during the educational period, no credit will be allowed unless the schedule provides for fifty (50) minutes of instruction after completion of the meal.

(e) Of the required hours over a three (3) year period, six (6) of the hours must be in ethics, and at least two (2) of these hours must be in South Carolina Rules and Regulations.

(3) A person who obtains a certificate of registration or license for the first time shall complete at least forty (40) hours of acceptable CPE during the calendar year following the year in which the original certificate or license was obtained. There is no provision for carry-over from a year in which CPE was not required.

(4) The Board may accept a compliance report from another jurisdiction if the requirement is substantially equivalent to SC requirements.

(B) Mechanics

(1) Licensees are responsible for compliance with all applicable CPE requirements and should claim CPE hours only for CPE programs when the CPE program sponsors have complied with the requirements set out in these regulations.

(2) Licensees are responsible for accurate reporting of the appropriate number of CPE hours earned and should retain appropriate documentation in their files for five (5) years.

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(3) One (1) hour of credit shall be granted for each fifty (50) minutes of actual instructional contact time. One-half CPE credit increments (equal to 25 minutes) are permitted after the first one (1) hour credit has been earned in a given learning activity. Partial hours will be rounded down to the nearest half (1/2) hour. Only class hours, actual hours of attendance and not hours devoted to preparation, shall be counted.

(4) In order for self-study hours to qualify, a licensee must submit a certificate of completion supplied by the program sponsor after completion of an examination. Only self-study courses registered under Quality Assurance Service (QAS) of NASBA will qualify. All of the required CPE may be obtained using self-study courses. The certificate of completion must include the following:

- (a) name and address of sponsor,
- (b) participant's name,
- (c) course title,
- (d) course field of study,
- (e) date of completion,
- (f) amount of CPE hours recommended, and
- (g) registration QAS sponsor number.

(5) Teachers of university and college undergraduate and graduate credit courses shall be granted credit at the rate of ten (10) hours for each three (3) semester hour (or prorated equivalent) course taught. Credit shall not be granted for accounting principles, basic financial accounting, basic managerial accounting or any other introductory accounting course, either undergraduate or graduate. Credit shall not be granted for repetitious presentations within a two (2) year period. Credit for teaching university, college, and graduate credit courses shall be limited to twenty-five (25%) percent of the required hours for a reporting period.

(6) For university or college courses that have been successfully completed for credit, a copy of the grade report is to be submitted. Each semester hour credit shall equal fifteen (15) hours. In the case of universities or colleges on the quarter system, each quarter hour credit shall equal ten (10) hours. For non-credit courses, a certificate of attendance issued by the university or college is to be submitted. Each classroom hour attended shall equal one (1) fifty (50) minute CPE hour.

(7) For published articles or books that contribute to the professional competence of the licensee, a copy of the publication that names the writer as author or contributor is to be submitted. For CPE programs developed, an outline of the course is to be submitted. Credit for preparation of such publications may be given on a self-declaration basis up to twenty-five (25%) percent of the renewal period requirement. The Board has the final determination of the amount of credit so awarded. Hours in excess of the limitation contained in this subparagraph shall not be available for carry-over of credit.

(8) Participation in positive enforcement reviews assigned by the Board and service on a peer review acceptance body qualifying under Regulation 1-09 qualifies for and is limited to sixteen (16) hours credit per year for time actually spent on duties.

(9) Instructors or discussion leaders of qualified CPE programs will be granted credit equal to twice the number of hours participation in the course. For repeat presentations, CPE can be claimed only if it can be demonstrated that the learning activity content was substantially changed and such change required additional study or research.

(10) Only the portions of committee or staff meetings that are designed as programs of learning and comply with these regulations qualify for CPE.

(11) Evidence to support fulfillment of the requirements must be retained by the licensee for at least five (5) years from the due date of the CPE report or the date filed, whichever is later. The Board, in its discretion, may verify the information submitted by licensees.

(12) When a licensee completes more than the required number of hours of CPE in any calendar year, the extra hours, not in excess of twenty (20) hours, may be carried forward and treated as hours earned in the following year. No carry over credit is allowed for Personal Development.

(13) While CPE sponsors determine the number of hours, licensees who participate in only part of a program should claim CPE credit only for the portion they attended or completed.

(C) Sponsors

(1) CPE sponsors are expected to present learning activities that comply with course descriptions and objectives.

(2) CPE sponsors must employ an effective means for evaluating learning activity quality with respect to content and presentation, as well as provide a mechanism for participants to assess whether learning objectives were met.

(3) At the beginning of the CPE course, the sponsor should read the following statement or a statement very similar, "It is the responsibility of the licensee to be accountable for the hours earned during the CPE course. The licensee should not engage in any other activities that would denigrate the learning objective of the course to the licensee or others. If the other activity is unavoidable, then that time should be subtracted from the overall CPE credit."

(D) Sponsors of Self-study Courses:

(1) CPE self-study programs shall qualify, provided the course has been approved by QAS.

(2) The sponsor of self-study courses must provide the licensee with a certificate of completion containing the information as stated in Reg 1-08 (B)(4).

(E) Courses Attended:

(1) CPE course must contribute directly to the professional competence of a licensee, and the sponsor must provide the participant with a certificate of attendance at the end of the session with the information as stated in Reg 1-08 (B)(2).

(2) The program will qualify if:

(a) the program is conducted by persons whose background training, education and experience qualify them as appropriate instructors, discussion leaders or lecturers in the subject matter of the particular program;

(b) an outline of the program presented is prepared in advance and shall be maintained by the sponsor;

(c) the program is at least one (1) hour (fifty-minutes) in length. One-half CPE increments (equal to 25 minutes) are permitted after the first credit has been earned in a given program. Sponsors are to calculate credit hours;

(d) a certificate of attendance described in the previous paragraph is given to each participant at the end of the session;

(e) records showing compliance with this section are preserved and maintained by the sponsor for a period of at least five (5) years from the date of presentation of the program.

(F) Other qualifying programs

(1) The following programs may qualify, provided all other requirements of this regulation are met:

(a) professional development programs of recognized national and state accounting organizations;

(b) technical sessions at meetings of recognized national and state accounting organizations and their chapters;

(c) accredited university or college credit courses;

(d) accredited university or college non-credit courses;

(e) formal organized in-firm and inter-firm education programs, although portions of the programs devoted to administrative matters shall not be included; and

(f) programs offered by other recognized professional organizations, industrial or commercial firms, proprietary schools, or governmental entities.

(2) The Board shall not accept any program of learning that does not offer written documentation showing that the work has actually been accomplished.

1-09. Peer Review.

(A) As a condition of firm registration and/or renewal (including those firms registered in other jurisdictions operating in this state under practice privilege), a licensed firm providing any of the following services to the public shall enroll in a qualified peer review program.

(1) Audits;

(2) Reviews of financial statements;

(3) Compilations of financial statements;

(4) Examinations of prospective financial statements;

(5) Compilations of prospective financial statements;

(6) Agreed-upon procedures of prospective financial statements;

(7) Examination of written assertions; and

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(8) Agreed-upon procedures of written assertions.

(B) A licensed firm not providing any of the services listed in Paragraph (A) of this regulation is exempt from peer review. Upon the issuance of the first report provided to a client, the firm must enroll in a qualified peer review program. As long as these services are provided, continued participation in a qualified peer review program is required.

(C) Acceptable peer review programs are:

(1) AICPA Peer Review Program;

(2) Any other peer review program found to be substantially equivalent to the "Standards for Performing and Reporting on Peer Reviews" promulgated by the American Institute of Certified Public Accountants(AICPA) and published on that organization's Web site (www.aicpa.org).

(D) An authorized peer review program may charge a fee to firms required to participate in the peer review program in order to cover costs of program administration.

(E) Firms shall not rearrange their structure or act in any manner with the intent to avoid participation in peer review.

(F) Compliance

(1) A registered firm enrolled for peer review shall provide to the Board upon request the following:

(a) Peer review due date;

(b) Peer review year end date;

(c) Final Letter of Acceptance (FLOA) from peer review program; and

(d) A package to include the Peer Review Report, Letter of Comments (LOC), Letter of Response (LOR), and FLOA for all fail and second consecutive modified reports issued by a peer review program;

(2) A peer review is not complete until the FLOA is issued by the peer review program.

(3) If a firm fails to complete peer review in a timely fashion, the Board may refuse to renew the firm registration and/or take other disciplinary action as appropriate.

(G) Reporting to the Board

(1) If a firm participating in a system review receives a modified or fail peer review report, within thirty (30) days of receipt, a firm shall submit to the Board a copy of the report, LOC, LOR, the conditional letter of acceptance (CLOA), and FLOA;

(2) If a firm participating in an engagement or report review receives a CLOA including any significant action, within thirty (30) days of receipt, a firm shall submit to the Board its acceptance of the finding and the implementation plan for follow-up action.

(H) Ethical duties of reviewer

(1) A reviewer shall be independent with respect to the reviewed registered firm and comply with the AICPA Standards for Performing and Reporting on Peer Reviews.

(2) Information concerning the participating CPA firm or its clients or personnel that is obtained as a consequence of the review is confidential and shall not be disclosed to anyone not involved in the peer review process.

1-10. Professional Standards.

In addition to the requirements and prohibitions found in S.C. Code 40-2-5 et seq.,:

(A) Licensees shall comply with all federal or state laws governing their business and personal affairs and shall not engage in any acts discreditable to the profession as defined by the Ethical Standards of the American Institute of Certified Public Accountants. A licensee may rely upon the interpretations of those standards published by the Professional Ethics Executive Committee of the AICPA.

(B) Complying with professional standards includes timely filing all applicable tax/information and all other regulatory returns for himself/herself or any entity for which the licensee is responsible.

(C) Client records include all information provided by the client and all documents provided to the client (or on behalf of the client) including the materials necessary (including electronic files) to support the final work performed (financial statements, tax returns, etc.). Client records do not constitute other work files or documents, which the licensee may use to audit, test or verify the accuracy of a client's account balances and/or transaction classes (revenues, expenses).

(D) A licensee or permit holder shall not employ or associate with in South Carolina, directly or indirectly, a person whose license is revoked or suspended by this Board or by the Board of Accountancy in any other jurisdiction. Employing or associating such a person in South Carolina as an accountant, investigator, tax preparer or in any other capacity connected with the practice of accounting subjects the license or permit holder to discipline by the Board.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are updated in conformance with the Board of Accountancy Practice Act.

Document No. 4205
DEPARTMENT OF CONSUMER AFFAIRS
 CHAPTER 28
 Statutory Authority: 1976 Code Sections 44-79-10 et seq.,
 particularly Section 44-79-90

28-100. Physical Fitness Services Center—Certificates of Authority

Synopsis:

The Department proposes to amend and modify Regulation 28-100 addressing persons or organizations which, for profit, offer physical fitness services. R.28-100 was promulgated with an initial effective date of April 27, 1990 and was last amended February 23, 1994. The purposes of the amendments are to revise the title of the regulation and clarify recordkeeping requirements. Also addressed are the financial responsibility requirements for physical fitness services centers, to include bond and letter of credit amounts.

The statute, under 1976 Code Section 44-79-80, requires the Department to obtain a \$50 filing fee as well as submission of certain items by physical fitness centers before a certificate of authority may be issued. Section 44-79-80 also permits the Department to provide for financial responsibility requirements. Record keeping and reporting requirements are also addressed.

Section 44-79-90 allows the Department to promulgate regulations necessary to effectuate the purposes of the Chapter.

Notice of Drafting for the proposed regulation was published in the *State Register* on August 26, 2011. Comments were solicited for consideration in drafting the proposed regulation.

Instructions:

Replace Regulation 28-100 as printed below.

Text:

28-100. Physical Fitness Services Center—Certificates of Authority and Financial Responsibility.
 (Statutory Authority: 1976 Code Sections 44-79-10, 44-79-80, 44-79-90, 44-79-100, and 44-79-120)

A. Definitions

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Definitions shall be those contained in the South Carolina Physical Fitness Services Act (“the Act”), S.C. Code Ann. Section 44-79-20 et seq. and the following:

Cash price --The price at which goods or services are offered for sale by the seller to cash buyers in the ordinary course of business, and may include applicable sales tax and the cash price of accessories or related services. The cash price stated by the seller to the buyer in the physical fitness agreement is presumed to be the cash price. The term does not include any finance charge.

Time price differential --The difference between the price paid in installments (time-price) and the cash price. Discounts for the purpose of inducing payment by a means other than the use of credit will be considered finance charge. For example, a physical fitness services provider offers contracts of \$1,000.00 each. If the buyer pays cash, the price is \$900.00, but if the buyer pays for the contract with the physical fitness provider in installments over time, the price is \$1,000.00. The \$100.00 difference is a finance charge for those who buy the agreement on credit. This definition does not apply to the use of a credit card.

B. Certificate of Authority and Financial Responsibility

(1) All organizations wishing to provide physical fitness services in this State must first obtain a Certificate of Authority from the Administrator of the Department of Consumer Affairs. Initial applications for the Certificate will be made on the form prescribed by the Administrator and accompanied by a fee of \$50 per outlet.

(2) Certificates of Authority expire on December 31. Renewal applications will be accepted November 1 through December 31 of each year. Renewal applications shall be made on a form prescribed by the Administrator and accompanied by a renewal fee of \$50 per outlet. If a complete renewal application is not postmarked on or before December 31, the center shall be required to submit an initial application per item (1) above.

(3) Issuance of a Certificate of Authority does not indicate approval or acceptance of the terms of any contract, agreement or other document submitted in support of the application. No organization providing physical fitness services shall in any way represent that its services, payment schedules or terms of membership are approved by the State or any state agency.

(4)(a) Physical fitness centers presenting a surety bond or other evidence of financial responsibility in accordance with Section 44-79-80 of the Act must do so in accordance with the following value schedule:

Members	Amount
1,500 or more	\$50,000
1,000 to 1,499	\$40,000
500 to 999	\$30,000
100 to 499	\$20,000
1 to 99	\$10,000

(b) Any variation from the value schedule must be approved by the Administrator or a designee.

(5) Within 45 days of a membership or outlet increase that puts the physical fitness center(s) into a new financial responsibility category, the physical fitness center(s) must present financial responsibility in the new

amount to the Administrator. Failure to provide amended evidence of financial responsibility as required by this subsection will be regarded as a violation of the Act.

(6) Each physical fitness center must notify the Administrator upon substantial change of its financial status within ten business days after the occurrence of any of the following events:

(a) the institution of a revocation, suspension, or other proceeding against the center by a governmental authority which is related to the center's physical fitness services in any state;

(b) the institution of a civil action against the center. The center shall advise the Administrator within thirty days of the action being dismissed, settled or otherwise resolved;

(c) the filing of bankruptcy, reorganization, or receivership proceedings by or against the center;

(d) the center's opening or closing of a new physical fitness center or outlet within the State; or

(e) felony indictments or convictions involving breach of trust, moral turpitude, fraud, or dishonest dealing.

C. Recordkeeping

(1) All books, membership contracts or agreements and records, and all other sources of information with regard to the business of providing physical fitness services must at all reasonable times be available for inspection by the Department of Consumer Affairs for the purpose of assuring that the business is being transacted in accordance with the law and applicable regulations. Failure to provide or allow access to all books, membership contracts or agreements and records and all other sources of information with regard to the business of providing physical fitness services will be regarded as a violation of the Act.

(2) All centers must maintain a copy of all agreements for physical fitness services for as long as such agreements are in effect and for a period of one (1) year thereafter. Agreements for each calendar year must be filed in alphabetical order by the consumer's last name. If the physical fitness provider uses numerically sequenced agreements, the agreements may be filed in numerical sequence instead of alphabetical order.

(3) Records and account systems maintained in whole or in part by electronic data processing may be used in lieu of the books, files and records required by these regulations if they contain equivalent information and such information is accessible to the Department.

(4) On or before June 30 each year, physical fitness centers must submit to the Administrator an annual report. The report shall be made under oath and shall be on a form prescribed by the Administrator.

D. Agreements

(1) In the event an agreement includes a time-price differential, the cash price must be listed on the agreement separate from required Truth-in-Lending disclosures. A notice in substantially the following form complies with this regulation:

You have agreed to: (check one)

pay (name of physical fitness provider) the membership fee of \$_____ now, which is the CASH PRICE, or

pay to (name of physical fitness provider) the CASH PRICE in installments plus a FINANCE CHARGE in accordance with the schedule in this agreement.

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(2) A contract for physical fitness services may include an automatic renewal option. A customer must select and initial the automatic renewal option at the time the initial contract is executed. Automatic renewal will be on a month-to-month basis. When the initial contract is near expiration, the center must send a written reminder to the customer of the automatic renewal. Prices under an automatic renewal may not change unless written notice is provided to the customer between 30 and 60 days prior to the change in price. Automatic renewal is an “opt-in” option. If the consumer fails to initial the opt-in provision, the contract shall not automatically renew.

E. Advertisements

(1) All advertisements by a physical fitness provider must contain the name and an office address of the entity, which must conform to a name and address on record with the Department of Consumer Affairs.

(2) All restrictions on use of special offers for memberships must clearly and conspicuously be disclosed in the advertisement. These restrictions include but are not limited to the time and day usage as well as equipment or area restrictions.

Fiscal Impact Statement:

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0. Certificate fees are intended to offset administrative costs to the State and are based on experience with similar industries.

Statement of Rationale:

The South Carolina Physical Fitness Services Act specifically provides for the Department to set the \$50 fee for certificates. The Act also permits and/or contemplates the drafting of reporting, recordkeeping and financial responsibility requirements. Such modifications and additions are necessary to effectuate the consumer protection purpose of the Act and to guide businesses with compliance.

Document No. 4206
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1) (2004), 59-25-110 (2004), 59-26-10 et seq. (2004 and Supp. 2010), and 20 U.S.C. 6301 et seq. (2001)

43-53. Credential Classification

Synopsis:

This regulation needs to be amended to create a new advanced certification for educators employed in non-regulated school settings. The Notice of Drafting was published in the *State Register* on July 22, 2011.

Instructions: The following section of Regulation 43-53 is modified as provided below. All other items and sections remain unchanged.

Text:

I. Types of Credential Classification

A. Initial Certificate

An initial certificate is valid for three years. Beyond the initial three-year validity period, teachers who do not yet meet the requirements for professional certification, but who are employed by a public school district at the annual contract level, as defined in S.C. Code Ann. Section 59-26-40, may have their certificates renewed annually at the request of the employing school district.

Teachers who hold initial certificates and are employed in a nonpublic school educational setting may have their certificates renewed annually for an indefinite period at the request of the educational entity, provided that certificate renewal requirements, as specified in R.43-55 (Renewal of Credentials) are met every five years.

Teachers who hold initial certificates but who are not employed by a public school district in a position requiring certification at the time the initial certificate expires, and who have not otherwise met the requirements for professional certification, may reapply for an initial certificate at such time as they become employed by a public school district or private school, subject to the requirements for initial certification in effect at the time of reapplication. To qualify for an initial certificate, the applicant must fulfill the following requirements:

1. Earn a bachelor's or master's degree either from an institution that has a state-approved teacher education program and is accredited for general collegiate purposes by a regional accreditation association, or from a South Carolina institution that has programs approved for teacher education by the State Board of Education, or from an institution that has programs approved for teacher education by the National Council for Accreditation of Teacher Education (NCATE). Professional education credit must be earned through an institution that has a teacher education program approved for initial certification.

2. Submit the required teaching area examination score(s) as adopted by the State Board of Education for purposes of certification. Effective July 1, 2006, the required score on the examination of general professional knowledge (pedagogy) as adopted by the State Board of Education for purposes of certification will also be required for the initial certification. Until that date, the general professional knowledge (pedagogy) exam will be required only for the professional certification.

3. Undergo a criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints conducted by the Federal Bureau of Investigation. If the applicant does not complete the initial certification process within eighteen months from the original date of application, the FBI fingerprint process must be repeated. Eligible applicants who have prior arrests and/or convictions must undergo a review by the State Board of Education and be approved before a certificate may be issued. Background checks from other states or agencies are not transferable to South Carolina.

B. Professional Certificate

All professional certificates are valid for five years. To qualify for each successive level of professional certification (bachelor's degree, bachelor's degree plus 18 hours, master's degree, master's degree plus 30 hours, and doctorate), an applicant must

1. Meet all criteria for initial area of certification and have earned a bachelor's degree that meets State Board of Education regulations for teacher certification and program approval and successfully complete the induction program, the ancillary requirements (including any additional testing requirements approved by the State Board of Education), and the formal evaluation of teaching performance and effectiveness approved by the State Board of Education

OR

2. Successfully complete the requirements for reciprocity according to Interstate Agreement on Qualifications of Educational Personnel

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OR

3. Hold a valid National Board teaching certification.

C. Alternative Route Certificate

The alternative route certificate is valid for one year initially. The certificate will be issued to those individuals who qualify under the Program for Alternative Certification for Educators (PACE) guidelines as adopted by the State Board of Education. Alternative certificates can be renewed twice on the basis of successful completion of annual program requirements as approved by the State Board of Education. The teacher will be eligible for a professional certificate upon his or her successful completion of all program requirements within the three-year program period, including additional testing requirements approved by the State Board of Education and the formal evaluation of teaching performance and effectiveness approved by the State Board of Education.

D. International Certificate

An International Certificate may be issued to a teacher from a country outside of the United States provided the individual has completed at least a bachelor's degree with a major in the teaching field. Organizations that recruit and select teachers from other countries to teach in South Carolina must assure that all cultural/educational visa requirements have been met. The International Certificate will be renewed annually for up to three years at the request of the local school district, provided the teacher has met the certification examination requirements specified by the State Board of Education during the first year of certification.

E. Internship Certificate

1. The Internship Certificate will be issued to individuals who are currently enrolled in a State Board of Education approved teacher education program in South Carolina and have completed all academic and bachelor's degree requirements, with the exception of the teaching internship, as well as all certification examination requirements. The certificate will be issued for up to one year, and must be requested by the employing school district. Upon completion of the teaching internship and verification by the college or university that all approved program requirements have been met, the internship certificate will be converted to an initial certificate.

2. The Internship Certificate will also be issued to any individual who is serving the required internship for certification as a School Psychologist I or II under the supervision of a certified School Psychologist II or III, or who is serving the required internship for School Psychologist III under the supervision of a certified School Psychologist III.

The applicant for the Internship Certificate in School Psychology must submit official written verification from the college or university that he or she is currently enrolled and working toward full certification as a school psychologist, and that the internship is being served through a State Board of Education-approved training program. The Internship Certificate may be renewed once on the basis of written documentation from the director of the school psychology program that the applicant is a full-time student in the program during the second year of the renewed certificate.

3. The Internship Certificate will also be issued to any individual who holds the Certificate of Clinical Competence in Speech-Language Pathology issued by the American Speech-Hearing Association (ASHA) or who has completed a master's degree that includes the academic and clinical requirements for the ASHA Certificate of Clinical Competence and has achieved the minimum qualifying score on the required certification examination(s). The certificate will be effective for one academic year and must be requested by the employing school district. The Internship Certificate may be converted to a professional certificate upon verification of a successful evaluation of the individual's performance during the initial year of employment.

F. Limited Professional Certificate

The purpose of the Limited Professional Certificate is to provide a certificate advancement option for educators who hold South Carolina Initial teaching certificates and who are employed as educators in eligible, non-regulated educational entities in this state. In this context, “non-regulated” means that the entity is not required to comply with State Board of Education regulations and guidelines for evaluating educator performance and effectiveness. Examples of eligible, non-regulated educational entities include South Carolina public charter schools that elect not to participate in the State Board of Education–approved process for evaluating teacher performance and effectiveness, state or regionally accredited private and parochial schools in South Carolina, and South Carolina institutions of higher education that have programs approved for teacher preparation by the State Board of Education.

1. In order to be eligible to advance from an initial certificate to a Limited Professional Certificate, the educator must be employed by an eligible, non-regulated educational entity in South Carolina and must have accrued a minimum total of three years of experience credit over the previous seven years in one or more of these entities. During the entirety of the qualifying time period, the educator must

(a) hold a valid South Carolina Initial teaching certificate,

(b) be employed as a teacher or a professional support specialist, such as a library media specialist, school guidance counselor, or other support professional, in an area in which the educator holds Initial certification, and

(c) successfully complete an annual performance evaluation process that is approved by the employing educational entity.

2. In order to activate the certificate advancement process (i.e., from Initial to Limited Professional), the educator must submit the following documents to the SCDE office that is responsible for educator certification:

(a) a request for change/action requesting advancement for the Limited Professional Certificate,

(b) official verification of experience,

(c) verification of successful annual performance evaluations from each employing entity, and

(d) a recommendation for the Limited Professional Certificate signed by the head of the educational entity in which the educator is employed at the time the certificate is requested.

3. All Limited Professional Certificates are valid for a period of five years.

4. Requirements for renewing Limited Professional Certificates, including the provisions for expired certificates, are the same as those for Professional Certificates, as specified in State Board of Education Regulation 43-55 (Renewal of Credentials).

5. An educator who holds a valid Limited Professional Certificate and who applies for a position as a teacher or a professional support specialist in a “regulated” South Carolina public school is eligible for employment at the annual-contract level. Once employed under an annual contract, the teacher is subject to all requirements and sanctions for annual-contract teachers, as set forth in the applicable state statutes, regulations, and guidelines. Upon successful completion of the State Board of Education–approved process for evaluating teaching performance and effectiveness, the educator is eligible to move from a Limited Professional Certificate to a Professional Certificate and to be employed under a continuing contract.

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G. Temporary Certificate

A temporary certificate is valid for a period of one year. Full certification (initial or professional) may be obtained when the educator submits verification of the required course work, required practicum, and/or required certification examination scores. Due to the requirements for highly qualified teachers mandated by the No Child Left Behind Act of 2001, 20 U.S.C. Section 6301 *et seq.* (2002), the following types of temporary certificates may be issued only until June 30, 2006, and will be limited or phased out after that date.

1. Temporary Certificate for Out-of-State Certified Teacher

(a) Any individual who holds a valid teaching certificate from another state but does not meet one or more of South Carolina's certification requirements is eligible for a temporary certificate for up to one year. Temporary certificates issued to out-of-state certified teachers are issued only for the academic year in which they are requested and expire June 30.

(b) After June 30, 2006, temporary certificates may no longer be issued to teachers who teach core academic subjects as specified by the No Child Left Behind Act of 2001. The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. Temporary certificates may be issued, however, in other instructional or instructional support fields not considered to be core content subjects under No Child Left Behind.

2. Transitional Certificate

Any individual who has completed a teacher preparation program but has not submitted a passing score on the required certification examination(s) will be eligible for a transitional certificate for up to one year. Transitional certificates are issued only at the request of the employing school district. The employing district must apply for a transitional certificate no later than thirty days after the date of assignment. Transitional certificates are issued only for the academic year in which they are requested and expire June 30. The transitional certificate will no longer be issued after June 30, 2006.

3. Out-of-Field Permit

(a) Any individual who holds a valid South Carolina temporary, professional, initial, alternative, graded, or warrant certificate and is assigned teaching duties for any amount of time in an area for which he or she is not appropriately certified is eligible to receive a permit to teach out-of-field. However, permits are not issued for school psychologists, speech-language therapists, and special subject educators. Out-of-field permits are issued only under the following conditions:

(i) The school district must request the out-of-field permit for its employee. The employing district must apply for a permit no later than thirty days after the date of assignment. Out-of-field permits are issued only for the academic year in which they are requested and expire June 30.

(ii) The individual for whom the permit is requested must hold a valid South Carolina teaching credential and have twelve semester hours of credit toward full certification in the area of preparation for which the permit is requested.

(b) Out-of-field permits may be renewed upon presentation of six semester hours of credit in the area for which the permit is issued. Once the teacher meets all the certification requirements, including the required certification examination(s), he or she may apply for a certificate in the new area.

(c) After June 30, 2006, out-of-field permits may no longer be issued to teachers who teach core academic subjects as specified by the No Child Left Behind Act of 2001. The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. Permits may be issued, however, in other instructional or instructional support fields not considered to be core content subject areas under No Child Left Behind.

4. Graded Certificate and Warrant

The State Board of Education discontinued the issuance of graded certificates on July 1, 1971, and the issuance of warrants in November 1976. Due to the requirements of the No Child Left Behind Act of 2001 for highly qualified teachers, neither warrants nor graded certificates with less than a grade of A will be acceptable certificates for teaching in a South Carolina public school after June 30, 2006.

(a) Graded Certificate. To qualify for the professional certificate, an individual who currently holds a grade B, C, or D certificate must fulfill one of the following requirements:

- (i) achieve the minimum required score on the required specialty area examination(s)

OR

- (ii) add an area of certification to the initial graded certificate by meeting all requirements of the State Board of Education for that additional area, including a minimum qualifying score on the appropriate certification examinations(s) and verification of at least three years of teaching experience in the additional area.

(b) Warrant. Current warrant certification cannot be advanced beyond the bachelor's degree level or beyond four years of experience. Only a bachelor's degree-level certification may be added to a warrant certification. To qualify for a professional certificate or to maintain a warrant certification (until June 30, 2006), the individual must

- (i) earn the required six semester hours or the equivalent every five years, as stipulated in certificate renewal requirements, and

- (ii) remove all certification deficiencies (specialty area examination(s) and/or course requirements) by meeting current certification requirements.

5. Special Subject Certificate

A Special Subject Certificate may be issued to an individual who qualifies under the guidelines established by the State Board of Education and must be requested by the employing school district. The certificate will be issued initially for one year but may be renewed annually provided the applicant submits the required score on the appropriate certification examination(s) in the content area in which he or she is teaching during the initial year of certification. After June 30, 2006, special subject certificates may no longer be issued to teachers who teach core academic subjects as specified by the No Child Left Behind Act of 2001. The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. Special subject certificates may be issued, however, in other instructional fields not considered to be core content subjects under No Child Left Behind.

II. Levels of Credential Classification

A. Bachelor's degree: the educator must meet all criteria for an initial area of certification and have earned a bachelor's degree that meets State Board of Education regulations for teacher certification and program approval.

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B. Bachelor's degree plus 18 hours: the educator must have 18 hours of graduate credit that he or she earns within seven years from the time the course work is started. Individuals who do not complete the requirements during the seven years must request that the college/university revalidate the course credits before the work can be submitted for credential advancement.

C. Master's degree: the educator must have earned a master's degree that meets State Board of Education regulations for teacher certification and program approval.

D. Master's degree plus 30 hours:

In order to advance to the level of master's degree plus 30 hours, the educator must fulfill either one of the following requirements:

1. The educator must earn 30 semester hours of graduate credit above the master's degree with 21 hours of the graduate credit in one area of concentration. These hours may or may not be in the teacher's initial area of certification. The course work must be completed within seven years from the time it was started. Individuals who do not complete the course work during the seven years must request that the college/university revalidate the course credits before the work can be submitted for credential advancement.

OR

2. The educator must earn an additional master's degree or specialist's degree that meets State Board of Education regulations for teacher certification and program approval.

E. Doctorate: the teacher must have earned a doctoral degree that meets the State Board of Education regulations for teacher certification and program approval.

III. Requirements for Credential Advancement

A. To advance his or her credential from one classification to another, the applicant must submit to the Office of Teacher Certification the following:

1. Written request to have the certificate advanced on the designated Office of Teacher Certification action form.

2. Documentation, including transcripts, that State Board of Education requirements have been met for certificate advancement.

3. The specified fee, if such a fee is currently being charged.

B. The effective date of the credential advancement will be based on the following:

1. If the applicant becomes eligible for a revised level of credential between November 1 and April 30, the credential will become valid either from the date the teacher submits the completed application with all the necessary documentation or from the date on which the teacher completes the requirements for the credential, provided that the teacher files his or her application in the Office of Teacher Certification within forty-five calendar days after the date on which he or she completes the requirements.

2. If the applicant becomes eligible for a revised level of credential after April 30, the credential will become valid on July 1 of the calendar year in which he or she completes the existing requirements, provided that the completed application is submitted on or before November 1.

Fiscal Impact Statement:

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

Statement of Rationale:

The amendments to this regulation are needed to provide current language regarding contract levels and educator evaluations and to create a new type of certificate, the Limited Professional Certificate, that provides an advanced, renewable certificate for eligible educators employed in non-regulated school settings.

Document No. 4207
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1) (2004), 59-25-110 (2004), 59-26-10 et seq. (2004 and Supp. 2010), and 20 U.S.C. 6301 et seq. (2001)

43-62. Requirements for Additional Areas of Certification

Synopsis:

This regulation needs to be amended to create a new optional endorsement and add-on certification in Teaching Children of Poverty. The Notice of Drafting was published in the *State Register* on July 22, 2011.

Instructions: The following section of Regulation 43-62 is modified as provided below. All other items and sections remain unchanged.

Text:

43-62. Requirements for Additional Areas of Certification

I. GENERAL INFORMATION

A. Individuals who desire to add areas of certification to an existing certificate must complete a State Board of Education-approved program and present a passing score on the appropriate content-area examination(s) in the specific subject field, or complete the following add-on certification requirements specified by the Board.

B. In the event that the State Board of Education should eliminate, revise, or adopt new certification areas, currently certified individuals who are affected may retain the areas of certification for which they previously qualified. However, the State Board of Education may require previously certified individuals to upgrade their certification by completing the new requirements within a specified period of time.

C. The following designations apply to the grade spans for teacher certification in South Carolina, effective September 1, 2005.

CERTIFICATION GRADE SPANS

Early childhood = pre-Kindergarten-grade 3

Elementary = grades 2-6

Middle-level = grades 5-8

Secondary = grades 9-12

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The areas of art, music, physical education, English for Speakers of Other Languages (ESOL), foreign languages, theater, and exceptional children education (all categories) have a pre-Kindergarten (pre-K–12) grade span.

D. Instructional areas may not be added to certificates in guidance, media specialist, or school psychologist unless the applicant has completed a teacher education program designed and approved for initial certification purposes.

E. Certification is divided into four sections: (1) regular program, (2) exceptional children education, (3) career and technology education, and (4) other types of specialized certification.

II. REGULAR PROGRAM ADD-ON CERTIFICATION REQUIREMENTS

The following areas are included:

- A. Art
- B. Driver Education
- C. Early Childhood Education
- D. Elementary Education
- E. English
- F. English for Speakers of Other Languages (ESOL)
- G. Gifted and Talented
- H. Health Education
- I. Literacy
- J. Mathematics
- K. Middle-level Education
- L. Music Education
- M. Physical Education
- N. Science
- O. Social Studies
- P. Theater
- Q. World Languages

A. ART

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Art History/Appreciation	6
Work devoted to the basic techniques of design and color	6
Work devoted to drawing and painting (the student should use as many different media as possible)	6
School art program	3
Crafts	3

B. DRIVER EDUCATION

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Evidence of at least three years of successful driving experience. Applicant must provide a copy of his or her driver's record from the applicable state transportation department. An applicant whose driver's license has six or more points against it will not be accepted for add-on certification in driver education.
4. Valid driver's license issued by South Carolina or another state in which the teacher is a legal resident. (If a teacher holding certification in driver education has his or her driver's license revoked or suspended, the teacher must report this action to the Office of Educator Certification upon which the certification in driver education will automatically be rescinded.)

5. Professional education

The following twelve (12) hours are required to add the area of driver education to an existing certificate.

	Semester Hours
Basic instructor's course in driver education	3
Advanced instructor's course in driver education	3
Electives (from the list below)	6
Range and Simulation of Driver Education	
Emergency Maneuvers	
Multimedia Systems in Traffic Safety Education	
Research Methods in Traffic Safety Education	
General Safety	
Drugs in Relation to Highway Safety	
Motorcycle Safety Education	
Administration of Traffic Safety Education	

C. EARLY CHILDHOOD EDUCATION

1. Bachelor's degree
2. Initial or professional certificate at the elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
The Behavior and Development of the Young Child*	3
Curriculum for Early Childhood Education	3
Methods and Materials for Early Childhood	3
Practicum in Early Childhood Education**	3
Teaching Reading at the Elementary Level	3
OR	
Emergent Literacy	
Content courses in math, science, and social studies (each must be represented)	9

*Credits earned in the area of child psychology are acceptable.

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**The practicum requirement may be waived based on one year's successful experience teaching in pre-K to third grade.

D. ELEMENTARY EDUCATION

1. Bachelor's degree
2. Initial or professional certificate in early childhood, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Teaching of Reading in the Elementary School	6
Child Growth and Development	3
Mathematics for the Elementary School Teacher	3
Science for the Elementary Teacher	3
Social Studies for the Elementary Teacher	3
One of the following courses	3
Literature for Children	
Art for the Elementary School Teacher	
Music for the Elementary School Teacher	
Health for the Elementary School Teacher	

E. ENGLISH

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Language Structure and Skills	6
Composition and Rhetoric	3
Advanced Composition and Rhetoric	3
Development of Modern English	3
Modern English Grammar	3
Teaching of Reading (Secondary)	3
Literature	
British Literature	3
American Literature	3
Adolescent Literature	3
Literary Criticism	3
Electives (Literature)	6

5. Endorsement in Advanced Placement English requires certification in English and the successful completion of the requisite Advanced Placement Institute.

F. ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the South Carolina content area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Principles and Strategies for Teaching ESOL to Elementary and Secondary Learner	3
Linguistics	3
Teaching Reading and Writing to Limited English Proficient (LEP) Learners	3
Two electives from the following courses	6
Practicum in the Instruction of ESOL to Elementary and Secondary Learners*	
Testing/Assessment for Language Minority Learners	
ESOL Curriculum Design and Materials Development	
Teaching English through the Content Areas	
Bilingual Special Education	
Second Language Acquisition for Teachers of Elementary and Secondary Learners	
English Grammar/Structure	
Cultural Diversity in Education	

*Practicum may be waived based on one year's successful experience teaching ESOL.

5. Second-language learning experiences documented by any one of the following:
 - (a) six semester hours in a single second language;
 - (b) completion of intensive language training by the Peace Corps, the Foreign Service Institute, or the Defense Language Institute;
 - (c) placement in a third-year-level course in the foreign language department at an accredited college or university; or
 - (d) demonstration of second-language proficiency in a language that is unavailable at accredited institutions through verification in writing from an official designated by the South Carolina Department of Education.

G. GIFTED AND TALENTED EDUCATION

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

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4. Specialized Preparation	Semester Hours
Requirements for elementary-level	
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted and Talented Students	3
Advanced Curriculum Practices for Gifted and Talented Students	3
Identification, Current Trends, and Issues in Gifted and Talented Education	3
Special Topics in Gifted and Talented Education	3
Practicum in Gifted and Talented Education	3
Requirements for middle-level	
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted	3
Advanced Curriculum Practices for Gifted and Talented Student	3
Content-area courses at the graduate level*	9

*For middle school teachers, content-area courses at the graduate level must be applicable to curriculum and instruction at the middle school level.

Requirements for secondary-level	Semester Hours
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted and Talented Students	3
Advanced Curriculum Practices for Gifted and Talented Students	3
Content-area courses at the graduate level*	9

*For high school teachers, content-area courses at the graduate level must be applicable to curriculum and instruction at the high school level.

Gifted and Talented Endorsement (only)

In order to fulfill Regulation 43-220(II)(C), all teachers of a Gifted and Talented course or class must complete a training program that is approved by the South Carolina Department of Education. Completion of the training specified here fulfills this requirement and provides an endorsement in Gifted and Talented Education:

A professional certificate in the teaching area

AND

Six (6) hours in the following courses

	Semester Hours
Nature and Needs of Gifted and Talented Students	3
Introduction to Curriculum and Instruction for Gifted and Talented Students	3

H. HEALTH EDUCATION

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level

3. Minimum qualifying score(s) on the required content area examination(s) required by the State Board of Education

4. Specialized Preparation Required	Semester Hours
Human Anatomy and Physiology (in addition to the 12 semester hours of basic science requirements)	3–4
School Health Program	2–3
Emergency Preparedness and First Aid	2–3

Additional Courses (selected from a minimum of three additional areas for a total of twenty-four semester hours)

Environmental Health	2–3
Foods and Nutrition Education	2–3
Contemporary Health Problems	2–3
Drug Education and Drug-Taking Behaviors	2–3
Family Living and Sex Education	2–3
Mental Health	2–3
Valuing and Decision Making in Health Education	2–3
Consumer Health Education	2–3
Community and Public Health Practices	2–3
Chronic and Communicable Disease	2–3

I. LITERACY

1. LITERACY TEACHER

- (a) Bachelor’s degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
- (d) Two years of successful teaching experience

(e) Specialized preparation (graduate credit)	Semester Hours
a. Foundations of Reading	3
b. Assessment Strategies for Reading	3
c. Content Area Reading and Writing	3
d. Instructional Strategies for Reading	3
e. Optional Practicum in Literacy*	3

*Practicum experiences should be included in the requirements of the courses as deemed necessary by each institution. These field experiences can be within a teacher’s classroom and should support experiences with small and large group instruction. A separate practicum experience may be offered as a stand- alone course option.

2. LITERACY COACH

- (a) Bachelor’s degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level

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(c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Five years of successful teaching experience

(e) Twelve (12) semester hours in courses required for Literacy Teacher

(f) Specialized preparation (graduate credit)	Semester Hours
a. Reading Instruction and Assessment for Diverse Learners	3
b. Coaching for Literacy Education	3
c. Action Research in Literacy Coaching	3
d. Practicum Experience*	3

*Based on individual program of study established by institution

3. LITERACY SPECIALIST

(a) Bachelor's degree

(b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level

(c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Five years of successful teaching experience

(e) Twenty-four (24) semester hours in courses required for Literacy Teacher and Literacy Consultant or Literacy Coach

(f) Specialized preparation (graduate credit)	Semester Hours
a. Administration and Supervision in Literacy	3
b. Curriculum Development	3
c. Literacy Research	3
d. Additional Education Leadership Course *	3

*(Principalship, organizational theory for school administrators, school and community relations, school personnel, basic technology in administration, education evaluation, or public school administration)

J. MATHEMATICS

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Algebra (abstract, matrix, and linear)	6
Modern Geometry or Foundations of Geometry	3
Calculus	8

- Three electives from the following subject areas 9
- Probability or Statistics
- Applied or Discrete Mathematics
- Number Theory
- Analysis
- Algebra or Geometry (advanced courses)

5. Endorsement in Advanced Placement Mathematics requires the successful completion of the requisite Advanced Placement Institute.

K. MIDDLE-LEVEL EDUCATION

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, secondary, or pre-K–12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

Teachers who hold a professional certificate and who have three or more years of experience teaching in middle grades within the past five years on or before July 1, 2009, will be awarded middle-level certification in each subject area in which he or she has three or more years of successful experience according to the guidelines for Middle Grades Teacher Education and Certification, adopted by the State Board of Education.

Prior to October 1, 2007, teachers who meet the experience requirement and are adding middle-level certification will be exempt from the coursework, subject area exams and the pedagogy exam required for add-on certification in specific middle-level areas.

Between October 1, 2007, and July 1, 2009, teachers who meet the experience requirement and are adding middle-level certification must pass the subject area exam, and the pedagogy exam required by the State Board of Education in order to add subject-specific middle-level certification.

Teachers who have a teaching certificate but do not meet the three (3) year teaching requirement by July 1, 2009, must complete all coursework and examinations required for add-on certification in middle-level areas.

All teachers who teach in the middle grades must qualify for middle-level certification according to the phase-in plan approved by the State Board of Education.

4. Early Childhood, Elementary, Middle, or Secondary Teachers Adding Middle-level Education

- | | |
|--|---|
| (a) Specialized Preparation | Semester Hours |
| Middle-level Curriculum and Organization | 3 |
| Early Adolescent Growth and Development and Learning Communities | 3 |
| Teaching Reading and Writing in the Content Area | 3 |
| (b) Content preparation (for secondary teachers adding the same content field at the middle level) | Semester Hours |
| | No Additional Content Coursework Required |
| (c) Content preparation (for early childhood, elementary, or middle-level teachers adding a content field at the middle-level) | |

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Semester Hours
15*

*All coursework must be in the particular middle-level field to be added (language arts, social studies, mathematics, or science), and, in the fields of social studies and science, at least three subject areas must be represented within the content field.

L. MUSIC EDUCATION

1. CHORAL

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Specialized Preparation	Semester Hours
Applied Music (divided equally between piano and voice)*	18 (or 3 full years)
Theory (harmony, ear training, sight singing)	12
Conducting	4
History and/or Literature of Music**	6
Instruction in choral methods (or two semesters)	3
Participation in ensembles (large or small)	3 full years

*A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of Applied Music.

**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

- (e) Endorsement in Advanced Placement Music requires certification in music and the successful completion of the requisite Advanced Placement Institute.

2. INSTRUMENTAL

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Specialized Preparation (band or orchestra)	Semester Hours
Applied music (divided equally among piano, one additional major instrument, and two additional instrument families)*	18 (or 3 full years)
Theory (harmony, ear training, sight singing)	12
Conducting	4
History and/or Literature of Music**	6

Instruction in wind, string and percussion instruments and in voice (or two semesters)	3
Participation in ensembles (large or small)	3 full years

*A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of Applied Music.

**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

(e) Endorsement in Advanced Placement Music requires certification in music and the successful completion of the requisite Advanced Placement Institute.

3. PIANO, VOICE, VIOLIN

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Specialized Preparation (band or orchestra)	Semester Hours
Applied music (piano, voice, violin, organ)*	18
Theory (harmony, ear training, sight singing)	12
Conducting	4
History and/or Literature of Music**	6
Instruction in wind, string and percussion instruments (or two semesters)	3
Participation in ensembles (large or small)	3 full years

*A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of applied music.

**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

M. PHYSICAL EDUCATION

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
History, Principles, or Philosophy of Physical Education	3
Organization and Administration, Curriculum, or Evaluation of Physical Education	3
Human Physiology and Anatomy (in addition to the twelve	3

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semester hours in basic science requirements)
Materials and applied techniques 21

(This area involves multiple courses that require an understanding and mastery of the techniques of the various activities and their presentation and adaptation to the various age levels and groups.)

Required courses
Games and Rhythms for the Elementary School-Aged Child
Individual and Dual Sports
Intramurals and Interscholastic Sports
Movement Education
Recreation and Outdoor Education
Team Sports

Elective courses
Adapted Physical Education (exceptional or atypical children)
Aquatics and Water Sports
Stunts, Tumbling, and Gymnastics
Rhythms
Safety, First Aid, and Athletic Injuries
Games and Activities of Low Organization

N. SCIENCE

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation (for teaching all sciences in high school)*	Semester Hours
Biology	6–8
Chemistry	6–8
Physics	6–8
Marine Biology/Science	6–8
Electives in the following subject areas:	6–12
Biology	
Chemistry	
Physics	
Geology	
Geography	
Astronomy	

*At least eighteen (18) semester hours of the thirty (30) semester hours must be in courses with a laboratory.

Certification will be granted in any one of the specific sciences when at least eighteen (18) semester hours of credit are presented. Six or more semester hours must be in laboratory courses.

5. Endorsement in the Advanced Placement sciences requires certification in a science area and the successful completion of the requisite Advanced Placement Institute.

O. SOCIAL SCIENCES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation (for teaching all social studies in high school)	Semester Hours
Social studies	6
U.S. History	6
European History	6
Electives from economics, government, geography, and sociology (not more than 6 hours in any one field)	12
Electives from economics, geography, government, history, psychology, sociology, and the history of religion	6
History	
U.S. History	6
European History	6
Electives from history and/or government	6
One social studies field	18

(Certification will be granted in any one of the specific subjects--economics, geography, government, psychology, and sociology--for which eighteen (18) semester hours are presented.)

5. Endorsement in the Advanced Placement social sciences requires certification in a social studies area and the successful completion of the requisite Advanced Placement Institute.

P. THEATER

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Acting	3
Technical Theater (including stagecraft, lighting, Costuming, makeup)	6
Directing	3
Dramatic Literature	6
History of the Theater	3
Creative Drama	3
Theater arts elective	3

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*In meeting the above requirements, the applicant with training or experience in the professional theater may offer the following substitutions for the courses listed:

(a) At least three (3) months full-time or twelve (12) months part-time acting training in a non-degree granting professional acting school (provided that the school employs at least three different teachers) may be substituted for the acting course.

(b) At least six (6) months of full-time employment in technical theater may be substituted for technical theater courses.

(c) Experience as director of at least five (5) full-length plays produced for a paying audience may be substituted for the directing course.

Q. WORLD LANGUAGES (including American Sign Language)

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation (one world-language field)*	Semester Hours
French	18
German	18
Latin	18
Spanish	18
Russian	18
Japanese	18
American Sign Language	21
ASL coursework (12)	
ASL electives (9)**	

(ASL linguistics must be included among electives)

*The semester hours required must be above the six-hour introductory course.

**ASL electives may include Deaf Literature and Folklore, Discourse in American Sign Language, Deaf Studies in these United States, Discourse Analysis of ASL, Deaf History, Deaf Culture, Careers in American Sign Language, or other related coursework.

5. Endorsement in an Advanced Placement world language requires certification in the particular world language and the successful completion of the requisite Advanced Placement Institute.

III. EXCEPTIONAL CHILDREN ADD-ON CERTIFICATION

The following areas are included:

- A. Early Childhood Special Education
- B. Education of Blind and Visually Impaired
- C. Education of Deaf and Hard of Hearing
- D. Emotional Disabilities

- E. Learning Disabilities
- F. Mental Disabilities
- G. Multi-categorical Special Education
- H. Severe Disabilities
- I. Speech Language Therapist

A. EARLY CHILDHOOD SPECIAL EDUCATION

- 1. Bachelor’s Degree
- 2. Initial or professional certificate at the early childhood or elementary level, or in special education or Speech and Language
- 3. Minimum qualifying score on the content area examination(s) required by the State Board of Education
- 4. Specialized Preparation Semester Hours
 - Human Growth and Development 3
 - Introduction to Early Childhood Special Education 3
 - Partnerships in Early Childhood Special Education: Teaming with Parents and Professionals 3
 - Assessment of Young Children with Disabilities 3
 - Procedures for Working with Young Children with Disabilities 3
 - Social/Emotional Development and Guidance for Young Children with Disabilities 3
 - Practicum/Field Experience* 3

*Practicum may be waived based on two years’ successful experience teaching young children with disabilities.

NOTE: Individuals who have three (3) years teaching experience within the last five (5) years with young children with disabilities (birth to six years) will be granted add-on certification in Early Childhood Special Education by achieving the minimum qualifying score on the content area examination(s) required by the State Board of Education for Early Childhood Special Education within the five-year period.

Timeline: Effective July 1, 2016, all individuals working as Early Childhood Special Education teachers will be required to hold certification in Early Childhood Special Education.

B. EDUCATION OF BLIND AND VISUALLY IMPAIRED

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
- 4. Specialized Preparation Semester Hours
 - Teaching of Reading 3
 - Nature of Visually Impaired 3
 - Educational Procedures for Visually Impaired 3
 - Braille—Reading and Writing 3
 - Advanced Braille (that includes Nemeth Code) 3
 - Anatomy, Physiology, and Function of the Eye 3

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Low Vision	3
Teaching Students with Multiple Handicaps	3
Practicum in Instruction of the Visually Impaired Child*	3

*Practicum may be waived based on two years' successful experience teaching visually impaired.

C. EDUCATION OF DEAF AND HARD OF HEARING

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Teaching of Reading	3
Methods/Procedures for Teaching Speech Reading	3
Psychology of Hearing Impaired	3
Teaching of Language to Students with Hearing Impairment	3
Two electives from the following courses	6
Educational Assessment	
Anatomy of the Auditory and Speech Mechanism	
History of Education and Guidance for the Hearing Impaired	
Audiology, Hearing Aids, and Auditory Training	
Methods of Teaching Elementary School Subjects	
Principles of Speech Correction	
Physical Education and Recreation for the Exceptional Child	
Nature of Emotional Disabilities	
Nature of Learning Disabilities	
Remedial Reading	
Practicum in Instruction of the Exceptional Child	
Introduction to Rehabilitation and Community Services	
Educational Psychology	

D. EMOTIONAL DISABILITIES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Emotional Disabilities	3
Methods/Procedures for Emotional Disabilities	3
Behavior Management	3

Teaching Reading in General and Special Education	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Emotional Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching emotional disabilities

E. LEARNING DISABILITIES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Learning Disabilities	3
Methods/Procedures for Learning Disabilities	3
Behavior Management	3
Teaching Reading in General and Special Education	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Learning Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching learning disabilities.

F. MENTAL DISABILITIES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Characteristics of Mental Disabilities	3
Methods/Procedures for Mental Disabilities	3
Behavior Management	3
Teaching Reading in General and Special Education	3
Assessment of Exceptional Learners	
Practicum in Instruction for Students with Mental Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching mental disabilities.

G. MULTI-CATEGORICAL SPECIAL EDUCATION

This area allows teachers to serve learners with mild to moderate disabilities, which include autism, emotional disabilities, learning disabilities, mental disabilities, and traumatic brain injury.

1. Bachelor's degree

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2. Initial or professional certificate in either mental disabilities, emotional disabilities, or learning disabilities

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Learning Disabilities	3
Characteristics of Mental Disabilities	3
Characteristics of Emotional Disabilities	3
Methods/Procedures for Learning Disabilities	3
Methods/Procedures for Mental Disabilities	3
Methods/Procedures for Emotional Disabilities	3
Behavior Management	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Emotional Disabilities, and/or, Learning Disabilities, and/or, Mental Disabilities	6
OR	

5. If certified in one area (mental disabilities, emotional disabilities, or learning disabilities) coursework is required in each of the two areas other than the teacher's certification area.

Characteristics	3
Methods in Procedures	3
Practicum*	3
OR	

6. If certified in two areas (mental disabilities, emotional disabilities, or learning disabilities) coursework is required in the one remaining certification area.

Characteristics	3
Methods in Procedures	3
Practicum*	3

*Practicum (three semester hours) may be waived based on two years' successful experience teaching mental, emotional, or learning disabilities, as appropriate.

H. SEVERE DISABILITIES

This area allows teachers to serve learners with moderate to severe cognitive disabilities, which include mental disabilities, multiple disabilities, orthopedic impairment, autism, traumatic brain injury, and other health impairments.

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Severe Disabilities	3
Methods/Procedures for Teaching Individuals with Moderate to Severe Disabilities	3
Behavior Management	3
Language/Communication Skills for Exceptional Children	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Severe Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching severe disabilities.

I. SPEECH LANGUAGE THERAPIST

(Included in Regulation 43-64 under Requirements for Certification at the Advanced Level)

IV. CAREER AND TECHNOLOGY ADD-ON CERTIFICATION

The following areas are included:

- A. Agriculture
- B. Business and Marketing Technology
- C. Computer Programming
- D. Family and Consumer Science
- E. Industrial Technology

A. AGRICULTURE

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
(a) Agriculture	
Plant sciences (including agronomy, horticulture, and/or forest)	15
Animal sciences (including dairy or poultry)	6
Agricultural engineering (mechanization)	6
Agricultural economics	6
Agricultural sciences electives	18
(b) One specific Agricultural Education field	
Agricultural mechanics	18
Animal science	18
Environmental science and natural resources	18
Forestry	18
Horticulture	18
Agriculture sciences electives (required for each of the five required Agricultural Education fields)	6

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B. BUSINESS AND MARKETING TECHNOLOGY

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Accounting	6
Business Communications	3
Business Law	
Computer applications and technology (to include, but not be limited to: word processing, spreadsheets, database management, and Web publishing//multimedia)	9
Economics	3
Entrepreneurship	3
Hospitality, Tourism or Hotel/Motel Management	3
International Business	3
Management	3
Marketing	3
Instructional Methods for Teaching Business, Marketing, Computer Technology	3

C. COMPUTER PROGRAMMING (for Career and Technology Education programming courses)

1. Bachelor's degree
2. Initial or professional certificate at the secondary level in any subject area.
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Computer programming (any combination of currently relevant language(s) being used in business)	9

Note: Programming courses completed at the post-secondary level within the past five years may be counted toward this endorsement.

D. FAMILY AND CONSUMER SCIENCE

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Child Development or Human Growth and Development	3
Computer Technology or Introduction to Computer	3
Consumer Economics and Resource Management	3
Curriculum and Evaluation in Family and Consumer Sciences (FCS) or Instructional Strategies	3
Food Science or Food Composition	3
General Chemistry and Lab or Chemical Sciences and Law	4
Housing: Design and Environment or Residential Technology	3
Human Sexuality	3
Introduction to the Exceptional Child or Introduction to Special Education	3
Marriage and Family Relations or Education for Parenthood	3
Professional Foundations of Family and Consumer Sciences	3
OR	
The Professional and the Family Advanced Child Care and Family Relations	
One of the following courses	3
Human Nutrition	
Meal Management	
Nutrition and Food	
Quality Food Production	
One of the following courses	3
Clothing Design and Construction	
Contemporary Aspects of Clothing	
Creative Apparel Design	
Essentials of Textiles	

E. INDUSTRIAL TECHNOLOGY

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Transportation	6
Communication	6
Manufacturing	6
Construction	6
Computer Assisted Drafting (CAD)	3
New and emerging areas of technology such as bio-related technology, computer technology, and designing and problem solving	9

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V. OTHER TYPES OF SPECIALIZED CERTIFICATION

The following areas are included:

- A. Adjunct Instructor
- B. Fine Arts
- C. Montessori
- D. Online Teaching
- E. Teaching Children of Poverty

A. ADJUNCT INSTRUCTOR

Eligibility Requirements

1. The individual must have earned a bachelor's degree or higher from a regionally accredited college or university, and
2. A school district in the state must be willing to employ the individual as a teacher on a part-time basis in a content field at the middle or secondary school level, or in the related arts or physical education at the elementary level.

Application Requirements

3. The applicant must
 - (a) complete the application process for South Carolina educator certification, including an all-clear fingerprint review;
 - (b) have earned a bachelor's degree or higher with a major in the field of certification, or must submit passing scores on the content certification exam(s) required for the certification area; and
 - (c) submit verification of five years of occupational experience within the past ten years in, or related to, the content field of the certificate for which the individual is applying; and

4. The school district seeking to employ the individual must provide the following documentation to the Office of Educator Certification:

- (a) a request and justification for employment of the instructor,
- (b) an assurance that the employment of this instructor will not displace a certified teacher already employed, and
- (c) an assurance that the adjunct instructor's teaching assignment will be less than a .5 full-time equivalent position and will not exceed two credit-bearing courses in an academic year.

Stipulations

The following stipulations apply to the South Carolina Adjunct Teaching Certificate:

5. The Adjunct Teaching Certificate is valid only in the sponsoring school district and is not transferrable to any other school district or state.

6. The adjunct instructor must be assigned a state-certified mentor in the same general subject area(s) in which the instructor is assigned to teach.

7. The adjunct instructor must be evaluated annually by the school district and must receive successful performance reviews for the certificate to be reissued for subsequent years at the request of the sponsoring school district.

8. The adjunct instructor must complete a minimum of 20 contact hours of professional development approved by the employing school district each three-year period the certificate is held.

9. The salary for the adjunct instructor will be determined by the employing school district.

B. FINE ARTS

1. Teachers for advanced fine arts programs who do not meet the requirements for certification in any existing area of certification will be issued an initial teaching certification if all of the following requirements are met:

(a) The school district has in operation an advanced program in the fine arts that has been approved by the South Carolina Department of Education.

(b) The school district superintendent requests certification for the prospective teacher in writing, describing the situation in which the teacher will work and the exact nature of the proposed duties of the teacher.

(c) The candidate has earned an undergraduate or graduate degree in fine arts from a nationally or regionally accredited institution of higher education or an institution that has programs approved for teacher education by the State Board of Education in the area of the fine arts that the teacher is to teach.

(d) The candidate presents evidence of at least two years of successful professional experience in the area of the fine arts that he or she is expected to teach.

(e) The candidate presents an acceptable score(s) on the required teaching content-area examination(s).

2. The initial certificate in Fine Arts will be issued for three years. It can be renewed in accordance with Regulation 43-53.I.A. A total of twelve (12) semester hours of credit, which includes teaching methods and psychology of learning in graduate professional education, will be required for professional certification.

3. In addition to the graduate professional education requirement specified above, the initial certificate will be converted to the professional certificate upon successful completion of induction requirements, ADEPT, and the pedagogy examination required by the State Board of Education.

C. MONTESSORI

1. Levels of Montessori Certification

Primary (3K–5K)

Elementary I (Grades 1–3)

Elementary II (Grades 4–6)

Middle (Grades 6–8)

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2. Individuals who wish to add Montessori to an existing certificate must meet the following requirements.

(a) Bachelor's degree

(b) Initial or professional certificate at the appropriate level (early childhood, elementary, middle, or pre-K–12 level *)

(c) Completion of a training program at the appropriate level accredited by the Montessori Accreditation Council for Teacher Education (MACTE)

*A minimum qualifying score on the content area examination(s) required by the State Board of Education for early childhood, elementary, or middle level certification is also required for individuals with a prerequisite certificate in a preK–12 field who wish to add the appropriate Montessori level.

3. Individuals who wish to qualify for initial Montessori certification must complete a State Board of Education–approved undergraduate or graduate teacher preparation program in early childhood, elementary, or middle-level with a Montessori emphasis (i.e., includes all requirements for a MACTE training program) AND submit passing scores on the certification examinations approved by the State Board of Education at the appropriate level.

OR

4. Verify completion of a bachelor's degree, a MACTE-approved training program, and passing scores on the appropriate certification examination(s) approved by the State Board of Education, including the pedagogy exam. Additional certification fields may not be added to an initial Montessori certificate under this option unless the educator completes a State Board of Education-approved teacher preparation program in the additional field.

D. ONLINE TEACHING

This is an optional add-on certification that is intended to enhance an educator's skills and knowledge beyond that required for traditional teaching and to prepare the individual to teach classes within an online environment.

Individuals who wish to add Online Teaching to an existing certificate must meet the following requirements.

1. Bachelor's degree

2. Initial or professional certificate at the middle, secondary, or pre-K–12 level

3. Minimum qualifying score(s) on the content area examination(s) required by the State Board of Education

4. Specialized Preparation (required courses)*

Semester Hours

Facilitating Online Courses Effectively

3

Effective Online Course Management

3

5. Elective Courses (select two courses from the list below)*

Approaches and Tools for Developing Web-Enhanced Lessons

2

Classroom Assessment Enhanced by Technology

2

Differentiating Instruction to Accommodate Learning Styles

2

Using Digital Portfolios to Foster Student Learning	2
Learning and Teaching with Web 2.0 Tools	2
South Carolina Online Resources	2

Waiver Provisions

Coursework listed above may be waived and certification in Online Teaching granted for teachers who have successfully taught three online courses through an accredited educational institution or professional development program within three years of application (URL or access to current online courses required).

*All coursework listed above will be offered online by the South Carolina Department of Education (SCDE) for graduate credit in conjunction with selected colleges or universities. Additional course options may be added as needed by the SCDE.

E. TEACHING CHILDREN OF POVERTY

This is an optional endorsement and add-on certification that is intended to enhance the skills of educators who work with children and youth who live in poverty.

1. Endorsement

- a. Bachelor’s degree
- b. Initial or Professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 level

AND

c. Six semester hours in the following courses	Semester Hours
Living in Poverty	3
One course from among the following:	3
Language, Literacy, and Poverty	
Teaching and Assessing Children of Poverty	
Home, Community, and Classroom Partnerships in High Poverty Areas	

2. Add-on Certification

- a. Bachelor’s degree
- b. Initial or Professional certificate at the early childhood, elementary, middle, secondary or pre-K–12 level

c. Specialized Preparation	Semester Hours
Living in Poverty	3
Language, Literacy, and Poverty	3
Teaching and Assessing Children of Poverty	3
Home, Community, and Classroom Partnerships in High Poverty Areas	3

NOTE: All courses must include a field experience component.

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Fiscal Impact Statement:

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

Statement of Rationale:

The amendments to this regulation are needed to create a new optional endorsement add-on certification in Teaching Children of Poverty.

Document No. 4197
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 30-4-45

61-117. Access to Restricted Information

Synopsis:

This regulation will implement provisions of the South Carolina Freedom of Information Act that require the Department of Health and Environmental Control, as custodian of information, the unrestricted access to which could increase the risk of acts of terrorism, to promulgate regulations to regulate access to this information. Restricted Information includes information subject to the provisions of 42 U.S.C. 7412(r)(7)(H), 40 CFR 1400, 10 CFR 73.21 as well as information identified by the Department to the Attorney General pursuant to S.C. Code Section 30-4-45(B).

The Notice of Drafting for this regulation was published in the State Register on May 27, 2011.

Discussion of Regulation:

61- 117. Access to Restricted Information

Section A. Purpose and Scope. This section addresses the purpose and scope and identifies the enabling statute for this regulation. The procedures developed in this regulation are necessary to comply with the South Carolina Freedom of Information Act.

Section B. Definitions. This section includes definitions for the following six terms: 'Department', 'Governmental functions', 'Department's Headquarters', 'Requestor', 'Restricted Information', and 'Vulnerable zone'.

Section C. Release of Restricted Information. This section establishes procedures for the release of restricted information to local, state, and federal authorities in the exercise of their official governmental functions.

Section D. Disclosure in Vulnerable Zone. This section establishes procedures for access to restricted information for individuals who live or work in a vulnerable zone.

Section E. Special Requests. This section establishes procedures for release of restricted information upon special requests that involve scientific or academic research, advance knowledge about South Carolina's environment, or otherwise provide benefit to the state.

Section F. Requests for Restricted and Unrestricted Information. This section addresses the handling of requests for information that involve both restricted and unrestricted information.

Section G. Customary Charges for Copies. This section addresses the applicability of customary charges for copies of records that are released pursuant to this regulation.

Instructions: Add new Regulation 61-117, Access to Restricted Information, to Chapter 61 regulations.

Text:

61- 117. Access to Restricted Information.

Statutory Authority: Section 30-4-45, S.C. Code of Laws, 1976, as amended

TABLE OF CONTENTS

- A. Purpose and Scope; Applicability
- B. Definitions
- C. Access to Restricted Information to State, Federal, and Local Officials
- D. Disclosure in Vulnerable Zone
- E. Special Requests
- F. Requests for Restricted and Unrestricted Information
- G. Customary Charges for Copies

A. Purpose and Scope.

This regulation applies to information that has been designated pursuant to Code Section 30-4-45(A) or (B) for release.

B. Definitions.

1. “Department” means the Department of Health and Environmental Control.
2. “Governmental functions” means the official activities of a state, federal, or local governmental entity.
3. “Department’s Headquarters” means the Department’s office at 2600 Bull Street, Columbia, South Carolina.
4. “Requestor” means the individual or entity requesting access to Restricted Information.
5. “Restricted Information” means any information in the possession of the Department that is designated and identified by the Department in the written notification to the Attorney General pursuant to S.C. Code Section 30-4-45(B).

6. “Vulnerable zone” means a circle, the center of which is within the boundaries of a facility possessing hazardous, toxic, flammable, radioactive, or infectious materials subject to S.C. Code Section 30-4-45 and the radius of which is that distance a hazardous, toxic, flammable, radioactive, or infectious cloud, overpressure, radiation, or radiant heat would travel before dissipating to the point it no longer threatens serious short-term harm to people or the environment.

C. Release of Restricted Information.

1. Restricted Information, if not otherwise exempt from disclosure pursuant to applicable law, may be released to state, federal, and local authorities as required to carry out official governmental functions, as follows:

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a. The requestor must appear in person at the Department's Headquarters and must sign a register and show photographic identification issued by a state, federal or local government agency; and

b. The requestor must provide a written statement that: describes the intended use of the Restricted Information being requested; describes the format and medium for access to the requested information; attests that the requested information will be for official use only; and certifies that the requested information will not be released further except as required to carry out official governmental functions and in accordance with Code Section 30-4-40(c).

2. If copies are requested, the requestor must pick them up at the Department's Headquarters in person, or by official courier. Copies will not be mailed, faxed, e-mailed, or sent by delivery service. An official courier who picks up requested copies must appear in person at the Department's Headquarters and must sign a register and show photographic identification issued by a state, federal, or local governmental agency.

3. The Department may provide state, federal or local government officials or their authorized representatives access to Restricted Information that is maintained on an electronic data system provided such access is controlled (eg. password protected) and the information is necessary to carry out official governmental functions.

D. Disclosure in Vulnerable Zone.

1. Persons living or working within a vulnerable zone will be provided Restricted Information as follows:

a. The requestor must provide written verification of the location and address of his/her home or place of business along with a photographic identification.

b. The Department will determine whether the location lies within the vulnerable zone of any facility for which Department records are requested.

c. If the location for which the Restricted Information is sought does not lie within the vulnerable zone of any facility, the Department will so notify the requestor and will deny the request.

d. If the location lies within the vulnerable zone of any facility or facilities, the requestor will be provided an opportunity to review the Restricted Information that identifies the facility, shows the vulnerable zone on a local area map, and identifies the nature of the event for which the vulnerable zone was determined.

2. The requestor may review the Restricted Information at the Department's Headquarters and may take written notes, but will not be provided with copies or be allowed to make copies, scans, photographs, or otherwise duplicate the information.

E. Special Requests.

1. Restricted Information, if not otherwise exempt from disclosure pursuant to applicable law, may be released in response to a special request, as follows:

a. The requestor must demonstrate to the satisfaction of the Department that the Restricted Information, if released, will be used solely for the purpose of conducting academic or scientific research, advance knowledge about South Carolina's environment, or otherwise be of benefit to the state;

b. The requestor must appear in person at the Department's Headquarters and must sign a register and show photographic identification issued by the agency or organization for which the requestor is conducting research; and

c. The requestor must provide a written statement that: describes the intended use of the Restricted Information being requested; describes the format and medium for access to the requested information; provides that the requested information will be for research purposes only; and certifies that the requested information will not be released further.

2. If copies are requested, the requestor must pick them up at the Department's Headquarters in person, or by official courier. Copies will not be mailed, faxed, e-mailed, or sent by delivery service. An official courier who picks up requested copies must appear in person at the Department's Headquarters and must sign a register and show photographic identification issued by the agency or organization for which the requestor is conducting research.

F. Requests for Restricted and Unrestricted Information.

1. Upon receipt of a request that seeks both Restricted Information and unrestricted information, the Department will segregate restricted and unrestricted information in response to the request.

2. Those documents containing only unrestricted information will be provided in accordance with normal Department procedures. So much of the request as seeks Restricted Information will be responded to in accordance with Code Section 30-4-40(c) and this regulation.

G. Customary Charges for Copies.

The Department's customary charges authorized in S.C. Code Section 30-4-30 for searching and making copies of records are applicable to requests for release of Restricted Information covered by this regulation.

Fiscal Impact Statement:

There will be no cost to the State General Fund. Staff anticipates that there will be no additional cost to the Department as the implementation of this regulation will be managed by existing staff. There will be no additional cost to local governments.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115.

DESCRIPTION OF REGULATION: New Regulation 61-117, Access to Restricted Information.

Purpose: The purpose of this regulation is to implement the provisions of S.C. Code Section 30-4-45 that require the Department, as custodian of information, the unrestricted access to which could increase the risk of acts of terrorism, to promulgate regulations to regulate access to this information.

Legal Authority: Section 30-4-45, S.C. Code of Laws, 1976 (2007).

Plan for Implementation: Upon approval and publication as a final regulation in the State Register, a copy of the regulation will be available electronically on the South Carolina Legislature Online website by Document Number at <http://www.scstatehouse.gov/regnsrch.php> and also on the Department's Regulatory website in its DHEC Regulation Development Update at <http://www.scdhec.gov/regulatory.htm>. Printed copies will also be available for a fee from the Department's Freedom of Information office. Existing staff of the Department's Freedom of Information office, in consultation with the Office of General Counsel, will coordinate implementation of the regulation within the Department.

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

The need for this regulation is stated in the South Carolina Freedom of Information Act, S.C. Code Section 30-4-40, as follows:

“(c) Information identified in accordance with the provisions of Section 30-4-45 is exempt from disclosure except as provided therein and pursuant to regulations promulgated in accordance with chapter. Sections 30-4-30, 30-4-40, and 30-4-100 notwithstanding, no custodian of information subject to the provisions of Section 30-4-45 shall release the information except as provided therein and pursuant to regulations promulgated in accordance with this chapter.”

S.C. Code Section 30-4-45 directs each agency that is the custodian of such information to promulgate regulations establishing procedures for the access to Restricted Information. The regulation is needed to comply with the requirements of the South Carolina Freedom of Information Act. The regulation can be implemented using existing staff without impact to the General Fund. It establishes procedures for access to Restricted Information in accordance with the Act. It aids in the protection of public health, public safety, and the environment by ensuring that such information is restricted except to the extent allowed by law.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of this regulation will not require additional resources beyond those currently allocated to the Department.

External Costs: There will be no additional costs beyond the customary charges to governmental agencies that request Restricted Information to carry out their governmental functions or to special requestors of Restricted Information. By law, persons within a vulnerable zone may view Restricted Information, but may not remove or reproduce it, therefore, there will be no cost to those persons.

External Benefits: There will be a benefit to state, federal, and local authorities that need access to Restricted Information to carry out their official governmental functions. There will be a benefit to persons who live in a designated vulnerable zone because it will allow them to view Restricted Information concerning their community. There will be a benefit for special requests approved by the Department to further scientific and/or academic research that advances knowledge about the environment in South Carolina. The procedures established by regulation will provide a benefit to the general public by ensuring greater protection from the unrestricted access to information that could be used in a manner that increases the risk of acts of terrorism in South Carolina.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no adverse effect on the environment and public health. The proposed regulation will ensure greater protection of public health, public safety, and the environment by having established procedures for access to Restricted Information.

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

Without established procedures for access to Restricted Information, such release to unauthorized persons could increase the possibility of the use of such information in a manner that increases the risk of acts of terrorism in South Carolina.

Statement of Rationale:

S.C. Code Section 30-4-45 directs the Department, as custodian of information, the unrestricted access to which could increase the risk of acts of terrorism, to promulgate regulations to regulate access to this information.

Document No. 4181

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

Statutory Authority: 1976 Code Sections 44-7-110 et seq.

61-15. Certification of Need for Health Facilities and Services

Synopsis:

The Department has revised R.61-15, Certification of Need for Health Facilities and Services, to incorporate applicable amendments from Act 278 of 2010 which amended Section 44-7-110 et seq., S.C. Code of Laws, 1976, effective July 1, 2010, and to make other revisions. The amendments include the following, in addition to incorporating provisions from Act 278: clarify Section 604 regarding non-transferability and voidance of a Certificate of Need; add provisions to submit information related to quality of patient care as part of Section 202.2.b; streamline the program by relaxing reporting requirements and extending the period for an exemption or non-applicability determination to be valid; revise the Part A- Questionnaire; and, make other changes to R.61-15 to improve the overall quality of the regulation; such as deleting references to federal acts that are obsolete, revisions for clarity, language style, consistency, grammar, punctuation, codification and other stylistic changes. Numerous changes were made as a result of comments received from the regulated community.

A Notice of Drafting for the proposed revision was published in the *State Register* on September 24, 2010.

**Revisions to the Regulation as Requested by the Senate Medical Affairs Committee
by Letter Dated March 23, 2012:**

Section 103.9.a, b, and c. The proposed fee increases were removed and returned to the fee amounts in the current regulation.

Section 301. The proposed fee increase was removed and returned to the fee amount in the current regulation.

Section 302.1. The proposed fee increase was removed and returned to the fee amount in the current regulation.

Section 309. The proposed fee increases were removed and returned to the fee amounts in the current regulation.

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Discussion of Revisions as Submitted by DHEC to the S.C. General Assembly June 1, 2011:

Revised Statutory authority under title

Table of Contents. The table was revised to reflect changes in the regulation

Section 102.1.c

Revised to write out monetary figure for consistency in regulation

Section 102.1.d

Revised wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan

Section 102.1.e

Revised to delete cost component in accordance with Act 278. Revised wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan

Section 102.1.f

Revised to write out monetary figure for consistency in regulation

Section 102.1.g, h, i

Subitems were deleted in entirety in accordance with Act 278.

Section 102.2

Text is clarified regarding how an applicant must submit expenditures for review by the Department

Section 102.3

Clarified text by adding “Certificate of Need” and “(60) calendar” in conjunction with “sixty days”

Section 102.4

New verbiage is added as Section 102.4 to clarify change of ownership from CON review in accordance with Act 278 and to clarify that no written determination is required. No new requirement has been added.

Section 103.1

Revised to amend the definition of “affected person” to include provisions from Act 278

Section 103.2

Revised to be consistent with the South Carolina Health Plan and Regulation 61-91, Standards for Licensing Ambulatory Surgical Facilities

Section 103.6

Clarifies text to add “calendar” preceding “days”

Section 103.9

Subsection item is deleted to removed obsolete text

Section 103.10 is renumbered to 103.9

Revised to reflect increase of the initial filing fee, application fee and issuance fee. Revised to add collection of a fee for the review of exemption and non-applicability determinations

Section 103.11 is renumbered to 103.10

Revised to adjust wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan

Section 103.12 is renumbered to 103.11

Revised to renumber and revised definition in accordance with changes in Act 278

Section 103.13 is renumbered to 103.12

Revised to adjust wording to be consistent with Act 278

Section 103.14 is renumbered to 103.13

Revised to adjust wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan

Section 103.15 is renumbered to 103.14 - no text changes

Section 103.16 is renumbered to 103.15 - no text changes

Section 103.17 is renumbered to 103.16

Revised to be consistent with the definition of ‘Like equipment with similar capabilities’ in Act 278

Section 103.18 is renumbered to 103.17 - no text changes

Section 103.19 is renumbered to 103.18

Revised to be consistent with the definition of ‘person’ in Act 278

Section 103.20 is renumbered to 103.19 - no text changes

Section 103.21 is renumbered to 103.20

Revised to be consistent with the definition of ‘Residential treatment facility for children and adolescents’ in Act 278

Sections 22 through 25 are revised to 21-24 - no text changes

Sections 104 and Section 105

Titles amended and revised in entirety to delete all text and replace it with text consistent with changes in Act 278 in order to clarify what projects are exempt from Certificate of Need review, for which projects Certificate of Need review is not applicable, and to clarify and organize text. Revised text to reflect accurate names for the South Carolina Department of Mental Health and the South Carolina Department of Disabilities and Special Needs

Revised and renumbered text to eliminate written requirement for non-applicability determinations for certain non-medical projects, and to add a provision to provide written notification to the DHEC Division of Health Facilities Construction for these projects.

Section 106

Title amended and revised wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan. Corrects typographical error

Section 202.1

Corrects typographical error - corrected to add the word “inch” for clarity

Section 202.2.a.

Revised wording to include the proposal page and corrects typographical error by removing page numbers and inserting “Appendix”

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Section 202.2.b(3)

Revised to clarify what type of estimate from a vendor is acceptable

Section 202.2.b(8)(l)

Revised to write out number 5 to “five”

Section 202.2.b(14)

Corrects typographical error - corrects the spelling of “effects” to “affects”

Section 202.2.b(15)

Revised to clarify that financing information must be identified

Section 202.2.b(16)

Clarifies by deletion of obsolete text and revised verbiage

Section 202.2.b(17)

Revised to clarify text regarding charges

Section 202.2.b(18)

Revised to clarify text

Section 202.2.b(21)

Revised to delete obsolete text

Section 202.2.b(22)

Revised to delete obsolete text

Section 202.2.b(27)

Adds subitem providing for submitted quality of patient care information

Section 202.2.b(27) is renumbered to 202.2.b(28)

Section 202.2.c(6)

Revised to clarify zoning for a proposed project.

Section 202.2.c(8)

Revised to correct grammatical error. Revised to add “governmental elected officials” to this subitem

Section 202.2.d(9)

Revised to be consistent with Act 278 and to clarify provisions for an unfulfilled Certificate of Need

Section 202.2.d(10)

Revised by changing “should” to “must” to ensure consistency with existing provisions in this subpart

Section 202.2.d(11)

Corrects typographical error

Section 301

Corrects typographical error and revised to reflect the increase of the filing fee.

Section 302.1

Revised to add current policy of the Department to notify the applicant in writing when the application is not acceptable for filing. Revised to write out monetary figure for consistency in regulation

Section 302.2

Revised to add “thirty (30) calendar days” through out this subitem

Section 302.3

Revised to add “thirty (30) calendar days” through out this subitem

Section 302.4

Adds subitem for extension of deadline if it falls on a weekend or state holiday in accordance with Act 278

Section 303.1

Revised to add provision for payment of fees by credit card and to reflect the clarification of the phrase “fifteen (15) calendar days”

Section 303.2

Adds subitem for extension of deadline if it falls on a weekend or state holiday in accordance with Act 278

Section 304

Revised to reflect the clarification of the phrase “thirty (30) calendar days.”

Subitems added to reflect changes from Act 278 regarding reordering and changing of the project review criteria

Section 305

Revised to add changes from Act 278 regarding decision deadlines and project review criteria and to delete old text. Revised to clarify text

Section 306

Clarified text by adding “(30) calendar” in conjunction with “thirty days”

Section 307

Revised wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan

Section 308.1

Revised to delete outdated references to appeals/reconsideration process

Section 308.2

Revised to delete text

Section 309

Revised to include the increase in the issuance fee and to clarify text

Section 310

Corrects typographical error

Section 312 title amended

Section 312.1

Revised to add prohibited contact provision from Act 278

Section 312.2

Revised to reflect accurate verbiage from 2006 revision of the appeals process. Revised to clarify text

Section 401 title amended

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Section 401

Revised to add text to reference law regarding appeals process and for clarification and to delete unnecessary text

Section 402

Deleted obsolete text of Section 402 and reserved section.

Section 403

Deleted Section 403 to remove obsolete text

Section 404

Deleted Section 404 to remove obsolete text

Section 501

Typographical errors are corrected in the introductory paragraph and in 501.4

Section 504

Revised wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan

Revised to add “calendar” after “days” for clarification

Section 601.1

Revised for further clarification and to reflect change of issuance period to twelve months in accordance with Act 278

Section 601.2

Revised verbiage for further clarification and to clarify the submission of quarterly progress reports.

Section 601.3

Revised to reflect change of extension period to nine months in accordance with Act 278. Revised to delete verbiage for further clarification

Section 601.4

Revised for further clarification and to reflect change of extension period to nine months in accordance with Act 278

Section 602.1

Revised for further clarification

Section 604

Revised to add and to delete text in accordance with Act 278 and to provide clarification regarding non-transferability

Section 605

Revised to correct typographical error

Section 606

Revised to clarify text and to correct typographical error

Section 607.1

Revised to clarify text and to clarify the submission of quarterly progress reports and when the first quarterly report is due.

Section 701 – renumbered as Section 702

Section is deleted to remove text in accordance with Act 278. Section renumbered and reserved.

Section 702 – renumbered as Section 701

Title is struck and removed. Text of section was revised to correct and clarify text.

Section 801.3

Revised wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan

Section 802.1

Revised wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan

Section 802.2.c

Revised wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan

Section 802.31.a

Revised wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan

Section 802.33

Revised wording to be consistent with Act 278 which deleted “State” and added “South Carolina” for the title of the South Carolina Health Plan

Application for Certification of Need for a Health Facility or Service

Revised format, changed title, naming it the appendix to the regulation, and revised the text of Part A – Questionnaire for further clarification

Instructions: Amend R.61-15 pursuant to each individual instruction below in the text of the regulations.

Text:

Revise Table of Contents to read:

61-15. Certification of Need for Health Facilities and Services.

Statutory Authority: 1976 Code Sections 44-7-110 et seq.

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APPENDIX: APPLICATION FOR CERTIFICATION OF NEED FOR A HEALTH FACILITY OR SERVICE

Revise Section 102 to read:

SECTION 102. Applicability

1. A person or health care facility as defined in this Regulation is required to obtain a Certificate of Need from the Department of Health and Environmental Control before undertaking any of the following:

- a. The construction or other establishment of a new health care facility;

b. A change in the existing bed complement of a health care facility through the addition of one or more beds or change in the classification of licensure of one or more beds;

c. An expenditure by or on behalf of a health care facility in excess of two million dollars (\$2,000,000) which, under generally acceptable accounting principles consistently applied, is considered a capital expenditure except those expenditures exempted in Section 104. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the development, acquisition, improvement, expansion, or replacement of any plant or equipment must be included in determining if the expenditure exceeds the prescribed amount;

d. capital expenditure by or on behalf of a health care facility which is associated with the addition or substantial expansion of a health service for which specific standards or criteria are prescribed in the South Carolina Health Plan;

e. If no capital expenditure is made, the offering of any health service by or on behalf of a health care facility which has not been offered by the facility in the preceding twelve months and for which specific standards or criteria are prescribed in the South Carolina Health Plan. For purposes of this section, operating costs include expenditures incurred by the health care facility and any person or other entity on behalf of the health care facility to establish a new service. A person or other entity shall not be allowed to incur costs thereby attempting to enable a health care facility to avoid Certificate of Need review and establish a new service as described above;

f. The acquisition of medical equipment which is to be used for diagnosis or treatment if the total project cost is in excess of six hundred thousand dollars (\$600,000);

2. An applicant may not split or combine one expenditure into two or more expenditures for the purpose of avoiding Certificate of Need review, nor may the Department be allowed to lump projects together arbitrarily to bring them under Certificate of Need review.

3. When any question exists, a potential applicant shall forward a letter requesting a formal determination by the Department as to the applicability of the Certificate of Need requirements to a particular project. Such a letter shall contain a detailed description of the project including the extent of modifications, changes in services and total costs. Additional information may be requested as may be reasonably necessary to make such applicability determination. The Department shall respond within sixty (60) calendar days of receipt of the necessary information.

4. These provisions do not apply to acquisitions or changes of ownership of health care facilities, services, and equipment that are already in existence, operational, and providing services in a particular service area, and which have undergone the review and obtained the approval that was appropriate under the law at the time they first entered the relevant service area, so long as the facility or service is not being relocated. For facilities, services, and equipment which have previously undergone Certificate of Need review, the Certificate of Need must be fulfilled prior to a change of ownership.

Revise Section 103 to read:

SECTION 103. Definitions

1. Affected person means the applicant, a person residing within the geographic area served or to be served by the applicant, persons located in the health service area in which the project is to be located and who provide similar services to the proposed project, persons who before receipt by the Department of the proposal being reviewed have formally indicated an intention to provide similar services in the future, persons who pay for health services in the health service area in which the project is to be located and who have notified the Department in writing of their interest in Certificate of Need applications, the State Consumer Advocate and

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the State Ombudsman. Persons from another state who would otherwise be considered "affected persons" are not included unless that state provides for similar involvement of persons from South Carolina in its Certificate of Need process. A person may not file a request for final review in opposition to the staff decision on a Certificate of Need unless the person provided written notice to the Department during the staff review that he is an affected person and specifically states his opposition to the application under review. Affected persons may request in writing to be notified of a Department decision by regular mail or electronic mail in lieu of certified mail.

2. Ambulatory surgical facility means a distinct, free-standing, self-contained entity that is organized, administered, equipped and operated exclusively for the purpose of performing surgical procedures or related care, treatment, procedures and/or services for which patients are scheduled to arrive, receive surgery or related care, treatment, procedures and/or services and be discharged on the same day. The owner or operator makes the facility available to other providers who comprise an organized professional staff.

3. Arrangement for financing means a financial commitment, i.e. enforceable contract.

4. Board means the State Board of Health and Environmental Control.

5. Children and adolescents in need of mental health treatment in a residential treatment facility means a child or adolescent under age eighteen who manifests a substantial disorder of cognitive or emotional process, which lessens or impairs to a marked degree that child's capacity either to develop or to exercise age-appropriate or age-adequate behavior. The behavior includes, but is not limited to, marked disorders of mood or thought processes, severe difficulties with self-control and judgment including behavior dangerous to self or other, and serious disturbance in the ability to care for and relate to others.

6. Competing applicants means two or more persons and/or health care facilities as defined in this regulation who apply for Certificates of Need to provide similar services and/or facilities in the same service area and whose applications if approved would exceed the need for this facility or service. An application shall be considered competing if it is received by the Department no later than fifteen (15) calendar days after a Notice of Affected Persons is published in the State Register for one or more applications for similar services and/or facilities in the same service area. All applications received by the Department within fifteen (15) days of publication of the Notice of Affected Persons in the State Register for the first application(s) will be considered to be competing. Any applications received by the Department later than the fifteenth day following publication of the Notice of Affected Persons in the State Register for the first application(s) will not be considered to be competing with the(se) application(s).

7. Department means the Department of Health and Environmental Control.

8. Facility for chemically dependent or addicted persons means a facility organized to provide outpatient or residential services to chemically dependent or addicted persons and their families based on an individual treatment plan including diagnostic treatment, individual and group counseling, family therapy, vocational and educational development counseling, and referral services.

9. Fees mean the Department may charge and collect fees to cover the cost of operating the program. The fees for review of certificate of need projects include: (a) initial filing fee; (b) application fee; and (c) issuance fee.

a. Initial filing fee is five hundred dollars (\$500), which must be submitted as a non-refundable initial payment at the time the application is submitted.

b. Application fee is one half of one percent (.5%, .005) of the total project cost (as defined in Section 103.25) which is payable when the application is deemed complete under Section 303. The application fee shall not exceed seven thousand dollars (\$7,000).

c. Issuance fee is seven thousand five hundred dollars (\$7,500) payable upon the granting of a Certificate of Need to any project whose total project cost (as defined in Section 103.25) is greater than one million four hundred thousand dollars (\$1,400,000). Should the project not be approved, the issuance fee will not be assessed.

10. Freestanding or Mobile technology means medical equipment owned or operated by a person other than a health care facility for which the total cost is in excess of that prescribed in these regulations and for which specific standards or criteria are prescribed in the South Carolina Health Plan.

11. Good cause is defined as:

- a. presentation of significant and relevant information not previously considered by the Department;
- b. demonstration that there have been significant changes in factors or circumstances relied upon by the Department in reaching its decision;
- c. demonstration that the Department has materially failed to follow its adopted procedures in reaching its decision; or
- d. such other basis for a public hearing as the Department determines constitutes good cause.

12. Health care facility for the purposes of Certificate of Need means acute care hospitals, psychiatric hospitals, alcohol and substance abuse hospitals, nursing homes, ambulatory surgical facilities, rehabilitation facilities, residential treatment facilities for children and adolescents, intermediate care for the mentally retarded, inpatient hospice facilities, radiation therapy facilities and any other facility for which Certificate of Need review is required by state law.

13. Health service means clinically related, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services for which specific standards or criteria are prescribed in the South Carolina Health Plan.

14. Hospital means a facility organized and administered to provide services to accommodate two or more non-related persons for the diagnosis, treatment and care of such persons over a period exceeding 24 hours and provides medical or surgical care or nursing care of illness, injury, or infirmity and may provide obstetrical care, and in which all diagnoses, treatment, or care is administered by or under the direction of persons currently licensed to practice medicine, surgery, or osteopathy.

15. Institutional health services means health services provided in or through health care facilities and includes the entities in or through which such services are provided.

16. Like equipment with similar capabilities means medical equipment in which functional and technological capabilities are identical to the equipment to be replaced; and the replacement equipment is to be used for the same or similar diagnostic, therapeutic, or treatment purposes as currently in use; and does not constitute a material change in service or a new service.

17. Nursing home means a facility with an organized nursing staff to maintain and operate organized facilities and services to accommodate two or more unrelated persons over a period exceeding twenty-four hours which is operated either in connection with a hospital or as a freestanding facility for the express or implied purpose of providing nursing care for persons who are not in need of hospital care.

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18. Person means an individual, a trust or estate, a partnership, a corporation including an association, joint stock company, insurance company, and a health maintenance organization, health care facility, a state, a political subdivision or an instrumentality including a municipal corporation of a state, or any legal entity recognized by the State.

19. Psychiatric Hospital means an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons.

20. Residential treatment facility for children and adolescents means a facility operated for the assessment, diagnosis, treatment, and care of two or more "children and adolescents in need of mental health treatment" which provides:

a. a special education program with a minimum program defined by the South Carolina Department of Education.

b. recreational facilities with an organized youth development program; and

c. residential treatment for a child or adolescent in need of mental health treatment.

21. Solely for research means a service, procedure, or equipment which has not been approved by the Food and Drug Administration (FDA) but which is currently undergoing review by the FDA as an investigational device. FDA research protocol and any applicable Investigational Device Exemption (IDE) policies and regulations must be followed by a facility proposing a project 'solely for research.'

22. To develop when used in connection with health services, means to undertake those activities which on their completion will result in the offering of a new institutional health services or the incurring of a financial obligation in relation to the offering of such a service.

23. To offer when used in connection with health services means that the health care facility holds itself out as capable of providing or as having the means for the provision of, specified health services.

24. Total project cost is the estimated total capital cost of a project including land cost, construction, fixed and moveable equipment, architect's fee, financing cost, and other capital costs properly charged under generally accepted accounting principals as a capital cost. The determination of project costs involving leased equipment of buildings will be calculated based on the total value (purchase price) of the equipment or building being leased.

Revise Section 104, Exemptions, to read:

SECTION 104. Exemption Determinations

1. The following are exempt from Certificate of Need review, but prior to undertaking these projects, a written determination from the Department is required:

a. The replacement of like equipment for which a Certificate of Need has been issued and the replacement does not result in a material change in service or a new service.

b. The acquisition by a health care facility of medical equipment to be used solely for research, the offering of an institutional health service by a health care facility solely for research, or the obligation of a capital expenditure by a health care facility to be made solely for research if it does not: (a) affect the charges of the facility for the provision of medical or other patient care services other than the services which are included in the research; (b) change the bed capacity of the facility; or (c) substantially change the medical or

other patient care service of the facility. FDA research protocol and any applicable Investigational Device Exemption (IDE) policies and regulations must be followed by the facility. A written description of the proposed research project must be submitted to the department in order for the department to determine if the above conditions are met. A Certificate of Need is required to continue use of the equipment or service after the equipment or service is no longer being used solely for research;

c. The permanent reduction in bed capacity, including the permanent closure of a health care facility.

2. In order to request an exemption, the following information must be provided to the Department in writing at a minimum:

a. A complete description of the proposed project, including, but not limited to, location of the project, and total project costs,

b. Other documentation requested by the Department in order to determine compliance with these regulations;

c. Additional information as may be reasonably necessary for the Department to make a determination.

3. If an exemption is granted, it is valid for a period of twelve (12) months from the date of issuance. If the proposal is not implemented within this twelve-month period, the exemption becomes void and another exemption must be requested in order for the applicant to undertake the proposal.

4. The following projects are exempt from Certificate of Need review but do not require a written determination from the Department: the offices of a licensed private practitioner whether for individual or group practice. This exemption shall not apply to: (1) the construction or other establishment of a new health care facility, as in Section 102.1.a; or (2) the acquisition of medical equipment which is to be used for diagnosis or treatment if the total project cost is in excess of six hundred thousand dollars (\$600,000), as in Section 102.1.f.

Revise Section 105 to read:

SECTION 105. Determinations of Non-Applicability

1. Certificate of Need review is not applicable to the following, but prior to undertaking the proposed project, a written determination of non-applicability from the Department is required:

a. Replacement of like equipment with similar capabilities as defined by the Department in Section 103.16.

b. Acquisition of medical equipment which is to be used for diagnosis or treatment if the total project cost is not in excess of six hundred thousand dollars (\$600,000). A written determination of non-applicability is only required when any question exists as to whether or not the total project cost is below the six hundred thousand dollars (\$600,000) threshold.

2. The following information must be provided to the Department in writing at a minimum:

a. A complete description of the proposed project, including, but not limited to, location of the project, total project costs, capital and/or operational cost;

b. Other documentation requested by the Department in order to determine compliance with these regulations;

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c. Additional information as may be reasonably necessary to make a determination.

3. If a determination of non-applicability is granted, it is valid for a period of twelve (12) months from the date of issuance. If the proposal is not implemented within this twelve (12) month period, the non-applicability determination becomes void and another determination must be requested in order to undertake the proposal.

4. Certificate of Need review is not applicable to the following projects and a written non-applicability determination from the Department is not required prior to undertaking these projects:

a. Health care facilities owned and operated by the federal government;

b. Any federal health care facility sponsored and operated by this State;

c. Educational and penal institutions maintaining infirmaries for the exclusive use of their respective student bodies and inmate populations;

d. Facilities owned and operated by the South Carolina Department of Mental Health and the South Carolina Department of Disabilities and Special Needs, except an addition of one or more beds to the total number of beds of the departments' health care facilities existing on July 1, 1988;

5. Certificate of Need review is not applicable to the following projects and a written non-applicability determination from the Department is not required. However, written notification shall be provided to DHEC Division of Health Facilities Construction prior to undertaking the following projects:

a. An expenditure by or on behalf of a health care facility for non-medical projects, such as refinancing existing debt, parking garages, laundries, roof replacement, computer systems, telephone systems, and heating and air conditioning systems;

b. The upgrading of medical facilities, which do not involve additional square feet to the facility or additional health services;

Revise Section 106 to read:

SECTION 106. South Carolina Health Plan

1. With the advice of the health planning committee, the Department shall prepare a South Carolina Health Plan for use in the administration of the Certificate of Need Program. The plan at a minimum must include:

a. an inventory of existing health care facilities, beds, specified health, services, and equipment.

b. projections of need for additional health care facilities, beds, health services, and equipment;

c. standards for distribution of health care facilities, beds, specified health services, and equipment including scope of services to be provided, utilization, and occupancy rates, travel time, regionalization, other factors relating to proper placement of service, and proper planning of health care facilities; and

d. a general statement as to the project review criteria considered most important in evaluating Certificate of Need applications for each type of facility, service and equipment, including a finding as to whether the benefits of improved accessibility to each such type of facility, service and equipment, may outweigh the adverse affects caused by the duplication of any existing facility, service or equipment.

2. The South Carolina Health Plan must address and include projections and standards for specified health services and equipment which have a potential to substantially impact health care cost and accessibility. Nothing in this provision shall be construed as requiring the Department to approve any project which is inconsistent with the South Carolina Health Plan.

3. Upon approval by the health planning committee, the South Carolina Health Plan must be submitted at least once every two years to the Board for final revision and adoption. Once adopted by the Board, the Plan may later be revised through the same planning and approval process, public review and comment, including four regional public hearings before adoption or revision of the Plan. Prior to revising the plan, the Department will publish a notice in the State Register, announcing a period for public comments and scheduling public hearings to receive public comments.

Revise Section 202 to read:

SECTION 202. Application

1. Two copies of the application shall be forwarded to the Department in the following format and shall contain the following information as applicable. The application will be on 8 1/2 × 11-inch paper, one side only, and 3-hole punched on the left side.

2. Application

a. Proposal Page and Part A. Questionnaire (See Appendix)

b. Part B. Additional Information

(1) Document that the applicant has published notification of this project in a local newspaper as required by Section 201 of these Regulations.

(2) Describe the project setting forth the proposed change in services or facilities in as much detail as possible. State whether the project will change the existing licensed or survey bed capacity, will encompass the development of a new service, or result in the discontinuance of an existing service. If a new facility is proposed, list all services to be provided.

(3) Provide the total cost of the project, indicating design fees, land cost, interest cost, construction cost, equipment cost, and any other cost involved in the project. Provide an estimate of the construction cost from a licensed architect or engineer; in the case of equipment, valid/current estimate from a vendor is acceptable.

(4) State the specific location of the facility or service and/or equipment, including, where applicable, specific areas of an existing facility to be affected by the project. Provide room numbers of all patient rooms affected. Sufficient detail should be provided to allow the Department to visually inspect the site. The number of private and semi-private patient rooms shall be identified.

(5) Provide details regarding any proposed construction and/or renovations. Discuss alternatives to new construction and why these alternatives were rejected. For a multi-floor project, construction and/or renovation must be described, by floor, to include any additions and/or deletions made to each floor. Provide evidence that the applicant has adequately planned for any temporary move or relocation of any department, facility, or services, which may be necessary during the construction period. Document that plans exist to assure adequate protection (from fire, noise, dust, etc.) and continuation of all services during the proposed construction period.

(6) If a replacement facility or ancillary service is being constructed, describe plans for disposition of the existing facility or ancillary service area upon completion of the project.

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(7) Provide a timetable for development and completion of the project to include, at a minimum, the date of site acquisition, date of architectural contract, architectural design schedule, date of closing for financing, date of valid construction contract, date that all necessary permits (grading, building, sewer, etc.) will be obtained, and date of start of construction. The timetable shall be presented in one month increments commencing with the month following receipt of the Certificate of Need and ending with the execution of a contract or purchase order for equipment only projects.

(8) Provide the following ownership information:

(a) Proposed name of facility;

(b) Name and address of licensee or prospective licensee. (Note: The licensee is defined as the legal entity who, or whose governing body, has the ultimate responsibility and authority for the conduct of the facility or service; the owner of the business. The licensee must be the entity to whom the Certificate of Need is issued.)

(c) Complete title of the licensee's governing body.

(d) Name, title and mailing address of presiding officer of the governing body.

(e) Name and mailing address of all persons and/or legal entities having any ownership interest or owner's equity of the licensee to include a schedule of percent and type ownership claim of each.

(f) Name and mailing address of all persons and/or legal entities claiming liabilities of the licensee or of the facility or service for which this Certificate of Need is requested to include a schedule of percent and type of claim of each.

(g) Provide a listing which identifies all officers of the licensee.

(h) Is the land and/or building on/in which the proposed facility or service is to be conducted owned by the applicant. _____ YES _____ NO. If no, provide information on the land and building similar to that required in (b) through (g) above.

(i) Has the licensee engaged an entity other than an employee of the licensee to manage or operate the facility or service? _____ YES _____ NO. If yes, provide information similar to that required in (b) through (g) above.

(j) Is there any agreement, contract, option, understanding, intent or other arrangement that will effect a change in any of the information requested and/or provided in (b) through (g) above. _____ YES _____ NO. If yes, provide information similar to that required in (b) through (g) above.

(k) Provide a complete listing of all existing licensed health care facilities and/or services and Certificates of Need in which the proposed licensee currently has an ownership interest, to include names and addresses of each facility or service. In the cases of Certificates of Need for undeveloped facilities and services, provide the name, address, and telephone number of a contact person representing the authority which issued the Certificate of Need.

(l) Should the licensee be a subsidiary corporation, provide a diagram of the licensee's relationship to the parent corporation and list the name and address of the parent corporation as well as the corporation which has ultimate control. In addition, please provide the name and mailing address of all persons and/or legal entities having ownership interest of five percent or more or any person with any agreement, contract, option, arrangement, or intent to acquire ownership interest of five percent or more, of all corporations in the corporate organizational structure which have ultimate control of the licensee.

(9) Provide documentation that the applicant has sought cooperative agreements such as transfer agreements with other facilities, as applicable.

(10) Indicate the means by which a person will have access to the facility's services (i.e. physician referral, self admission, etc). Identify the specific facilities or agencies the applicant expects to receive referrals from (i.e. hospitals, home health agencies, etc). Describe any limitations placed on admissions.

(11) Demonstrate that the proposed project is needed or projected as necessary to meet an identified need of the public. This shall address at a minimum: identification of the target population; the degree of unmet need; projected utilization of the proposed facility or service; utilization of existing facilities and services; past utilization of existing similar services within the facility; and justification that the proposed project will not unnecessarily duplicate existing entities. The applicant must show all assumptions, data sources, and methodologies used. The applicant must use population statistics consistent with those generated by the State Demographer, State Budget and Control Board.

(12) Discuss alternative facilities and/or services considered including the advantages and disadvantages of each alternative. Include a statement as to why this project alternative was adopted.

(13) Discuss any serious problems, such as costs, availability, or accessibility in obtaining care of the type proposed, experienced by patients in the absence of this project.

(14) Where a project affects an increase or decrease in bed capacity, provide annual occupancy rates for the facility based on licensed beds, for the past three years by category (i.e. general acute, psychiatric, obstetric, nursing home, etc.).

(15) Identify the method of financing the cost of the project, including the start-up costs. Provide documentation that the applicant can obtain such financing. Alternative sources and/or methods of financing must be identified and the method chosen demonstrated to be the most feasible option.

(16) For an addition to an existing facility or service, provide a current annual budget and at least a three fiscal year projected budget for both the overall facility and the proposed project. The projections must be developed by an accountant. For a new facility or service, provide a projected annual budget for not less than three fiscal years following the completion of the proposed project. The projections must be attested to by an accountant. These budgets must at a minimum include how proposed charges, proposed cost of service, utilization, depreciation, reimbursement rates and contractual adjustments were calculated. Any assumptions made in the application must be specifically noted.

(17) Provide a list of proposed charges for the project. The charges provided may be used for comparison with the average charges in the final completion report as required in Section 607.3.b.

(18) Document that the proposed project is economically feasible, both immediately and long-term. In the case of existing facilities, indicate what impact the proposed project will have on patient charges and cost per unit of service.

(19) State how the project will foster cost containment and improve quality of care through the promotion of such services as ambulatory and home health care, preventive health care, promotion of shared services, economies of scale, and design and construction economies.

(20) In the case of projects involving additional long-term care beds, discuss how the plans of other agencies, organizations, or programs responsible for providing and financing long-term care have been considered.

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(21) Provide a three-year projected manpower budget in full-time equivalents (FTE's) detailing the existing and proposed nursing, other professional, and non-professional personnel required for the staffing of the new project.

(22) Provide the number of existing and proposed medical staff by specialty, to include physicians employed by, or with admission privileges to, the facility. Include the name of the Chief of the Medical Staff, if available.

(23) Indicate those physicians who have expressed a willingness to utilize the proposed services or to refer patients to the facility for the provision of services.

(24) Discuss the availability of health manpower resources for the provision of the proposed services, including the contemplated program and plan for recruiting and training personnel.

(25) Describe the previous experience of the applicant in the proposed health care field. If the applicant has no prior experience, specify the anticipated sources of technical assistance, either from specific individuals or organizations.

(26) Discuss the impact of the project on the clinical training programs of health professional schools, particularly the extent to which these schools will have access to the services for training.

(27) Provide documentation of policies and procedures to assure the quality of healthcare services by addressing patient safety and quality indicators, as applicable. Documents may include, but are not limited to, measures of patient care, patient safety, healthcare-acquired infections and the following of best practices established by recognized organizations. Applicable quality standards in the South Carolina Health Plan must be addressed.

(28) Provide any additional information that would assist the department in evaluating this project.

c. Part C. Programmatic Documents

Provide adequate programmatic documents in support of the various elements of the proposed project. These documents will include as appropriate:

(1) An Indigent Care Plan as required by the Board of Health and Environmental Control. It shall address at a minimum, the following:

(a) The existing and proposed admission and treatment policies of the facility or agency with regard to race, sex, creed, national origin, and ability to pay.

(b) The proposed admission and treatment policies of the facility or agency with respect to admission and care of indigent patients including those patients unable to pay at the time of admission and those whose benefits expire while in the care of the facility or agency.

(c) In existing facilities or agencies, provide the amount, in dollars and percent of gross revenues, that the facility or agency provided in indigent care during the past three fiscal years. NOTE: Indigent care does not include bad debt; contractual adjustments; or care which is reimbursed by a governmental program (Medicare, Medicaid, county indigent program), church, or philanthropic organization.

(d) Provide the proposed amount of indigent care the facility or agency projects to provide during the existing fiscal year and next fiscal year. This projection should be expressed in both dollars and a percent of gross revenues.

(e) A discussion of why the above figures are adequate or inadequate for the needs of the community; the need of indigent care within the proposed service area; and any solutions, remedial plans or proposals by the facility or agency to better address the indigent care problem in the service area. Include any initiatives or undertakings the facility or agency has begun to address the indigent care problem in the proposed service area.

(f) Describe any Board or Advisory Board established to implement or control the indigent problem at the facility or agency. Include the Board's functions, responsibilities, and limitations.

(2) A map of sufficiently large scale to be meaningful, indicating the location of the project site and its geographical area.

(3) A plot plan of the project site showing existing buildings, roads, parking areas, walks, service and entrance courts, existing utilities (electricity, telephone, water, railroads, sewer, gas, etc.) and other natural land features necessary for adequate analysis of site conditions.

(4) A legal description of the project site indicating its physical characteristics and existing easements.

(5) A square foot program of space and/or equipment elements, and scale drawings describing the existing space and proposed alterations and additions.

(6) Documentation from the appropriate zoning authorities that the proposed site is or can be zoned for the intended use.

(7) Documentation from appropriate sources that utilities supplied to the site are adequate for the project to include electricity, gas, water, and sewerage.

(8) Endorsement from the community that the project is desirable. This may include but is not limited to members of the medical community, citizen's groups, governmental elected officials, and other health and social service disciplines in the community.

(9) Documentation that the proposed project has been approved by the health facility's planning committee and governing body.

(10) For the facilities or services not licensed by the Department of Health and Environmental Control, provide documentation of coordination and support from the appropriate licensing agency.

d. Part D. Assurances

The applicant must furnish written assurance of each of the following where applicable:

(1) That the applicant has or will have a fee simple title or such other estate or interest in the site including necessary easements and rights-of-way, sufficient to assure use and possession for the purpose of the construction and operation of the facility.

(2) That approval by the department of the final drawings and specifications, which will be prepared by an architect and/or engineer legally registered under the laws of the State of South Carolina, will be obtained.

(3) That the applicant will submit to the Department for prior approval, changes that substantially alter the scope of work, function, utilities, major items of equipment, safety or cost of the facility during construction.

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(4) That the applicant will cause the project to be completed in accordance with the Certificate of Need application.

(5) That the applicant will cause the project to be completed in accordance with approved plans and specifications by maintaining competent and adequate architectural and engineering services throughout the construction administration phase of the project. That, at the completion of the project, the architect of record shall be required to issue a statement that to the best of his knowledge and belief, based upon available records, supplemental documents, and periodic observation of the work, the project was constructed according to those documents approved by the Department.

(6) That the facility will be operated and maintained in accordance with the standards prescribed by law and regulations for the maintenance and operation of such facilities.

(7) That the applicant understands that the Certificate of Need shall become void at the end of the specified time period from the date of issuance unless otherwise extended under Chapter 6 of these regulations.

(8) That the Department or its authorized representatives may at any time during the course of construction and upon the completion of the project make an on-site inspection of the construction and equipment to check for compliance of the construction in accordance with the application for which the Certificate of Need was issued.

(9) That the controlling interest in any health care facility shall not be sold or leased or otherwise disposed of unless the Certificate of Need has been fulfilled.

(10) That the applicant will notify the Department in writing that the contractual agreement has been completed. For a construction project, the letter shall indicate that a construction contract specifying the beginning and completion dates of the project, has been signed by both parties. For services projects, the letter must indicate that equipment purchase orders with estimated delivery dates have been properly negotiated.

(11) That the applicant will notify the Department in writing of the date that a new or expanded service has been implemented, completed or terminated.

(12) That the applicant will provide monthly progress reports and a final completion report which contain the information required by Section 607 of these regulations.

Revise Section 301 to read:

CHAPTER 3 DISPOSITION OF APPLICATION

SECTION 301. Submission of Application

Two copies of the application along with a non-refundable filing fee of five hundred dollars (\$500) shall be forwarded to the Bureau of Health Facilities and Services Development, S.C. Department of Health and Environmental Control, 2600 Bull Street, SC, 29201. Applicants are encouraged to involve the Department in the development of proposed projects prior to the submission of an application.

Revise Section 302 to read:

SECTION 302. Additional Information

1. After receipt of an application with proof of publication in a local newspaper and the five hundred dollars (\$500) non-refundable filing fee, the Department shall publish in the State Register a notice that an application

has been accepted for filing. The Department shall notify the applicant in writing when the application is not acceptable for filing.

2. Within thirty (30) calendar days from acceptance of an application, the Department will request any additional information pertinent to the project as may be deemed necessary to make the application complete. Should additional information be required for an application to be considered complete, the applicant will have thirty (30) calendar days from the date of the request to submit the requested information. If the applicant does not submit the requested information within thirty (30) calendar days, the application will be deemed to have been withdrawn.

3. Should the applicant within such thirty (30) calendar day period submit incomplete additional information, the Department will have thirty (30) calendar days in which to request further information. If the information requested is not received by the Department within thirty (30) calendar days of this second request, the application will be deemed to have been withdrawn.

4. If any deadline provided for in this section falls on a weekend or State holiday, the deadline will be extended until the next calendar day that is not a weekend or State holiday.

Revise Section 303 to read:

SECTION 303. Payment of Filing and Application Fees

1. When the application is determined to be complete, the Department shall invoice the applicant, by certified mail, for the certificate of need application fee. The applicant shall have fifteen (15) calendar days from the date of receipt of the invoice to pay the fee by valid check or credit card made payable to the S.C. Department of Health and Environmental Control. Should the application fee not be received within fifteen (15) calendar days from receipt of the Department's invoice by the applicant, the application will be considered withdrawn.

2. If any deadline provided for in this section falls on a weekend or State holiday, the deadline must be extended until the next calendar day that is not a weekend or State holiday.

Revise Section 304 to read:

SECTION 304. Relative Importance Criteria

1. Upon determination by the Department that an application is complete, the Department shall notify the applicant, by certified mail, of the relative importance of the project review criteria to be used in reviewing the application. The applicant will have thirty (30) calendar days from the date of receipt of this notice to submit any additional information. If, subsequent to this notice, the Department determines that the relative importance of the review criteria has changed, the Department must again notify the applicant by certified mail. The applicant will have thirty (30) calendar days from receipt of the revised notice to submit any additional information.

2. The staff may reorder the relative importance of the project review criteria no more than one time during the review period. The staff's reordering of the relative importance of the project review criteria does not extend the review period.

3. When an application has been appealed, the Department may not change the weight of the importance of the project review criteria.

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Revise Section 305 to read:

SECTION 305. Review Time Frames

1. Upon determination by the Department that the application is complete, and receipt of the application fee, the Department shall publish in the State Register a notice that the review cycle for the project has begun. Any affected person who has notified the Department in writing that they desire to be notified of the beginning of the review period be sent a copy of the notification.

2. The Department will make a decision on the complete application no earlier than thirty (30) calendar days but no later than 120 calendar days of the date of publication in the State Register unless a public hearing is held. Notice of a Department decision must be sent by certified mail, return receipt requested to the applicant and affected persons who have requested in writing to be notified.

a. If a public hearing is held pursuant to Section 306, the Department will render its decision no later than 150 calendar days from the date the affected persons are notified that the application is complete.

b. [Reserved]

Revise Section 306 to read:

SECTION 306. Public Hearing

A public hearing must be requested in writing by an "affected person" as defined in these regulations within thirty (30) calendar days of the notification of the beginning of a review. Where such a hearing is requested, prior notice of the hearing will be provided to "affected persons." The written notification of the hearing shall include the proposed schedule for the review, time, date, and place of such hearing. The public hearing shall provide an opportunity for any person to present information relevant to the application.

Revise Section 307 to read:

SECTION 307. Department Review

1. The Department may not issue a Certificate of Need unless an application is in compliance with the South Carolina Health Plan as described in this regulation, project review criteria, and other regulations which must be identified by the Department. The Department may refuse to issue a Certificate of Need even if an application is in compliance with the South Carolina Health Plan but is inconsistent with project review criteria or departmental regulations. The Department must identify any regulation that is used as a basis for denying an application that is in compliance with the South Carolina Health Plan.

2. In the case of competing applications, the Department shall award a Certificate of Need, if appropriate, on the basis of which, if any, most fully complies with the requirements, goals, and purposes of the Certificate of Need program, South Carolina Health Plan, project review criteria, and any regulations developed by the Department.

Revise Section 308 to read:

SECTION 308. Department Decision

On the basis of staff review of the record established by the Department, including but not limited to, the application, comments from affected persons and other persons concerning the application, data, studies, literature and other information available to the Department, the staff of the Department shall make a proposed decision to grant or deny the Certificate of Need.

Revise Section 309 to read:**SECTION 309. Certificate of Need Issuance Fee**

Projects with a total project cost greater than one million four hundred thousand dollars (\$1,400,000) will require payment of a Certificate of Need issuance fee of seven thousand five hundred dollars (\$7,500) upon the granting of the certificate of need. An invoice will be enclosed with the certificate which will be sent by certified mail. The Department must receive payment within fifteen (15) calendar days from receipt of the certificate by the applicant for the certificate of need to remain valid.

Revise Section 310 to read:**SECTION 310. Project Changes During Review Period**

If an applicant amends his application during the review process, the Department will determine whether or not the amendment is substantial and constitutes a new application. If the change results in an increase in cost, the fees will be adjusted accordingly.

Revise Section 312 to read:**SECTION 312. Prohibited Contact**

1. After a Certificate of Need application has been filed with the Department, state and federal elected officials are prohibited from communicating with the Department with regard to the Certificate of Need application at any time. This prohibition does not include written communication of support or opposition to an application. Such written communication must be included in the administrative record.

2. From the date of publication of notice in the local newspaper that an application is being filed and until the date final review is requested under Section 401 of these regulations:

a. members of the Board and persons appointed by the Board to hold a final review conference on staff decisions may not communicate directly or indirectly with any person in connection with the application; and

b. no person shall communicate, or cause another to communicate, as to the merits of the application with members of the Board and persons appointed by the Board to hold a final review conference on staff decisions.

Revise Section 401 to read:

CHAPTER 4 APPEALS

SECTION 401. Appeal of Decision

1. A Department decision involving the issuance, denial, or revocation of a certificate of need may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 44, Chapter 1; Title 1, Chapter 23; and Title 44, Chapter 7.

2. Any person to whom an order is issued may appeal it pursuant to applicable law, including S.C. Code Title 44, Chapter 1; Title 1, Chapter 23; and Title 44, Chapter 7.

Delete text of Section 402 and reserve to read:**SECTION 402. [Reserved]**

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Delete Sections 403 and 404:

Revise Section 501 introductory paragraph & 501.4; remaining items 501.2, 501.3 & 501.5 remain the same:

CHAPTER 5 GENERAL PROVISIONS

SECTION 501. Findings of the Department

In the case of any proposed new institutional health service for the provision of health services to inpatients, the Department shall not grant a Certificate of Need, or otherwise make a finding that such proposed new institutional health service is needed, unless:

4. Patients will experience serious problems in terms of costs, availability or accessibility, or such other problems as may be identified by the Department, in obtaining care of the type proposed in the absence of the project; and

Revise Section 504 to read:

SECTION 504. Review Under Applicable Plan

All decisions on Certificate of Need applications shall be made based on the currently approved South Carolina Health Plan in effect at the time such application is accepted. Should a new plan be adopted during any phase of the review or appeals process, the applicant shall have the option of withdrawing the application and resubmitting under the newly adopted plan or continuing the review or appeal process under the plan in use when the application was submitted. In cases where applications are withdrawn and resubmitted under the newly adopted South Carolina Health Plan within forty-five (45) calendar days of the date of withdrawal, no additional filing fee shall be required.

Revise Section 601 to read:

CHAPTER 6 VOIDANCE AND EXTENSION OF CERTIFICATES OF NEED

SECTION 601. Voidance and Extension Procedures

1. The Certificate of Need shall become void twelve months (one year) from the date of issuance. The Department may void a Certificate of Need if requested by the applicant, or if the Department determines that the Certificate of Need has not fully implemented within one year from the date issued. Implementation may be evidenced by, but not limited to, a properly negotiated valid construction contract or appropriate purchase order for service projects.

2. A Certificate of Need must be issued with a timetable submitted by the applicant, and approved by the Department, to be followed for completion of the project. The holder of the Certificate of Need must submit quarterly progress reports documenting compliance with the aforementioned timetable. Failure to meet the timetable results in the revocation of the Certificate of Need by the Department unless the Department determines that extenuating circumstances beyond the control of the holder of the Certificate of Need are the cause of the delay. If the applicant has not met the approved timetable, documented evidence that extenuating circumstances beyond the control of the holder of the Certificate of Need should be provided to the Department. This information can also be included in a request for an extension as provided in Section 602.

3. The Department may grant up to two extensions of up to nine months each. In order to obtain an extension, the applicant must have demonstrated substantial progress and must either be complying with the approved timetable or have submitted documentation satisfactory to the Department that extenuating

circumstances beyond the control of the applicant have prevented compliance with the timetable. After the nine month extension period, the Certificate of Need will expire and become void.

4. However, the Board may grant further extensions of the Certificate of Need of up to nine months each if it determines that substantial progress has been made. A request to the Board must be made at least three months prior to the expiration of the Certificate of Need and must contain justification for such extension.

Revise Section 602.1 to read:

1. A Certificate of Need extension shall be requested by the applicant at least thirty (30) calendar days before the expiration date and shall contain such information as the Department may reasonably require.

Revise Section 604 to read:

SECTION 604. Non-Transferability of Certificate of Need

A Certificate of Need is nontransferable. A Certificate of Need or rights there under may not be sold, assigned, leased, transferred, mortgaged, pledged, or hypothecated, and any actual transfer or attempt to make a transfer of this sort results in the immediate voidance of the Certificate of Need. Any of the aforementioned transactions involving an entity directly or indirectly holding a Certificate of Need before fulfillment of the Certificate of Need results in the transfer and the subsequent voidance of the Certificate of Need. Fulfillment of the Certificate of Need occurs, although not limited to, the submission of an adequate final completion report as determined by the Department. Anyone having their Certificate of Need voided shall not be eligible to apply for a new Certificate for a period of one (1) year without Board approval.

Revise Section 605 to read:

SECTION 605. Project Changes After Receipt of Certificate of Need

If an applicant amends or alters his project after receipt of a Certificate of Need, the Department will decide whether or not the amendment is substantial and thereby constitutes a new project.

Revise Section 606 to read:

SECTION 606. Total Project Cost

In issuing a Certificate of Need, the Department shall specify the approved total project cost . A project is only approved for the amount specified in the Certificate of Need. The Department will review cost overruns on an individual basis.

Revise Section 607.1 to read:

SECTION 607. Periodic Reporting of Certificate of Need Implementation

1. The applicant is required to submit a quarterly progress report that corresponds with the timetable included in the Certificate of Need application beginning ninety (90) calendar days after receipt of the Certificate of Need. Failure to meet the timetable results in the revocation of the Certificate of Need by the Department unless a determination is made by the Department that circumstances beyond the control of the holder of the Certificate of Need are the cause of the delay.

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Revise Chapter 7--Penalties for Non-Compliance to read:

CHAPTER 7 PENALTIES FOR NON-COMPLIANCE

SECTION 701. Penalties

Undertaking any activity requiring certificate of need review, as defined in Section 102 of these regulations, without prior approval of the Department or failing to comply with any of the above stated regulations shall be grounds for the denial, suspension, or revocation of the Certificate of Need, or other penalties, under the provisions of Sections 44-7-320 through 44-7-340 of the Code of Laws of South Carolina, as amended. Any violation of this regulation is subject to provisions set forth in the statute.

SECTION 702. [Reserved]

Revise Section 801.3 to read:

3. A project does not have to satisfy every criterion in order to be approved, but no project may be approved unless it is consistent with the South Carolina Health Plan. A project may be denied if the Department determines that the project does not sufficiently meet one or more of the criteria.

Revise Section 802.1 to read:

1. Need:

The proposal shall not be approved unless it is in compliance with the South Carolina Health Plan.

Revise Section 802.2.c to read:

c. The proposed project should provide services that meet an identified (documented) need of the target population. The assumptions and methods used to determine the level of need should be specified in the application and based on a reasonable approach as judged by the reviewing body. Any deviation from the population projection used in the South Carolina Health Plan should be explained.

Revise 802.31.a to read:

31. Medically Underserved Groups:

a. The applicant should address the contribution of the proposed service in meeting the health needs of members of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services (e.g. low income persons, racial and ethnic minorities, women, the elderly, and handicapped persons), particularly those needs identified in the applicable South Carolina Health Plan as deserving of priority.

Revise 802.33 to read:

33. Elimination of Safety Hazards

The Department shall issue a Certificate of Need for a proposed capital expenditure if it is required to eliminate or prevent imminent safety hazards as defined by Federal, State, or local fire, building, or life safety codes or regulations; or to comply with State Licensure standards, or to comply with accreditation or certification standards which must be met to receive reimbursement under Title XVIII of the Social Security Act or payments under a State Plan for medical assistance approved under Title XIX of that Act, provided the Department has determined that the facility or service for which the capital expenditure is proposed is needed and the obligation of the capital expenditure is consistent with the South Carolina Health Plan. Those portions

of a proposed project which are not required to eliminate or prevent safety hazards or to comply with licensure, certification, or accreditation standards shall be reviewed against each of the applicable criteria for project review.

Revise/replace Application/Questionnaire at end of Section 802.33 and name is Appendix, to read:

APPENDIX:

**APPLICATION FOR CERTIFICATION OF NEED
FOR A HEALTH FACILITY OR SERVICE**

Proposal Prepared By:

Name: _____ Title _____

Organization: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number _____

Email: _____ Fax Number: _____

The Applicant hereby certifies that the information contained in this Application, including all assurances and attachments, are correct to the best of his knowledge and belief.

Applicant's Signature: _____

Date: _____

Forward to:
Bureau of Health Facilities and Services Development
S.C. Department of Health and Environmental Control
2600 Bull Street
Columbia, S.C. 29201

NOTE: A "complete" application shall include a written narrative report by the applicant (Regulation 61-15, Section 202).

PART A - QUESTIONNAIRE
1. Name of Facility
2. Address, City, County, State, Zip Code

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3. Type of Facility (Circle)		
A. Hospital	B. Nursing Home	C. Psychiatric Facility
D. Rehabilitation Facility	E. Substance Abuse Facility	F. Ambulatory Surgery Facility
G. Other (Specify)		

4. Purpose of Review (Circle)		
A. New Facility	B. Change of Licensure	C. Addition to Existing Facility
D. Renovation of Existing Facility		E. Change of Services
F. Other (Specify)		

5. Management		
A. Name of Administrator	B. Address, City, State, Zip Code	
C. Telephone:	D. Fax Number	E. Email

6. Licensee		
A. Name of Licensee		
B. Address, City, State, Zip Code		

7. Ownership or Control of the Facility			
(Attach a list of names and addresses of the owners of the facility, indicating percent of ownership of each owner, the person responsible for the proposal, and the attorney(s) representing the proposal). Circle the appropriate information regarding ownership.			
A. Individual	B. Partnership	C. Corporation	D. Proprietary
E. Non-Profit	F. Government (Specify)		
G. Other: (Specify)			

8. Proposed Site of the Property	
A. Owned	B. Leased
C. Length of Site Lease	
D. Option	E. Length of Option
F. Name and Address of Owner(s) of Real Property	

9. Total Bed Capacity for Which Application is Made				
	Existing Facilities			
	New Facility Only	Existing Beds	# Gained or Lost	Bed Total
Type of Beds				
A. Medical/Surgical				
B. Obstetrics				
C. Pediatrics				
D. Substance Abuse				
E. Psychiatric				
F. Rehabilitation				
G. Nursing Care				
H. RTFs				
I. ICU/CCU				
J. Other				
K. TOTAL				

10. Construction and Site	
A. Type of Construction	B. Number of Buildings Pertaining to Project
C. Number of Stories Pertaining to Project	D. Size of the Site in Acres
E. Size of the Project Site in Acres	F. Square Footage of the Project
G. Anticipated Date of Beginning Construction	H. Anticipated Date of Licensing or Project Completion
I. Anticipated Date for Submission of Final Completion Report	

11. Zoning of Construction Site

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12. Costs (Provide Estimated Signed Cost Statement from Either the Architect or Engineer)	
A. Land Cost	B. Construction Cost
C. Architect's/Engineer's Fee	D. Equipment Costs (to include taxes) 1) Fixed Equipment 2) Movable Equipment
E. Financing Cost During Construction	F. Other Costs (Specify)
G. Total Project Cost	H. Construction and Equipment Cost 1) Per Square Foot 2) Per Bed

Fiscal Impact Statement:

The Department estimates there will be no increased costs to the state or its political subdivisions by the revision of this regulation. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

(Please note that the information in this Statement was submitted to the General Assembly for review on June 1, 2011 and has not been amended pursuant to the letter dated March 23, 2012 from the Senate Medical Affairs Committee.)

The statement of Need and Reasonableness was determined by staff analysis pursuant to Sections 1-23-115(C)(1)-(3) and (9)-(11), S.C. Code of Laws, 1976, as amended.

DESCRIPTION OF REGULATION: Regulation 61-15, Certification of Need for Health Facilities and Services.

Purpose: R.61-15, Certification of Need for Health Facilities and Services, is revised to incorporate applicable amendments from Act 278 of 2010 which amended Section 44-7-110 et seq., S.C. Code of Laws, 1976, as amended, effective July 1, 2010, and to make other revisions. The amendments include the following, in addition to incorporating provisions from Act 278: increase filing, application and issuance fees for certificate of need applications; clarify Section 604 regarding non-transferability and voidance of a Certificate of Need; add provisions to submit information related to quality of patient care as part of Section 202.2.b; streamline the program by relaxing reporting requirements and extending the period for an exemption or non-applicability determination to be valid; revise the Part A- Questionnaire; and, make other changes to R.61-15 to improve the overall quality of the regulation; such as deleting references to federal acts that are obsolete, revisions for clarity, language style, consistency, grammar, punctuation, codification and other stylistic changes. Numerous changes were made as a result of comments received from the regulated community.

Legal Authority: Section 44-7-110 et seq., S.C. Code of Laws, 1976, as amended (2010 Act No. 278).

Plan for Implementation: The amendments will make changes to and be incorporated into R.61-15 upon approval of the Board of Health and Environmental Control, the General Assembly, and publication in the State Register as a final regulation. The amendments will be implemented in the same manner in which the existing regulations are implemented. The Department will also provide notice of this amendment on its Regulatory Information website.

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

Act 278 of 2010 amended S.C. Code Ann. Section 44-7-110 et seq. and took effect July 1, 2010. The purpose of the amendments primarily was to clarify and streamline the Certificate of Need review process. The amendments will implement this streamlining initiative.

The amendments of Act 278 include the following: revise definitions; revise to establish and collect fees for exemption and non-applicability determinations; revise to delete the annual operating cost component requirement in Section 102.1.e; delete requirements for a certificate of need under conditions specified in Act 278; clarify projects for which certificate of need review is not applicable; clarify projects exempt from certificate of need review and which exempted projects require a written exemption; amend to add restrictions on reordering of project review criteria; amend to correct inconsistencies with current state law regarding prohibited contact; amend to add prohibited contact by elected officials; amend to revise review time periods; amend to further establish criteria to file a request for final review; amend to provide that all certificates of need are valid for one year from issuance; amend to grant extensions for nine months rather than for six months; amend to revise appeal procedures.

Other changes to the Regulations will involve modification of language to increase filing, application and issuance fees for certificate of need applications; clarify Section 604 regarding non-transferability and avoidance of a Certificate of Need; add provisions to submit information related to quality of patient care as part of Section 202.2.b.; streamline the program by relaxing reporting requirements and extending the period for an exemption or non-applicability determination to be valid; revise the Part A- Questionnaire; and, make other changes to R.61-15 to improve the overall quality of the regulation, such as deleting references to federal acts that are obsolete, revisions for clarity, language style, consistency, grammar, punctuation, codification and other stylistic changes. Numerous changes were made as a result of comments received from the regulated community.

DETERMINATION OF COSTS AND BENEFITS:

See Fiscal Impact Statement above for cost to the state and its political subdivisions.

The regulated community will be impacted with the increased fees for Certificate of Need review and the implementation of fees for written exemption determination requests and requests for determination of non-applicability. The maximum fee for a Certificate of Need has not ever been increased since being capped at \$7000 for the application fee and \$7500 for the issuance fee when these fees were implemented in June 1989. The filing fee has remained at \$500 since being implemented in June 1989. In June 2003, the application fee was increased from .25% of the Total Project Cost to .5% of the Total Project Cost, which only affected fees for projects whose Total Project Cost was less than or equal to \$1,400,000.

Section 44-7-150(5) of S.C. Code of Laws, 1976, as amended (2010 Act No. 278) authorizes the Department to charge and collect fees to cover the cost of operating the Certificate of Need program. This includes application fees, filing fees, issuance fees and non-applicability/exemption determination fees. All fees collected up to \$750,000 are required to be deposited into the general fund. Certificate of Need Fees have not been increased since June 1989. Fees for the review of non-applicability and exemption determinations have never been collected, even though reviews have always been conducted. Last fiscal year, the Department was appropriated approximately half the funds needed to run the Certificate of Need Program. Increased fees and new fees are needed to cover the cost of the program.

UNCERTAINTIES OF ESTIMATES:

The revision of Regulation 61-15 will not create a burden for the public, the State or its political subdivisions.

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EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment or public health.

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

There will be no detrimental effect on the environment and public health if the amendments are not implemented. However, there could be an adverse effect on the Department's ability to review applications and determinations according to time frames established in Section 44-7-210 if fees are not raised and implemented to ensure funding for adequate staffing.

Statement of Rationale:

Pursuant to the requirements of 2010 Act No. 278 the Department has promulgated these regulations to comply with the Act. Other revisions have been made since the last revision of R.61-15 became effective June 27, 2003. These amendments will increase filing, application and issuance fees for certificate of need applications; add provisions requiring the submission of information related to quality of patient care and make other changes to improve the overall quality of the regulation, such as deleting references that are obsolete, revisions for clarity, language style, consistency, grammar, punctuation, codification and other stylistic changes.

Document No. 4287
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH
CHAPTER 71

Statutory Authority: 1976 Code Section 41-15-210

Article I, Subarticle 6 and Subarticle 7
Occupational Safety and Health Standards

The South Carolina Department of Labor, Licensing and Regulation, Division of Labor, Office of Occupational Safety and Health, hereby promulgate the following changes to South Carolina Regulations:

In Subarticle 6 (General Industry and Shipyard Employment):

Revisions to Sections 1910.6, 1910.102, 1910.106, 1910.107, 1910.119, 1910.120, 1910.123, 1910.124, 1910.125, 1910.126, 1910.146, 1910.151, 1910.177, 1910.217, 1910.252, 1910.261, 1910.265, 1910.272, 1910.440, 1910.1001, 1910.1003, 1910.1017, 1910.1018, 1910.1025, 1910.1026, 1910.1027, 1910.1028, 1910.1029, 1910.1030, 1910.1043, 1910.1044, 1910.1045, 1910.1047, 1910.1048, 1910.1050, 1910.1051, 1910.1052, 1910.1200, 1910.1450, as amended in FEDERAL REGISTER Volume 76, Number 233, page 75786 dated Monday, December 5, 2011, FEDERAL REGISTER Volume 76, Number 248, pages 80738 through 80741, dated Tuesday, December 27, 2011, FEDERAL REGISTER Volume 77, Number 58, pages 17764 through 17896, dated Monday, March 26, 2012 and FEDERAL REGISTER Volume 77, Number 64, pages 19933 through 19934, dated Tuesday, April 3, 2012.

In Subarticle 7 (Construction):

Revisions to Sections 1926.50, 1926.60, 1926.62, 1926.64, 19126.65, 1926.152, 1926.155, 1926.1101, 1926.1126 and 1926.1127 as amended in FEDERAL REGISTER Volume 76, Number 248, pages 80738 through 80741, dated Tuesday, December 27, 2011 and FEDERAL REGISTER Volume 77, Number 58, pages 17764 through 17896, dated Monday, March 26, 2012.

Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896-5811 or on the OSHA website at www.OSHA.gov.

Document No. 4191
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-430, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210

123-40. Wildlife Management Area Regulations

Synopsis:

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

The Notice of Drafting for this regulation was published on May 27, 2011 in the *South Carolina State Register* Volume 35, Issue No. 5.

Instructions:

Amend Regulation 123-40 as follows: Included are specific changes, deletions and additions. Unless specifically listed as a change, all other existing regulations remain intact.

(A) Game Zone 1 – under Chauga, Franklin L. Gravely, Caesar’s Head for “Still Gun Hunts for Deer Only” delete Oct. 31 – Dec. 22 (WMA). To “Special Party Dog Hunt for Bear Only” add “Hogs no limit in 3rd Column. To “Hogs and Coyotes” change second sentence and add last two sentences. Add new hunt “Hog Hunts With Dogs” all three columns below the “Hogs and Coyotes” paragraph.

(B) Game Zone 2 – To “Hogs and Coyotes” add “feral” to the first sentence, change second sentence and add last two sentences. Add new hunt “Hog Hunts With Dogs” all three columns below the “Hogs and Coyotes” paragraph.

Under Keowee WMA To “Hogs and Coyotes”, change second sentence and add last two sentences. Under Fants Grove WMA To “Hogs and Coyotes”, change second sentence and add last two sentences.

(G) Francis Marion National Forest – add sentence to first paragraph of general regulations for Francis Marion. Add “Still Hog Hunts (no dogs), all three columns. Place after general regulations. Hellhole WMA, Small Game, make changes to last sentence in the middle column.

(H) Moultrie WMA under Porcher WMA, To “Small Game” add “Shotguns only” in first column.

(J) Webb WMA – add 2-sentence statement at beginning of Webb regulations. To “Quail Hunts” delete data card statement first column, add shooting hours to 3rd column. To “Still Hog Hunts (no dogs)” change season dates column 2.

(N) Bear Island WMA – add sentence to first regulation paragraph. To “Quail” change season dates column 2. To “Other Small Game” change season dates column 2. To “Raccoon/Opossum” change season dates column 2. Add “Alligator Hunts” before regulations for hog hunts.

(R) Santee Coastal Reserve WMA - add sentence to first regulation paragraph. Add “Alligator Hunts” before regulations for hog hunts.

(T) Woodbury WMA – To “Special Hog Still Hunt” change seasons column 2 and add “only” to column 3. To “Special Hog Hunt With Dogs” change seasons in column 2 and make wording changes to column 3.

(U) Manchester State Forest WMA – To “Still Gun Hunts” change seasons column 2 and add statement column 3.

(V) Sand Hills State Forest WMA – add “Special Coyote Still Hunt” all three columns between Still Gun Hunts and Small Game regulations.

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(W) Marsh WMA - To “Special Hog Still Hunt” change seasons column 2 and add “only” to column 3. To “Special Hog Hunt with Dogs” change seasons in column 2 and make wording changes to column 3.

(X) Hamilton Ridge WMA – To first general regulation paragraph, delete 4th sentence and add 2 sentences to the end of the paragraph. Delete “Muzzleloader and Archery” in all 3 columns. To “Archery Only” add Nov. season. To “Still Hog Hunts (no dogs)” change season dates in column 2. Delete last sentence in paragraph that comes after the section “Hog Hunts With dogs”. To “Quail Hunts” delete data card statement in 1st column and add shooting hours sentence to 3rd column.

(Z) Donnelley WMA – make changes to first general regulation paragraph. To “Small Game” change season dates column 2. To “Raccoon and Opossum” change season dates column 2 and change limits in column 3.

(AA) Little Pee Dee River Complex WMA – add sentence to first regulation paragraph. To “Raccoon” change season dates in column 2. To “Special Hog Still Hunt” change season column 2. To “Special Hog Hunt With Dogs” change season column 2. Delete first sentence in last paragraph.

(DD) Palachuola WMA – delete one sentence and add 2-sentence statement in first regulation paragraph. To “Muzzleloader and Archery” delete only “Muzzleloader and” from first column, leave the word “Archery” and maintain columns 2 and 3. To “Quail Hunts” delete data card statement first column, add shooting hours to 3rd column. To “Still Hog Hunts (no dogs)” change seasons column 2. Delete 2 sentences in last regulation paragraph.

(FF) Waccamaw River Heritage Preserve WMA – add “Special Hog Still Hunt” all 3 columns, place between Raccoon and Hog Hunt With Dogs. To “Hog Hunt With Dogs” change season column 2.

(II) Cartwheel Bay WMA – To “Deer Hunts” add “Hogs no limit” column 3.

(LL) Sandy Island WMA – delete entire Sandy Island WMA, all columns.

(NN) Dungannon WMA – To “Archery” add “Hogs no limit” to column 3.

(QQ) Oak Lea WMA – To “Archery” change season column 2. Add “Archery & Muzzleloader” all 3 columns.

(SS) Edisto River WMA – add statement concerning hogs to beginning of Edisto River WMA regulations. To “Still Gun Hunts” change season column 2.

(UU) Wee Tee WMA – To “Special Hog Still Hunt” change seasons column 2 and add “only” to column 3. To “Special Hog Hunt With Dogs” change seasons column 2 and make wording changes to column 3.

(VV) Bonneau Ferry WMA – delete paragraph related to Hog hunters and entire “Special Hog Hunt With Dogs”, all three columns.

(YY) Botany Bay Plantation WMA – To “Raccoons and Opossum” change season date column 2.

2.14 – add 2 sentences.

5.3 – delete the word “coyotes”.

5.6 – add new entire regulation. Place after 5.5.

7.1 – make changes to wording.

10.14 – make changes to wording.

10.15 – delete “Santee Cooper”.

10.16 – add “Santee Cooper”. To listing for “Santee Cooper” change column 2.

Text:

SUBARTICLE 1

HUNTING IN WILDLIFE MANAGEMENT AREAS

123-40. Wildlife Management Area Regulations.

1.1 The following regulations amend South Carolina Department of Natural Resources regulation Numbers 123-40 and 123-51.

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

(A) Game Zone 1

Chauga, Franklin L. Gravely, Caesar’s Head

Still Gun Hunts For Deer Only (No dogs)	Oct. 11 - Oct. 16 Oct. 31 – Jan. 1	Total of 7 deer for all gun hunts. 2 deer per day, buck ONLY, except either-sex on days specified in Reg. 4.2. Archers allowed to take either-sex during entire period.
Special Party Dog Hunt For Bear Only	Oct. 24 - Oct. 30	5 bears per party, no bears 100 lbs. or less, no sow with cubs at her side. Groups hunting together are considered 1 party. Hogs no limit.

Hogs and Coyotes

On each WMA property, feral hogs and coyotes may be taken during the open season for any game. No hog hunting with dogs, except during special designated hog hunts with dogs and the during the party dog hunts for bear. Hog hunters must use small game weapons during small game-only season. Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. No hogs may be taken alive from WMA.

Hog Hunts with Dogs (handguns only) Four dog limit per party.	Jan. 2 – Mar. 1 Daylight hours only	No limit.
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(B) Game Zone 2

Hogs and Coyotes: On WMA lands in Game Zone 2, feral hogs and coyotes may be taken during the open season for any game. No hog or coyote hunting with dogs ,except during special designated hog hunts with dogs. Only small game weapons allowed during the small game-only seasons. Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. No hogs may be taken alive from WMA.

Hog Hunts with Dogs (pistols only) Four dog limit per party.	Feb. 1 – Feb. 15	No limit.
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Keowee WMA

Hogs and Coyotes: On Keowee WMA property, feral hogs and coyotes may be taken during the open season for any game. No hog hunting with dogs. Hog hunters must use small game weapons during small game-only season. Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. No hogs may be taken alive from WMA.

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Fants Grove WMA

Hogs and Coyotes: On Fants Grove WMA, feral hogs and coyotes may be taken during the open season for any game. No hog hunting with dogs . Hog hunters must use small game weapons during small game-only season. Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. No hogs may be taken alive from WMA.

(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. Hogs may be harvested during any scheduled hunt. No fox or coyote hunting with dogs on the Francis Marion.

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

Still Hog Hunts (no dogs) Mar. 2 – Mar. 20
Archery, crossbows,
centerfire rifles, muzzleloading
rifles, centerfire handguns and
shotguns with slugs only.

Hogs only, no limit.

Hellhole WMA

Small Game No hunting before Sept. 1 or after
No open season Mar. 1; otherwise Game Zone 6
for fox hunting seasons apply. Dogs allowed during
small game gun season only. Closed
during scheduled periods using dogs
to hunt deer or hogs.

Game Zone 6 bag limits
except quail - 8 per day.

(H) Moultrie

Porcher WMA

Small Game Jan. 2 - Mar. 1
(No open season on
fox squirrels) Shotguns
only.

Game Zone 6 bag limits,
except quail - 8 per day.

(J) Webb WMA

Data cards are required for hunter access. Completed data cards must be returned daily upon leaving Webb WMA.

Quail Hunts	2 nd and 4 th Wed. in Jan. 2 nd and 4 th Sat. in Jan. 1 st and 3 rd Sat. in Feb. 1 st and 3 rd Wed. in Feb.	8 quail per day. Shooting hours end 30 minutes prior to official sunset.
Still Hog Hunts (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	4 th Thurs. – Sat. in Feb. 2 nd Thurs. – Sat. in May 1 st Thurs. – Sat. in Sept.	No limit.

(N) Bear Island WMA

All hunters must sign in and out at the Bear Island Office. Hunting in designated areas only. Hogs may be harvested during any scheduled hunt.

Quail	Quail hunting Tue. only Beginning the Tue. after Federal youth waterfowl day - Mar. 1.	Game Zone 6 bag limits.
Other Small Game No open season on fox squirrels.	Beginning the Wed. after Federal youth waterfowl day – Mar. 1. Wed. and Sat. Only	Game Zone 6 bag limits.
Raccoon/Opossum	Beginning the Wed. after Federal youth waterfowl day – Mar. 15. Wed. and Fri. Nights Only	Game Zone 6 bag limits.
Alligator Hunts Bear Island East and West Units only.	Hunters selected by drawing only. Limited season with restricted access.	1 alligator per selected hunter.

(R) Santee Coastal Reserve WMA

Deer hunters must sign in and sign out and complete a data card on harvested animals. Hogs may be harvested during any scheduled hunt.

Alligator Hunts Cape Unit only.	Hunters selected by drawing only. Limited season with restricted access.	1 alligator per selected hunter.
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(T) Woodbury WMA

Special Hog Still Hunt (No dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	Mar. 1 – 3 rd Sat. in Mar. May 2 – last Sat. in June (Thurs. - Sat. only). 1 st Mon. in Aug. – last Sat. in Aug. (Thurs. – Sat. only).	Hogs only, no limit.
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Special Hog Hunt With dogs	1 st Mon. in Jan. - 4 th Sat. in Jan.	Hogs only, no limit. Limit of 4 bay or catch dogs per party, no live hogs removed from WMA. Handguns only.
	1 st Mon. in July – last Sat. in July (Thurs. – Sat. only).	

(U) Manchester State Forest WMA

Deer		Total of 5 deer per season for all hunts.
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Still Gun Hunts (No Dogs, no buckshot)	5 th Mon. in Sept. – following Sat.	1 per day, buck only except on either-sex hunts published annually.
	1 st Mon. in Oct. – following Sat. 2 nd Mon. in Oct. – following Sat. 3 rd Tues. in Oct. – following Fri. 4 th Tues. in Oct. – following Fri. 5 th Tues. in Oct. – following Thurs.	
	1 st Tues. in Nov. – following Fri. 2 nd Tues. in Nov. – following Sat. 3 rd Tues. in Nov. – following Fri. Mon. – Sat. the week of Thanksgiving. 4 th Mon. in Nov. – following Fri.	In years when there is a fifth Tuesday in Oct., additional deer hunts may be scheduled on Fridays and Saturdays during October and November.
	1 st Tues. in Dec. – following Fri. First full week following the 1 st Tues. in Dec. – following Fri. Second full week following the 1 st Tues. in Dec. – following Fri. Third full week following 1 st Tues. in Dec. – following Sat.	In years when there is a fifth Monday in Dec. additional hunts may be scheduled that week.

(V) Sand Hills State Forest WMA

Special Coyote Still Hunt Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns. No dogs.	Mar. 1 – 3 rd Sat. in Mar.	Coyotes only, no limit.
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(W) Marsh WMA

Special Hog Still Hunt (No dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	Mar. 1 – 3 rd Sat. in Mar. May 2 – last Sat. in June (Thurs. - Sat. only). 1 st Mon. in Aug. – last Sat. in Aug. (Thurs. – Sat. only).	Hogs only, no limit.
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Special Hog Hunt With Dogs	1 st Mon. in Jan.- 4 th Sat. in Jan. 1 st Mon. in July – last Sat. in July (Thurs. – Sat. only).	Hogs only, no limit. Limit of 4 bay or catch dogs per party, no live hogs removed from WMA. Handguns only.
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(X) Hamilton Ridge WMA

Quality Deer Management Area – Antlered deer must have at least 4 points on 1 side or a minimum 12-inch antler spread. A point must be at least 1 inch long measured from the nearest edge of main beam to the top of the point. No more than 3 bucks total may be taken during all seasons combined regardless of method. Firearms must be unloaded and cased when not hunting. No hunting or shooting from, on, or across any roads open to vehicular traffic. Scouting and stand placement allowed 1 day prior to hunts. No buckshot. Hogs may be taken only during deer hunts or scheduled hog hunts. All taken must be killed where taken. Horseback riding by permit only. No ATVs allowed. Data cards are required for hunter access. Completed data cards must be returned daily upon leaving Hamilton Ridge WMA.

Deer

Archery Only (No dogs)	3 rd Mon. - Sat. in Sept. 4 th Mon. – Sat. in Oct. 1 st week in Nov. 2 nd Mon. – Sat. in Nov. 2 nd Thur. – Sat. in Dec.	2 deer per hunt period, either- sex, only 1 buck. Hogs no limit.
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Still Hog Hunt (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	4 th Thurs. – Sat. in Feb. 2 nd Thurs. – Sat. in May 1 st Thurs. – Sat. in Sept.	No limit.
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Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting.

Quail Hunts	2 nd and 4 th Wed. in Jan. 2 nd and 4 th Sat. in Jan. 1 st and 3 rd Sat. in Feb. 1 st and 3 rd Wed. in Feb.	8 quail per day. Shooting hours end 30 minutes prior to official sunset.
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(Z) Donnelley WMA

Deer

All hunters must sign in and out at the check station. Hunting in designated areas only. Scouting season for archery only on the day before season opens. Hogs can be harvested during any scheduled hunt only with weapons allowed for the current open season.

Small Game No open season for fox squirrels.	Wed. and Sat. Dec. 6 - Mar. 1	Game Zone 6 Bag Limits.
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Raccoon and Opossum	Tues. and Fri. Nights Dec. 6 - Mar.15	Raccoon - Game Zone 6 Bag Limits, opossum - no limit.
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(AA) Little Pee Dee River Complex WMA

Includes Little Pee Dee River HP, Tilghman HP, Dargan HP, and Ward HP in Horry and Marion counties. This also includes the Upper Gunter's Island and Huggins tracts in Horry Co. which are part of Dargan HP. Still hunting only, no deer dogs, no buckshot, no hunting from vehicles or watercraft, or from or on any roads open to vehicular traffic. Hogs may be harvested during any scheduled hunt only with weapons allowed for the current open season.

Raccoon	Sept. 15 – Mar. 1	3 per party per night.
Special Hog Still Hunt (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	Mar. 1 – 20	Hogs only, no limit, no bay or catch dogs.
Special Hog Hunt With Dogs	Mar. 26 – 31	No limit, handguns only, no more than 4 bay or catch dogs per party. No live hogs removed from WMA.

Buckshot and rimfire firearms not permitted.

(DD) Palachuola WMA

Deer Hunts

Deer hunting or shooting will not be allowed from or on roads open to vehicle traffic. Data cards are required for hunter access. Completed data cards must be returned daily upon leaving Palachuola WMA.

Archery (No dogs)	3 rd Thurs. – Sat. in Dec.	3 deer, either-sex except only 1 buck with a minimum 4 points on one side or a minimum 12-inch antler spread.
Quail Hunts	2 nd and 4 th Wed. in Jan. 2 nd and 4 th Sat. in Jan. 1 st and 3 rd Sat. in Feb. 1 st and 3 rd Wed. in Feb.	8 quail per day. Shooting hours end 30 minutes prior to official sunset.
Still Hog Hunts (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	4 th Thurs. – Sat. in Feb. 2 nd Thurs. – Sat. in May 1 st Thurs. – Sat. in Sept.	No limit.

Hog hunters are required to wear a hat, coat or vest of solid international orange color while hunting. Hunters must sign register at Webb WMA upon entering and leaving the Palachuola WMA. No hogs may be taken alive from Palachuola WMA.

(FF) Waccamaw River Heritage Preserve WMA

Special Hog Still Hunt (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	Mar. 1 – 20	Hogs only, no limit, no bay or catch dogs.
Hog hunt with dogs	Mar. 21 – 25	No limit, sidearms only, no More than 4 bay or catch dogs per party, no live hogs removed from WMA.

(II) Cartwheel Bay HP

Deer Hunts		Total 3 deer for all hunts combined. Hogs no limit.
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(NN) Dungannon WMA

Deer Hunts (No dogs)		Total 8 deer per season.
Archery (No dogs)	Oct. 15 - Dec. 1	2 deer per day, either-sex. Hogs no limit.

(QQ) Oak Lea WMA

Deer		Total 10 deer per season.
Archery	Sept. 15 - Sept. 22	2 deer per day, either-sex.
Archery & Muzzleloader	Sept. 23 - Sept. 30	2 deer per day, either-sex.

(SS) Edisto River WMA

Hogs may be harvested during any scheduled hunt.		
Still Gun Hunts	Monday following the closing of muzzleloader season through Dec. 31	1 per day, either-sex each Fri. & Sat. in Nov. Hogs, no limit.

(UU) Wee Tee WMA

Special Hog Still Hunt (No dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	Mar. 1 – 3 rd Sat. in Mar. May 2 – last Sat. in June (Thurs. - Sat. only). 1 st Mon. in Aug. – last Sat. in Aug. (Thurs. – Sat. only).	Hogs only, no limit.
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Special Hog Hunts With Dogs	1 st Mon. in Jan. - 4 th Sat. in Jan. 1 st Mon. in July – last Sat. in July (Thurs. – Sat. only).	Hogs only, no limit. Limit of 4 bay or catch dogs per party, no live hogs removed from WMA. Handguns only.
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(VV) Bonneau Ferry WMA

(YY) Botany Bay Plantation WMA

Raccoons and Opossum	Jan. 2 – Mar. 15 (Wed. - Fri. only)	Game Zone 6 bag limits.
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WILDLIFE MANAGEMENT AREA REGULATIONS

General

2.14 On WMA lands, hunting armadillos, coyotes and hogs at night is prohibited. Armadillos and coyotes may be hunted during any open season for game during daylight hours. Weapon(s) used to hunt armadillos and coyotes are limited to the weapon(s) that are allowed for the current open season on WMA.

5.3 On WMA lands, dogs may be used for hunting foxes, raccoons, bobcats or opossums only between thirty (30) minutes after official sunset and 30 minutes before official sunrise.

5.6 On WMA lands, dogs may be used to hunt hogs only during special designated hog hunts with dogs.

7.1 On all WMA lands during any gun and muzzleloader hunting seasons for deer, bear and hogs, all hunters including small game hunters must wear either a hat, coat, or vest of solid visible international orange, except hunters for dove, turkey, ducks, geese and other hunted migratory birds including crows are exempt from this requirement while hunting for those species.

10.14 On Crackerneck WMA, waterfowl may be hunted only on Fri., Sat. and Thanksgiving Day within the regular migratory bird seasons and no hunting on Dec. 25; Fant's Grove WMA is open AM only on Wednesdays and Saturdays during the regular migratory bird seasons; Palachucola WMA, Tillman Sand Ridge WMA, Hamilton Ridge WMA and Webb WMA are open AM only for waterfowl hunting during the regular migratory bird seasons only on days when small game hunting is allowed.

10.15 Category I Designated Waterfowl Areas include Beaverdam, Bonneau Ferry, Broad River, Clemson, Sandy Beach, Samworth, Santee Coastal Reserve, Santee-Delta, Tibwin, Bear Island, and Donnelley Wildlife Management Areas. Hunting in Category I Designated Waterfowl Areas is by special permit obtained through annual computer drawing.

10.16 Category II Designated Waterfowl Areas include Biedler Impoundment, Carr Creek (bounded by Samworth WMA), Little Carr Creek (bounded by Samworth WMA), Lake Cunningham, Russell Creek, Monticello Reservoir, Parr Reservoir, Duncan Creek, Dunaway, Dungannon, Enoree River, Moultrie, Hatchery, Hickory Top, Hickory Top Greentree Reservoir, Lancaster Reservoir, Turtle Island, Little Pee Dee River Complex (including Ervin Dargan, Horace Tilghman), Great Pee Dee River, Potato Creek Hatchery, Sampson Island Unit (Bear Island), Tyger River, Marsh, Wee Tee, Woodbury, Ditch Pond, Waccamaw River Heritage Preserve, Santee Cooper and 40 Acre Rock Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

DESIGNATED WATERFOWL AREAS

Area	Open dates inclusive	Bag Limits
Santee Cooper	Sat. AM only during regular season.	Federal Limits

Fiscal Impact Statement:

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

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.

Document No. 4189
PUBLIC SERVICE COMMISSION
 CHAPTER 103
 Statutory Authority: 1976 Code Section 58-3-140

103-823.1. Financing Applications

Synopsis:

The Public Service Commission of South Carolina (Commission) is proposing to create a new regulation that outlines certain information that must be submitted with electric utility financing applications filed with the Commission. Order No. 1991-72 addresses information that must be filed with financing applications of all regulated electric utilities. According to Order No. 1991-72, six questions/issues must be answered in financing applications filed by electric utilities. One of the benefits of an electric utility filing this information simultaneously with its financing application is the Commission can thoroughly review the effect of the application on the electric utility as a whole.

The Notice of Drafting regarding this regulation was published on December 24, 2010, in the *State Register*.

Instructions: Print the regulation in accordance with directions given to reflect new regulation.

103-823.1. Print the regulation as below outlined.

Text:

103-823.1. Financing Applications.

Any electrical utility filing financing applications must provide the following information as a separate part of its application:

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a. Identify the effect of the proposed financing on the utility's income statement and balance sheet and identify the impact of the proposed financing on the utility's capital structure;

b. Identify specifically how the funds obtained through the proposed financing are to be used by the utility;

c. Provide information on the possible impact on the utility if the proposed financing is not approved or if approval is delayed;

d. Specify the expected effective rate of interest of any debt financing (a range for the rate is appropriate). For common stock issues, provide information on the anticipated market price and book value per share at the time of issue;

e. Provide information on the expected benefits (e.g., savings expected from early debt retirement) and costs (e.g., issuance expenses) of the proposed financing. Provide any studies that were developed to identify these costs and benefits and the net result. (This could incorporate present value analysis of the costs and benefits.) Identify the basic assumptions of any analyses of costs and benefits.

Fiscal Impact Statement:

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

Statement of Rationale:

The purpose of proposing the addition of Regulation 103-823.1 is to outline information that an electrical utility must file in conjunction with a financing application. This information is included in Commission Order No. 1991-72. The information delineated in Regulation 103-823.1 will provide a clearer picture for the Commission regarding the effect a financing application will have on an electrical utility as a whole. There was no scientific or technical basis relied upon in the development of this regulation.