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SOUTH CAROLINA STATE REGISTER

PUBLISHED BY THE LEGISLATIVE COUNCIL of the GENERAL ASSEMBLY

JAMES H. HARRISON, DIRECTOR DEIRDRE BREVARD-SMITH, EDITOR

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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.

2014 Publication Schedule

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

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

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

REPRODUCING OFFICIAL DOCUMENTS

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*.

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ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

SUBSCRIPTIONS

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South Carolina General Assembly Home Page: http://www.scstatehouse.gov/regnsrch.php

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4337	Requirements of Licensure in the Field of Cosmetology (Sanitation and Salons)	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
Permane 4329	ently Withdrawn Cheese & Butter	Agriculture and Natural Resources	Agriculture and Natural Resources

Executive Order No. 2014-02

WHEREAS, a declaration of emergency exists in the State of Georgia due to the need for an uninterrupted supply of liquid petroleum gas to residential and commercial establishments as an essential need of the public during the winter and any interruption threatens the public welfare; and

WHEREAS, the Governor of the State of Georgia has suspended federal regulations limiting the hours operators of commercial motor vehicles may drive pursuant to the Federal Motor Carrier Safety regulations, 49 CFR § 390, et seq., and

WHEREAS, whenever a declaration of emergency is declared in Georgia that triggers relief under 49 CFR § 390.23, an emergency must be declared in this State.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina and of the United States of America, I hereby determine that an emergency exists in the State South Carolina for the limited purpose of complying with the declaration of emergency in the State of Georgia and accordingly direct the South Carolina Department of Transportation and the South Carolina Department of Public Safety, and the State Transport Police as needed, to suspend the federal rules and regulations that limit the hours operators of commercial vehicles may drive, in order to ensure the uninterrupted supply of liquid petroleum gas to the State of Georgia.

This emergency justifies a suspension of Part 395 (drivers' hours of service) of Title 49 of the Code of Federal Regulations. The suspension shall remain in effect for 7 days or until the emergency condition ceases to exist, whichever is less.

Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 CFR § 383, the financial requirements in 49 CFR § 387, or applicable federal size and weight limitations.

This order takes effect immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 13th DAY OF JANUARY, 2014.

NIKKI R. HALEY Governor

Executive Order No. 2014-03

WHEREAS, on January 7, 2014, the National Weather Service issued a Wind Chill Advisory for the State of South Carolina, forecasting record or near record cold temperatures throughout the State, which posed a threat to the safety and welfare of citizens; and

WHEREAS, as a result of the hazardous weather conditions, I, as governor, ordered state government offices to be delayed on January 7, 2014 in accordance with county government offices in Dorchester County and Fairfield County; and

6 EXECUTIVE ORDERS

WHEREAS, pursuant to Section 8-11-57 of the South Carolina Code of Laws, the governor of this State may authorize leave with pay for affected state employees who are absent from work due to the closing of state offices for hazardous weather conditions.

NOW, THEREFORE, pursuant to the authority vested in me by the laws and Constitution of the State of South Carolina, I hereby grant leave with pay to state employees in Dorchester and Fairfield Counties for the hours missed due to the delay of State offices on January 7, 2014.

This order shall take effect immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 15th DAY OF JANUARY, 2014.

NIKKI R. HALEY Governor

Executive Order No. 2014-04

WHEREAS, the uninterrupted supply of liquid petroleum gas to residential and commercial establishments is an essential need of the public during the wintertime and any interruption threatens the public welfare; and

WHEREAS, the continued period of cold weather has increased the demand for the above-referenced fuels and threatened the uninterrupted delivery of those fuels to residential and commercial customers; and

WHEREAS, the Federal Motor Carrier Safety regulations, 49 CFR § 390, et. seq., limit the hours operators of commercial motor vehicles may drive, and 49 CFR § 390.23 allows the Governor of a State to suspend these rules and regulations for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, S.C. Code Ann. § 56-5-70 requires the Governor of South Carolina to declare an emergency for the purposes of suspending regulations pursuant to 49 CFR § 390.23 whenever a similar emergency is declared in North Carolina or Georgia; and

WHEREAS, on January 13, 2014, a state of emergency was declared in the State of Georgia for the uninterrupted supply of liquid petroleum gas, and the same is expected to be declared in the State of North Carolina on this day or soon thereafter.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina and the United States, I hereby declare a State of Emergency for the purpose of suspending the federal rules and regulations that limit the hours operators of commercial vehicles may drive in order to ensure the uninterrupted supply of liquid petroleum gas throughout South Carolina, Georgia, and North Carolina, and accordingly, I direct the South Carolina Department of Transportation and the South Carolina Department of Public Safety, and the State Transport Police as needed, to comply with this order.

This emergency justifies a suspension of Part 395 (drivers' hour of service) of Title 49 of the Code of Federal Regulations. The suspension shall remain in effect for 30 days or until the emergency condition ceases to exist, whichever is less.

Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 CFR § 383, the financial requirements in 49 CFR § 387, or applicable federal size and weight limitations.

BE IT FURTHER ORDERED that this order does not suspend the operation of any state or federal laws or regulations within the State of South Carolina except as specifically described in the order. All other laws and regulations remain in full effect and will be enforced.

This order supersedes Executive Order 2014-02 and takes effect immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 15th DAY OF JANUARY, 2014.

NIKKI R. HALEY Governor

Executive Order No. 2014-05

WHEREAS, due to the extreme cold experienced in the State of South Carolina from the polar vortex, I previously issued Executive Orders 2014-02 and 2014-04, to allow for the uninterrupted supply of liquid petroleum gas to residential and commercial establishments throughout the State of South Carolina; and

WHEREAS, due to the continued effects of the extreme cold weather in this State, the uninterrupted supply of residual oils for industrial use to commercial establishments is an essential need of the public during the wintertime and any interruption threatens the public welfare; and

WHEREAS, the Federal Motor Carrier Safety Administration, pursuant to § 390, et. seq. of Title 49 of the Code of Federal Regulations, limits the hours operators of commercial motor vehicles may drive; and

WHEREAS, § 390.23 of Title 49 of the Code of Federal Regulations and § 56-5-70(A) of the South Carolina Code of Laws allows the Governor of a State to suspend these rules and regulations for up to 30 days if the Governor determines that an emergency condition exists.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina and the United States, I hereby declare a State of Emergency for the purpose of suspending the federal rules and regulations that limit the hours operators of commercial vehicles may drive in order to ensure the uninterrupted supply of residual oils for industrial use throughout South Carolina. I direct the South Carolina Department of Transportation and the South Carolina Department of Public Safety, and the State Transport Police as needed, to comply with this order.

This emergency justifies a suspension of Part 395 (drivers' hour of service) of Title 49 of the Code of Federal Regulations. Pursuant to Section 56-5-70(D) of the South Carolina Code of Laws, the suspension shall remain in effect until 11:59 p.m. on Friday, February 21, 2014.

Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 CFR § 383, the financial requirements in 49 CFR § 387, or applicable federal size and weight limitations.

BE IT FURTHER ORDERED that this order does not suspend the operation of any state or federal laws or regulations within the State of South Carolina except as specifically described in the order. All other laws and regulations remain in full effect and will be enforced.

8 EXECUTIVE ORDERS

This order takes effect immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 23rd DAY OF JANUARY, 2014.

NIKKI R. HALEY Governor

Executive Order No. 2014-06

WHEREAS, severe winter weather will occur throughout the State of South Carolina between January 28, 2014 and January 30, 2014, which has been reported by the National Weather Service as a Winter Watch or Warning for the majority of counties in this state; and

WHEREAS, temperatures are forecast below freezing, making road conditions extremely hazardous for the general public, endangering the health, safety, and welfare of South Carolinians; and

WHEREAS, the effects of the winter weather storm are expected to require assistance for stranded motorists, isolated citizens, medical emergencies, downed trees, road debris, and power outages, surpassing the capabilities of local governments to respond to and recover from its effects, thus requiring state support for local governments.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I hereby declare that a State of Emergency exists in South Carolina. Accordingly, I direct the South Carolina Emergency Operations Plan be placed into effect and require state agencies to support the responsibilities and tasks therein. I further direct prudent response actions be taken at the individual, local, and state levels to respond against the effects of this event.

I hereby place the South Carolina National Guard on State duty and order the utilization of the South Carolina National Guard's personnel with appropriate equipment, at the discretion of the Adjutant General and in coordination with the South Carolina Emergency Management Division, to take necessary and prudent actions to assist the citizens of this state.

Further proclamations and regulations deemed necessary to insure the fullest protection of life and property during this state of emergency shall be issued orally by me and thereafter reduced to writing within the succeeding twenty-four hour period.

This order takes effect at 12:00 p.m. today.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 28th DAY OF JANUARY, 2014.

Executive Order No. 2014-07

WHEREAS, the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, and liquid petroleum gas (LPG) to residential and commercial establishments is an essential need of the public during the wintertime and any interruption threatens the public welfare; and

WHEREAS, the continued period of cold weather has increased the demand for the above-referenced fuels and threatened the uninterrupted delivery of those fuels to residential and commercial customers; and

WHEREAS, the Federal Motor Carrier Safety regulations, 49 CFR § 390, et. Seq., limit the hours operators of commercial motor vehicles may drive; and

WHEREAS, § 390.23 of Title 49 of the Code of Federal Regulations and § 56-5-70(A) of the South Carolina Code of Laws allow the Governor of a State to suspend these rules and regulations for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, on January 28, 2014, I declared a state of emergency in South Carolina due to severe winter weather.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina and the United States, I hereby suspend the federal rules and regulations that limit the hours operators of commercial vehicles may drive, in order to ensure the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, and LPG throughout South Carolina. This emergency justifies a suspension of Part 395 (drivers' hour of service) of Title 49 of the Code of Federal Regulations. The suspension shall remain in effect for 30 days or until the emergency condition ceases to exist, whichever is less.

Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 CFR § 383, the financial requirements in 49 CFR § 387, or applicable federal size and weight limitations.

BE IT FURTHER ORDERED that this Order does not suspend the operation of any state or federal laws or regulations within the State of South Carolina except as specifically described in the Order. All other laws and regulations remain in full force and will be enforced.

This order takes effect immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 28th DAY OF JANUARY, 2014.

10 EXECUTIVE ORDERS

Executive Order No. 2014-08

WHEREAS, by Executive Order 2014-06, a state of emergency for the State of South Carolina was declared because of hazardous weather conditions caused by a winter storm; and

WHEREAS, the severe winter storm, which began on January 28, 2014 and resulted in accumulations of snow, ice, and freezing rain throughout the State, has concluded and no longer poses a significant statewide danger to the health, safety, and welfare of the public.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I hereby declare that a state of emergency no longer exists and hereby declare that Executive Order 2014-06 is canceled, rescinded, and from this date declared null and void.

This order takes effect at 12:00 p.m. today.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 30th DAY OF JANUARY, 2014.

NIKKI R. HALEY Governor

Executive Order No. 2014-09

WHEREAS, a severe winter weather storm was reported by the National Weather Service to occur throughout the State of South Carolina between January 28, 2014 and January 30, 2014; and

WHEREAS, temperatures were forecast to drop below freezing for multiple days, making road conditions extremely hazardous for the general public, endangering the health, safety, and welfare of South Carolinians; and

WHEREAS, because of the dangerous conditions, state government offices were closed as follows: On Tuesday, January 28, 2014, state government offices were closed in Allendale, Clarendon, Colleton, Dillon, Fairfield, Florence, Georgetown, Horry, Orangeburg, Richland, and Williamsburg; closed a half-hour early in Chester; closed one hour early in Anderson, Chesterfield, Greenwood, Laurens, Marlboro, Pickens, and Union; closed one-and-a-half hours early in Saluda; closed two hours early in Calhoun and Oconee; closed two-and-a-half hours early in Lancaster; closed three hours early in Barnwell, Beaufort, Hampton, Lexington, and McCormick; closed four hours early in Lee and Marion; closed five hours early in Berkeley, Charleston, Darlington, Edgefield, and Sumter; and closed six-and-a-half hours early in Dorchester. On Wednesday, January 29, 2014, state government offices were delayed three-and-a-half hours in Chester and Horry Counties and closed in the remaining 44 counties. On Thursday, January 30, 2014, state government offices were delayed one hour in Bamberg; delayed one-and-a-half hours in Barnwell, Calhoun, Clarendon, Florence, Jasper, McCormick, and Sumter; delayed two hours in Aiken, Chesterfield, Fairfield, Georgetown, Lexington, Oconee, Richland, and York; delayed two-and-a-half hours in Edgefield, Hampton, Lee, Orangeburg, and Saluda; delayed three hours in Williamsburg; delayed three-and-a-half hours in Beaufort, Dorchester, Horry, Lancaster, Marion, and Spartanburg; and delayed four hours in Charleston; and

WHEREAS, the severe winter storm, which occurred between January 28, 2014 and January 30, 2014 and resulted in accumulations of snow, ice, and freezing rain throughout the State, has concluded and no longer poses a significant statewide danger to the health, safety, and welfare of the public.

NOW, THEREFORE, pursuant to § 8-11-57 of the South Carolina Code of Laws, all state employees absent from work as directed on January 28, 29, and 30, 2014 due to the closing of state offices caused by hazardous weather conditions are hereby granted leave with pay.

This order shall take effect immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 30th DAY OF JANUARY, 2014.

NIKKI R. HALEY Governor

Executive Order No. 2014-10

WHEREAS, by Executive Order 2014-06, a state of emergency was declared in South Carolina due to a severe winter storm that occurred beginning on January 28, 2014 through January 30, 2014; and

WHEREAS, it became necessary for many banks and savings and loan institutions to close as a result of the hazardous weather that occurred beginning on January 28, 2014 through January 30, 2014; and

WHEREAS, Section 53-5-55 of the South Carolina Code of Laws authorizes the Governor to declare legal holidays for banks and savings and loan institutions whenever the Governor finds such additional holidays to be necessary or appropriate; and

WHEREAS, it is necessary and appropriate to declare as legal holidays the days on which a State of Emergency was in effect.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Laws of the State of South Carolina Code, I hereby declare January 28, 29, and 30, 2014 to be legal holidays for banks and savings and loan institutions in the State of South Carolina.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 3rd DAY OF FEBRUARY, 2014.

12 EXECUTIVE ORDERS

Executive Order No. 2014-11

WHEREAS, severe winter weather will occur throughout the State of South Carolina between February 11, 2014 and February 13, 2014, which has been reported by the National Weather Service as a Winter Watch or Warning for the majority of counties in this state; and

WHEREAS, temperatures are forecast below freezing, making road conditions extremely hazardous for the general public, endangering the health, safety, and welfare of South Carolinians; and

WHEREAS, the effects of the winter weather storm are expected to require assistance for stranded motorists, isolated citizens, medical emergencies, downed trees, road debris, and power outages, surpassing the capabilities of local governments to respond to and recover from its effects, thus requiring state support for local governments.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I hereby declare that a State of Emergency exists in South Carolina. Accordingly, I direct the South Carolina Emergency Operations Plan be placed into effect and require state agencies to support the responsibilities and tasks therein. I further direct prudent response actions be taken at the individual, local, and state levels to respond against the effects of this event.

I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty pursuant to my authority under Section 25-1-1840 of the South Carolina Code of Laws, and I will do so by directing the Adjutant General to issue supplemental orders. I further order the utilization of the South Carolina National Guard's personnel with appropriate equipment, at the discretion of the Adjutant General and in coordination with the South Carolina Emergency Management Division, to take necessary and prudent actions to assist the citizens of this state.

Further proclamations and regulations deemed necessary to insure the fullest protection of life and property during this state of emergency shall be issued orally by me and thereafter reduced to writing within the succeeding twenty-four hour period.

This order takes effect at 12:00 p.m. today.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 11th DAY OF FEBRUARY, 2014.

Executive Order No. 2014-12

WHEREAS, there exists a state of emergency in South Carolina due to the effects of severe winter weather, which will occur throughout the state between February 11, 2014 and February 13, 2014; and

WHEREAS, it is necessary to expedite the movement of vehicles and loads that are transporting emergency equipment, materials, services, and supplies; and

WHEREAS, the State of South Carolina wishes to authorize the South Carolina Department of Transportation to waive certain restrictions concerning weight, length, and height of loads that are transporting materials as stated above, with coordination and cooperation with the South Carolina Department of Public Safety, Transport Police as needed.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby order the Department of Public Safety in conjunction with the Department of Transportation to waive certain size and weight restrictions and penalties under the provisions set out in 23 CFR 658.17(h) and S.C. Code Sections 57-3-130(B)(1) and 56-5-70(A).

FURTHER, such weight, height, length, and width for any such vehicle on roadways maintained by the State of South Carolina shall not exceed the following:

- (a) Maximum dimensions of 12' wide, 13'6" high and weights of 90,000 pounds is authorized continuous travel on all highway routes. Posted bridges may not be crossed. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall provide appropriate documentation indicating it is responding to this emergency.
- (b) Any dimensions and/or weight of vehicles that exceed the above must obtain a permit with defined routes from the South Carolina Oversized/Overweight Permit office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. 5:00 p.m.
- (c) Transporters are responsible for ensuring they have oversize signs, markings, flags and escorts as required in the South Carolina Code of Laws relating to oversize/overweight loads operating on South Carolina roadways.

This order takes effect at 12:00 p.m. today.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 11th DAY OF FEBRUARY, 2014.

14 EXECUTIVE ORDERS

Executive Order No. 2014-13

- **WHEREAS**, there exists a state of emergency in South Carolina due to the effects of severe winter weather, which will occur throughout the state between February 11, 2014 and February 13, 2014, making it necessary to expedite the movement of vehicles and loads that are transporting emergency equipment, materials, services, supplies, food, and other items; and
- **WHEREAS**, 49 C.F.R. Part 395 limits the hours operators of commercial motor vehicles may drive vehicles transporting materials as stated above; and
- **WHEREAS**, 23 U.S.C. § 127 establishes certain weight limitations for vehicles on interstate highways in conjunction with S.C. Code § 56-5-4010 et. seq., which establishes size, weight, and load requirements for South Carolina highways; and
- **WHEREAS**, 49 C.F.R. § 390.23 and S.C. Code § 56-5-70(A) allow the Governor of a State to suspend hours of service requirements for commercial vehicles responding to an emergency if the Governor declares a State of Emergency; and
- WHEREAS, 23 C.F.R. § 658.5 authorizes a State to treat as a non-divisible load emergency response vehicles, including those loaded with salt, sand, chemicals, and combinations thereof to be used for the purpose of spreading materials on highways that may become slick or icy, and 23 C.F.R. § 658.17(h) and S.C. Code § 57-3-130(B) authorize the State Department of Transportation to issue oversize/overweight permits for non-divisible loads on interstate highways exceeding 80,000 pounds.
- **NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby suspend the federal rules and regulations that restrict certain size and weight and time of service limits in order to ensure the delivery of equipment, materials, services, supplies, food, and other items in response to winter storm operations throughout South Carolina and direct the South Carolina Department of Transportation and the South Carolina Department of Public Safety, and the State Transport Police as needed, to comply with this order.

IT IS FURTHER ORDERED that:

- (a) Weight, height, length, and width for any such vehicle on roadways maintained by the State of South Carolina shall not exceed for continuous travel on all highway routes maximum dimensions of 12' wide, 13'6' high and weights of 90,000 pounds.
 - (b) Posted bridges may not be crossed.
- (c) All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall provide appropriate documentation indicating it is responding to this emergency.
- (d) Any dimensions and/or weight of vehicles that exceed the above must obtain a permit with defined routes from the South Carolina Department of Transportation Oversized/Overweight Permit Office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. 5:00 p.m., or (803) 206-9566 after regular business hours.
- (e) Transporters are responsible for ensuring they have oversize signs, markings, flags and escorts as required in the South Carolina Code of Laws relating to oversize/overweight loads operating on South Carolina roadways.

EXECUTIVE ORDERS 15

FURTHER, this emergency justifies a suspension of 49 C.F.R. Part 395 (drivers' hour of service). Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 C.F.R. § 383 or the financial requirements in 49 C.F.R. § 387.

This order supersedes Executive Order 2014-12 and takes effect immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 11th DAY OF FEBRUARY, 2014.

BUDGET AND CONTROL BOARD BOARD OF ECONOMIC ADVISORS

NOTICE OF GENERAL PUBLIC INTEREST

We have calculated the increase in the limit on compensation for noneconomic damages on a medical malpractice claim. Pursuant to Section 15-32-220(F), the limit on civil liability for noneconomic damages on a medical malpractice claim is adjusted each fiscal year based on the increase or decrease in the ratio of the Consumer Price Index for All Urban Consumers as of December 31 of the previous calendar year. The adjustment is a cumulative index using a base year 2004. The 2004 base year was adopted to be consistent with the timing of the enacting legislation. As of December 31, 2013, the Index published by the Bureau of Labor Statistics, *Monthly Labor Review*, Table 38, "Consumer Price Index for All Urban Consumers", increased by 22.5% from a value of 190.3 in December 2004 to 233.049 in December 2013. Therefore, the limit not to exceed \$350,000 would increase to \$428,625 against a single health care provider and a health care institution for each claimant for civil liability for noneconomic damages on medical malpractice claims when final judgment is rendered. Also, the limit not to exceed \$1,050,000 would increase to \$1,285,870 for all health care providers and all health care institutions for each claimant for civil liability for noneconomic damages on medical malpractice claims. The adjusted limitations on compensation for noneconomic damages become effective upon publication in the *State Register* pursuant to Section 1-23-40(2).

BUDGET AND CONTROL BOARD BOARD OF ECONOMIC ADVISORS

NOTICE OF GENERAL PUBLIC INTEREST

We have calculated the increase in the limit on punitive damages awarded to each claimant that is entitled to an award. Pursuant to Section 15-32-530(D), the limit on punitive damage awards is adjusted each calendar year based on the increase or decrease in the ratio of the Consumer Price Index for All Urban Consumers as of December 31 of the previous calendar year. The adjustment is a cumulative index using a base year 2010. The 2010 base year was adopted to be consistent with the timing of the enacting legislation. As of December 31, 2013, the Index published by the Bureau of Labor Statistics, *Monthly Labor Review*, Table 38, "Consumer Price Index for All Urban Consumers", increased by 6.3% from a value of 219.179 in December 2010 to 233.049 in December 2013. Therefore, the limit not to exceed \$500,000 would increase to \$531,640 to each claimant entitled to a punitive damage award. The adjusted limitations on an award for punitive damages become effective upon publication in the *State Register* pursuant to Section 1-23-40(2).

BUDGET AND CONTROL BOARD OFFICE OF RESEARCH AND STATISTICS

NOTICE OF GENERAL PUBLIC INTEREST

Pursuant to the South Carolina Code of Laws, Section 15-41-30 requires the Economic Research Section of the Office of Research and Statistics of the State Budget and Control Board to adjust each dollar amount in subsection (A), items (1) through (14), by the change in the Southeastern Consumer Price Index, All Urban Consumers, as published by the U.S. Department of Labor Statistics, for the most recent year ending immediately before January first preceding July first. We computed the change in the index as the change in the average value of the index for the period from January 1, 2013 through December 31, 2013 compared to the average value of the index for the period from January 1, 2006 through December 31, 2006. This percentage change was 16.4 percent. Each dollar amount that represents this change has been rounded to the nearest twenty-five dollars as required by law. I have enclosed a table for you that represents the changes that should be made to each dollar amount in Section 15-41-30(A)(1) through (14).

Section 15-41-30. Property Exempt from Attachment, Levy, and Sales.

1 \$50,000 \$58,225 \$100,000 \$116,450 2 \$5,000 \$5,825 3 \$4,000 \$4,650 4 \$1,000 \$1,175 5 \$5,000 \$5,825 6 \$1,500 \$1,750 7 \$5,000 \$5,825 8 Unspecified 9 \$4,000 \$4,650 10 Unspecified 11 Unspecified 12 Unspecified 13 Unspecified 14 Unspecified	Subsection	Amount Specified as of May 22, 2008	Adjusted for Inflation 1/
2 \$5,000 \$5,825 3 \$4,000 \$4,650 4 \$1,000 \$1,175 5 \$5,000 \$5,825 6 \$1,500 \$1,750 7 \$5,000 \$5,825 8 Unspecified 9 \$4,000 \$4,650 10 Unspecified 11 Unspecified 12 Unspecified 13 Unspecified	1	\$50,000	\$58,225
3 \$4,000 \$4,650 4 \$1,000 \$1,175 5 \$5,000 \$5,825 6 \$1,500 \$1,750 7 \$5,000 \$5,825 8 Unspecified 9 \$4,000 \$4,650 10 Unspecified 11 Unspecified 12 Unspecified 13 Unspecified		\$100,000	\$116,450
4 \$1,000 \$1,175 5 \$5,000 \$5,825 6 \$1,500 \$1,750 7 \$5,000 \$5,825 8 Unspecified 9 \$4,000 \$4,650 10 Unspecified 11 Unspecified 12 Unspecified 13 Unspecified	2	\$5,000	\$5,825
5 \$5,000 \$5,825 6 \$1,500 \$1,750 7 \$5,000 \$5,825 8 Unspecified 9 \$4,000 \$4,650 10 Unspecified 11 Unspecified 12 Unspecified 13 Unspecified	3	\$4,000	\$4,650
6 \$1,500 \$1,750 7 \$5,000 \$5,825 8 Unspecified 9 \$4,000 \$4,650 10 Unspecified 11 Unspecified 12 Unspecified 13 Unspecified	4	\$1,000	\$1,175
7 \$5,000 \$5,825 8 Unspecified 9 \$4,000 \$4,650 10 Unspecified 11 Unspecified 12 Unspecified 13 Unspecified	5	\$5,000	\$5,825
8 Unspecified 9 \$4,000 \$4,650 10 Unspecified 11 Unspecified 12 Unspecified 13 Unspecified	6	\$1,500	\$1,750
9 \$4,000 \$4,650 10 Unspecified 11 Unspecified 12 Unspecified 13 Unspecified	7	\$5,000	\$5,825
10 Unspecified 11 Unspecified 12 Unspecified 13 Unspecified	8	Unspecified	
11 Unspecified 12 Unspecified 13 Unspecified	9	\$4,000	\$4,650
12 Unspecified 13 Unspecified	10	Unspecified	
Unspecified Unspecified	11	Unspecified	
<u>-</u>	12	Unspecified	
	13	Unspecified	
	14	-	

Notes: All calculations made by the Economic Research Section of the Office of

Research and Statistics of the State Budget and Control Board.

1/ Dollar amounts are adjusted by the change in the Southeastern Consumer Price Index, All Urban Consumers, for the most recent year ending immediately before January first preceding July first, and rounded to the nearest twenty-five dollars (Section 15-41-30 (B)).

Sources: U.S. Department of Labor, Bureau of Labor Statistics; Legislative Printing and Information Technology Systems (Act 225 of 2007, H.B.3816).

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF FINAL AMENDMENT TO AIR QUALITY STATE IMPLEMENTATION PLAN

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

The South Carolina Department of Health and Environmental Control (Department) is publishing this Notice of General Public Interest to provide interested persons the opportunity to comment on the Department's response to meet obligations to the U.S. Environmental Protection Agency (EPA) for the National Ambient Air Quality Standards (NAAQS) for Nitrogen Dioxide (NO₂). The Department proposes to address the requirements under sections 110(a)(1) and (2) of the Clean Air Act (CAA) for State Implementation Plans (SIP) known as infrastructure SIP certification. These requirements were developed to assure attainment and maintenance of the NAAQS. To be considered, the Department must receive comments by 5:00 p.m. on March 31, 2014, the close of the comment period.

The Department is also providing the public with the opportunity to request a public hearing on the issue. If requested, the Department will hold a public hearing on April 7, 2014, at 2:00 p.m., in the Wallace Room of the Sims Building, 2600 Bull Street, Columbia, South Carolina. The Department invites the public to attend. However, pursuant to 40 CFR 51.102, if the Department does not receive a request for a public hearing by the

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close of the comment period, 5:00 p.m. on March 31, 2014, the Department will cancel the public hearing. If the Department cancels the public hearing, then the Department will notify the public at least one week prior to the scheduled hearing via the Scheduled Public Hearings webpage:

http://www.scdhec.gov/environment/baq/Regulation-SIPManagement/public_hearings.asp. Interested persons may also contact Anthony T Lofton, Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or via phone at (803) 898-7217 or email at loftonat@dhec.sc.gov for more information, or to find out if the Department will hold the public hearing.

Synopsis:

On February 9, 2010, the EPA published a revised NAAQS for Nitrogen Dioxide (75 FR 6474). With this rule, the EPA set a new 1-hour primary NO2 standard at the level of 100 parts per billion (ppb) and retained the current annual average NO2 standard of 53 ppb. Sections 110(a)(1) and (2) of the CAA require all states to submit plans to provide for the implementation, maintenance, and enforcement of the NAAQS. Sections 110(a)(1) and (2) further require states to address basic SIP requirements, including but not limited to the following elements: emissions limits and other control measures, ambient air quality monitoring, a program for the enforcement of control measures, adequate resources to implement the SIP, and public notification and government consultation. Section 110(a)(1) requires states to submit SIPs within three (3) years after promulgation of a new or revised NAAQS, or January 22, 2013, in this case. The Department delayed preparing its NO₂ infrastructure SIP until the EPA published the necessary infrastructure SIP guidance document on September 13, 2013.

On August 11, 2011, the Department submitted a request to EPA Region 4 that the EPA designate each county in the State of South Carolina as "attainment" for the 1-hour primary NO₂ NAAQS. On February 17, 2012, the EPA published designations for the revised NO₂ NAAQS (77 FR 9532). Based on air quality monitoring data, the EPA designated all areas of the country as "unclassifiable/attainment" for the 2010 NO₂ NAAQS. The Department is proposing to certify that it has addressed the aforementioned "infrastructure" elements pertaining to the NO₂ attainment areas in South Carolina. Pending the receipt of a request for a public hearing and/or any comments received, this Final Amendment to the SIP will take effect 30 days following publication of this Notice in the *South Carolina State Register* on March 31, 2014, at which time the Department will submit a final SIP certification package to the EPA for approval.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF FINAL AMENDMENT TO AIR QUALITY STATE IMPLEMENTATION PLAN

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

The South Carolina Department of Health and Environmental Control (Department) is publishing this Notice of General Public Interest to provide interested persons the opportunity to comment on the Department's response to meet obligations to the U.S. Environmental Protection Agency (EPA) for the National Ambient Air Quality Standards (NAAQS) for Sulfur Dioxide (SO₂). The Department proposes to address the requirements under sections 110(a)(1) and (2) of the Clean Air Act (CAA) for State Implementation Plans (SIP) known as infrastructure SIP certification. These requirements were developed to assure attainment and maintenance of the NAAQS. To be considered, the Department must receive comments by 5:00 p.m. on March 31, 2014, the close of the comment period.

The Department is also providing the public with the opportunity to request a public hearing on the issue. If requested, the Department will hold a public hearing on April 7, 2014, at 10:00 a.m., in the Wallace Room of the Sims Building, 2600 Bull Street, Columbia, South Carolina. The Department invites the public to attend.

However, pursuant to 40 CFR 51.102, if the Department does not receive a request for a public hearing by the close of the comment period, 5:00 p.m. on March 31, 2013, the Department will cancel the public hearing. If the Department cancels the public hearing, then the Department will notify the public at least one week prior to the scheduled hearing via the Scheduled Public Hearings webpage:

http://www.scdhec.gov/environment/baq/Regulation-SIPManagement/public_hearings.asp. Interested persons may also contact Andrew Hollis, Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or via phone at (803) 898-4196 or email at hollisao@dhec.sc.gov for more information, or to find out if the Department will hold the public hearing.

Synopsis:

On June 2, 2010, the EPA finalized a revised NAAQS for Sulfur Dioxide (75 FR 35520, published June 22, 2010). With this rule, the EPA set a new 1-hour primary SO2 standard at the level of 75 parts per billion (ppb) and revoked the two previously existing primary standards of 140 ppb evaluated over 24- hours, and 30 ppb evaluated over an entire year. Sections 110(a)(1) and (2) of the CAA require all states to submit plans to provide for the implementation, maintenance, and enforcement of the NAAQS. Sections 110(a)(1) and (2) further require states to address basic SIP requirements, including but not limited to the following elements: emissions limits and other control measures, ambient air quality monitoring, a program for the enforcement of control measures, adequate resources to implement the SIP, and public notification and government consultation. Section 110(a)(1) requires states to submit SIPs within three (3) years after promulgation of a new or revised NAAQS, or June 2, 2013, in this case. The Department delayed submittal of this SIP until necessary federal implementation guidance was released. This guidance was released by EPA on September 13, 2013.

On June 2, 2011, the Department submitted a request to EPA Region 4 that the EPA designate each county in the State of South Carolina as "attainment" for the 1-hour primary SO₂ NAAQS. On February 7, 2013, EPA issued a letter to SC indicating that it would not designate any areas of the state for the new 1-hour SO₂ National Ambient Air Quality Standard (standard) until an updated strategy for accurately identifying SO₂ levels throughout the country could be finalized.

The Department is proposing to certify that it has addressed the aforementioned "infrastructure" elements pertaining to the SO₂ attainment areas in South Carolina. Pending the receipt of a request for a public hearing and/or any comments received, this Final Amendment to the SIP will take effect 30 days following publication of this Notice in the *South Carolina State Register* on March 31, 2014, at which time the Department will submit a final SIP certification package to the EPA for approval.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

DHEC-Bureau of Land and Waste Management, File #6203 Woven Electronics, Inc Site

NOTICE OF VOLUNTARY CLEANUP CONTRACT, CONTRIBUTION PROTECTION, AND COMMENT PERIOD

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (DHEC) intends to enter into a Voluntary Cleanup Contract (VCC) with Woven Electronics, LLC (Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform future response actions at the Woven Electronics facility located in Greenville County, at 1001 Old Stage Road, Simpsonville, South Carolina, and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants.

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Future response actions addressed in the VCC include, but may not be limited to, the Responsible Party funding and performing: a Remedial Investigation (RI) to determine the source, nature, and extent of the release or threat of release of hazardous substances, pollutants, or contaminants and, if necessary, conduct a Feasibility Study (FS) to evaluate alternatives to clean-up the Site. Further, the Responsible Party will reimburse the Department's past costs of response of \$3,714.08 and the Department's future costs of overseeing the work performed by the Responsible Party and other Department costs of response pursuant to the VCC.

The VCC is subject to a thirty-day public comment period consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9613, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200 (as amended). Notice of Contribution Protection and Comment Period will be provided to known potentially responsible parties via email or US mail. The VCC is available:

- (1) On-line at www.scdhec.gov/environment/lwm/publicnotice.htm; or
- (2) By contacting Patricia Hydrick at 803-898-0886 or hydricpa@dhec.sc.gov.

Any comments to the proposed VCC must be submitted in writing, postmarked no later than *March 31*, 2014 and addressed to: Patricia Hydrick, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

Upon the successful completion of the VCC, the Responsible Party will receive a covenant not to sue for the work done in completing the response actions specifically covered in the Contract and completed in accordance with the approved work plans and reports. Upon execution of the VCC, the Responsible Party shall be deemed to have resolved its liability to the State in an administrative settlement for purposes of, and to the extent authorized under CERCLA, 42 U.S.C. 9613(f)(2) and 9613(f)(3)(B), and under S.C. Code Ann. Section 44-56-200, for the response actions specifically covered in the Contract including the approved work plans and reports. Contribution protection is contingent upon the Department's determination that the Responsible Party has successfully and completely complied with the VCC.

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: 1976 Code Section 43-1-80; Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96)

Notice of Drafting:

The South Carolina Department of Social Services proposes amending regulations concerning the Family Independence Program in order to maintain compliance with Federal law. Interested persons may submit comments to Ms. Amber Gillum, Economic Services Division, South Carolina Department of Social Services, Post Office Box 1520, Columbia, S.C. 29202-1520. To be considered, comments must be received no later than 5:00 p.m. on March 7, 2014, the close of the drafting comment period.

Synopsis:

Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96) requires that states receiving Temporary Assistance for Needy Families (TANF) grants "maintain policies and practices as necessary to prevent assistance provided under the State program funded under this part from being used in any electronic benefit transfer transaction in any liquor store; any casino, gambling casino, or gaming establishment; or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment." The South Carolina Department of Social Services proposes to draft amendments to the Family Independence Program regulations found in SC Code of Regulations, Chapter 114, Sections 114-100 et seq., to ban these transactions and provide for recovery of the amount of the transaction from clients who violate the prohibition.

Proposed revisions will not require legislative review.

22 PROPOSED REGULATIONS

Document No. 4456 **DEPARTMENT OF LABOR, LICENSING AND REGULATION**CHAPTER 10

Statutory Authority: 1976 Code Sections 40-1-50 and 40-1-70

Preamble:

The South Carolina Department of Labor, Licensing and Regulation, in conformance with South Carolina Code Section 40-1-50 and with authority delegated by the boards and commissions stated herein below, proposes to add Chapter 10 to the South Carolina Code of Regulations so as to establish within this chapter and to amend the schedules of fees for certain professional and occupational licensing boards and commissions appearing in Title 40 of the South Carolina Code of Laws, specifically: Board of Architectural Examiners (Regulation 11-5); State Athletic Commission (Regulations 20-4.10, 20-23.11, 20-24.10, 20-26.1, and 20-27.23); Building Codes Council (Regulation 8-618); Board of Dentistry (Regulations 39-1, 39-2, and 39-3); Board of Registration for Professional Engineers and Surveyors (Regulation 49-103); Environmental Certification Board (51-6); Board of Funeral Service (Regulation 57-12); Board of Registration for Geologists (Regulation 131-13); Long Term Health Care Administrators Board (Regulation 93-100); Manufactured Housing Board (Regulation 79-26); Board of Medical Examiners (Regulation 81-300); Board of Nursing (Regulation 91-31); Board of Occupational Therapy (Regulation 94-09); Board of Examiners in Opticianry (Regulation 96-109); Board of Physical Therapy Examiners (Regulation 101-8); Board of Podiatry Examiners (Regulation 134-20); Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Licensed Psycho-educational Specialists (Regulation 36-15); Board of Examiners in Psychology (Regulation 100-7); Real Estate Appraisers Board (Regulation 137-800.03); Real Estate Commission (Regulation 105-13); Residential Builders Commission (Regulation 106-3); Soil Classifiers Advisory Council (Regulation 108-7); and Board of Veterinary Medical Examiners (Regulation 120-14).

The South Carolina Department of Labor, Licensing and Regulation further proposes to add to Chapter 10 the fee schedule for the Board of Accountancy, State Auctioneers Commission, Board of Barber Examiners, Contractor's Licensing Board, Panel for Dietetics, Board of Landscape Architectural Examiners, Panel for Massage/Bodywork, and Board of Examiners in Speech-Language Pathology and Audiology in accordance with S.C. Code Sections 40-2-70(11), 40-6-50(C), 40-7-50(B), 40-11-50, 40-79-50, 40-10-50, 40-20-55(B), 40-28-80(B), 40-30-80 and 40-67-50.

Section-by-Section Discussion:

10-1. Division of Professional and Occupational Licensing.

New section; marked [Reserved] for additions at a future date.

10-2. Board of Accountancy.

New section; establishes fees in regulation pursuant to S.C. Code Section 40-2-70(11).

10-3. Board of Architectural Examiners.

New section; adds and adjusts fees from Regulation 11-5.

10-4. Athletic Commission.

New section; adds and adjusts fees from Regulations 20-4.10, 20-23.11, 20-24.10, 20-26.1, and 20-27.23.

10-5. Auctioneers Commission.

New section; establishes fees in regulation pursuant to S.C. Code Section 40-6-50(C).

10-6. Board of Barber Examiners.

New section; establishes fees in regulation pursuant to S.C. Code Section 40-7-50(B).

10-7. Building Codes Council.

New section; adds fees from Regulation 8-618.

10-8. Perpetual Care Cemetery Board.

New section; marked [Reserved] for additions at a future date.

10-9. Board of Chiropractic Examiners.

New section; marked [Reserved] for additions at a future date.

10-10. Contractor's Licensing Board.

New section; adjusts and establishes fees in regulation pursuant to S.C. Code Sections 40-11-50, 40-79-50, and 40-10-50.

10-11. Board of Cosmetology.

New section; marked [Reserved] for additions at a future date.

10-12. Board of Dentistry—License to Practice Dentistry.

New section; adds and adjusts fees from Regulations 39-1, 39-2, and 39-3.

10-13. Panel for Dietetics.

New section; establishes fees in regulation pursuant to S.C. Code Section 40-20-55(B).

10-14. Board of Registration for Professional Engineers and Surveyors.

New section; adds and adjusts fees from Regulation 49-103.

10-15. Environmental Certification Board.

New section; adds fees from Regulation 51-6.

10-16. Board of Registration for Foresters.

New section; marked [Reserved] for additions at a future date.

10-17. Board of Funeral Service.

New section; adds and adjusts fees from Regulation 57-12.

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10-18. Board of Registration for Geologists.

New section adds and adjusts fees from Regulation 131-13.

10-19. Board of Landscape Architectural Examiners.

New section; establishes fees in regulation pursuant to S.C. Code Section 40-28-80(B).

10-20. Liquefied Petroleum Gas Board.

New section; marked [Reserved] for additions at a future date.

10-21. Long Term Health Care Administrators Board.

New section; adds and adjusts fees from Regulation 93-100.

10-22. Manufactured Housing Board.

New section; adds fees from Regulation 79-26.

10-23. Panel for Massage/Bodywork.

New section; establishes fees in regulation pursuant to S.C. Code Section 40-30-80.

10-24. Board of Medical Examiners.

New section; adds and adjusts fees from Regulation 81-300.

10-25. Board of Nursing.

New section; adds and adjusts fees from Regulation 91-31.

10-26. Board of Occupational Therapy.

New section; adds fees from Regulation 94-09.

10-27. Board of Examiners in Opticianry.

New section; adds fees from Regulation 96-109.

10-28. Board of Examiners in Optometry.

New section; marked [Reserved] for additions at a future date.

10-29. Board of Pharmacy.

New section; marked [Reserved] for additions at a future date.

10-30. Board of Physical Therapy Examiners.

New section; adds and adjusts fees from Regulation 101-08.

10-31. Pilotage Commission.

New section; marked [Reserved] for additions at a future date.

10-32. Board of Podiatry Examiners.

New section; adds fees from Regulation 134-20.

10-33. Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Licensed Psycho-educational Specialists.

New section; adds fees from Regulation 36-15.

10-34. Board of Examiners in Psychology.

New section; adds and adjusts fees from Regulation 100-7.

10-35. Board of Pyrotechnic Safety.

New section; marked [Reserved] for additions at a future date.

10-36. Real Estate Appraisers Board.

New section; adds fees from Regulation 137-800.03.

10-37. Real Estate Commission.

New section; adds and adjusts fees from Regulation 105-13.

10-38. Residential Builders Commission.

New section; adds fees from Regulation 106-3.

10-39. Board of Social Work Examiners.

New section; marked [Reserved] for additions at a future date.

10-40. Soil Classifiers Advisory Council.

New section; adds fees from Regulation 108-7.

10-41. Board of Examiners in Speech-Language Pathology and Audiology.

New section; establishes fees in regulation from S.C. Code Section 40-67-50.

10-42. Board of Veterinary Medical Examiners.

New section; adds and adjusts fees from Regulation 120-14.

The Notice of Drafting was published in the *State Register* on October 25, 2013.

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Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on April 4, 2014. Written comments may be directed to Holly G. Pisarik, Director, South Carolina Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., March 31, 2014. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

Section 40-1-50(D) requires that the Agency assess, collect, and adjust fees on behalf of each board biennially to ensure that fees are sufficient but not excessive to cover the expenses, including the total of the direct and indirect costs to the State, for the operations of each respective board. Following a comprehensive review of the budgets of all boards and commissions at the end of the fiscal year 2012-13, the Director concluded that fees for certain boards included herein above must be adjusted to comport with Section 40-1-50(D). Additionally, to promote transparency in the fee assessment process and streamline the fee adjustment process, fees are added for the specific above-referenced boards in accordance with Sections 40-2-70(11) (Board of Accountancy); 40-3-50(B) (Board of Architectural Examiners); 40-81-430 (State Athletic Commission); 40-6-50(C) (State Auctioneers Commission); 40-7-50(B) (Board of Barber Examiners); 40-11-50, 40-79-50, and 40-10-50 (Contractor's Licensing Board); 40-1-50 (Building Codes Council, Board of Dentistry, Environmental Certification Board, Board of Funeral Service, Residential Builders Commission, Board of Veterinary Examiners); 40-20-55(B) (Panel for Dietetics); 40-22-50(B) (Board of Registration for Professional Engineers and Surveyors); 40-77-240(A) (Board of Registration for Geologists); 40-28-80(B) (Board of Landscape Architectural Examiners); 40-35-50 (Long Term Health Care Administrators Board); 40-29-10(D)(10) (Manufactured Housing Board); 40-30-80 (Panel for Massage/Bodywork); 40-47-50(B) (Board of Medical Examiners); 40-33-50(B) (Board of Nursing); 40-36-50 (Board of Occupational Therapy); 40-38-230, 40-38-250, and 40-38-260 (Board of Examiners in Opticianry); 40-45-50(B) (Board of Physical Therapy Examiners); 40-51-100 and 40-51-180 (Board of Podiatry Examiners); 40-75-220 (Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Licensed Psycho-educational Specialists); 40-55-40 (Board of Examiners in Psychology); 40-60-50 (Real Estate Appraisers Board); 40-57-70 (State Real Estate Commission); 40-65-36 (Soil Classifiers Advisory Council); and 40-67-50 (Board of Examiners in Speech-Language Pathology and Audiology).

DESCRIPTION OF REGULATION:

Purpose: The Department is adding the regulations to establish fee schedules in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50 and 40-1-70.

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

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

The new regulations will add fee schedules in one chapter.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state concerning the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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

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

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

Statement of Rationale:

Adding all fees into one regulation streamlines the process for biennial adjustment in accordance with S.C. Code §40-1-50(D) and simplifies fee review and comparison for interested parties.

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. 4454 PUBLIC SERVICE COMMISSION CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140 (Supp. 2013)

103-811. Commissioners.

Preamble:

The Public Service Commission of South Carolina (Commission) proposes to amend Regulation 103-811 in order that its content is consistent with S.C. Code Ann. Section 58-3-20. The Notice of Drafting regarding the amendment to 10 S.C. Code Ann. Regs. 103-811 was published in the *State Register* on November 22, 2013, in Volume 37, Issue 11.

Section-by-Section Discussion

103-811. This section is updated to reflect the recently amended S.C. Code Ann. Section 58-3-20. There are currently seven Congressional Districts and Regulation 103-811 should be amended to reflect the statutory language of Section 58-3-20.

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Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2013-402-A. To be considered, comments must be received no later than 4:45 p.m. on Monday, May 12, 2014. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on Tuesday, June 24, 2014, at 10:00 a.m. in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 103-811. Commissioners.

Purpose: Regulation 103-811 currently references the composition of the Commission as seven commissioners, one from each of the six Commission Districts and one at-large, pursuant to S. C. Code Ann. Section 58-3-20. Act No. 279 of 2012 amended S. C. Code Ann. Section 58-3-20, including changing the number of references to Congressional Districts from six to seven. Additionally, the amendments made to Section 58-3-20 provided for terms for commissioners who were elected in 2013. The purpose for the proposed changes to Regulation 103-811 is to make the Regulation 103-811 substantively consistent with the recently amended S.C. Code Ann. Section 58-3-20.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2013).

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*.

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

To minimize confusion and to correct the substance of a dated regulation, Regulation 103-811 should be amended so that its substance reflects the current law.

DETERMINATION OF COSTS AND BENEFITS:

Although costs related to the proposed changes to the Commission's Regulation 103-811 are minimal, the benefits include the amendment of a regulation that correctly reflects the current statutory language of S.C. Code Ann. Section 58-3-20.

UNCERTAINTIES C	OF ESTIMATES:
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None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

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

Statement of Rationale:

The substance of Regulation 103-811 currently contains language that is inconsistent with the amended portions of S.C. Code Ann. Section 58-3-20. The rationale for proposing the amendments to Regulation 103-811 includes conforming the language or substance of Regulation 103-811 to S.C. Code Ann. Section 58-3-20. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

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

Document No. 4455 PUBLIC SERVICE COMMISSION CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140 (Supp. 2013)

103-817. Proceedings.

Preamble:

The Public Service Commission of South Carolina (Commission) proposes to amend 10 S.C. Code Ann. Regs. 103-817 so that the Commission can serve documents such as Prefile Testimony Letters, Transmittal Letters, Notices of Filing, Notices of Filing and Hearing, Notices of Hearing, and other documents which reference a hearing date by electronic service, and in situations where electronic service is not feasible, via U. S. Mail. The Notice of Drafting regarding this regulation was published on November 22, 2013, in the *State Register*, Volume 37, Issue 11.

Section-by-Section Discussion

103-817. This section is amended to allow the Commission to serve its Prefile Testimony Letters, Transmittal Letters, Notices of Filing, Notices of Filing and Hearing, Notices of Hearing, and other documents which reference a hearing date by electronic service. Additionally, minor grammatical changes are proposed in 103-817(B).

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2013-402-A. To be considered, comments must be received no later than 4:45 p.m. on Monday, May 12, 2014. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on Tuesday, June 24, 2014, at 10:00 a.m. in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

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Preliminary Fiscal Impact Statement:

Although the Commission anticipates incurring some costs to configure its Docket Management System to electronically serve the documents referenced herein, the Agency expects postage and other related costs to decrease when the proposed amendments are implemented.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 103-817. Proceedings.

Purpose: In 2012, S.C. Code Ann. Section 58-3-250 was amended by instructing the Commission to serve its final orders or decisions by electronic service, registered or certified mail, upon all parties to a proceeding or their attorneys. The Commission creates and distributes to parties and interested persons certain procedural documents such as Prefile Testimony Letters, Transmittal Letters, and Notices of Hearing. These documents are sent to persons through U.S. Mail. If the document contains a Commission hearing date, the document is forwarded to the person or persons by Certified Mail. The proposed changes to Regulation 103-817 provide a more efficient procedure for service of procedural Commission documents to parties or interested persons. The proposed changes also make certain minor grammatical changes.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2013).

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*.

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

The proposed amendments to Regulation 103-817 are needed and are reasonable as the Commission will be able to implement a more efficient process to serve its procedural documents. Affected persons should receive these electronically served procedural documents faster compared to being served these documents by U.S. Mail.

DETERMINATION OF COSTS AND BENEFITS:

Although costs related to the proposed changes to the Commission's regulations are minimal, and will include costs related to configuring the Commission's Docket Management System to electronically serve these documents, the benefits will outweigh those costs and will include more efficient processing and forwarding of Commission procedural documents to parties.

UNCERTA	INTIES	OF ESTIM	1ATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

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

Statement of Rationale:

The purpose for the proposed amendments to Regulation 103-817 is to recommend certain minor grammatical changes and to modify this Regulation to allow the Commission to serve certain procedural documents by electronic service and U.S. Mail. The proposed amendments promote an improved and more efficient process to serve parties with important Commission documents. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

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

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Document No. 4334 **BOARD OF ARCHITECTURAL EXAMINERS**

CHAPTER 11

Statutory Authority: 1976 Code Sections 40-1-70 and 40-3-60

- 11-2. Officers
- 11-3. Meetings
- 11-5. Applications and Fees
- 11-8. Renewals
- 11-8.1. Continuing Education

Synopsis:

To satisfy the requirements of licensure in the field of architecture, Regulations 11-2 through 11-3, 11-5, and 11-8 through 11-8.1 must be updated in conformance with the current Board of Architectural Examiners Practice Act.

The Notice of Drafting was published in the State Register on December 28, 2012.

Instructions:

The following sections of Chapter 11 are modified as provided below. All other items and sections remain unchanged.

Text:

11-2. Officers.

A. Officers of this Board shall be chairman, vice-chairman, and secretary, and shall be elected annually. The chairman shall exercise general supervision of the Board's affairs, except such as are placed under the Director of the Department of Labor, Licensing and Regulation, and shall preside at all meetings of the Board when present. The vice-chairman shall possess all the powers and perform all the duties of the chairman in the event of the absence, disability, refusal or failure to act of the chairman. The secretary shall act as its recording secretary; cause written minutes of every meeting of this Board to be kept in the Book of Minutes; affix the Board's Seal to such instruments as require it; and sign all instruments and matters that require attestation or approval of this Board.

B. No members may serve more than two (2) consecutive one-year terms in the office of chairman or vice-chairman, but election to fill an unexpired term shall not bar the serving of two (2) succeeding terms. A member must have served one (1) calendar year on the Board to be eligible for the office of chairman and vice-chairman.

11-3. Meetings.

Notice of all meetings shall be distributed to each member at least five (5) days in advance of such meeting, giving the time, place, and general purpose of the meeting. The Annual meeting shall be held within ninety (90) days of the end of the fiscal year. Public notice of the meetings shall be made in accordance with the Freedom of Information Act.

11-5. Applications and Fees.

A. All applications must be accompanied by an application fee in the form of a credit card or check or money order made payable to South Carolina Board of Architectural Examiners. Applications will be reviewed by the Board within ninety (90) days of receipt. If after review by the Board an application is approved, the applicant shall be advised in writing.

B. The Board may charge the following fees:

(1) Individual Fees

(a) Application fee	\$105
(b) Initial licensure fee	\$85
(c) Biennial renewal fee	\$130

(d) Penalty late fees \$50 during first month after expiration date; total of

\$150 during remainder of the year after expiration. Late penalty fees are assessed in addition to the renewal fee.

(e) Reinstatement application fee	\$105
(f) Reinstatement licensure fee	\$85
(2) Firm Fees	
(a) Application and licensure fee	\$100

(b) Biennial renewal fee \$200

(c) Penalty late fees \$50 during first month after expiration date; total of

\$150 during remainder of the year after expiration. Late penalty fees are assessed in addition to the renewal fee.

(d) Reinstatement a	application and licensure fee	\$100
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(3) Other Fees

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(a) File transfer fee(b) Electronic list of licensees\$10

11-8. Renewals.

- A. Certificates of Registration issued to individuals expire biennially. They must be renewed for the following licensure period by payment of the renewal fee and by reporting completion of the required continuing education hours. Certificates shall become invalid unless renewed.
- B. Certificates of Authorization issued to firms expire biennially. They must be renewed for the following licensure period by payment of the renewal fee and shall become invalid unless renewed.
- C. Lapsed Certificates of Registration may be renewed by the Board at any time within one year from the date of expiration on payment of the renewal fee plus late penalties and demonstration of twenty-four (24) hours of continuing education in health, safety and welfare topics. In case of failure to renew within one year from the date of expiration, the Certificate cannot be reissued except by a new application accompanied by the application fee and approval by the Board.
- D. Lapsed Certificates of Authorization may be renewed by the Board at any time within one year from the date of expiration on payment of the renewal fee plus late penalties. In case of failure to renew within one year from the date of expiration, the Certificate cannot be reissued except by a new application accompanied by the application fee and approval by the Board.

11-8.1. Continuing Education.

- A. These requirements shall apply to every South Carolina registered architect as a condition for renewal of registration.
- B. Exemptions: A registrant may be exempt from the continuing education requirements for one of the following reasons:
 - (1) A first-time new registrant by examination will be exempt for the first renewal.
- (2) A registrant serving on active military duty may be exempt for some or all of the continuing education requirements.

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- (3) Hardship cases may be considered by the Board on an individual basis upon submittal of relevant documentation acceptable to the Board in its discretion.
 - (4) Architects in Emeritus status as defined in Section 40-3-20.
 - C. Requirements.
- (1) Each South Carolina Registered architect shall complete a minimum of twelve (12) continuing education hours each calendar year in topics related to health, safety and welfare. No carry-over of continuing education hours into the next biennial licensure period is permitted. However, carry-over within the licensing period is allowed.
- (2) Each registrant shall submit, on a form provided by the board, a signed affidavit attesting to the fulfillment of continuing education requirements for the two calendar years preceding the calendar year in which the license is set to expire.
- (3) Each affidavit may be subject to audit for verification of compliance with requirements. Registrants shall retain proof of fulfillment of requirements for a period of two (2) years after submission in the event the affidavit is selected for audit. Registrants must comply with audit deadlines and requirements.
- (4) The Board may disallow claimed credit for continuing education hours. The registrant shall have forty-five (45) calendar days after notification of disallowance of credit to substantiate the original claim or earn other continuing education credit which fulfills minimum requirements.
- D. Noncompliance and Sanctions. Failure to fulfill the continuing education requirements shall be considered a violation of the Architectural Registration Law. Failure to file the required report, properly completed and signed, or to comply with audit and verification requests within thirty (30) days of notice shall be considered a violation of the Architectural Registration Law.

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 current Board of Architectural Examiners Practice Act.

Document No. 4335 **BOARD OF COSMETOLOGY**

CHAPTER 35

Statutory Authority: 1976 Code Sections 40-1-70, 40-13-60 and 40-13-80

35-6. Administrative Citations and Penalties

Synopsis:

To satisfy the requirements of licensure in the field of cosmetology, Regulations 35-6 must be added in conformance with the current Board of Cosmetology Practice Act and to provide for the issuance of administrative citations and penalties to salons and individuals.

The Notice of Drafting was published in the *State Register* on October 26, 2012.

Instructions:

The following section of Chapter 35 is added as provided below. All other items and sections remain unchanged.

Text:

- 35-6. Administrative Citations and Penalties.
- (A) The board may issue administrative citations and cease and desist orders in person or by certified mail and may assess administrative penalties against an entity or individual, including unlicensed persons, for violations of this chapter or regulation as specified by the board.
- (B) Separate citations may be issued and separate administrative penalties may be assessed for each violation; however, no more than five hundred dollars in administrative penalties may be assessed against an entity or an individual per offense.
- (C) Administrative penalties authorized under this section are separate from and in addition to all other remedies, either civil or criminal.
- (D) An entity or individual assessed administrative penalties may appeal those penalties to the board within ten calendar days of receipt of the citation. If an appeal is filed, the department shall schedule a hearing before the board, which shall make a determination in the matter. If no appeal is filed, the citation is deemed a final order and the administrative penalties must be paid within thirty calendar days of receipt of the citation or other written demand.

Fiscal Impact Statement:

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

Statement of Rationale:

This regulation is added in conformance with the current Board of Cosmetology Practice Act and to provide for the issuance of administrative citations and penalties to salons and individuals.

Document No. 4317 **DEPARTMENT OF EMPLOYMENT AND WORKFORCE**CHAPTER 47

Statutory Authority: 1976 Code Section 41-29-110

- 47-100. Cause Other Than Misconduct
- 47-101. Substandard Performance Due to Inefficiency, Inability, or Incapacity
- 47-103. Waiver of Non-Fraudulent or No-Fault Overpayments

Synopsis:

The South Carolina Department of Employment and Workforce proposes to add regulations in Article 4. Unemployment Insurance. Regulation 47-100 and 47-101 to is to clarify legislative changes made by the General Assembly during the 2012 session. Regulation 47-103 is to provide guidance for waivers of non-fraudulent or no fault overpayments under South Carolina Code Section 41-41-40(b)(2).

- 47-100. Cause Other Than Misconduct. This regulation is being added to explain "cause other than misconduct" for the purposes of South Carolina Code Annotated Section 41-35-120(2)(b).
- 47-101. Substandard Performance Due to Inefficiency, Inability, or Incapacity. This regulation is being added to explain "substandard performance due to inefficiency, inability, or incapacity" for the purposes of South Carolina Code Annotated Section 41-35-120(2)(b)

36 FINAL REGULATIONS

47-103. Waiver of Non-Fraudulent or No-Fault Overpayments. This regulation is being added to outline the factors used when the Department determines whether to waive a non-fraudulent/no-fault overpayment under South Carolina Code Annotated Section 41-41-40(B)(2).

The Notice of Drafting regarding these regulations was published on October 26, 2012 in the State Register.

Instructions:

Print the regulations in accordance with directions given below to reflect new regulations.

Regulation 47-100. Cause Other Than Misconduct.

Regulation 47-101. Substandard Performance Due to Inefficiency, Inability, or Incapacity.

Regulation 47-103. Waiver of Non-Fraudulent or No-Fault Overpayments.

Print as shown below:

Text:

ARTICLE 4

UNEMPLOYMENT INSURANCE

47-100. Cause Other Than Misconduct.

Under South Carolina Code Annotated Section 41-35-120(2)(b), if a claimant is discharged for cause other than misconduct, the claimant is partially disqualified from unemployment insurance benefits. "Cause other than misconduct" is conduct that demonstrates a level of fault of the employee but does not rise to the level of deliberate disregard for the standards of behavior which the employer has the right to expect of his or her employee. Fault includes those acts or omissions of employees over which an employee exercised reasonable control and which violate reasonable requirements of the job.

47-101. Substandard Performance Due to Inefficiency, Inability, or Incapacity.

Under South Carolina Code Section 41-35-120(2), a discharge resulting from substandard performance due to inefficiency, inability, or incapacity shall not serve as a basis for disqualification of unemployment insurance benefits. "Substandard performance due to inefficiency, inability or incapacity" describes a claimant's failure to perform to the satisfaction of the employer where such failure was beyond the claimant's control, had no harmful intent or was a good faith error in judgment or discretion.

47-103. Waiver of Non-Fraudulent or No-Fault Overpayment.

Pursuant to South Carolina Code Annotated Section 41-41-40(B)(2), the Department may waive repayment of overpayments if the overpayment was not due to fraud, misrepresentation, or willful dislcosure, was received without fault on the part of the claimant, and recovery of the overpayment would be contrary to equity and good conscience.

1. WAIVER

- a. When an overpayment determination is issued, a claimant may request a waiver.
- b. A request for waiver by an individual shall be in writing and set forth the grounds for waiver.
- c. The Department's denial of a request for waiver of the repayment of an overpayment is an appealable decision.

d. When a waiver of an overpayment has become final, it shall not be re-determined in the absence of fraud, misrepresentation, or willful nondisclosure by the claimant relating to the waiver.

2. FAULT

In determining whether fault exists, the following factors must be considered:

- a. whether a statement or representation was made by the individual in connection with a claim for benefits that resulted in the overpayment, and whether the individual knew or should have known that the statement or representation was inaccurate;
- b. whether the individual failed or caused another to fail to disclose a material fact, in connection with a claim for benefits that resulted in the overpayment, and whether the individual knew or should have known that the fact was material; and
- c. whether the individual knew or could have been expected to know that the individual was not entitled to the benefit payment.

In the event of an affirmative finding on any of the FAULT factors outlined above, the overpayment shall not be waived and further determination of any factors will not be necessary.

3. EQUITY AND GOOD CONSCIENCE

In determining whether recovery of an overpayment is against equity and good conscience for the purpose of deciding whether the overpayment of benefits shall be waived, the Department shall consider the following non-exclusive factors:

- a. The extent to which recovery of the overpayment would create an extraordinary financial hardship on the claimant. Extraordinary financial hardship as used herein means the claimant would be unable to provide himself or his immediate family with minimal necessities (e.g., food, shelter, basic utilities) as a result of the Department recovering the overpayment;
- b. The nature and cause of the overpayment, including whether Department error contributed to causing the overpayment;
- c. Whether the claimant had notice that if a decision to pay benefits was reversed, an overpayment would be created:
 - d. Whether the claimant detrimentally changed his/her position in reliance upon receipt of benefits; and
 - e. Any other relevant factor that relates to fairness and good conscience.

Fiscal Impact Statement:

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

Statement of Rationale:

South Carolina Code Section 41-29-110 provides for the Department to promulgate regulations as necessary to effectuate the purposes of Title 41, and these proposed Regulations 47-100 and 47-101 are being made to clarify statutory law. Regulation 47-103 is to provide guidance on how the Department determines waivers of non-fraudulent or no-fault overpayments where recovery of the overpayment would be contrary to equity and good conscience.