

SOUTH CAROLINA STATE REGISTER DISCLAIMER

While every attempt has been made to ensure the accuracy of this State Register, the printed version of the State Register and not the on-line version is the official version and the Legislative Council makes no warranties or representations regarding its accuracy or completeness, and each user of this product understands that the Legislative Council disclaims any liability for any damages in connection with its use. This information is not intended for commercial use and its dissemination by sale or other commercial transfer is not authorized, absent a written licensing agreement with the Legislative Council. For further information contact the Legislative Council at 803-212-4500.

SOUTH CAROLINA STATE REGISTER

PUBLISHED BY
THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

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

P.O. BOX 11489
COLUMBIA, SC 29211
TELEPHONE (803) 212-4500

Published April 25, 2014

Volume 38 Issue No. 4

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*.

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

The *South Carolina State Register* is available electronically through the South Carolina Legislature Online website at www.scstatehouse.gov, or in a printed format. Subscriptions run concurrent with the State of South Carolina's fiscal year (July through June). The annual subscription fee for the printed format is \$100.00. Payment must be made by check payable to the Legislative Council. To subscribe, complete the form below and mail with payment.

C-----C-----C

South Carolina State Register Subscription Order Form

Name	Title
Firm	
Mailing Address	
Billing Address (if different from mailing address)	
Contact Person(s)	E-mail Address
Phone Number	Fax Number
Number of subscriptions: (Cost is \$100.00 per subscription. Checks payable to: Legislative Council)	
	Printed

Mail this form to:
South Carolina State Register
Deirdre Brevard-Smith, Editor
P.O. Box 11489
Columbia, SC 29211
Telephone: (803) 212-4500
Fax: (803) 212-4501

TABLE OF CONTENTS

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

Status and Legislative Review Expiration Dates..... 1
Committee List of Regulations Submitted to General Assembly..... 3

EXECUTIVE ORDERS

Executive Order No. 2014-23 Establishing the State Employee Code of Conduct Task Force 5
Executive Order No. 2014-24 Extending the Waiver of Weight and Hours of Service
Limitations for Trucks..... 7

NOTICES

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF
Underground Storage Tanks..... 9

DRAFTING NOTICES

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF
Air Pollution Control Regulations and Standards (61-62.1; 61-62.5, Standard Nos. 1, 2, 3, 4,
5.1, 7, 7.1, 8; 61-62.70) 10
Consumer Equipment, Collection and Recovery 11
Procedures for Contested Cases 12
Shellfish..... 12
Standards for Wastewater Facility Construction..... 13

FINAL REGULATIONS

CLEMSON UNIVERSITY
State Crop Pest Commission
Document No. 4284 Limited Herbicide Applicators License 14

LABOR, LICENSING AND REGULATION, DEPARTMENT OF
Fire Marshal, Office of State
Document No. 4378 Office of State Fire Marshal..... 29

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

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/regsrch.php>

DOC. No.	RAT. No.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4317		SR38-2	Unemployment Insurance	1/16/14	Department of Employment and Workforce
4334		SR38-2	Officers, Meetings, Applications and Fees, Renewals, and Continuing Education	2/03/14	Board of Architectural Examiners
4335		SR38-2	Administrative Citations and Penalties	2/03/14	Board of Cosmetology
4313		SR38-3	Child Support Guidelines	2/16/14	Department of Social Services
4342		SR38-3	Nurse Licensure Compact	3/04/14	Board of Nursing
4378		SR38-4	Office of State Fire Marshal	4/05/14	LLR-Office of State Fire Marshal
4347	R.144	SR38-3	Law Enforcement Officer and E-911 Officer Training & Certification	4/07/14	South Carolina Criminal Justice Academy
4284		SR38-4	Limited Herbicide Applicators License	4/08/14	Clemson University-State Crop Pest Comm.
4316			Employer-Employee Relationship	5/14/14	Department of Employment and Workforce
4389			Requirements of Licensure in the Field of Speech-Language Pathology and Audiology	5/14/14	Board of Examiners in Speech-Language Pathology and Audiology
4399			Lump Sum Payment	5/14/14	Workers' Compensation Commission
4403			Displaying the Flag	5/14/14	State Board of Education
4409			Teacher Grants	5/14/14	State Board of Education
4401			Accreditation Standards Filed	5/14/14	State Board of Education
4396			Utilization of General Teacher Certifications	5/14/14	State Board of Education
4404			Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts	5/14/14	State Board of Education
4405			Operation and Funding of Teacher Training Courses in Mathematics, Science, Reading and Computer Education	5/14/14	State Board of Education
4397			School Admission	5/14/14	State Board of Education
4400			Accreditation Criteria	5/14/14	State Board of Education
4391			School Superintendent Compensation and Benefits/Expenses	5/14/14	State Board of Education
4414			Additional Requirements Applicable to Specific Properties	5/14/14	Department of Natural Resources
4388			Air Pollution Control Regulations and Standards	5/14/14	Department of Health and Envir Control
4386			Coastal Division Regulations	5/14/14	Department of Health and Envir Control
4428			Homemade Watercraft	5/14/14	Department of Natural Resources
4411			Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	5/14/14	Department of Natural Resources
4425			Water Classifications and Standards	5/16/14	Department of Health and Envir Control
4434			Vaccination, Screening and Immunization Regarding Contagious Diseases	5/16/14	Department of Health and Envir Control
4432			Solid Waste Management: Yard Trash and Land-clearing Debris; and Compost	5/16/14	Department of Health and Envir Control
4431			Public Swimming Pools	5/16/14	Department of Health and Envir Control
4433			Standards for Licensing In-Home Care Providers	5/17/14	Department of Health and Envir Control
4429			Critical Congenital Heart Defects Screening on Newborns	5/17/14	Department of Health and Envir Control
4430			Minimum Standards for Licensing Hospitals and Institutional General Infirmaries	5/17/14	Department of Health and Envir Control
4424			Retail Food Establishments	5/17/14	Department of Health and Envir Control
4421			Defined Program for the Palmetto Unified School District (PUSD)	5/21/14	State Board of Education
4382			Qualification of Special Inspectors	5/22/14	LLR-Office of Elevators and Amusement Rides
4410			Amend Regulations in Conformance with its Practice Act	5/22/14	Environmental Certification Board
4418			Regulations Administering Fire Protection Sprinkler Systems Act	5/22/14	Contractors Licensing Board
4423			Board of Registration for Geologists	5/22/14	Board of Registration for Geologists
4439			Requirements of Licensure in the Practice of Psychology	5/23/14	Board of Examiners in Psychology
4438			Financial Responsibility	5/23/14	Manufactured Housing Board
4435			IRC Section R312.2 Window Fall Protection	5/23/14	Building Codes Council
4437			Establish and Amend Schedules of Fees for Certain Professional and Occupational Licensing Boards and Commissions	5/24/14	LLR
4406			Requirements for Certification at the Advanced Level	5/26/14	State Board of Education
4420			Adult Education Program	5/26/14	State Board of Education
4422			Requirements for Additional Areas of Certification	5/26/14	State Board of Education
4427			Tobacco Enforcement	5/27/14	Attorney General
4426			Real Estate Appraisers Board	5/27/14	Real Estate Appraisers Board
4447			Code of Ethics	6/04/14	Board of Nursing
4445			Office of State Fire Marshal	6/04/14	LLR- Office of State Fire Marshal
4446			Enforcement of Violations	6/04/14	LLR- OSHA

2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4369	Allow E-911 Operators One Year to Attend Training at the Academy	6/04/14	South Carolina Criminal Justice Academy
4370	Requirement of Good Character (E-911 Operators)	6/04/14	South Carolina Criminal Justice Academy
4374	Application for Issuance or Re-issuance of Certification	6/04/14	South Carolina Criminal Justice Academy
4443	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	1/18/15	Department of Natural Resources
4452	Requirements of Licensure for Long Term Health Care Administrators	2/23/15	Board of Long Term Health Care Administrators
4453	Annuity Mortality Tables For Use In Determining Reserve Liabilities For Annuities	2/24/15	Department of Insurance
4444	Water Pollution Control Permits	2/28/15	Department of Health and Envir Control
4350	Law Enforcement Officer and E-911 Officer Training and Certification (Renumber and Reorganize)	3/15/15	South Carolina Criminal Justice Academy
Agency Request Withdrawal			
4345	Adjudication of Misconduct Allegations (Reporting of Misconduct by Law Enforcement Officers)	Tolled	South Carolina Criminal Justice Academy
4372	Certification	Tolled	South Carolina Criminal Justice Academy
4344	Adjudication of Misconduct Allegations (Contested Case Hearing Process)	Tolled	South Carolina Criminal Justice Academy
Committee Request Withdrawal			
4337	Requirements of Licensure in the Field of Cosmetology (Sanitation and Salons)	Tolled	Board of Cosmetology
4407	South Carolina Virtual School Program	Tolled	State Board of Education
4408	Student Attendance	Tolled	State Board of Education
4419	Adult Education	Tolled	State Board of Education
Resolution Introduced to Disapprove			
4392	Interscholastic Activities	Tolled	State Board of Education
Permanently Withdrawn			
4329	Cheese & Butter		Department of Agriculture
4379	Requirements of Licensure in Real Estate Appraisal		Real Estate Appraisers Board
4384	Requirements of Licensure for Professional Boxing, Wrestling, Kick Boxing, and Off the Street Boxing		State Athletic Commission
4385	Requirements of Licensure in Mixed Martial Arts		State Athletic Commission
4368	Authority of Director		South Carolina Criminal Justice Academy
4376	Assignment of Costs for Agency Level Contested Case Hearings		South Carolina Criminal Justice Academy
4436	Board of Registration for Foresters		Board of Registration for Foresters

COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 3

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/regsrch.php>

DOC. No.	SUBJECT SENATE COMMITTEE	HOUSE COMMITTEE	HOUSE COMMITTEE
4317	Unemployment Insurance	Labor, Commerce and Industry	Labor, Commerce and Industry
4334	Officers, Meetings, Applications and Fees, Renewals, and Continuing Education	Labor Commerce and Industry	Labor, Commerce and Industry
4335	Administrative Citations and Penalties	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4313	Child Support Guidelines	Judiciary	Judiciary
4342	Nurse Licensure Compact	Medical, Military, Pub & Mun Affairs	Medical Affairs
4378	Office of State Fire Marshal	Labor, Commerce and Industry	Labor, Commerce and Industry
4347	Law Enforcement Officer and E-911 Officer Training & Certification	Judiciary	Judiciary
4284	Limited Herbicide Applicators License	Agriculture and Natural Resources	Agriculture and Natural Resources
4316	Employer-Employee Relationship	Labor, Commerce and Industry	Labor, Commerce and Industry
4389	Requirements of Licensure in the Field of Speech-Language Pathology and Audiology	Medical, Military, Pub & Mun Affairs	Medical Affairs
4399	Lump Sum Payment	Labor, Commerce and Industry	Judiciary
4403	Displaying the Flag	Education and Public Works	Education
4409	Teacher Grants	Education and Public Works	Education
4401	Accreditation Standards Filed	Education and Public Works	Education
4396	Utilization of General Teacher Certification	Education and Public Works	Education
4404	Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts	Education and Public Works	Education
4405	Operation and Funding of Teacher Training Courses in Mathematics, Science, Reading and Computer Education	Education and Public Works	Education
4397	School Admission	Education and Public Works	Education
4400	Accreditation Criteria	Education and Public Works	Education
4391	School Superintendent Compensation and Benefits/Expenses	Education and Public Works	Education
4414	Additional Requirements Applicable to Specific Properties	Agriculture and Natural Resources	Fish, Game and Forestry
4388	Air Pollution Control Regulations and Standards	Agriculture and Natural Resources	Medical Affairs
4386	Coastal Division Regulations	Agriculture and Natural Resources	Agriculture and Natural Resources
4428	Homemade Watercraft	Agriculture and Natural Resources	Fish, Game and Forestry
4411	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Agriculture and Natural Resources	Fish, Game and Forestry
4425	Water Classifications and Standards	Agriculture and Natural Resources	Agriculture and Natural Resources
4434	Vaccination, Screening and Immunization Regarding Contagious Diseases	Medical, Military, Pub & Mun Affairs	Medical Affairs
4432	Solid Waste Management: Yard Trash and Land-clearing Debris; and Compost	Agriculture and Natural Resources	Medical Affairs
4431	Public Swimming Pools	Agriculture and Natural Resources	Medical Affairs
4433	Standards for Licensing In-Home Care Providers	Medical, Military, Pub & Mun Affairs	Medical Affairs
4429	Critical Congenital Heart Defects Screening on Newborns	Medical, Military, Pub & Mun Affairs	Medical Affairs
4430	Minimum Standards for Licensing Hospitals and Institutional General Infirmaries	Medical, Military, Pub & Mun Affairs	Medical Affairs
4424	Retail Food Establishments	Agriculture and Natural Resources	Medical Affairs
4421	Defined Program for the Palmetto Unified School District (PUSD)	Education and Public Works	Education
4382	Qualification of Special Inspectors	Labor, Commerce and Industry	Labor, Commerce and Industry
4410	Amend Regulations in Conformance with its Practice Act	Agriculture and Natural Resources	Labor, Commerce and Industry
4418	Regulations Administering Fire Protection Sprinkler Systems Act	Labor, Commerce and Industry	Labor, Commerce and Industry
4423	Board of Registration for Geologists	Agriculture and Natural Resources	Labor, Commerce and Industry
4439	Requirements of Licensure in the Practice of Psychology	Medical, Military, Pub & Mun Affairs	Medical Affairs
4438	Financial Responsibility	Labor, Commerce and Industry	Labor, Commerce and Industry
4435	IRC Section 312.2 Window Fall Protection	Labor, Commerce and Industry	Labor, Commerce and Industry
4437	Establish and Amend Schedules of Fees for Certain Professional and Occupational Licensing Boards and Commissions	Labor, Commerce and Industry	Labor, Commerce and Industry
4406	Requirements for Certification at the Advanced Level	Education and Public Works	Education
4420	Adult Education Program	Education and Public Works	Education
4422	Requirements for Additional Areas of Certification	Education and Public Works	Education
4427	Tobacco Enforcement	Agriculture and Natural Resources	Finance
4426	Real Estate Appraisers Board	Labor, Commerce and Industry	Labor, Commerce and Industry
4447	Code of Ethics	Medical, Military, Pub & Mun Affairs	Medical Affairs
4445	Office of State Fire Marshal	Labor, Commerce and Industry	Labor, Commerce and Industry
4446	Enforcement of Violations	Labor, Commerce and Industry	Labor, Commerce and Industry
4369	Allow E-911 Operators One Year to Attend Training at the Academy	Judiciary	Judiciary
4370	Requirement of Good Character (E-911 Operators)	Judiciary	Judiciary
4374	Application for Issuance or Re-issuance of Certification	Judiciary	Judiciary

4 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4443	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Agriculture and Natural Resources	Fish, Game and Forestry
4452	Requirements of Licensure for Long Term Health Care Administrators	Medical, Military, Pub & Mun Affairs	Medical Affairs
4453	Annuity Mortality Tables For Use In Determining Reserve Liabilities For Annuities	Labor, Commerce and Industry	Banking and Insurance
4444	Water Pollution Control Permits	Agriculture and Natural Resources	Medical Affairs
4350	Law Enforcement Officer and E-911 Officer Training and Certification (Renumber and Reorganize)	Judiciary	Judiciary
Agency Request Withdrawal			
4345	Adjudication of Misconduct Allegations (Reporting of Misconduct by Law Enforcement Officers)	Judiciary	Judiciary
4372	Certification	Judiciary	Judiciary
4344	Adjudication of Misconduct Allegations (Contested Case Hearing Process)	Judiciary	Judiciary
Committee Request Withdrawal			
4337	Requirements of Licensure in the Field of Cosmetology (Sanitation and Salons)	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4407	South Carolina Virtual School Program	Education and Public Works	Education
4408	Student Attendance	Education and Public Works	Education
4419	Adult Education	Education and Public Works	Education
Resolution Introduced to Disapprove			
4392	Interscholastic Activities	Education and Public Works	Education
Permanently Withdrawn			
4329	Cheese & Butter	Agriculture and Natural Resources	Agriculture and Natural Resources
4379	Requirements of Licensure in Real Estate Appraisal	Labor, Commerce and Industry	Labor, Commerce and Industry
4384	Requirements of Licensure for Professional Boxing, Wrestling, Kick Boxing, and Off the Street Boxing	Labor, Commerce and Industry	Labor, Commerce and Industry
4385	Requirements of Licensure in Mixed Martial Arts	Labor, Commerce and Industry	Labor, Commerce and Industry
4368	Authority of Director	Judiciary	Judiciary
4376	Assignment of Costs for Agency Level Contested Case Hearings	Judiciary	Judiciary
4436	Board of Registration for Foresters	Agriculture and Natural Resources	Fish, Game and Forestry

Executive Order No. 2014-23

WHEREAS, the establishment and enforcement of the highest standards of official conduct serves both to support a culture of good government for the State of South Carolina and also to provide the public with greater confidence that their government is serving them responsibly and effectively; and

WHEREAS, the “Rules of Conduct” found in Article 7, Chapter 13 of Title 8 of the South Carolina Code of Laws prohibit the most egregious forms of misconduct, but being decades old, do not provide current state employees with sufficiently clear or robust guidance relating to the public’s contemporary expectations for their official conduct; and

WHEREAS, although the General Assembly continues to debate a meaningful ethics reform package, that legislation’s primary focus is on the responsibilities of elected officials, as opposed to the senior-level appointees and other state employees who handle sensitive information and make countless key decisions everyday; and

WHEREAS, this year’s passage of legislation to establish a Department of Administration expanded whistleblower protections and created a more effective and responsive organizational structure that can be used to develop more stringent and uniform standards of official conduct for state employees, along with a centralized process for developing and distributing related training to new and existing employees; and

WHEREAS, this Administration has led many efforts and supported others to promote accountability and integrity in the provision of public services.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina, I hereby establish the State Employee Code of Conduct Task Force, which shall be constituted and shall execute its duties and responsibilities as follows:

1. **Mission**: To develop recommendations for a Code of Conduct for state employees and for the manner in which public servants should receive initial and subsequent training on standards of official conduct.
2. **Membership**: The State Employee Code of Conduct Task Force (“Task Force”) shall consist of at least seven members including the State Inspector General, the Director of the Division of Human Resources, the Executive Director of the State Ethics Commission, the Chief Legal Counsel to the Governor, and at least three additional members with experience in management, human resources or employment law or policy, investigations or law enforcement, or public interest advocacy. Each of these additional members shall be appointed by the Governor, one of whom the Governor shall designate as Chair.
3. **Duties and Responsibilities**:
 - a. The Task Force shall develop recommendations for the general content of a State Employee Code of Conduct, addressing any appropriate topics that include but are not limited to:
 - i. Acceptance and reporting of gifts
 - ii. Financial disclosures and/or prohibited transactions for individuals in senior-level positions and/or those with access to sensitive information
 - iii. Appropriate use of state resources and equipment, including information technology
 - iv. Assurance of a safe, nondiscriminatory work environment
 - v. Whistleblower protections and mandatory reporting obligations

6 EXECUTIVE ORDERS

- vi. Post-employment reporting requirements and/or restrictions on representing non-state interests before state agencies
 - vii. Other conflicts of interest or conduct-related subjects
- b. The Task Force shall also make recommendations for developing and maintaining an effective program for training new employees and periodically retraining existing employees on their rights and responsibilities under the proposed Code of Conduct. These recommendations shall address, at a minimum:
- i. Delineation of central vs. agency roles
 - ii. Responsibilities of employees, supervisors, and central and agency human resources staff
 - iii. Use of online training
 - iv. Variations in training content by level and/or type of position
- c. The Task Force shall request and evaluate written recommendations from the public interest groups; state and local government agencies, officials, and employees; the State Ethics Commission; and the legislative ethics committees.
- d. The Task Force shall conduct a minimum of two public hearings and may conduct more as necessary.
- e. In making final recommendations, the Task Force must evaluate and consider all public testimony and written submissions.
- f. Staff and legal support for the Task Force shall be supplied by the Division of Human Resources.
4. **Recommendations:** Final written recommendations must be submitted to the Governor and the other members of the Budget and Control Board, the State Inspector General, the Chairman of the State Ethics Commission, and the Chairmen of the House and Senate Ethics Committees no later than July 1, 2014.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 9th DAY OF APRIL, 2014.**

NIKKI R. HALEY
Governor

Executive Order No. 2014-24

WHEREAS, as a result of the winter storm, which occurred between February 11, 2014 and February 13, 2014, it is estimated that 1.5 million acres of forest and timber land across 24 counties have been significantly damaged, causing an immediate and direct loss of approximately \$360 million to the State's economy; and

WHEREAS, it is necessary to expedite the removal and delivery of the damaged timber to consuming manufacturers both inside and outside of the State of South Carolina in order to salvage, use, and market as much timber as possible as quickly as possible so as to minimize total waste and rottage of this valuable and perishable natural resource; and

WHEREAS, it is in the best interests of the public's health, safety, and welfare to reduce the risk of wildfire, disease, and insect infestation of residual standing timber; and

WHEREAS, pursuant to Section 56-5-70(A) of the South Carolina Code of Laws, the Governor may suspend requirements relating to length, width, weight, load, and time of service for commercial and utility vehicles during a state of emergency and for thirty days thereafter; and

WHEREAS, Executive Order 2014-21, lifting the aforementioned restrictions, expires on April 12, 2014, yet there exists a continuous emergency in the State of South Carolina in response to the damage caused by the winter storm warranting the extension of the waiver of these restrictions for debris removal operations and for the timber industry at large.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby suspend the requirements relating to length, width, weight, load, and time of service for commercial and utility vehicles carrying unmanufactured forest products, including but not limited to timber, timber byproducts, logs, woodchips, and vegetative debris, through and 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, including interstates, maximum dimensions of 12' wide, 13'6" high, and a gross weight 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.

8 EXECUTIVE ORDERS

FURTHER, nothing herein shall be construed as an exemption from the Commercial Driver's License requirements set forth in 49 C.F.R. § 383 or the financial requirements set forth in 49 C.F.R. § 387.

This Order takes effect upon the expiration of Executive Order 2014-21, which is set to statutorily occur at 11:59 p.m. on April 12, 2014, and will remain in effect until 11:59 p.m. on May 12, 2014.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 10th DAY OF APRIL, 2014.**

NIKKI R. HALEY
Governor

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**NOTICE OF GENERAL PUBLIC INTEREST**

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than May 26, 2014 to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Bureau of Land and Waste Management - Underground Storage Tank Program
Attn: Michelle Dennison
2600 Bull Street
Columbia, SC 29201

The following companies have applied for certification as Underground Storage Tank Site Rehabilitation Contractor:

Class I

Contour Environmental, LLC.
Attn: Dana A. Spotts
1690 Stone Village Lane, Ste 321
Kennesaw, GA 30152

10 DRAFTING NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control (Department) is proposing to amend Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (SIP). Interested persons are invited to present their views concerning these amendments in writing to Anthony T Lofton, Division of Air Assessment and Regulations, Bureau of Air Quality, 2600 Bull Street, Columbia, S.C. 29201, or via electronic mail at loftonat@dhec.sc.gov. To be considered, the Department must receive comments by 5:00 p.m. on May 26, 2014, the close of the drafting comment period.

Synopsis:

The Department proposes amendments to Regulation 61-62, which may include:

- 1) Amendments to Regulation 61-62.1, Definitions and General Requirements, to streamline and update permitting requirements; and to make other revisions as deemed necessary which may include modification to public notice requirements.
- 2) Amendments to Regulation 61-62.5, Standard No. 1, Emissions from Fuel Burning Operations, to provide an averaging time for sulfur dioxide (SO₂) and particulate matter (PM) and to include a propane exemption.
- 3) Amendments to Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards, to remove the SO₂ 24-hour primary standard level; and to remove from the list of pollutants Gaseous Fluorides (as hydrogen fluoride (HF)).
- 4) Amendment to Regulation 61-62.5, Standard No. 3, Waste Combustion and Reduction, to specify renewable energy exemptions.
- 5) Amendment to Regulation 61-62.5, Standard No. 4, Emissions from Process Industries, to provide an averaging time for SO₂ and PM.
- 6) Amendment to Regulation 61-62, Air Pollution Control Regulations and Standards, to repeal Regulation 61-62.5, Standard No. 5.1, Best Available Control Technology (BACT)/Lowest Achievable Emission Rate (LAER) Applicable to Volatile Organic Compounds.
- 7) Amendment to Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration, to modify the criteria for creditability of an increase or decrease in actual emissions.
- 8) Amendment to Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review, to add timing flexibility language that was inadvertently omitted from the section of the regulation governing the calculation of emission offsets.
- 9) Amendment to Regulation 61-62.5, Standard No. 8, Toxic Air Pollutants, to add HF as a pollutant.
- 10) Amendment to Regulation 61-62.70, Title V Operating Permit Program, to make a change to section 62.70.5(c) to correct a unit of measurement error.

11) Amendments to Regulation 61-62 that may include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

These amendments require General Assembly review.

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

Statutory Authority: 1976 Code Sections 48-60-05 et seq. (2010 Act 178)

Notice of Drafting:

The Department of Health and Environmental Control proposes to draft a new regulation that addresses standards for the sale, recovery and disposal of certain types of electronic equipment. Interested persons may submit their views by writing to Kent Coleman, Division Director, Mining and Solid Waste Management Division, S.C. Department of Health and Environmental Control, Bureau of Land and Waste Management, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on Tuesday, May 27, 2014, the close of the drafting comment period.

Synopsis:

During the 2010 legislative session, the General Assembly enacted Act 178, known as the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act, codified at S.C. Code Ann Section 48-60-05 et seq.

As required by the Act, the Department initiated the process to promulgate a new regulation to address and implement the applicable provisions of the Act. The Department proposed State Register Document No. 4179 for legislative review but on January 31, 2012 the Department permanently withdrew that document from consideration and the proposed regulation did not become final.

During the current legislative session, the General Assembly amended the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act. House Bill 3847 was ratified (R. 134) on February 27, 2014 and signed into law on March 4, 2014. The Department is proposing to reinitiate the statutory process to promulgate a regulation to satisfy the requirements of the Act as amended.

The proposed regulation will include, but not be limited to, responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act, and standards for the safe, environmentally responsible collection, storage, and recovery of discarded devices. The regulation may also establish penalties and administrative fines for violations of the Act and the regulation.

Legislative review will be required.

12 DRAFTING NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 1-23-500, 1-23-600, 44-1-50, and 44-1-60

Notice of Drafting:

The Department of Health and Environmental Control proposes repeal of Regulation 61-72, *Procedures for Contested Cases*. Interested persons are invited to submit written comments to Rupinderjit S. Grewal, Assistant General Counsel, 2600 Bull Street, Columbia, South Carolina 29201 or via email at grewalrs@dhec.sc.gov. To be considered, all written comments must be received no later than 5:00 p.m. on May 27, 2014, the close of the drafting comment period.

Synopsis:

With the creation of the Administrative Law Court and its authority to review contested cases, adjudicatory hearings as prescribed in R.61-72 no longer occur. The requirements and procedures of R.61-72 no longer apply. As such, the Department proposes repeal of R.61-72.

This Notice of Drafting is published to due to errors in the March 28, 2014 Notice of Drafting for repeal of R.61-72. Those errors included citation of incorrect statutory authority.

Legislative review is required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-140 et seq.

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-47, *Shellfish*. Interested persons may submit comments to Mr. Charles Gorman, Bureau of Water, Water Monitoring, Protection, and Assessment Division, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on May 27, 2014, the close of the drafting comment period.

Synopsis:

Regulation R.61-47, *Shellfish*, contains requirement for all producers, processors, and transporters of shellfish and is intended to protect the health of consumers of molluscan shellfish (oysters and clams). For South Carolina shellfish to be accepted in interstate commerce, the regulation must meet minimum requirements of the National Shellfish Sanitation Program (NSSP) as determined by the U. S. Food and Drug Administration (FDA). The Department is considering revisions that will address changes that have been implemented by the NSSP, including incorporation of the NSSP Guide for the Control of Molluscan Shellfish, 2013 Revision. These revisions include, but are not limited to, the items discussed below.

The amendment will make changes to the control measures that currently are required to be followed by Certified Shellfish Dealers. These controls are needed to limit the growth of pathogens after the harvest of shellfish. Changes in the times allowed from harvest to mechanical refrigeration will be amended to come into compliance with the NSSP Guide for the Control of Molluscan Shellfish, 2013 Revision. The amendment also will include a tempering plan to allow for the continued summer harvest of Hard Clams by the commercial industry.

The amendment will no longer require Certified Shellfish Reshipping facilities to add additional labels to shellfish containers prior to further distribution.

The amendment will require training for all Certified Shellfish Dealers, and proof of training for all South Carolina Department of Natural Resources licensed harvesters, in safe handling practices to better protect the consuming public from post-harvest growth of pathogens in shellfish.

The Department will also include stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification and overall improvement of the text of the regulation.

Legislative review will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend specific sections of Regulation 61-67, Standards for Wastewater Facility Construction, to address requirements related to wastewater construction permitting. Interested persons are invited to submit their views and recommendations in writing to Jeff deBessonnet, Director, Water Facilities Permitting Division, DHEC, 2600 Bull Street, Columbia, South Carolina 29201 or via email at Jeff.DeBessonnet@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on May 27, 2014, the close of the drafting comment period.

Synopsis:

Regulation 61-67 sets requirements for obtaining a construction permit to build wastewater collection and treatment facilities. The Department is proposing to reduce certain unit loading flows in Appendix A by 25% based on the knowledge of water savings fixtures and improved designs of sewer collection systems. Other topics the Department will consider changing include: having a service connection definition similar to the definition for a drinking water service connection, reducing the number of plans needing to be submitted, revisions to streamline industrial pump and haul operations and allowing issuance of a treatment plant permit coincident with a discharge permit.

The Department may make other stylistic changes to amend this regulation for internal consistency; clarification in wording; corrections of references, grammatical errors, outlining/codification and such other changes as may be necessary to improve the overall quality of the regulation pursuant to regulation drafting standards required by the Legislative Council.

Legislative review will be required.

14 FINAL REGULATIONS

Document No. 4284
CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
CHAPTER 27

Statutory Authority: 1976 Code Section 46-9-40

27-1078. Certifications and Licensing of Commercial Applicators

27-1085. Standards for Prevention or Control of Wood-destroying Organisms

Synopsis:

The State Crop Pest Commission proposes to amend certain sections of Article 17, specifically Regulation 27-1078 and Regulation 27-1085, to include a Limited Herbicide Applicators license. This will apply to landscapers using herbicide containing glyphosate as the sole active ingredient and with "Caution" as the signal word, working with terrestrial landscape weed control. This Limited Herbicide Applicators license would relieve the burden on commercial applicators using a less toxic herbicide than those commercial applicators using more environmentally severe herbicides. Notice of Drafting was published in the *State Register* on January 27, 2012. No comments were received. The proposed amendments create a limited herbicide applicators license.

Instructions:

27-1078. Print as shown below.

27-1085. Print as shown below.

Text:

27-1078. Certification and Licensing of Commercial Applicators.

A. No person younger than eighteen (18) years-old will be licensed as a commercial applicator.

B. Commercial applicators must demonstrate to the Director the financial responsibility required by law, before the Director may issue a license.

C. Continuous financial responsibility is an on-going responsibility of the commercial applicator, and no commercial applicator may receive, purchase, apply, use, supervise, or conduct other application-related activities without the required financial responsibility in place.

(1) Category 3, 5, and 8 applicators must maintain financial responsibility in the amount of \$50,000 with an annual aggregate claims limit of not less than \$100,000.00 before performing any pest control activities, including advertising, as specified in Section 27-1085 L, below.

(2) Category 7 applicators must maintain comprehensive general liability financial responsibility of not less than \$100,000.00 combined single limit liability coverage, which must include both bodily injury and property damage coverage.

(3) Failure to maintain the requisite financial responsibility in any category shall cause the immediate and automatic suspension of the commercial applicator's license until such time as current financial responsibility is satisfactorily demonstrated to the Director. If the applicator fails to re-instate their financial responsibility within three months, or if their license expires sooner, the license is automatically revoked and must not be restored until the applicator has again completed the certification process, including the exams.

D. The insurance or surety company must be one licensed to do business in South Carolina, and must give at least ten days written notice by certified mail to the Department as a condition precedent to the cancellation by the surety or insurer, material change, or cancellation by the insured.

E. The above notwithstanding, commercial applicators are not relieved from liability for damages to persons or property caused by pesticides applied by or under the supervision of the licensee whether or not such use conforms to the requirements of the product label and the rules and regulations promulgated by the Director.

F. Financial Responsibility may be demonstrated by:

(1) A current public liability and property damage insurance policy and or certificate of insurance (issued by an insurance company). Binders are not acceptable.

(2) A certificate of self-insurance issued by the Workman's Compensation Commission. (Although this certificate is specifically designed to cover workman's compensation claims, the Department considers this certificate indicates sufficient assets to cover the liability requirements of the law).

G. All commercial applicators must provide a phone number where the commercial applicator can normally be reached during normal working hours. If this number changes, the Department must be notified within three (3) working days.

H. Persons holding a commercial applicator's license may use restricted use pesticides, but only for work in the specific categories in which the commercial applicator has demonstrated competence. Commercial applicator's licenses will be issued for the following categories of commercial pesticide-application operations:

(1) Agricultural Pest Control (Category 1).

(a) Plant (Category 1A).

(b) Animal (Category 1B).

(c) Stored Product Pest Control (Category 1C).

(d) Soil Fumigation (Category 1D).

(2) Forest Pest Control (Category 2).

(3) Ornamental and Turf Pest Control (Category 3).

(4) Seed treatment (Category 4).

(5) Aquatic Pest Control (Category 5).

(6) Right-of-way Pest Control (Category 6).

(7) Industrial, Institutional, Structural and Health-Related Pest Control (Category 7).

(a) General (Category 7A).

(b) Fumigation (Category 7B).

(8) Public Health Pest Control (Category 8).

16 FINAL REGULATIONS

- (9) Regulatory Pest Control (Category 9).
- (10) Demonstration and Research Pest Control (Category 10).
- (11) Aerial Applicator (Category 11).
- (12) Miscellaneous (Category 12).
 - (a) Wood Preservative Treatment (Category 12A).
 - (b) Anti-fouling paint (TBT) Application (Category 12B).
 - (c) Small Animal Pest Control (Category 12C).
 - (d) Sewer Line Pest Control (Category 12D).
 - (e) Limited Herbicide Application (Category 12E).

I. Commercial applicators must accomplish the following prior to being certified and licensed:

- (1) Pass the Core examination, a basic test dealing with the minimum amount of subject matter considered essential to the safe use of restricted use pesticides.
- (2) Pass a separate Category examination for each of the practice areas listed above. Note: passing the core exam without passing a category exam does not entitle the applicant to use or supervise the use of Restricted Use pesticides or perform pest control activities in categories for which licensing is required.
- (3) Complete an application form published by the Department.
- (4) Fees for the examinations, licensing, and for certification in additional categories beyond the initial category of certification shall be as prescribed.

J. Aerial Applicators.

- (1) All aerial applicators of pesticides (including transient aircraft pilots) are subject to the same requirements outlined in paragraph D (1) above. All aerial applicators must be certified and licensed by the Department before applying restricted use pesticides by air within the State.
- (2) These regulations concerning aerial applicators do not in any way negate the regulations promulgated by the Aeronautics Division of the SC Department of Commerce or its successors.
- (3) Aircraft must be secured against theft and tampering in a manner as prescribed by the Director after appropriate consultations with the affected parties or their representatives.
- (4) Chemicals, use-dilutions, and their containers both on and off the aircraft must be secured in a manner as prescribed by the Director after appropriate consultations with the affected parties or their representatives.

K. Commercial applicator licenses shall expire on December 31st of each year.

L. Commercial applicator licenses are renewable annually by re-application to the Director prior to January 1st and payment of the prescribed annual fee. A 25% penalty will be charged for renewal applications filed after January 1st. Reexamination is not required for licenses renewed before April 1st as long as the recertification requirements of Section N, below, and continuous financial responsibility has been maintained as per Section 27-1078 C, above.

M. Commercial applicators holding valid licenses who desire to have a private applicators license may submit the proper application form and the prescribed fee to the Director. A private applicator license will be issued with no additional training required.

N. Recertification periods for commercial applicators are five (5) year periods, beginning January 1st of 1994 and ending on December 31st of 1998, 2003, 2008, and every five (5) years thereafter. During each recertification period after the one in which the license is issued each Commercial Applicator must accumulate no less than the number of Continuing Certification Units (CCUs) specified below for each category in which they are licensed, up to a maximum of 24 CCUs. Alternatively the applicator may complete the initial licensing requirements and re-apply to the Director for a license.

(1) All courses of study for which CCUs are requested must be submitted to the Department at least fifteen business days in advance of the date of the training. On-line, correspondence, or other self-study programs must be submitted for approval at least fifteen business days before being offered to participants. Submission of a program to the Department does not guarantee that it will receive CCUs.

(2) CCUs will be awarded as either category-specific or core-competency CCUs. Licensed applicators in categories in which licensing is mandatory must accumulate category-specific CCUs as indicated below before renewing their licenses. Licensed applicators holding certification in more than one category in which licensing is mandatory must accumulate the required number of category-specific CCUs for each mandatory category, up to a maximum of 24, as above.

(3) Once the required number of category-specific CCUs has been accumulated, either core-competency CCUs or additional category-specific CCUs may be used to fulfill the remaining CCU requirements.

(4) The Department will award CCUs based on its evaluation of the content of the course of study.

(5) Applicators certified in Category 7A must accumulate 20 CCUs in each recertification period, no less than 12 of which must be specific to Category 7A.

(6) Applicators certified in Category 7B must accumulate 10 CCUs in each recertification period, no less than 3 of which must be specific to Category 7B.

(7) Applicators certified in Category 3, 5, or 8 must accumulate 10 CCUs in each recertification period, no less than 3 of which must be specific to each category.

(8) Applicators certified in other categories must accumulate 10 CCUs in each recertification period.

(9) Applicators may obtain no more than one-half of the total number of required category-specific CCUs and no more than one-half of the core-competency CCUs during the last year of any recertification block. Applicators may "carry over" to the next recertification block any CCUs they obtain in excess of the minimum required, both category-specific and core-competency, during the final year of any recertification block.

O. The Department may at its discretion place a license into an inactive status at the request of the license holder for a period of not more than 5 years. During the inactive period the license holder is relieved of the requirement to show financial responsibility.

18 FINAL REGULATIONS

(1) Holders of inactive licenses must meet the recertification requirements set forth above, and must renew their licenses annually.

(2) No pesticide use or other activities regulated by this Section may be conducted or supervised using an inactive license.

P. Limited Herbicide Application (Category 12 E).

(1) Treatment of turf and ornamental plantings with a herbicide containing glyphosate as the sole active ingredient with “Caution” as the signal word, when performed as part of terrestrial landscape weed control for compensation on the property of another, requires only a Category 12E Limited Herbicide Application license provided that applications are performed using portable backpack and hand-held compressed-air sprayers, each of which is of no more than 5 gallons total capacity per applicator per site .

(2) Category 12E Limited Herbicide Application license holders may not use any other herbicides, rodenticides, miticides, fumigants, nematocides, insecticides, fungicides, Restricted Use Pesticides, any products with a “Warning” or “Danger” signal word, or products with restrictive label language, except under the direct supervision of a Category 3 or other appropriate license holder. The presence of any rodenticides, miticides, fumigants, nematocides, insecticides, fungicides, Restricted Use Pesticides, any products with a “Warning” or “Danger” signal word, or products with restrictive label language as detailed in Section 27-1075 D above, on a vehicle or in application equipment under the control of a Category 12E Limited Herbicide Application licensee is also a violation of this Section.

(3) Applicators certified in Category 12E Limited Herbicide Application must accumulate 5 Continuing Certification Units in each five-year recertification block.

(4) Persons holding only a Category 12E Limited Herbicide Application certified commercial applicator license may provide direct supervision, in accordance with Section 27-1083D, to unlicensed applicators, but only for applications of herbicides containing glyphosate as the sole active ingredient with “Caution” as the signal word.

(5) Applicators seeking certification in Category 12E Limited Herbicide Application are required to pass a 50 question examination, designed for this specific area of pest control.

(6) All other regulations in this Chapter apply to Category 12E Limited Herbicide Application license except that, where more stringent regulations regarding the certification examination and recertification occur in this Chapter, this Section shall take precedence for those certified in the Category 12E Limited Herbicide Application license.

27-1085. Standards for Prevention or Control of Wood-destroying Organisms.

A. Every person performing either preventive measures against or control measures for termites and other wood-destroying organisms (both insects and fungi) on the property of another must follow at a minimum the methods and procedures specified in the following codified paragraphs of this regulation.

B. Control measures used must be appropriate for the type of termite or other wood-destroying organisms present.

(1) For other than subterranean termite treatments, if no wood-destroying organism is actually present then this fact and the preventative nature of the proposed treatment must be disclosed to the consumer in writing before the work begins.

(2) Treatment and inspection must be performed in accordance with these regulations and with the terms of the written agreement or contract for as long as the contract is valid.

(3) Copies of the warranty, treatment records, waivers issued, and inspection records must be maintained by the firm for a period of five (5) years or for the duration of the warranty, whichever is longer, and must be presented to the Director or his authorized representatives for review and duplication upon their request at the expense of the Department.

(4) The presence of Formosan subterranean termites (*Coptotermes formosanus* Shiraki) must be disclosed when an active infestation has been found in a structure. The documentation provided with any subterranean termite control contract or warranty must specify whether coverage for Formosan subterranean termites is included and the nature of that coverage (i.e. whether coverage is for retreatment only or includes the repair of damages due to the Formosan subterranean termite infestation).

C. Treatment for each property must be made to the entire structure and must meet the standards outlined in these Regulations unless structural or physical characteristics of the property or the stipulations of the property owner or their agent make adherence to these standards unnecessarily difficult or costly. In such cases, an Official Waiver of Standards Form clearly identifying the standard(s) not performed must be executed and acknowledged in writing by the property owner before work begins.

(1) The Waiver form must be the most recent version published by the Department and must be provided by the pest control operator. A signed copy of the waiver must be supplied to the property owner. A signed copy of the waiver must be maintained by the pest control operator for as long as the property is covered by the warranty based on the treatment for which the waiver was issued.

(2) Due to the accessibility of the various construction elements during construction and prior to completion of the buildings, waivers must not be issued during preconstruction treatments unless the applicator has requested and received permission in writing from the Director or his authorized representative. This prohibition does not include those situations that are out of the control of the applicator such as wooden decks added after the completion of the final grade, step down footers, or similar items.

(3) All waivers issued must meet the intent of this Section and must not be used to create an opportunity to sell a treatment using less labor or termiticide.

(a) Multiple structures may be included on the same waiver form only if there is a common authorized agent for or owner of the structures and the same treatment standards are being waived on each building. In this case each structure or building where treatment standards are being waived must be identified on the waiver form.

(b) Where the two conditions identified in paragraph "a" above are not both met, a separate and unique waiver must be properly executed for each structure where treatment standards will not be completed.

(4) Waivers are not required for retreatments performed under an existing contract, booster treatments performed to continue coverage under an existing contract, or partial treatments performed to re-instate a contract that has lapsed for less than one (1) year.

D. The chemicals, methods, and systems permitted in the control of termites or other wood-destroying organisms shall be only those pesticides which are registered in South Carolina for that use. The chemical and control methods must be used in the proper proportions and in the quantities and manner directed on the label or in these Standards.

(1) No application of termiticides may be made for any purpose using a rate or volume lower than that specified in the labeling of the product as accepted in South Carolina.

20 FINAL REGULATIONS

(2) If the State has accepted the labeling of a termiticide product that allows the structure to be protected by completion of less than a full conventional liquid termiticide treatment as described in these Standards, then only those standards that apply to the treatment actually performed shall be required to be completed.

(a) Excepting the standards noted in Section (3) below, waivers as detailed in Section C above need not be completed for standards not required to be completed by the termiticide label.

(b) This provision only applies to post construction treatments.

(3) For every termite-control treatment performed in the State, regardless of the method of control employed or whether the treatment is conducted during construction or as a post-construction treatment, the following Standards detailed in Section 27-1085 G (2) (a), (b), and (c) must be completed or waived if they are appropriate to the structure. These Standards require, respectively, the removal of cellulose debris and other debris that may interfere with inspection and treatment, the correction of wood-to-ground contact, including expanded-foam insulation materials, and the removal of subterranean termite shelter tubes on both masonry and wooden foundation elements. Section 27-1085 G (2) (g), which requires the installation of at least one square foot of ventilator for every 150 (one-hundred fifty) square feet of crawlspace area, must be completed or waived on post-construction treatments.

(4) Termite control products or devices (e.g., barriers, wood treatments) must be properly registered with the Department before they can be used.

(a) Before a licensed applicator can employ, install, or supervise the use of any termite control product or device not applied to the soil the registrant of that product or device must certify to the Department in writing that the applicator has been properly trained in the product's use and management. Use, installation, or supervision of the use of these products by a licensed applicator for whom certification has not been received by the Department at the time of the installation, use, or supervision is a violation of this Section.

(b) Registrants must not provide materials or devices referenced under this section to an applicator who has not been properly trained.

(5) The Standards referenced in Section (3) above must be completed for all bait and wood-treatment termite-control methods unless an Official Waiver of Standards Form or the equivalent documentation published by the Department is properly executed. This form must be completed and signed by the property owner or their agent before the work begins. The Waiver must be maintained by the firm for a period of five (5) years or for the duration of the warranty, whichever is longer, and must be presented to the Director or his authorized representatives for review and duplication upon their request at the expense of the Department. The termiticide residue requirements referenced in this Section cannot be waived.

(6) All applications of termiticides, including re-treatments and supplemental or "booster" treatments, must be properly recorded on the Record of Termiticide Use form published by the Department or in an alternative manner acceptable to the Department. These record-keeping requirements for termiticide applications apply to bait installations and wood-treatment methods as well as to liquid termiticides. These records must be maintained by the firm as specified in Section 27-1083.C. above, and must be presented to the Director or his authorized representatives for review and duplication upon their request at the expense of the Department. Record-keeping requirements do not apply to the installation of devices intended only to monitor or reveal subterranean termite populations.

E. Periodic inspections may be made by Department employees to ensure that all structural pest control activities are performed in compliance with these regulations and the treatment standards. Soil, use-dilution, or other appropriate samples may be drawn during these inspections. The Department shall develop sampling protocols and threshold residue levels for each registered termiticide which reflect the minimum amount of

termiticide residue expected to be present within an appropriate period of time after a proper treatment. Termiticide applications which do not meet or exceed these residue levels are in violation of this Section.

F. Discrepancies in treatment procedures found during any inspection, including minor violations as determined by the inspector and identified in writing by the Department, must be corrected within a period of time as specified by the Director, after written notification to the applicator. The Department may base formal enforcement actions on these discrepancies. Failure to correct these discrepancies within the period of time specified may result in additional civil/criminal penalties. Corrections must be made so long as the property is under the ownership of the individuals who initially contracted for the subterranean termite treatment, their heirs or estate, whether or not the property remains under contract with the applicator at the time the notification is given.

G. Only pesticides properly labeled for subterranean termite control and registered for use in South Carolina shall be used.

(1) Where the Federal labeling accepted in the State requires more thorough treatment (e.g. closer spacing of drill holes or more volume of termiticide) than the treatment standards listed below the Federal labeling shall have precedence. Where the State standards require more thorough treatment the State standards must be followed.

(2) On each initial Subterranean Termite Control Treatment the Pest Control Operator must perform a complete treatment as detailed in these Regulations, except as provided for in Section D (2) above, and must provide the following minimum service:

(a) Remove from crawl spaces all cellulose debris (wood, paper, stumps, cloth, cotton, or other similar materials) and any other debris or rubble which would interfere with effective treatment and inspection. Remove all form boards which are in contact with the soil or are less than eight (8) inches from the soil.

(b) In the structure being treated, all wood contacting the ground must be of the proper grade of treated lumber as specified in the current edition of the appropriate Building Code. Where the proper grade of treated wood is not used in a ground contact situation the ground contact must be broken by setting the affected part of the building on a solid concrete base or other such base which is impervious to termites or must otherwise be altered so that there is no direct contact with the ground. Rigid foam-board insulation of polystyrene insulation or similar materials, including the various synthetic stucco systems, are susceptible to subterranean termite attack and must be treated the same as untreated wood in contact with the ground. These requirements cannot be met solely by treatment of the soil immediately adjacent to and in contact with the untreated wood, rigid-foam insulation, or similar material.

(c) Scrape off all visible and accessible termite shelter tubes, including those on the wood. Because the presence of intact subterranean termite shelter tubes is presumptive evidence of the presence of an active infestation of subterranean termites, all subterranean termite shelter tubes must be removed at the time of the first inspection following the initial treatment. Subterranean termite shelter tubes must also be removed following any retreatment of the structure. Breaking gaps into the shelter tubes is not sufficient to meet this requirement.

(d) For conventional liquid treatments, treat all soil adjacent to foundation walls, pillars, and other supports by forming a narrow trench at the base of each side and flooding it with termiticide in accordance with label directions. Back-fill placed in the trench must also be treated in accordance with the label directions. Where footings are not covered by soil the trench may follow the edge of the footing. The soil around locations where pipes enter the soil must be treated in the same manner as foundation supports. When pipes are covered with insulating material, soil or insulation should be removed so that the insulation stops at the soil and the area should be thoroughly treated as previously described. In no case should termiticide be applied to soil in contact with ventilation ducts.

22 FINAL REGULATIONS

(e) All cavities and voids within hollow masonry units (except bricks), between courses of masonry units, or within or between construction elements that are in contact with the soil must be drilled at intervals of no more than 16 (sixteen) inches or as prescribed by the product label if the label requires closer spacing of drill holes and treated with termiticide as per the label instructions. Voids must be treated as low as practical. Voids that have been filled with concrete need not be treated but should be test-drilled to verify their condition.

(f) Soil areas beneath attached concrete slabs (earth-fill porches, patios, carports, garages, walkways, etc.) which are less than 18 (eighteen) inches below the sill or plate line of the structure must be treated by one of the following methods:

(1) By cutting access openings and removing soil adjacent to the foundation and below the expansion joint the length of the fill at least six (6) inches deep below the bottom of the slab and six (6) inches wide and applying chemical as specified on the label.

(2) Or by drilling vertically and applying chemical from the top of the slab at not more than twelve (12) inch intervals parallel to and not more than twelve (12) inches away from the foundation wall or expansion joint.

(3) Or by rodding from the side(s) and applying the permitted chemical beneath the slab along the length of the expansion joint ("long-rodding") in a continuous barrier not more than six (6) inches from foundation walls.

(4) Or by drilling from the crawl space or basement side and through the foundation wall immediately beneath the slab at no more than twelve (12) inch intervals and treating the soil beneath the slab.

(5) The void in the double brick perimeter walls of earth-filled and suspended porches must be drilled and treated at intervals of no more than sixteen (16) inches if the superstructure above the porch rests on wooden supports such as posts, columns, railings, or similar elements. If there are no wooden supports the voids in the side walls perpendicular to the main structure must be drilled and treated to a distance of 4 feet from the main structure at intervals of no more than sixteen (16) inches.

(g) Install foundation vents to meet the following requirements:

(1) One square foot of ventilator must be present for each 150 (one-hundred-fifty) square feet of crawl space area.

(2) There must be no "dead ends" or other areas left unventilated.

(h) In the crawl space remove enough soil to give sufficient space between the wooden substructure and the soil for access for visual inspection and for the application of proper control measures. In any case, minimum clearance between untreated wood and soil must be at least eight (8) inches.

(i) In treating structures built on a concrete slab or on the ground (including basements), soil beneath all points of potential termite entry, such as expansion joints, plumbing pipes, and similar areas must be saturated with termiticide by treating from above or by horizontally drilling or rodding at no more than twelve (12) inch intervals, immediately beneath the slab. Treatment from above must consist of vertically drilling the slab no more than twelve (12) inches from the potential point of termite entry. Open bath traps must be treated by cutting an access opening to permit the application of termiticide or by a comparable method.

(j) Inspections must be conducted as per the terms of the warranty or the termiticide label, whichever results in more frequent inspection of the structure.

H. Subterranean Termite Control Pretreatment of Structures.

(1) In new construction treatment, the approved liquid termiticide must be applied in accordance with label instructions to cavities in pillars, tiles, brick or concrete block walls, voids between brick and block walls, or other cavities likely to be penetrated by wood destroying organisms by flooding the voids before they are covered.

(2) Soil surfaces to be covered by slabs must be treated with a liquid termiticide or other approved appropriate technology before the slab is poured. If treatment is not performed before the slab is poured then the slab must be treated as per Section G (2) (f) or G (2) (i), or both if both are applicable, above.

(a) Within ninety (90) days after the transfer of the property to the first deeded owner or notification that the final outside grade has been completed, whichever occurs first, treat the soil that is adjacent to the outside foundation wall with an approved liquid termiticide or approved alternative technology.

(b) If another technology is used to protect the slab, such as barriers or termiticide baits, the alternative technology must be used in strict accordance with the accepted South Carolina labeling for the product. All applicators or installers of alternative technology must be trained and certified as per the requirements of Section D (3) above.

(3) For crawlspace foundations the pretreatment must comply with the provisions of Section D (4) above. Except as provided for by the label provisions noted in Section D (3) all applicable treatment Standards detailed in Section G (2) must be properly completed or waived.

(4) Warranty.

(a) For new single family residential construction the Pest Control Operator (PCO) will provide to the Builder (or the owner, if known at time of treatment) a one year transferrable warranty covering the repair of damage due to subterranean termites and retreatment of the infested portions of the property. The warranty period begins the day the first chemical application is made. The licensed pest-control business must offer to transfer the warranty to the first deeded owner of the property or to any person who purchases the property within five (5) years of the initial treatment date provided that the warranty has remained in effect through each owner of the property. The licensed pest-control business must offer each owner of the property the opportunity to renew the warranty on the same terms and conditions the business offers renewals of the regular termite treatment contracts for the first five (5) years after the initial treatment date. Failure of the homeowner to renew in any one year relieves the business of any future responsibility for renewals, based upon this section. The renewal warranty must at a minimum offer retreatment coverage but may also offer damage-repair coverage, at the option of the business.

(b) The requirement to issue warranty coverage shall not extend to:

(1) Violations of the appropriate Building Code by the builder or the first property owner after the builder which are installed after the completion of the pretreatment.

(2) Structures with rigid foam board insulation material of any kind extending below the exterior grade.

(3) Structures with untreated wood or with inadequately treated wood extending below the exterior grade.

(4) Structures with inadequate ground clearance or other design features which preclude the proper completion of the minimum treatment standards referenced in these Regulations.

24 FINAL REGULATIONS

(5) Structures to which additional rooms or other features have been added after the completion of the pretreat but without the applicator having the opportunity to treat the additions.

(6) Structures where remodeling or landscaping after the completion of the pretreat has resulted in a degree of soil disturbance that could reasonably be expected to have significantly affected the termite treatment.

(7) Other situations as determined on a case-by-case basis by the Department's field inspectors. In these cases the Department will provide a written explanation of its determination.

(c) Because of the ease of access to all construction features, waivers may not be issued for treatment standards during pretreats without the express written consent of the Department. If waivers are issued both the waiver and the written memorandum from the Department authorizing the waiving of treatment standards on that specific structure must be delivered to the first property owner after the builder.

(d) The Director may require that deficiencies in pretreatments that cannot be corrected as detailed in Section 27-1085 G 2 above because of the completion of that stage of construction be corrected by the treatment of the structure with another appropriate technology.

I. Control measures are not normally necessary for infestations of wood-destroying organisms which are not capable of reinfesting structural lumber or other properly seasoned wood except as provided below.

(1) Control measures may be performed for non-reinfesting wood-destroying pests at the customer's request. In such cases the applicator shall provide to the customer before the work begins a statement to the effect that the infestation is not capable of re-infesting seasoned lumber and that the treatment is being performed at the customer's request.

(2) Rustic structures and modern log homes may be initially infested with large numbers of buprestid and cerambycid beetles. Control measures may be proposed and performed in these situations even though these insects normally do not re-infest, subject to the identification and disclosure requirements of this Section.

(3) Structural infestations of other wood-destroying organisms will be identified and disclosed as follows:

(a) An infestation of old house borers (*Hylotrupes bajulus* L.) will be reported by either its scientific name or the common name "old house borer."

(b) Powder post beetles for which control strategies are very similar such as the families Lyctidae, Anobiidae, and Bostrichidae will be reported by either their family names or as "powder post beetles."

(c) The specific cause of damage due to non-reinfesting beetles does not have to be identified. This does not relieve the applicator of the responsibility to disclose that damage when required (as on the Official South Carolina Wood Infestation Report).

(d) Wood-decay fungi and surface molds and mildews may be identified and disclosed as such without further detail.

(e) Drywood termites may be disclosed as such without further detail.

(4) Before treatment is recommended, infestations of other wood-destroying organisms capable of reinfesting structural lumber or seasoned wood must be determined to be active.

(a) The following criteria will be used to determine the activity of these infestations.

(1) Drywood termites: The emergence of live insects inside the structure, the repeated presence of swarmers (alive or dead) inside the structure, or a repeated accumulation of fecal pellets in an area are all reasonable indications of an active infestation of drywood termites. Preventative treatments for these insects are not normally warranted in South Carolina due to the slow rate at which their damage accumulates.

(2) Powder Post Beetles (Anobiidae, Lyctidae, Bostrichidae, and related beetles): The presence of a trail or "stream" of fresh frass (the color of fresh-cut wood) stuck to the wood below emergence holes or piled beneath emergence holes indicates an active infestation of powder post beetles. Emergence holes alone do not indicate activity nor does the presence of old dingy frass in emergence holes, galleries, or protected locations.

(3) Old House Borer: (*Hylotrupes bajulus* L.). A live adult or larval specimen must be collected from the wood to demonstrate activity of this insect in a structure. Alternatively, the presence of the distinctive larval gnawing noises can be used to establish activity. The presence of ragged oval exit holes or fresh-appearing frass is not sufficient to indicate activity in the absence of specimens or noises.

(b) Treatment: All beetle frass must be removed from treated vertical surfaces during a localized treatment. During a fumigation frass must be removed from at least two readily-accessible areas to allow the determination of the success of the fumigation. If streaming frass is observed during the next season of activity the infestation must be considered to have remained active. Treatments, especially fumigations, may be proposed and conducted only when there is conclusive evidence of an active infestation, or with the specific written consent and acknowledgment of the lack of activity on the part of the property owner or their agent.

J. Moisture Control.

(1) Excessive moisture conditions are present any time wood moisture content readings reach or exceed 20% or standing water is present in the crawlspace or around the foundation. Wood-decay fungi become active, and decay damage occurs, at wood moisture-content levels of 28% and above. Reports of excessive moisture conditions and active decay fungi must follow these guidelines.

(2) Correction of excessive wood moisture levels is normally accomplished by the installation of a polyethylene vapor barrier over the crawlspace soil or the installation of additional foundation vents. Excessive moisture conditions caused by poor drainage and the constant influx of water into the crawlspace soil may require the installation of a sump pump and drain system. The application of fungicidal sprays to the substructure for the control of wood-destroying fungi may not be performed until the physical correction of the excessive moisture conditions has been accomplished. Sump pumps may not be installed without an accompanying drain or trench system sufficient to carry water to the pump.

K. Wood Infestation Report.

(1) Any wood infestation report issued for the purpose of describing the apparent absence of wood-destroying organisms from a building or structure in connection with a sale or mortgage of real property must be issued by an individual currently licensed in Category 7A, Industrial, Institutional, Structural, and Health-Related Pest Control and covered under a valid Pest Control Business License issued by the Department. The report must be signed by the licensed individual and include their applicator and business license number.

(2) The inspection must be reported on the most current Official South Carolina Wood Infestation Report Form as published by the Department. The form for this report shall be furnished by the licensee.

(3) The inspection for the Wood Infestation Report must include at a minimum:

(a) A visual inspection of all accessible portions of the interior and exterior of the structure, including crawlspaces, utility areas, and attics.

26 FINAL REGULATIONS

(b) Careful sounding and probing of all areas where damage is visible.

(c) Representative wood moisture-content readings around the interior perimeter of the crawlspace and in the accessible portions of the center of the crawlspace.

(d) The determination of the nature and activity of all visible and accessible wood-destroying insect infestations in the structure.

(e) The determination of the nature and cause of all visible and accessible wood-destroying insect damage in the structure.

(f) The determination of the nature and activity of all wood-destroying fungi, including decay damage whether active or not, present in the structure below the level of the first main living-area floor. The first main living-area floor of the house is the first floor above the basement or crawlspace, or the elevated living-area floor in houses raised upon pilings. The phrase "below the level of the first main living-area floor" also includes the substructure below the first main living floor of the house. Decay damage in the upper portions of exterior siding, fascia and trim boards, chimneys, eaves, soffits, and similar areas is beyond the scope of the Wood Infestation Report. Decay damage in the lower portions of exterior doors, door jambs and frames, and similar construction elements, however, must be reported.

(4) The Wood Infestation Report is in no way a report of the presence or absence of health-related fungi or conditions conducive to their presence or development in the structure.

(5) The Wood Infestation Report must at a minimum disclose:

(a) All inaccessible parts of the structure.

(b) The apparent presence or absence of all visible insect-related damage in all accessible areas of the structure. The reporting of a "previous infestation" of a particular insect is not sufficient to meet this requirement to report insect damage.

(c) The apparent presence or absence of all visible active and previous wood-destroying insect infestation in all accessible areas of the structure.

(d) The wood moisture-content readings obtained in the substructure, as well as any decay damage, active wood-destroying decay fungi, or excessive moisture conditions in visible and accessible areas below the level of the first main floor. Decay damage must be reported as such.

(e) The specific location and approximate extent of all damages, active infestations, previous infestations, and excessive moisture conditions. These items may be reported as "widespread," "throughout the substructure," or in similar terms only if their extent and occurrence justifies such broad language.

(f) All damage must be reported whether or not it requires or may require repair or further inspection by another professional. Damage remaining in areas that have previously been repaired must also be reported.

(6) The Wood Infestation Report is not a warranty against future infestation, nor does it place any obligation for the correction of reported damage or infestation upon the applicator or business issuing the report.

(7) In determining whether an infestation of insects or decay fungi is active in a structure the inspector must use the criteria set forth in Sections I and J, above. Inspectors must fully explain on the reverse of the form the basis for their determination of whether an infestation of insects or decay fungi is or is not active in the structure.

L. Any person performing any of the activities listed below on the property of another must be licensed in the category indicated by the Department or must work under the direct supervision of one so licensed.

(1) Any person performing a structural pest control activity as defined in Section 27-1070 D of these Regulations. Persons performing structural pest control activities in or adjacent to property rented, leased, or otherwise occupied by unrelated persons (in schools, apartment or condominium complexes, hospitals, and similar situations) are not exempt from these requirements.

(2) Any person performing a public health pest control activity as defined in Section 27-1070 J of these Regulations.

(3) Any person performing a turf and ornamental pest control activity as defined in Section 27-1070 K of these Regulations.

(4) Any person performing an aquatic pest control activity as defined in Section 27-1070 L of these Regulations.

(5) Any person applying only a glyphosate herbicide on turf or ornamentals for compensation on the property of another, as defined in Section 27-1078 P.

M. No main business office where records are kept or branch office must engage in structural pest control activities in the State without first obtaining a Pest Control Business License from the Department.

(1) A Business License will be issued only when the location has appointed a Designated Certified Applicator in charge (DCA). The DCA must be licensed by the Department in Category 7A and permanently assigned to that specific location on a full time basis while the business is operating. The DCA must be present during the normal operation of the business, except for normal sick or annual leave and training days away from the office. No individual may be designated as the DCA for more than one location from which pesticide applications are made.

(a) Application must be made to the department on the Business License application form and must include copies of the proposed DCA's Category 7A applicator's current license and proof of financial responsibility statement.

(b) All applicants must demonstrate to the satisfaction of the Department that the DCA is duly licensed and operates from the applicant's location. Additionally the DCA must possess either a four-year college degree in the natural sciences or two years of verifiable experience in pest control. The Director may waive the experience requirement upon written application by the business licensee. In appointing a DCA the Director will consider, among other factors, the enforcement histories of the business and the proposed DCA, the record of Continuing Certification Hours, and past examination results.

(c) No business whose business license has been revoked or suspended may circumvent this suspension or revocation by applying for a new "Business License" under another name or in the name of another business. This prohibition exists for the duration of the suspension or revocation period. Sale of the business to a separate party is not prohibited by this section provided it is not an attempt to circumvent appropriate enforcement action against the business.

(d) The annual Business License fee shall be as prescribed. The Business License is valid from January 1st through December 31st unless suspended or revoked.

(e) Changes of material information such as, but not limited to, the name or license status of the certified Category 7A applicator, the financial responsibility status of that applicator, or any change in the location of the facility must be reported to the Department within ten (10) days.

28 FINAL REGULATIONS

(f) Violations of the South Carolina Pesticide Act that occur as a result of activities generated at or by a location may result in sanctions against the Business License as well as or in lieu of sanctions against the individual licensee. Such sanctions may include penalties up to \$1000 (one-thousand dollars) and / or modification, suspension, or revocation of the license. Suspension or revocation of the Business License will be reserved for serious or repeated violations. All suspensions or revocations are subject to a hearing upon request.

(g) For each termite treatment performed, the business licensed to perform structural pest control must record, on the Record of Termiticide Use form published by the Department or in a similar manner acceptable to the Department, at least the following information:

(1) The address of the structure and the nature of the treatment (e.g. pretreat, existing structure, retreatment due to infestation, bait installation).

(2) The applicator making the actual treatment and his license number if he is licensed.

(3) Whether an Official Waiver of Standards was issued.

(4) The brand name, quantity, and dilution rate of the termiticide applied, if applicable.

(5) The treatment technique (trenching, void treatment, pretreat, bait station installation, wood treatment, etc.)

(6) This information must be maintained by the business as detailed below:

(a) For pre-construction termite-control treatments ("pretreats"), including the installation of bait systems and baits containing active ingredients, records of termiticide application must be maintained for a period of five (5) years or as long as a continuing warranty or contract exists, whichever is longer, and must be made available to the Director or his designee for review and duplication upon request at the expense of the Department.

(b) For post-construction termite-control treatments, including the installation of bait systems and baits containing active ingredients, records of termiticide application must be maintained for a period of two (2) years from the date of application or as long as a continuing warranty or contract exists, whichever is longer, and must be made available to the Director or his designee for review and duplication upon request at the expense of the Department.

(h) If a DCA can no longer be present at a business location due to unforeseen circumstances, the business must appoint another applicator licensed in Category 7A and employed by the business to serve as DCA. If no new DCA is appointed within 30 (thirty) days of the departure of the previous DCA the Business License must be surrendered to the Department. The Business may petition the Director in writing for a "hardship" stay of the surrender of the Business License. The duration of the stay will be determined by the Director but in normal circumstances will not extend beyond the next available examination date. No structural pest control activities may be performed during the stay.

(2) Business licenses must be prominently displayed at each location.

(3) Each vehicle which transports pesticides used in structural pest control activities must display the appropriate Department, the business license number, and the company name. This information must be in letters one (1) inch in height or greater, on a contrasting background, and placed on each side on the front half and above the mid-line of the vehicle. If a vehicle is used at more than one location, it should bear the business license number of its primary location.

(4) All pest control personnel performing structural pest control activities must carry (not display) on their person an official identification card which demonstrates verifiable training in the area of pest control in which they operate and provides the business and appropriate commercial license number, technician's name, or other pertinent information, as designated by the department. This identification must be presented upon request, and failure to do so shall constitute a violation of this Section. The card shall remain the property of the Department and must be surrendered when the cardholder employment ceases. Office personnel who do not conduct inspections or apply pesticides are not subject to this provision.

(5) Warranty sales are prohibited unless exempted in writing by the Director. This does not preclude a company from reinstating an expired warranty or contract on a structure that it has previously treated.

Fiscal Impact Statement:

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

Statement of Rationale:

The rationale for this regulation is to encourage the use of less toxic herbicides in commercial applications.

Document No. 4378
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF STATE FIRE MARSHAL
 CHAPTER 71

Statutory Authority: 1976 Code Sections 23-9-60, 23-9-550, 23-35-45 and 23-36-80

Article 8. Office of State Fire Marshal

Synopsis:

Regulations 71-8300.1 through 71-8305.8 must be amended and Regulations 71-8306.1 through Regulations 71-8312 are repealed in conformance with NFPA codes and standards.

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

Instructions:

The following sections of Chapter 71 are modified as provided below. All other items and sections remain unchanged.

Text:

ARTICLE 8
 OFFICE OF STATE FIRE MARSHAL
 SUBARTICLE 1
 FIRE PREVENTION AND LIFE SAFETY

71-8300. FIRE PREVENTION AND LIFE SAFETY.

(Statutory Authority: 1976 Code Sections 23-9-60, 39-41-260, 40-82-70)

30 FINAL REGULATIONS

71-8300.1. General.

A. Title. These regulations shall be known as the State Fire Marshal's Rules and Regulations.

B. Intent. The purpose of these regulations is for safeguarding to a reasonable degree, life and property from fire, natural disasters, acts of terrorism, and other hazards associated with the construction, alteration, repair, use, and occupancy of buildings, structures, or premises. These regulations shall be the minimum standards required by the Office of State Fire Marshal for fire prevention and life safety in South Carolina for all buildings and structures.

C. Applicability.

1. All buildings, structures, or premises shall be constructed, altered, or repaired in conformance with these regulations.

2. All equipment or systems in a building, structure, or premise shall be constructed, installed, altered, or repaired in conformance with these regulations.

3. These regulations shall not conflict with any state statute, code, or ordinance adopted pursuant to Title 6, Chapter 9 of the South Carolina Code by any municipality or political subdivision. In the event of a conflict, such statute, code, or ordinance shall apply. These regulations shall apply to state, county, municipal, and private buildings, structures, or premises unless excluded by these regulations or state statute.

4. These regulations shall not apply to:

a. Buildings constructed, or occupied exclusively as one and two-family dwellings, unless amended by these or other state regulations.

b. One-story buildings less than 5,000 square feet, unless the building is classified as a Group A, E, I, R-1, R-2, R-4, or H occupancy by the adopted building code.

D. Existing Buildings.

1. Existing buildings, structures, or premises shall be permitted to continue in operation under the code the buildings, structures, or premises were constructed unless addressed by these regulations or state statute.

2. Alterations, repairs, additions, and rehabilitation to an existing building, structure, or premise shall fully comply with the current codes.

3. If the occupancy classification or sub-classification of a portion of an existing building changes, that portion of the existing building shall conform with the current code.

E. Investigations.

1. If the State Fire Marshal or his designee has reason to believe that a person has violated a provision of these regulations, or if a person files a written complaint with the State Fire Marshal charging a violation of a provision of these regulations, the State Fire Marshal may initiate an investigation or may refer the complaint to the local fire code official.

2. Whenever it is necessary to make an inspection to enforce the requirements of these regulations, or whenever the fire code official has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of these regulations which make the building or premises unsafe, dangerous or hazardous, the fire code official or other designee of the State Fire Marshal may enter the building or premises at reasonable times to inspect or to perform any other duties imposed by law. If such building or premises is occupied, the fire code official shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the fire code official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the fire code official has recourse to every remedy provided by law to secure entry.

3. For the purpose of an inspection, investigation or proceeding under these regulations, the Department may administer oaths and issue subpoenas for the attendance and testimony of witnesses and the production and examination of books, papers, and records on behalf of the State Fire Marshal or, upon request, on behalf of a party to the case. Upon failure to obey a subpoena or to answer questions propounded by the State Fire Marshal, the Department may apply to an Administrative Law Court for an order requiring the person to comply with the subpoena.

F. Enforcement.

1. No person, firm, or corporation shall erect, construct, alter, repair, remove, demolish, or use a building, structure, premises, or system or cause same to be done in violation of these regulations.

2. No person, firm, or corporation shall occupy, use, or maintain a building, structure, premises, or system in violation of these regulations.

3. All new and existing buildings, structures and premises shall be maintained in a safe condition. All devices and safeguards required in a building when erected, altered, or repaired shall be maintained per the manufacturer's requirements and the applicable codes. The owner or his designated agent is responsible for the maintenance of buildings, structures, and premises.

4. Where there is a conflict between two adopted codes, the code official shall favor the code providing the greatest protection for life safety, generally preferring active fire suppression over passive fire protection.

5. For a violation of these regulations or the adopted codes, the local fire code authority, municipal or county attorneys, or other appropriate authorities of a political subdivision, or an adjacent or neighboring property owner who would be damaged by the violation, or the State Fire Marshal, in addition to other remedies, may apply for injunctive relief, mandamus, or other appropriate proceedings. A court may grant temporary injunctive relief upon receipt of a verified complaint of an immediate danger or emergency situation.

6. If the State Fire Marshal, his designee or the fire code official has reason to believe that the lack of compliance with fire and life safety codes in any structure constitutes an immediate danger to the public which could reasonably be expected to injure seriously or cause death to members of the public, the State Fire Marshal or the local fire code official may apply to the circuit court in the county in which the dangerous condition exists for a temporary order for the purpose of enjoining the use of the dangerous structure. Upon hearing, if considered appropriate by the court, a permanent injunction may be issued to ensure that the use of that dangerous facility be prevented or controlled. Upon the elimination or rectification of the dangerous condition, the temporary or permanent injunction must be vacated.

7. If the State Fire Marshal has reason to believe that a person is violating or intends to violate provisions of these regulations, in addition to other remedies, it may order the person immediately to refrain from the conduct. The State Fire Marshal may apply to the Administrative Law Court for an injunction restraining the person from the conduct. The court may issue a temporary injunction ex parte not to exceed ten days and upon notice and full hearing may issue other orders in the matter it considers proper. No bond is required of the State Fire Marshal by the court as a condition to the issuance of an injunction or order pursuant to this section.

G. Unsafe Buildings.

1. The AHJ or the fire department official in charge of an incident is authorized to order the immediate evacuation of any building deemed unsafe when such building has hazardous conditions that present imminent danger to the public. Persons so notified shall immediately leave the structure or premises and shall not enter or re-enter until authorized to do so by the code official or fire department official in charge of the incident. The official shall cause to be posted at each entrance to such a building, a notice substantially as follows: "THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE FIRE CODE OFFICIAL FOR _____ or BY THE STATE FIRE MARSHAL."

2. The owner, operator, or occupant of a building or premises deemed unsafe by the fire code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition, or other approved corrective action.

3. The owner, agent or person in control of any building cited as unsafe for occupancy by the State Fire Marshal may appeal to the Administrative Law Court. Emergency decisions of the State Fire Marshal or of a fire department official in charge of an incident are not stayed pending appeal.

H. Definitions: The following references apply throughout these regulations. Words not defined in these regulations shall have the meaning stated in the referenced standards adopted by these regulations.

1. "AHJ" means Authority Having Jurisdiction, which is the State Fire Marshal or any local fire official covered by South Carolina Code 23-9-30.

2. "Department" means the Department of Labor, Licensing and Regulation, Division of Fire and Life Safety.

3. "Existing Building" means a building, structure, or premise for which preliminary or final drawings have been approved by the appropriate agency as provided in these regulations, in buildings where construction has begun, or those occupied on or before the date of adoption of these regulations.

4. "Fire Prevention" means any activity to prevent fire before fire occurs.

5. "ICC" means the International Code Council.

32 FINAL REGULATIONS

6. "IBC" means the International Building Code.
7. "IEBC" means the International Existing Building Code.
8. "IFC" means the International Fire Code.
9. "IMC" means the International Mechanical Code.
10. "NEC" means the National Electrical Code or NFPA 70.
11. "NFPA" means the National Fire Protection Association.
12. "NFPA 101" means the Life Safety Code.
13. "SFM" means State Fire Marshal or his agent.

71-8300.2. Codes and Standards.

A. All references to standards found in these regulations refer to the editions specified in the IFC unless otherwise stated in these regulations or adopted by state statutes.

B. The requirements of the IFC (as adopted pursuant to Title 6, Chapter 9 of the South Carolina Code) shall constitute the minimum standards for fire prevention and life safety protection for construction, occupancy, and use of all buildings, structures, and premises within the scope of these regulations except as modified by these regulations.

C. The requirements of NFPA 10 shall be used as referenced within the adopted ICC codes for the installation, servicing, maintenance, recharging, repairing, and hydrostatic testing of all portable fire extinguishers.

D. The requirements of the following NFPA standards shall be used as referenced within the adopted ICC codes for the design, installation, testing and maintenance of fixed suppression systems in South Carolina except as modified by these regulations.

1. NFPA 11
2. NFPA 12
3. NFPA 12A
4. NFPA 17
5. NFPA 17A
6. NFPA 750
7. NFPA 2001
8. NFPA 2010

E. The requirements of the following NFPA standards shall be used as referenced within the adopted ICC codes for the design, installation, testing, and maintenance of water-based extinguishing systems in South Carolina except as modified by these regulations.

1. NFPA 13
2. NFPA 13D
3. NFPA 13R
4. NFPA 14
5. NFPA 15
6. NFPA 16
7. NFPA 18
8. NFPA 20
9. NFPA 22
10. NFPA 24
11. NFPA 25
12. NFPA 214

F. The requirements of NFPA 30 shall be used as referenced within the adopted ICC codes for the storing and handling of flammable and combustible liquids in South Carolina except as modified by these regulations.

G. The requirements of NFPA 30A shall be used as referenced within the adopted ICC codes for the storing, handling, and dispensing of flammable and combustible liquids at service stations, farms, and isolated sites in South Carolina except as modified by these regulations.

H. The requirements of NFPA 52 shall be used as referenced within the adopted ICC codes for storing, handling, and dispensing vehicular alternative fuels in South Carolina except as modified by these regulations.

I. The requirements of NFPA 54 shall be used as referenced within the adopted ICC codes for design, materials, components, fabrication, assembly, installation, testing, inspection, operation, and maintenance installation of fuel gas piping systems, appliances, equipment, and related accessories, installation, combustion, and ventilation air and venting in South Carolina except as modified by these regulations.

J. The requirements of NFPA 58 shall be used as referenced within the adopted ICC codes for the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck or tank trailer, and use of liquefied petroleum gases and the odorization of such gases in South Carolina except as modified by these regulations.

K. The requirements of NFPA 59 shall be used as referenced within the adopted ICC codes for the design, construction, location, installation, operation, and maintenance of refrigerated and non-refrigerated utility gas plants to the point where LP-Gas or an LP-Gas and air mixture is introduced into the utility distribution system in South Carolina except as modified by these regulations.

L. The requirements of NFPA 70 shall be used as referenced within the adopted ICC codes for fire prevention and life safety from hazards of electricity in South Carolina except as modified by these regulations.

M. The requirements of NFPA 72 shall be used as referenced within the adopted ICC codes for the design, installation, testing, and maintenance of fire alarm systems in South Carolina except as modified by these regulations.

N. The requirements of NFPA 96 shall be used as referenced within the adopted ICC codes for ventilation control and fire protection of commercial cooking operations in South Carolina except as modified by these regulations.

O. The requirements of NFPA 99 shall be used as referenced within the adopted ICC codes for flammable and non-flammable medical gasses used in health care and other facilities intended for inhalation or sedation, but not limited to, analgesia systems for dentistry, podiatry, veterinary, and similar uses in South Carolina except as modified by these regulations.

P. The requirements of NFPA 101 shall be used as referenced within the adopted ICC codes for fire prevention and life safety in South Carolina when evaluating alternative methods of fire and life safety per SCRR 71-8300.10 except as modified by these regulations.

Q. The requirements of the NFPA 102 shall be used as referenced within the adopted ICC codes for fire prevention and life safety for all tents and membrane structures normally used in South Carolina except as modified by these regulations.

R. The requirements of NFPA 160, including Annexes B and C, shall be used as referenced within the adopted ICC codes for all flame effects use in proximate audience pyrotechnics displays or motion picture special effects in South Carolina except as modified by these regulations.

S. The requirements of NFPA 407 shall be used as referenced within the adopted ICC codes for the storing, handling, and dispensing of flammable and combustible liquids at private aircraft fueling facilities in South Carolina except as modified by these regulations.

T. The requirements of NFPA 409 shall be used as referenced within the adopted ICC codes for the design construction, occupancy, and use of aircraft hangars in South Carolina except as modified by these regulations.

U. The requirements of NFPA 495, Explosive Materials Code, shall be used as referenced within the adopted ICC codes for the manufacture, transportation, use and storage for all explosives in South Carolina, except as modified herein.

V. The requirements of NFPA 1122 shall be used as referenced within the adopted ICC codes for model rocketry associated with public firework displays or proximate audience pyrotechnic displays or motion picture special effects in South Carolina except as modified by these regulations.

W. The requirements of NFPA 1123, including Annex A and E, shall be used as referenced within the adopted ICC codes for all firework displays in South Carolina except as modified by these regulations.

X. The requirements of NFPA 1124 shall be used as referenced within the adopted ICC codes for transportation, storage, and use of all display fireworks and pyrotechnic articles used for proximate audience pyrotechnic displays or motion picture special effects in South Carolina except as modified by these regulations.

34 FINAL REGULATIONS

Y. The requirements of NFPA 1126, including Annexes A, B, and D, shall be used as referenced within the adopted ICC codes for all proximate audience displays in South Carolina except as modified by these regulations.

Z. The requirements of NFPA 1127 shall be used as referenced within the adopted ICC codes for all high power rockets used for proximate audience pyrotechnic displays or motion picture special effects in South Carolina except as modified by these regulations.

AA. The requirements of NFPA 1142 shall be used as referenced within the adopted ICC codes for water supplies for rural fire fighting in South Carolina except as modified by these regulations.

BB. The Office of State Fire Marshal shall post a list of the currently adopted Editions of the codes and standards listed above on the Office of State Fire Marshal's Web site when they are updated using SC Code of Laws 1-34-30.

CC. All referenced standards adopted by the Office of State Fire Marshal shall be accessible at no cost to the public through the Office of State Fire Marshal's Web page as "read only" documents.

71-8300.3. Alternate Materials and Alternate Methods of Construction.

A. The requirements of these regulations are not intended to prevent the use of any material or method of construction not specifically prescribed by the regulations, adopted codes, or standards enforced by the State Fire Marshal. The State Fire Marshal has the authority to accept alternative methods of compliance within the intent of these regulations, after finding that the materials and method of work offered is for the purpose intended, at least the equivalent of that prescribed in these regulations in quality, strength, effectiveness, fire resistance, durability, and safety. The State Fire Marshal shall require submission of sufficient evidence or proof to substantiate any claim made regarding use of alternative materials and methods.

B. Compliance with NFPA 101 may be used for consideration of alternative methods if found suitable by the State Fire Marshal.

71-8300.4. Plans, Specifications and Incident Reporting.

A. Plans and Specifications.

1. Plans and specifications must be submitted to the SFM for the following:

- a. Local detention facilities per 24-9-40.
- b. Water-based extinguishing systems per 40-10-260.
- c. Aboveground tanks storing flammable or combustible liquids per 39-41-260.
- d. LP Gas facilities per 40-82-10 et seq.

2. Submitted plans, calculations, and specifications shall:

- a. Be prepared by a licensed architect and/or engineer where required by state laws or regulations.
- b. Provide sufficient information to indicate how compliance with state laws, regulations, and adopted codes will be accomplished. Codes shall not be cited in whole or part as a substitute for providing specific information.

3. The Office of State Fire Marshal will publish a list of minimum information required to conduct a plan review when a list is not contained in the adopted standards. The Office of State Fire Marshal will make these lists available on the Office of State Fire Marshal's Web site.

4. The SFM may revoke any approval issued under the requirements of these regulations where the approval was based on any false statement or misrepresentation of fact in correspondences, plans, specifications, or data.

B. Incident Reporting.

1. The local fire chief or his designee shall furnish to the Office of State Fire Marshal, information concerning incidents and fire fatalities occurring within their jurisdiction. These reports shall include facts relating to any fire, its cause and origin, property loss, and other pertinent information as prescribed by the Office of State Fire Marshal, in an approved format.

2. These reports are privileged against liability unless the report is made with actual malice.

SUBARTICLE 2

FIRE PREVENTION AND LIFE SAFETY FOR SPECIAL OCCUPANCIES

71-8301. FIRE PREVENTION AND LIFE SAFETY FOR SPECIAL OCCUPANCIES.

(Statutory Authority: 1976 Code Section 23-9-60)

71-8301.1. General.

A. The purpose of this regulation is to clarify the application of current codes and retroactive application of the regulations to existing licensed special occupancies covered by these regulations.

B. This regulation shall apply to:

1. Existing day care facilities and
2. New or existing foster homes.

C. This regulation shall not apply to new daycare facilities. New daycare facilities shall comply with SCRR 71-8300.

71-8301.2. Codes and Standards.

A. All references to ICC Codes found in these regulations refer to the editions adopted in SCRR 71-8300.2. The building code shall define occupancy classifications referenced in these regulations.

B. All references to NFPA standards found in these regulations refer to the editions adopted in SCRR 71-8300.2 and are modified by the following regulations as shown below.

71-8301.3. Requirements for Special Occupancies.

A. All Child Day Care Facilities shall comply with the following:

1. All Child Day Care Facilities keeping children first grade and younger shall be located on the floor of exit discharge. Second grade children shall not be located more than one (1) story above or below the floor of exit discharge. This restriction does not apply to structures equipped throughout with an NFPA 13 sprinkler system.

a. All facilities with fire alarm systems shall be designed, installed, and maintained per NFPA 72.

b. Each Child Day Care Center serving more than one hundred clients shall have a fire alarm system to provide off-premise notification to the fire department per NFPA 72.

c. All facilities licensed after 1999 shall have a listed smoke detector installed and maintained per NFPA 72 in every room occupied by clients, excluding bathrooms and closets.

d. All facilities continuously licensed before 1999 may use hard-wired single station smoke detectors with battery backup.

2. Closed facilities that reopen must comply with the codes in effect at the time of licensure.

3. An existing Child Day Care Facility that has been continuously licensed may continue operation under the codes to which it was initially licensed. These facilities shall also meet the following standards:

a. Facilities providing care, maintenance, and supervision for thirteen (13) or more clients for less than twenty-four (24) hours but more than four (4) hours per day shall be classified as Group E occupancy.

b. Special protective covers for electrical receptacles shall be installed on all receptacles located in areas occupied by clients.

c. Emergency evacuation drills shall include complete evacuation of all persons from the building.

d. The owner shall maintain records of emergency evacuation drills for at least three (3) years.

e. Facilities shall provide a copy of their Fire Evacuation Plan to the responding fire department. The plan must note the rooms keeping children under twenty-four (24) months of age.

f. Facilities with six (6) or more children under twenty-four (24) months of age shall comply with the regulations for "Facilities with Children Under 24 Months of Age" (S.C. Reg. 71-8301.3(B)).

36 FINAL REGULATIONS

4. The State Fire Marshal has authority to approve alternate methods of compliance within the intent of the regulations for existing facilities.

B. Existing "Facilities with Children Under 24 Months of Age"

1. Facilities caring for four or more children under twenty-four (24) months of age unattended by a parent or guardian shall provide the following safeguards:

a. Rooms shall have a one (1) hour fire rated separation. No fire rated separation is required between adjacent rooms caring for children less than twenty-four (24) months of age.

b. Rooms shall have a direct exit to the outside. Exit door(s) from infant rooms shall swing in the direction of egress and the door leaf shall be at least thirty-six (36) inches wide.

c. Rooms shall be limited to twelve (12) children per direct exit. There shall be no more than twenty-four (24) children per room. Older children kept in the room shall be counted as part of the total for direct exits and room occupancy considerations.

d. Rooms shall not have any type of open flame appliances.

e. Rooms shall have smoke detectors installed and maintained per NFPA 72 inside the room and in the adjacent area of the facility near the protected room's entrance.

f. Doors in the required one-hour separation partitions shall be twenty (20) minute labeled doors equipped with door closures or a smoke actuated hold-open device.

g. Facilities shall develop a fire safety and evacuation plan complying with the requirements for Group E occupancies in the IFC.

h. Facilities shall provide a copy of their fire safety and evacuation plan to the local fire authorities. The plan must note the rooms keeping children under twenty-four (24) months of age.

i. Emergency evacuation drills shall comply with the requirements for Group E occupancies in the IFC. The owner shall maintain records per the IFC of emergency evacuation drills for at least three (3) years.

j. Portable unvented fuel-fired heating equipment shall be prohibited in all infant rooms and daycares.

C. Existing Child Group Day Care

1. Facilities providing care, maintenance, and supervision for seven (7) to twelve (12) children for less than twenty-four (24) hours but more than four (4) hours per day shall be classified as Group R-3 occupancy.

a. Group day care facilities shall be separated from other type occupancies (excluding owner residence) by a one (1) hour fire barrier constructed per the IBC.

b. Group day care facilities located in R-2 occupancies shall be located on the floor of exit discharge.

c. Each group day care facility occupied by clients shall have at least two (2) independent means of escape as defined in NFPA 101.

d. The doorway between the level of exit discharge and any floor below shall be equipped with a self-closing 1 1/2" solid core wood door or a labeled fire rated door with a twenty (20) minute or higher rating.

e. Group day care is prohibited in manufactured housing (mobile homes).

f. A fire plan describing what actions are to be taken by the staff in the event of a fire must be developed, posted, and copies made available to staff members and the local fire department. This plan shall note the location of all crib children under twenty-four (24) months of age.

g. A fire drill shall be conducted per the IFC for educational occupancies. Records of drills shall be maintained for a period of three (3) years and report the date, time, description, and evaluation of each drill.

h. At least one (1) portable fire extinguisher with a minimum classification of 2A:10BC shall be installed in cooking areas. The fire extinguishers shall be installed and maintained per NFPA 10.

i. All heating devices must be selected, used, and installed per the IFC, the manufacturer's recommendations, and listing conditions set by an approved testing laboratory.

j. Unvented gas heaters shall have an operating oxygen depletion device, an operating safety shutoff device, and means to protect clients from burns.

k. Fireplaces shall be equipped with fire screens, partitions, or other means to protect clients from burns.

l. Facilities with six (6) or more children under twenty-four (24) months of age shall comply with S.C. Reg. 71-8301.3(B) for "Facilities with Children Under 24 Months of Age."

m. Portable unvented fuel-fired heating equipment shall be prohibited in all group day cares.

D. Existing Child Family Day Care Facilities

1. Facilities providing care, maintenance, and supervision for six (6) or less children for less than twenty-four (24) hours but more than four (4) hours per day shall be classified as Group R-3 occupancy.

a. Family day care facilities shall be separated from other type occupancies (excluding owner residence) by a one-hour fire barrier constructed per the IBC.

b. Family day care facilities located in R-2 occupancies shall be located on the floor of exit discharge.

c. Each family day care facility occupied by clients shall have at least two (2) independent means of escape as defined in NFPA 101.

d. The doorway between the level of exit discharge and any floor below shall be equipped with a self-closing 1 1/2" solid core wood door or a labeled fire rated door with a twenty (20) minute or higher rating.

e. A fire plan describing what actions are to be taken by the staff in the event of a fire must be developed, posted, and copies made available to staff members and the local fire department. This plan shall note the location of all crib children under twenty-four (24) months of age.

f. A fire drill shall be conducted per the IFC for educational occupancies. Records of drills shall be maintained for a period of three (3) years and report the date, time, description, and evaluation of each drill.

g. The interior finish in occupied spaces and exits in family day care facilities shall be a minimum of Class C.

h. At least one (1) portable fire extinguisher with a minimum classification of 2A:10BC shall be installed in cooking areas. The fire extinguishers shall be installed and maintained per NFPA 10.

i. All heating devices must be selected, used, and installed per the IFC, the manufacturer's recommendations, and listing conditions set by an approved testing laboratory.

j. Unvented gas heaters shall have an operating oxygen depletion device, an operating safety shutoff device, and means to protect clients from burns.

k. Fireplaces shall be equipped with fire screens, partitions, or other means to protect clients from burns.

1. Facilities with six (6) or more children under twenty-four (24) months of age shall comply with the regulations for "Facilities with Children Under 24 Months of Age" (S.C. Reg. 71-8301.3(B)).

m. Portable unvented fuel-fired heating equipment shall be prohibited in all family day cares.

E. All Foster Home Facilities

1. Foster homes providing care, maintenance, and supervision for no more than five (5) children, including the natural or adopted children of the foster parent; shall comply with the following:

a. Must be a facility designed and constructed with the intent to be used as a dwelling per applicable statutes and regulations.

b. Listed smoke alarms shall be installed in the following locations:

(i) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms;

(ii) In each room used for sleeping purposes; and

(iii) In each habitable story within a dwelling.

c. Listed smoke alarms shall be powered from:

(i) the electrical system of the dwelling as the primary power source and a battery as a secondary power source; or

(ii) a battery rated for a 10-year life, provided the smoke alarm is listed for use with a 10-year battery.

d. Listed smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the dwelling unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

e. At least one (1) portable fire extinguisher with a minimum classification of 2A:10BC shall be installed near cooking areas. The fire extinguishers shall be installed and maintained in accordance with the manufacturer's instructions.

f. Each facility housing foster children shall maintain means of egress as required by original construction.

g. All sleeping rooms below the fourth story shall have emergency escape and rescue openings that open from the inside and are sized to permit the egress of the occupants.

38 FINAL REGULATIONS

h. All heating devices must be selected, used, and installed per the manufacturer's recommendations and the listing conditions set by an approved testing laboratory.

i. Unvented gas heaters shall have an operating oxygen depletion device, an operating safety shutoff device, and shall be located or guarded to prevent burn injuries.

j. Fireplaces shall be equipped with fire screens, partitions, or other means to protect clients from burns.

k. A fire escape plan describing what actions are to be taken by the family in the event of a fire must be developed and posted.

l. A fire escape drill shall be conducted every three (3) months.

m. Records of the drills shall be maintained on the premises for three (3) years. The records shall give the date, time, and weather conditions during the drill, number evacuated, description, and evaluation of the fire drill. Fire drills shall include complete evacuation of all persons from the building.

n. A fire escape drill shall be conducted within twenty-four (24) hours of the arrival of each new foster child.

o. Portable unvented fuel-fired heating equipment shall be prohibited in all foster homes.

p. An approved carbon monoxide alarm shall be installed and maintained outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units within which fuel fired appliances are installed and in dwelling units that have attached garages.

q. Each sleeping room must have an operable door that closes and latches to provide compartmentation that protects occupants in case of a fire event.

r. The dwelling shall be free of dangers that constitute an obvious fire hazard, such as faulty electrical cords, overloaded electrical sockets, or an accumulation of papers, paint, or other flammable material stored in the dwelling.

s. Facilities serving as a foster home shall have approved address numbers placed in a position that is plainly legible and visible from the street. Address number shall be a minimum of 4 inches high with a minimum stroke width of 0.5 inch and shall contrast with their background.

SUBARTICLE 3

EXPLOSIVES

71-8302. EXPLOSIVES.

(Statutory Authority: 1976 Code Sections 23-9-40(b), 23-9-60, 23-36-10 et seq.)

71-8302.1. General.

A. The purpose of this regulation is to provide reasonable safety and protection to the public, public property, private property, and operators from the manufacture, transportation, handling, use, and storage of explosives in South Carolina.

B. This regulation shall apply to the manufacture, transportation, handling, use, and storage of explosives in South Carolina.

C. This regulation does not apply to the sale or storage of fireworks as regulated by the Board of Pyrotechnic Safety.

71-8302.2. Codes and Standards.

A. All references to NFPA 495 found in these regulations refer to the edition adopted in SCRR 71-8300.2 and are modified by the following regulations.

71-8302.3. Licensing and Permitting Fees.

A. All applications for licenses, tests, or permits must be accompanied by the appropriate fees.

B. The Office of State Fire Marshal is responsible for all administrative activities of the licensing program. The State Fire Marshal shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in South Carolina Code 40-1-50(D).

C. Fees shall be established for the following:

1. Application
2. Background Check
3. Testing
4. Licensing
5. Permitting
6. Inspection
7. Renewal

D. All fees are due at time of application.

E. Applications for blasting permits shall be submitted to the Office of State Fire Marshal for approval 48 hours before the start of blasting operations. Applications submitted less than 48 hours before the start of blasting operations will be subject to a \$200.00 special processing fee.

F. All fees paid to the Office of State Fire Marshal are nonrefundable.

71-8302.4. Licenses and Permits.

A. Classification of Licenses and Permits

	Class	Category	Blasting Permitted
1.	A	Unlimited	All types of blasting
2.	B	General aboveground	All phases of blasting operations in quarries, open pit mines, and aboveground construction
3.	C	General underground	All phases of blasting operations in underground mines, shafts, tunnels, and drifts
4.	D	Demolition	All phases of blasting in demolition projects
5.	E	Seismic	All phases of blasting in seismic prospecting
6.	G	Special	Special blasting as described on the permit

B. Licenses

1. No person shall be granted a license who has not successfully completed a written examination administered by the Office of State Fire Marshal covering the applicable codes, state laws and regulations for the license classification for which they are applying.

2. Any applicant who fails the written examination is allowed one (1) re-test after a minimum seven (7) day waiting period. Any applicant who fails the re-test shall wait at least six (6) months before reapplying.

3. Licenses are not transferable.

4. The State Fire Marshal may accept determination of relief from disability incurred by reason of a criminal conviction that has been granted by the Director of the Bureau of Alcohol, Tobacco and Firearms, U. S. Department of the Treasury, Washington, D.C., pursuant to Section 555.142, Subpart H, Title 27, Code of Federal Regulations and Title 18 United States Code, Chapter 40, Section 845(b).

5. New Applications for licensing shall:

a. Submit a completed fingerprint card with their application for the Office of State Fire Marshal to conduct a National Crime Information Center (NCIC) criminal background check as part of the initial licensing application process.

b. Provide the appropriate Federal licenses to handle and use explosives or explosive materials. Applicants must provide a copy of applicable Federal licenses with their application.

c. Provide proof of insurance. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the State Fire Marshal's Office.

6. Each applicant for renewal shall each year:

40 FINAL REGULATIONS

- a. Submit an application for renewal.
- b. Have a National Crime Information Center (NCIC) background check conducted by the Office of State Fire Marshal as part of the licensing renewal process.
- c. Provide a copy of their current Federal licenses for handling and using explosives or explosive material with their renewal application.
- d. Attend at least four (4) hours of continuing education acceptable to the Office of the State Fire Marshal. Certificates of training or other proof of training attendance must be provided when requested by the Office of State Fire Marshal.
- e. Provide proof of insurance. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the State Fire Marshal's Office.

C. Blasting Permits

1. Blasting Permit Application Forms shall contain the information deemed appropriate by the Office of State Fire Marshal.
2. Blasting Permit Application Forms shall be available on the State Fire Marshal's Web site.
3. No permit will be granted without submission of a complete Blasting Permit Application Form and payment of application fee.
4. No variations from the terms of the blasting permit are allowed without authorization from the State Fire Marshal or his designee.

D. Magazine Permits

1. Magazine Permit Application Forms shall contain the information deemed appropriate by the Office of State Fire Marshal.
2. Magazine Permit Application Forms shall be available on the State Fire Marshal's Web site.
3. Magazine permits expire at 12:01 AM on January 1 of each licensing cycle. Any magazine permit not renewed by December 31 shall incur a late fee of \$100.00 (each).
4. Magazine permits shall be visible on the exterior of all magazines. Defaced or destroyed permits will be reported to the SFM when discovered. The Office of State Fire Marshal may, at their discretion, charge the administrative costs of replacing the magazine permit.
5. Each magazine shall be inspected and approved by the Office of State Fire Marshal before use.

71-8302.5. Records.

A. Licensed blasters shall keep records of each blast. Blaster's Log shall contain the following minimum data:

1. Name of company or contractor;
2. Location, date, and time of blast;
3. Name, signature, and license number of blaster in charge of blast;
4. Type of material blasted;
5. Number of holes, burden and spacing;
6. Diameter and depth of holes;
7. Types of explosives used;
8. Total amount of explosives used;
9. Maximum amount of explosives per delay period of 8 milliseconds or greater;
10. Method of firing and type of circuit;
11. Direction and distance in feet to nearest dwelling house, public building, school, church, commercial or institutional building neither owned nor leased by the person conducting the blasting;
12. Weather conditions;
13. Type and height or length of stemming;
14. Whether mats or other protections were used;
15. Type of delay electric blasting caps used and delay periods used;
16. Exact location of seismograph, if used, and the distance of seismograph from blast as indicated accurately by the person taking the seismograph reading;

17. Seismograph records, where required including:

- a. Name of person and firm analyzing the seismograph record; and
- b. Seismograph reading;

18. Maximum number of holes per delay period of eight milliseconds or greater.

B. Blasters will provide a blast report on forms approved by the Office of State Fire Marshal and submit these forms within three working days of the blast when deemed necessary by the Office of State Fire Marshal.

C. Blasting records shall be retained by the licensed blaster and available for inspection by SFM during normal work hours at their place of business. These blast records shall include as a minimum for each blast:

- 1. Blasting Permit;
- 2. Seismograph reports when used;
- 3. Blaster's Record/log;
- 4. Pre-Blast Survey (if applicable).

D. Magazine log shall be available for inspection by SFM upon request during normal work hours or hours of operation of the magazine.

71-8302.6. Blasting Safety and Operations.

A. The contractor, operator, and the blaster are responsible for the conduct of blasting operations on any site.

B. These regulations do not relieve the contractor, operator, blaster or other persons of their responsibility and liability under any other laws.

C. The Office of State Fire Marshal may require the use of a seismograph on any blasting operation where damage to personal property has or may occur.

D. A Seismograph shall be used on all blasting operations within 1500 feet of a building, where the scaled distances shown in NFPA 495 are not followed, or when directed by the State Fire Marshal.

E. Operators must notify the State Fire Marshal within 24 hours of any fires or thefts involving explosives. The operators shall provide the State Fire Marshal with a copy of the report filed with the police department or the incident report from the fire department. Operators must also provide the State Fire Marshal's Office with a copy of U. S. Bureau of Alcohol, Tobacco, and Firearms ATF Form 5400.5.

F. The operator shall have their license in their possession when handling, possessing or using explosive materials and shall show their license when asked by any AHJ.

G. A copy of the blasting permit shall be kept at the firing station.

H. This section shall be followed for firing the blast:

- 1. A warning signal shall be given before every blast. Warning signals shall comply with the following:
 - a. Warning signal is a one (1) minute series of long horn or siren blasts five (5) minutes before the blast signal.

- b. Blast signal is a series of short horn or siren blasts one (1) minute before the shot.

- c. All clear signal is a prolonged horn or siren blast following the inspection of the blast area.

- 2. The signal shall be made from an air horn, siren or other device, and must be loud enough to be clearly heard in all areas that could be affected by the blast or flyrock from the blast. The signal must be distinctive and unique so that it cannot be confused with any other signaling system that might occur on the site. A vehicle horn shall not be used as a signaling system.

71-8302.7. Explosives and Investigations.

All costs incurred by the State Fire Marshal for investigations involving explosives or blasting operations shall be reimbursed to the State by the individual or company involved in the investigation. Such reimbursements will only apply when the individual or company has been found in violation of the State Explosives Control Act or these Regulations.

42 FINAL REGULATIONS

71-8302.8. Variances.

A. This section provides licensees the opportunity to request variances of the regulations under specific conditions.

1. The State Fire Marshal may grant variances when it can be demonstrated the variance improves safety or provides an equivalent level of safety as provided in the regulations and adopted codes.

2. Such a variance may be modified or revoked by the State Fire Marshal.

3. When applicable, these variances must also be approved by the U.S. Bureau of Alcohol, Tobacco, and Firearms.

SUBARTICLE 4

PORTABLE FIRE EXTINGUISHERS AND FIXED FIRE EXTINGUISHING SYSTEMS

71-8303. PORTABLE FIRE EXTINGUISHERS AND FIXED FIRE EXTINGUISHING SYSTEMS.

(Statutory Authority: 1976 Code Sections 23-9-40, 23-9-45)

71-8303.1. General.

A. The purpose of this subarticle is to regulate the leasing, renting, reselling, servicing and testing of portable fire extinguishers and the installation, testing, and servicing of fixed fire extinguishing systems in the interest of protecting lives and property.

B. This regulation shall apply to:

1. The filling, charging, and recharging of all portable fire extinguishers other than the initial filling by the manufacturer.

2. The testing and servicing of all types of portable fire extinguishers.

3. The installation, testing, and servicing of all types of fixed fire extinguishing systems.

C. This regulation shall not apply to the following:

1. The filling or charging of a portable fire extinguisher by the manufacturer before the initial sale;

2. The installation or servicing of water-based extinguishing systems addressed by 40-10-240 et seq; and

3. Firms engaged in the retailing or wholesaling of new portable fire extinguishers.

D. Definitions

1. "Citation" means a summons to appear before the State Fire Marshal because of a violation of any part or all of this regulation and may carry a monetary fine of up to \$2,000 per violation.

2. "DOT" means U.S. Department of Transportation.

3. "Fixed Extinguishing System" means both an Engineered and Pre-Engineered fire extinguishing system.

4. "Firm" means any person, partnership, corporation, association, or governmental entity.

5. "Portable Fire Extinguisher" means a portable device containing extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire.

6. "Servicing" includes maintenance, recharging, or hydrostatic testing of a Portable Fire Extinguisher or a Fixed Extinguishing System.

71-8303.2. Codes and Standards.

A. All references found in these regulations refer to the editions adopted in SCRR 71-8300.2 and are modified by the following regulations as shown below.

71-8303.3. Fees for Licensing, Testing, and Inspections.

A. The Office of State Fire Marshal is responsible for all administrative activities of the licensing program. The State Fire Marshal shall employ and supervise personnel necessary to effectuate the provisions of this

article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in South Carolina Code 40-1-50(D).

B. Fees shall be established for the following:

1. Application
2. Testing
3. Permitting
4. Licensing
5. Inspection
6. Renewal

C. All fees are due at time of application for licenses, testing, permits, inspection or renewal.

D. All fees paid to the Office of State Fire Marshal are nonrefundable.

71-8303.4. Licensing and Permitting Requirements.

A. General Licensing Requirements.

1. Each firm testing and servicing portable fire extinguishers; installing, testing, and servicing fixed fire extinguishing systems; or hydrostatic testing portable fire extinguishers or portions of fixed fire extinguishing systems must have a license issued by the Office of State Fire Marshal.

2. Each firm's license shall be displayed in a conspicuous location at their place of business.

3. Each firm shall apply in writing on a form available from the Office of State Fire Marshal, for the license classification the firm is seeking.

4. Each firm shall furnish a certificate of insurance with their application in the amount required for their license classification. The firm shall list the State of South Carolina and its agents as additional insured. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or not renewed, the insurer shall give immediate notice to the Office of State Fire Marshal.

5. Each firm shall possess the equipment required for the class of license sought. The State Fire Marshal shall inspect the firm's facilities to verify the firm has the minimum required equipment. The State Fire Marshal shall not license a firm until deficiencies discovered by inspection are corrected.

6. Licenses issued under this subarticle are not transferable.

7. All licenses expire when insurance coverage lapses or is cancelled and on the day of expiration shown on the license and shall be renewed biennially.

8. Expired licenses shall not be renewed. A new license shall be obtained by complying with all requirements and procedures for an original license.

B. General Permitting Requirements.

1. Each individual servicing, recharging, repairing, installing, or testing portable fire extinguishers or fixed fire extinguishing systems shall possess a valid permit issued by the Office of State Fire Marshal.

2. Each individual shall apply in writing on a form available from the Office of State Fire Marshal, for the permit classification they are seeking.

3. Applicants must provide a current photograph with their application.

4. Applicants must be at least eighteen (18) years old.

5. Applicants shall pass a written examination administered by the Office of State Fire Marshal before a permit is issued. The exam will cover the applicable codes, state laws, and regulations and the additional requirements for the specific class of permit for which they are applying.

6. Any applicant who fails the written examination is allowed one (1) re-test after a minimum seven-day waiting period. Any applicant who fails the re-test shall wait at least six (6) months before reapplying.

7. Permit holders shall have their permits in their possession while working on equipment or systems covered by their permit.

8. Permit holders shall show their permits on the request of any authority having jurisdiction.

9. Permit holders shall be limited to specific type of work allowed by the class of permit they hold and the specific systems covered by their permit.

44 FINAL REGULATIONS

10. Permits issued under this subarticle are not transferable.

11. Permits shall expire on the day of expiration shown on the permit and shall be renewed biennially.

12. Expired permits shall not be renewed. A new permit shall be obtained by complying with all requirements and procedures for an original permit.

C. License and Permit Classifications.

1. Class "A" - may service, recharge, or repair, all types of portable fire extinguishers, including recharging carbon dioxide units; and to conduct hydrostatic tests on all types of fire extinguishers.

2. Class "B" - may service, recharge, or repair all types of portable fire extinguishers, including recharging carbon dioxide units and conducting hydrostatic tests on water, water chemical, and dry chemical types of extinguishers only.

3. Class "C" - may service, recharge, or repair all types of portable fire extinguishers, except recharging carbon dioxide units; and to conduct hydrostatic tests of water, water chemical, and dry chemical types of fire extinguishers only.

4. Class "D" - may service, recharge, repair, or install all types of fixed fire extinguishing systems.

5. Class "E" is an apprentice permit classification only. Permits in this classification may perform the services only under direct supervision of a person holding a valid permit and who works for the same firm as the apprentice. An apprentice permit is valid for one (1) year from the day of issuance and may not be renewed.

D. Firms applying for a Class "A", "B", or "C" License must meet all of the general requirements for licensing and provide proof of public liability insurance for an amount not less than one million (\$1,000,000) dollars.

E. Firms applying for a Class "D" License must:

1. Designate on their application for licensing each type of fixed fire-extinguishing system for which they want to be licensed;

2. Provide proof of public liability insurance for an amount not less than one million (\$1,000,000) dollars; and

3. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system.

4. For each additional type of preengineered fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

F. Individuals applying for a Class "A", "B", or "C" Permit must meet all of the general requirements.

G. Individuals applying for a Class "D" Permit must:

1. Designate on their application for licensing each type of fixed fire-extinguishing system for which they want to be permitted.

2. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system.

3. For each additional type of preengineered fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

H. Employees applying for a Class "E" Permit must file an application for a Class "E" Permit and provide a current photograph.

71-8303.5. Renewal of Licenses and Permits.

A. To qualify for biennial renewal of a Class "A", "B" or "C" license, a firm must:

1. Apply in writing on a form available from the Office of State Fire Marshal designating the Class of license sought;

2. Provide proof of public liability insurance.

B. To qualify for biennial renewal of a Class "A", "B" or "C" permit, an individual must:

1. Apply in writing on a form available from the Office of State Fire Marshal, designating the permit classification they are seeking.

C. To qualify for biennial renewal of a Class D license, a firm must:

1. Apply in writing on a form available from the Office of State Fire Marshal, designating each type of fixed fire-extinguishing system for which they wish to be licensed to install, test, or service;

2. Provide proof of public liability insurance;

3. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system;

4. For each additional type of preengineered fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

D. To qualify for biennial renewal of a Class D permit, an individual must:

1. Apply in writing on a form available from the Office of State Fire Marshal, designating each type of fixed fire-extinguishing system for which they wish to be permitted to install, test, or service;

2. Provide an up to date manufacturers training certificate for each type pre engineered system that renewal is sought;

3. Provide an affidavit to attest to the applicant's ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals.

71-8303.6. Restrictions for Class D Fire Equipment Licenses and Permits.

A. A firm or person shall not willfully engage in the business of installing, testing or servicing Class D fire equipment or use in any advertisement or on a business card or letterhead, or make any other verbal or written communication that the person is a Class D Fire Equipment Dealer or acquiesce in such a representation, unless that person is licensed as a Class D Fire Equipment Dealer by the Office of State Fire Marshal.

B. No person shall install or service any type of Class D fire equipment not covered on their permit.

71-8303.7. Licensing Requirements: For Firms Performing Hydrostatic Testing.

A. Each firm performing hydrostatic testing of fire extinguishers manufactured according to the specifications of the United States Department of Transportation (DOT) shall be required to possess a valid license issued by the DOT. All hydrostatic testing of fire extinguishers shall be performed per the appropriate DOT standards and NFPA standards.

B. Each employee certified to conduct hydrostatic testing shall attend a DOT certification refresher course every three years and provide a copy of the current certification to the Office of State Fire Marshal upon completion.

71-8303.8. Installation and Maintenance Procedures.

A. All Portable Fire Extinguishers and Fixed Fire Extinguishing Systems covered by these regulations shall be installed, inspected, tested and serviced per the applicable NFPA standards and the manufacturer's installation, service and maintenance manuals.

B. Any portable fire extinguisher or fixed fire extinguishing system that cannot be maintained per the manufacturer's installation, service, and maintenance manuals or the applicable NFPA standards shall be removed from service and replaced.

C. Tamper seals on all portable fire extinguishers shall be imprinted with the year. The year imprinted on the tamper seal shall match the date on the maintenance tag for portable fire extinguisher servicing and maintenance.

46 FINAL REGULATIONS

71-8303.9. Minimum Equipment and Facility Requirements for Fire Equipment Dealer License.

The Office of State Fire Marshal Minimum Equipment and Facility Requirements
for a Fire Equipment Dealer License

Minimum Equipment and Facilities Required	
	YES NO N/A
1 A D Hydrostatic test equipment for high pressure testing and calibrated cylinder. (0-11,000 psi)	
2 A D Equipment for test dating high-pressure cylinders (over 900 psi). Die stamps must be a minimum of 1/4 inches.	
3 A D Clock with sweep secondhand on or close to hydrostatic test apparatus.	
4 A B D CO ₂ receiver--cascade system for proper filling of CO ₂ extinguishers.	
5 A B D Supply of metallic labels for CO ₂ hose conductivity test. Labels attached to the hose must include month and year of testing, name or initials of person performing test, and name of agency performing test.	
6 A B C D Scales graduated in 1/8 ounce or 1 gram weight if refilling CO ₂ cartridges. Minimum of 20 lbs.	
7 A B C D All Scales calibrated within the last 12 months. Certification date(s) _____ Certified by _____	
8 A B C D Approved drying method for high and low pressure cylinders. Listed for its use.	
9 A B C D Proper wrenches with non-serrated jaws or valve puller (hydraulic or electric).	
10 A B C D Inspection light.	
11 A B C D Low-pressure test apparatus.	
12 A B C D Low-pressure hydrostatic test labels per NFPA 10.	
13 A B C D Scales for weighing extinguisher/system agent bottles during inspection and filling, minimum of 500 lbs. Calibrated and certified annually.	
14 A B C D Closed recovery system(s) and storage to remove and store chemicals from fire extinguishers or system cylinders during servicing.	

15 A B C D Closed recovery system(s) and storage to remove and store chemicals from halon type fire extinguishers or system cylinders during servicing.

16 A B C Current installation, maintenance and service manuals from the manufacturer of each make or brand of fire extinguisher or system the company installs, services, recharges, repairs, or maintains.

17 A B C Supply of extinguisher recharge agents for the type/brands of fire extinguishers the company requests to recharge or service.

18 A B C D Vise 6-inch minimum (chain or bench).

19 A B C D Facilities for proper storage of extinguishing agents.

20 A B C D Facilities for leak testing of pressurized extinguishers.

21 A B C D Nitrogen with regulator and indicator. Regulator not to exceed 1500 psi--minimum 500 psi.

22 A B C D Supply of "Verification of Service" collars containing Month and Year the service was performed.

23 A B C Adapters, fittings, and tools and equipment for properly servicing and/or recharging all extinguishers being serviced and recharged.

24 A B C D Safety cage (in shop) for hydrostatic testing of low-pressure cylinders.

25 A B C D 1/4 pound graduated scales minimum 150 pounds for weighing chemical recharging.

26 D Cable crimping tool (where required).

27 D Cocking lever (where required).

28 D Pipe vise, dies, reamer, etc.

29 D Stock and supply of fuse links, proper elbows, and nozzles for system which is being installed.

30 D Parts from each manufacturer's system that the permittee is permitted to work on or service, including original service manuals and all up to-date technical bulletins.

31 D Listed links from each manufacturer that the permittee is permitted to service or work on.

48 FINAL REGULATIONS

32 D Current service manuals from the manufacturer for each model of fixed fire extinguishing system being installed, tested, or serviced by the fire equipment license holder.

33 D System Reports - custom or generic.

34 D Non-compliance Tags for non compliant systems.

35 A B C D Supply of tags with the appropriate company and other related information on them.

36 D Thermometer with a minimum of 2° F or 1° C increments.

37 D Agent Transfer Pump (for Halon or Clean Agents).

38 D Torque Wrench.

39 D Leak test device (for Halon or Clean Agents).

40 D Liquid Level detector ("Halon Scanner").

71-8303.10. Powers and Duties of the State Fire Marshal.

A. Powers and duties of the State Fire Marshal are:

1. To evaluate the applications of firms or individuals for a license and permits to engage in the business of servicing portable fire extinguishers or installing, testing and servicing fixed fire-extinguishing systems;
2. To administer written examinations to ascertain the competency of applicants for a license to service portable fire extinguishers or install fixed fire extinguishing systems;
3. To issue licenses, permits, and apprentice permits required by this subarticle;
4. To suspend or revoke licenses and permits for cause; and
5. To administer these regulations and supervise personnel in carrying out the requirements of this regulation.

B. The State Fire Marshal, upon request, shall conduct hearings or proceedings concerning the suspension, revocation, or refusal to issue or renew licenses or permits issued under this subarticle or the application to suspend, revoke, refuse to renew, or refuse to issue the same.

C. An applicant, licensee, or permit holder whose license or permit has been refused or revoked under this subarticle, except for failure to pass a required written examination, shall not file another application for a license or permit within one year from the effective date of the refusal or revocation. After one year from that date, the applicant may re-apply, and in a public hearing, show good cause why the issuance of a license or permit does not hinder public safety and health.

D. The State Fire Marshal shall maintain a registry of all applications for licenses or permits and of all firms or persons holding licenses or permits. The State Fire Marshal shall make the roster of Fire Equipment Dealers Licenses or Fire Equipment Permits, with notation concerning the types of fixed fire extinguishing system for which licenses or permits have been granted, available on the State Fire Marshal's Web site.

E. At least ninety (90) days before the expiration of a license, the State Fire Marshal shall send written notice of the impending license or permit expiration to the license or permit holder's last known address. This subsection shall not be construed to prevent the denying or refusing to renew a license under applicable law or regulations of the State Fire Marshal.

71-8303.11. Fitness to Practice; Investigation of Complaints.

A. If the State Fire Marshal has reason to believe that a person licensed under this chapter has become unfit to practice as a Fire Equipment Dealer or if a complaint is filed with the Office of State Fire Marshal alleging a violation of a provision of this chapter by a license or permit holder or if a complaint is filed with the State Fire Marshal alleging that an licensed person is fraudulently holding him or herself out as qualified to engage in business as a Fire Equipment Dealer, the State Fire Marshal shall initiate an investigation per the procedures of Title 40, Chapter 1.

71-8303.12. Administrative Sanctions.

A. If after an investigation it appears that the license or permit holder under this regulation has become unfit to practice or has violated these regulations, the State Fire Marshal shall file a Petition with the Administrative Law Court stating the facts and the particular statutes and regulations at issue.

B. The Administrative Law Court may, after opportunity for hearing, order that the license or permit be revoked, suspended, or otherwise disciplined on the grounds that the license or permit holder:

1. Used a false, fraudulent, or forged statement or document in obtaining a license or permit under this chapter; or
2. Committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining a license or permit under this chapter; or
3. Has had an authorization to practice a regulated profession or occupation in another state or jurisdiction canceled, revoked or suspended, or has otherwise been disciplined by another jurisdiction; or
4. Has intentionally used a fraudulent statement in a document connected with the license or permit; or
5. Obtained fees or assisted in obtaining fees under fraudulent circumstances; or
6. Sustained a physical or mental disability or uses alcohol or drugs to such a degree as to render further practice as a Fire Equipment Dealer dangerous to the public; or
7. Failed to perform all installation, service, and testing in complete compliance with the manufacturer's manuals.

71-8303.13. Sanctions for Unlawful Practice.

A. The Administrative Law Court may, after opportunity for hearing, order injunctive relief against a person who, without possessing a valid license or permit under this chapter, practices or offers to practice or uses the title or term Fire Equipment Dealer. For each violation, the administrative law judge may impose a fine of no more than ten thousand (\$10,000) dollars.

B. A person who does not hold a license or permit as required by this Chapter, may not bring any action either at law or in equity to enforce the provisions of any contract for providing services as a Fire Equipment Dealer.

71-8303.14. Certain Acts Prohibited.

A. No person or firm shall:

1. Engage in the business of installing or servicing portable fire extinguishers without a valid and current license;
2. Engage in the business of installing or servicing fixed fire-extinguishing systems without a valid and current license;
3. Service, test, or install fixed fire-extinguishing systems without a valid and current license;
4. Perform hydrostatic testing of DOT cylinders for portable fire extinguishers or parts of a fixed fire extinguishing systems without a valid and current hydrostatic license;
5. Obtain or attempt to obtain a license or permit by fraudulent representation;
6. Service portable fire extinguishers or test, service, or install fixed fire-extinguishing systems contrary to the provisions of these regulations;
7. Service or hydrostatic test a fire extinguisher that does not have the proper identifying labels;

50 FINAL REGULATIONS

8. Sell, offer for sale, or give any make, type, or model of new or used fire extinguisher, unless extinguisher has first been tested and is currently approved or listed by Underwriters' Laboratories, Inc., Factory Mutual Laboratories, Inc., or other nationally recognized testing laboratory whose testing procedures used for approval in the listing of portable fire extinguishers are acceptable to the State Fire Marshal, and unless such extinguisher carries an Underwriters' Laboratories, Inc., or manufacturer's serial number. The serial number shall be permanently stamped on the manufacturer's identification and instruction plate;

9. Permit an individual who works for the firm to engage in installation, repair, recharge, maintenance or servicing fire extinguishers or fixed fire extinguishing systems without a valid permit or license.

71-8303.15. Cease and Desist Orders; Notice to Correct Hazardous Conditions.

When the State Fire Marshal shall have reason to believe that any person is or has been violating any provisions of this regulation or any rules or regulations adopted and promulgated pursuant thereto, he or his designated agent may issue and deliver to such person an order to cease and desist such violation or to correct such hazardous condition.

71-8303.16. Suspensions or Revocation of License or Permit.

A. The license of any company or individual may be suspended or revoked because of failure to comply with the terms of any order to correct violations within the specified abatement period or for failure to comply with any cease and desist orders. A license may be suspended for a period not to exceed one year from the date of license suspension. A license may be revoked for a period not to exceed two years from the date of license revocation.

B. In addition, a license may be suspended or revoked where the license or permit holder is found to have:

1. Rendered inoperative a fire extinguisher or fixed system, which is required by any rule of the State Fire Marshal, except during such time as the extinguisher, or fixed system is being inspected, serviced, or tested;
2. Falsified any records required to be maintained by this chapter or rules adopted thereto;
3. Improperly serviced, tested, or inspected a fire extinguisher or fixed fire extinguishing system;
4. Allowed another person to use his permit or license number or use a license or permit number other than the license or permit holder's valid license or permit number; or
5. Obliterated the serial number on a fire extinguisher for purposes of falsifying service records.

71-8303.17. Responsibility of Equipment Manufacturer.

All manufacturers of portable fire extinguishers and fixed fire extinguishing systems doing business in South Carolina shall provide the State Fire Marshal with all technical information as well as installation instructions that apply to their systems and equipment sold, installed, serviced or tested in South Carolina. This technical information shall include design revisions and updating information on systems sold in South Carolina.

71-8303.18. Penalties.

The State Fire Marshal authorizes any Deputy State Fire Marshal to issue a citation for each offense to any person, firm, or corporation licensed under these regulations who has violated any provision of this subarticle. The State Fire Marshal may assess fines for each charge to both the fire equipment company and the permit holder. Citations shall be assessed by the State Fire Marshal at not more than two thousand (\$2000.00) per violation.

SUBARTICLE 5

LIQUEFIED PETROLEUM GAS

71-8304. LIQUEFIED PETROLEUM (LP) GAS.

(Statutory Authority: 1976 Code Section 40-82-70)

71-8304.1. General.

A. The purpose of this regulation is to provide reasonable protection of the health, welfare, and safety of the public and LP Gas operators from the hazards associated with the handling, use, transportation, and storage of Liquefied Petroleum Gas.

B. These regulations apply to:

1. LP Gas Dealers, Installers, Gas Plants, Wholesalers, Resellers, or Cylinder Exchange operators and;
2. Any person handling, dispensing, transporting, or storing LP Gas.

C. These regulations shall not apply to:

1. LP Gas pipeline transmission regulated by the SC Public Safety Commission.
2. Gas plants after the point where LP Gas or LP Gas and air mixture enters a utility distribution system.
3. Natural gas systems covered by the International Gas Code.

D. Definitions

1. "LP Gas" means Liquefied Petroleum Gas as defined in 40-82-20.

71-8304.2. Codes and Standards.

A. All references to NFPA standards found in these regulations refer to the editions adopted in SCRR 71-8300.2 and are modified by the following regulations as shown below.

71-8304.3. Licensing and Permitting Fees.

A. The Office of State Fire Marshal is responsible for all administrative activities of the licensing program. The State Fire Marshal shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in South Carolina Code 40-1-50(D).

B. Fees shall be established for the following:

1. Application
2. Testing
3. Permitting
4. Licensing
5. Inspection
6. Renewal

C. All fees are due at time of application for licenses, testing, permits, inspection, or renewal.

D. All fees paid to the Office of State Fire Marshal are nonrefundable.

71-8304.4. Licensing Requirements.

A. Licenses

1. Each company shall possess a license issued by the Office of State Fire Marshal.
2. Licenses shall be displayed in a conspicuous location at the place of business for the LP Gas Dealer, Installer, Gas Plant, Wholesaler, Reseller, or Cylinder Exchange operator.

52 FINAL REGULATIONS

B. Permits

1. Each site shall have a designated person that has a permit issued by the Office of State Fire Marshal to supervise people handling, dispensing, installing, transporting, repairing, or exchanging LP Gas.
2. Any applicant who fails the written examination is allowed one (1) re-test after a minimum seven (7) day waiting period. Any applicant who fails the re-test shall wait at least thirty (30) days before reapplying.
3. Permits shall bear the name, photograph, and any other identifying information deemed necessary by the Office of State Fire Marshal.
4. Permit holders shall have their permit in their possession when supervising the handling, dispensing, installing, manufacturing, transporting, repairing, or exchanging LP Gas.
5. Permit holders shall exhibit their permits on request of any AHJ.
6. Each permit is valid for a period of two (2) years and must be renewed before it expires.
7. Permits are not transferable.

SUBARTICLE 6

FIREWORKS AND PYROTECHNICS

71-8305. FIREWORKS AND PYROTECHNICS.

(Statutory Authority: 1976 Code Sections 23-9-10 et seq., 23-35-10 et seq.)

71-8305.1. General.

A. The purpose of this regulation is to provide reasonable safety and protection to the public, public property, private property, performers, and display operators from the hazards associated with the handling, use, transportation, and storage of pyrotechnics and fireworks.

B. This regulation shall apply to:

1. The handling and use of fireworks intended for public fireworks display;
2. The construction, handling and use of fireworks equipment intended for public fireworks display;
3. The general conduct and operation of public firework displays;
4. The transportation and storage of fireworks for public fireworks display;
5. The transportation and use of consumer fireworks;
6. The construction, handling, and use of pyrotechnics intended for proximate audience displays; special effects for motion picture, theatrical, and television productions;
7. The construction, handling, and use of flame effects intended for proximate audience displays, or special effects for motion picture, theatrical, and television productions;
8. The construction, handling, and use of rockets intended for proximate audience displays, or special effects for motion picture, theatrical, and television productions; and
9. The general conduct and operation of proximate audience displays.

C. This regulation shall not apply to:

1. The manufacture, sale, or storage of fireworks as governed by the SC Department of Labor Licensing and Regulation, State Board of Pyrotechnic Safety;
2. The transportation, handling, and/or use of fireworks by the State Fire Marshal, his employees, or any commissioned law enforcement officers acting within their official capacities;
3. Fireworks deregulated by the U.S. Department of Transportation;
4. Weapons used in enactments, when there is no projectile;
5. Artillery field pieces used as salutes with no projectile; and
6. The outdoor use of model rockets within the scope of NFPA 1122.

D. Definitions.

1. "AHJ" means Authority Having Jurisdiction, which is the State Fire Marshal, or his agents, or any local fire official covered by 23-9-30.
2. "Consumer Fireworks" means any small device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S.

Consumer Product Safety Commission, as set forth in Title 16, Code of Federal Regulations, parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing fifty (50) mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336 and UN0337 by the U.S. Department of Transportation at 49 CFR 172.101. This term does not include fused setpieces containing components which together exceed 50 mg of salute powder. Consumer Fireworks are further defined as those classified by the U.S. Department of Transportation hazard classification 1.4g. These fireworks were formerly known as "Class C Fireworks."

3. "Day box" means a portable magazine used for immediate storage of pyrotechnic materials.

4. "Display Fireworks" means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than two (2) grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as "Consumer Fireworks." Display fireworks are classified as fireworks UN0333, UN0334, or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101. This term also includes fused setpieces containing components which together exceed fifty (50) mg of salute powder. Display fireworks are further defined as those classified by the U.S. Department of Transportation as hazard classification 1.3g. These fireworks were formerly known as "Class B Fireworks."

5. "Fireworks" means any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "consumer fireworks" or "display fireworks" as defined by this section.

6. "MSDS(s)" means Material Safety Data Sheet(s).

7. "Motion Picture" means, for the purposes of this item, any audiovisual work with a series of related images either on film, tape, or other embodiment, where the images shown in succession impart an impression of motion together with accompanying sound, if any, which is produced, adapted, or altered for exploitation as entertainment, advertising, promotional, industrial, or educational media.

8. "Proximate Audience" means any indoor use of pyrotechnics and the use of pyrotechnics before an audience located closer than the distances allowed by NFPA 1123.

9. "Public Firework Display" means a presentation of Display or Consumer Fireworks for a public gathering.

10. "Pyrotechnics" means any composition or device designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation.

11. "SFM" means State Fire Marshal or his agent.

12. "Theatrical Pyrotechnics" means pyrotechnic devices for professional use in the entertainment industry similar to consumer fireworks in chemical composition and construction but not intended for consumer use.

71-8305.2. Codes and Standards.

A. All references to ICC Codes found in these regulations refer to the editions adopted in SCRR 71-8300.2. The building code shall define occupancy classifications referenced in these regulations.

B. All references to NFPA standards found in these regulations refer to the editions adopted in SCRR 71-8300.2 and are modified by the following regulations as shown below.

71-8305.3. Licensing and Permitting Fees.

A. All fees are due at time of application for licenses, tests, or permitting.

B. Permit applications are due in the Office of State Fire Marshal fifteen days before the performance date. Fees will be doubled for an application received less than fifteen days before the performance date.

C. The Office of State Fire Marshal is responsible for all administrative activities of the licensing program. The State Fire Marshal shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect

54 FINAL REGULATIONS

costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in South Carolina Code 40-1-50(D).

D. Fees shall be established for the following:

1. Application
2. Background Check
3. Testing
4. Licensing
5. Permitting
6. Inspection
7. Renewal

E. All fees are due at time of application for licenses, background checks, testing, permits, inspection or renewal.

F. All fees paid to the Office of State Fire Marshal are nonrefundable.

71-8305.4. Qualifications of Operators.

A. All Operators.

1. No person shall be granted a license who has not successfully completed a written examination administered by the Office of State Fire Marshal. The exam will cover the applicable codes, state laws, and regulations and the additional requirements listed below for the specific class of license for which they are applying.

2. Any applicant who fails the written examination is allowed one re-test after a minimum seven-day waiting period. Any applicant who fails the re-test shall wait at least six months before reapplying.

3. Applicants shall submit a completed fingerprint card with their application. The Office of State Fire Marshal will conduct a criminal background check as part of the licensing application process.

4. Operators using explosives or explosive materials must have the appropriate Federal licenses. Operators shall provide a copy of applicable Federal licenses.

5. Licenses must be renewed biennially on the day of expiration shown on the license.

6. Every two years, each licensed operator shall be required to attend training offered by the Office of State Fire Marshal or attend pre-approved training providing a total of eight (8) hours of continuing education during the licensing cycle.

7. The State Fire Marshal may revoke, suspend, or deny a license because of, but not limited to:

- a. Failure to comply with any order written by the SFM;
- b. Conviction of a felony, a crime of violence, or any crime punishable by a term of imprisonment exceeding two years; or
- c. Advocating or knowingly belonging to any organization or group which advocates violent overthrow of or violent action against the federal, state, local government, or its citizens; or
- d. Having or contracting physical or mental illness or conditions that in the judgment of the State Fire Marshal would make use or possession of fireworks, pyrotechnics, or explosive materials hazardous to the licensee or the public; or
- e. Violating the terms of the license or essential changes in the conditions under which the license was issued without prior approval of the Office of State Fire Marshal;
- f. Violating the state laws or regulations governing Public Fireworks Displays or Proximate Audience Pyrotechnics; or
- g. Giving false information or making a misrepresentation to obtain a license.

B. Public Display Operators.

1. Applications for licensing must furnish a notarized statement from a South Carolina licensed display operator concerning their participation in at least 6 fireworks displays and indicating for each display the date, the site, and the name and license number of the supervising operator.

2. The person in charge of the Public Fireworks Display shall be licensed by the Office of State Fire Marshal.

C. Pyrotechnic Operators.

1. Applications for licensing must provide written documentation from a South Carolina licensed display operator or company that the applicant has actively participated in the set-up and operation of at least six proximate audience performances using the types of pyrotechnics for the license classification the applicant is seeking. Only the State Fire Marshal may accept an alternative number of displays for this requirement based on the applicant's experience.

2. Licenses for pyrotechnic operators authorize and place the responsibility for the handling, supervision, and discharge of the fireworks or pyrotechnic device permitted by their license classification. The operator is responsible for the training of his or her assistants in the safe handling, supervision, and discharge of the fireworks or pyrotechnic devices permitted by their license classification.

a. "Pyrotechnic Operator - Unrestricted" may conduct and take charge of all activity in connection with the use of explosives or explosive materials, rockets, flame effects, Display Fireworks, binary system pyrotechnics, Consumer Fireworks, Theatrical Pyrotechnics, Novelties, and other special effects permitted by the Office of State Fire Marshal for a proximate audience display, commercial entertainment, or special effects in motion picture, theatrical, and television productions.

b. "Pyrotechnic Operator - Commercial Outdoor" may conduct and take charge of all activity in connection with the use of flame effects, Display Fireworks, binary system pyrotechnics, Consumer Fireworks, Theatrical Pyrotechnics, and Novelties permitted by the Office of State Fire Marshal for a proximate audience display and commercial entertainment.

c. "Pyrotechnic Operator - Rockets" may conduct and is restricted to all activities in connection with research, experiments, production, transportation, fuel loading, and launching of all types of experimental, solid fuel, and high power rockets. Only individuals or companies holding valid import, export, or wholesale licenses may import, export, or wholesale experimental high-powered motors.

d. "Pyrotechnic Operator - Motion Picture Special Effects" may conduct and take charge of all activity in connection with the use of explosives or explosive materials, flame effects, Display Fireworks, binary system pyrotechnics, Consumer Fireworks, Theatrical Pyrotechnics, and Novelties, and other special effects permitted by the Office of State Fire Marshal for the sole purpose of motion picture, television, theatrical or operatic productions.

e. "Pyrotechnic Operator - Commercial Indoor" may conduct and take charge of all activity in connection with the use of binary system pyrotechnics, Theatrical Pyrotechnics, and Novelties permitted by the Office of State Fire Marshal in stage or theatrical productions only.

f. "Pyrotechnic Operator - Trainee" must function under the direct supervision and control of a pyrotechnic operator for the license classification that he/she is seeking a license.

71-8305.5. Display Permits.

A. All Displays.

1. Any person who desires to hold a Public Fireworks Display or a Proximate Audience Display must obtain a permit from the Office of State Fire Marshal before the display.

2. Permits shall be valid for up to one calendar period prescribed or until any condition of the permit application changes. The State Fire Marshal shall make final determination of a change of condition in the permit.

3. All permit forms will be made available on the State Fire Marshal's Web site.

4. The State Fire Marshal may revoke, suspend, or deny a permit because of, but not limited to:

- a. The display operator does not possess the correct license classification for the display; or
- b. Not complying with any order written by the State Fire Marshal; or
- c. Violating the terms of the permit or essential changes in the conditions under which the permit was issued without prior approval of the Office of State Fire Marshal; or
- d. Giving false information or making a misrepresentation to obtain a permit.

5. The following additional information must be provided with the permit application:

- a. A list of the number, type, and size of fireworks or effects being discharged;
- b. A Diagram of display site including measurements;
- c. Directions to the site; and

56 FINAL REGULATIONS

d. A Copy of certificate of insurance.

6. The Authority Having Jurisdiction providing fire suppression equipment and personnel for the Public Fireworks Display must sign the permit form.

7. Permits must be posted at the display site.

B. Public Fireworks Display Permits.

1. The sponsor of the display shall forward a copy of the permit to the Office of State Fire Marshal along with the items required in these regulations fifteen working days before the display. The permit becomes valid when co-signed by the State Fire Marshal.

2. The validated permit will be distributed as follows:

a. The Office of State Fire Marshal shall retain the original;

b. A copy to the sponsor;

c. A copy to the supplier, which will authorize shipment of the fireworks;

d. A copy to the Authority Having Jurisdiction providing the fire suppression equipment and personnel for the display;

e. A copy posted at the display site.

3. All pyrotechnics shall be purchased from a pyrotechnic manufacturer or distributor licensed by the Board of Pyrotechnic Safety. A licensed Public Display Operator shall be present and supervise firing of all public fireworks displays.

4. The fireworks supplier shall carry a minimum of \$500,000 of Public Liability Insurance. The policy must list the display sponsor, the State of South Carolina, and its agents as additional insured. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the Office of State Fire Marshal.

C. Proximate Audience Display Permits.

1. Public Liability Insurance in the amount of \$500,000 shall be provided by the permittee. The permittee shall furnish a certificate of insurance in this amount with their application. The permittee shall list the State of South Carolina and its agents as additional insured.

2. Public Liability Insurance in the amount of \$1,000,000 shall be provided by any permittee involved with motion picture productions. Motion picture companies employing this person(s) shall list the State of South Carolina and its agents as additional insured.

3. The coverage company must be an insurer which is either licensed by the Department of Insurance in this State or approved by the Department of Insurance as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the Office of State Fire Marshal.

71-8305.6. General Operational Requirements of Displays.

A. All Displays.

1. The operator shall have their license in their possession when conducting a display and shall exhibit their license on request of any Authority Having Jurisdiction.

2. All displays must have a person in charge that holds the proper license issued by the Office of State Fire Marshal for the type of display being conducted.

3. The SFM or any approved authority having jurisdiction may enforce these laws and regulations.

4. Magazine log shall be available for inspection during normal work hours, 1 hour before, and 1 hour after each performance.

5. Operators must notify the Office of State Fire Marshal within 24 hours of any fires or thefts involving fireworks. The operators shall provide the Office of State Fire Marshal with a copy of the report filed with the police department or the incident report from the fire department. Operators must also provide the Office of State Fire Marshal with a copy of ATF Form 5400.5.

6. Any person who violates any provision of these laws and regulations will purchase the appropriate permit, pay the appropriate license fee, if any are required, and be subject to the following:

a. S.C. Code Ann. 23-36-170, 1976, as amended.

b. S.C. Code Ann. 23-35-150, 1976, as amended.

7. Confiscation, storage, or disposal of fireworks, pyrotechnic and explosive materials used for proximate audience or public firework displays by the SFM shall comply with S.C. Code Ann. 23-36-110, 1976, as amended.

8. Storage of special effects pyrotechnics and other material.

a. All classes of explosives shall be stored in accordance with the South Carolina Explosives Control Act or Title 27 Code of Federal Regulations, Subpart K.

b. All other fireworks or pyrotechnic materials shall be stored per the appropriate NFPA standard.

9. The AHJ may require the permittee to furnish fire support personnel other than local firefighters.

B. Public Fireworks Displays.

1. Where unusual conditions exist, the AHJ may increase the minimum clearances as necessary before granting approval of the display site. The AHJ may not reduce clearances specified in NFPA 1123 without written approval of the Office of State Fire Marshal.

2. A copy of the display permit shall be kept at the firing station.

3. Operators shall never use damaged fireworks, fireworks that are wet, or fireworks damaged by moisture. Operators shall not dry wet pyrotechnics for reuse. Operators shall handle and dispose of wet or damaged pyrotechnics per the manufacturer's instructions.

4. The operator of the display shall keep a record of all shells that fail to ignite or function. The form shall be completed and returned to the supplier within fifteen days of the display and the operator shall retain a copy for their records. The operator and supplier shall retain Malfunction Reports for three years from the date of the display. The operator and supplier must produce these reports upon request of the State Fire Marshal. The "Malfunction Report" form will be available on the State Fire Marshal's website.

5. Moorings or anchors shall secure floating vessels or platforms used for firing of a Public Fireworks Display.

6. Operators shall not reload mortars during a display.

7. If a display is postponed, the sponsor of the display shall notify the Office of State Fire Marshal and the department providing fire suppression equipment and personnel for the display of the alternate date before presenting the display.

8. It shall be the responsibility of the permittee to arrange with the AHJ for the detailing of firefighters and equipment as required.

C. Proximate Audience Display.

1. The licensed pyrotechnic operator is responsible for the storing, handling, supervision, discharge, and removal of all pyrotechnic devices and materials based on their license classification and the terms of their permit. The licensed pyrotechnic operator is responsible for supervising and training of their assistants in the safe handling and discharge of all pyrotechnic devices.

2. The permit package shall contain a copy of the permit, Certificate of Insurance, and the MSDS(s) for material used.

3. A copy of the permit package shall be kept at the control site used to initiate the display. An audible announcement shall be made not more than 10 minutes before the display to notify personnel of the use of proximate audience pyrotechnics.

4. Motion Picture productions shall display one permit package at the production office, and maintain the second permit package on the film site through the First Assistant Director. Before the start of any effect, verbal notification of Proximate Audience Pyrotechnic use shall be required before each camera roll.

5. The AHJ may inspect the proximate audience display. As a minimum, the inspection shall cover the requirements in Annex B of NFPA 1126.

6. The permittee shall furnish a fire watch during the times the special effects materials have been removed from storage and/or magazines and the conclusion of the performance. This person shall be identified by an orange shirt or vest (or other color approved by the AHJ) with three-inch white letters on the front and back stating FIRE WATCH. For motion picture productions, the method for identifying the FIRE WATCH shall be a mutually agreed means of designation between the State Fire Marshal, the permittee, and the First Assistant Director.

7. Indoor facilities used for Proximate Audience Displays must be equipped with an automatic fire alarm system and a public address system.

58 FINAL REGULATIONS

a. The fire alarm system shall be zoned so that the areas affected by special effects smoke can be overridden during the event.

b. An override switch shall be provided at the firing point and a second switch in the control room to shut off stage sound and make the public address system available for evacuation instructions. These switches must be labeled and visible throughout the show.

c. The fire alarm system must be returned to normal operation before the fire watch and the display operator may leave the facility.

71-8305.7. Use of Consumer Fireworks in South Carolina.

A. It shall be deemed a violation of these regulations to:

1. Explode or ignite fireworks within 600 ft. of any Assembly Occupancy, Educational Occupancy, Hazardous Occupancy, Institutional Occupancy, or any facility storing or dispensing flammable liquids, combustible liquids, LP Gas, or other hazardous materials;

2. Explode or ignite fireworks within 75 ft. of where fireworks are stored, sold or offered for sale;

3. Ignite, discharge, and/or throw fireworks from any motor vehicle or to place, ignite, discharge, and/or throw fireworks into or at any motor vehicle; and

4. Ignite or discharge fireworks in a wanton or reckless manner to constitute a threat to the personal safety or property of another.

B. The distances in SCRR 71-8305.7 A (1) maybe reduced if the display is permitted with the Office of State Fire Marshal as a Public Fireworks Display or as a Proximate Audience Display.

C. Consumer Fireworks shall not be used for a Public Fireworks Display unless permitted by the Office of State Fire Marshal per the applicable provisions of this regulation and all permit fees are paid.

71-8305.8. Transportation of Fireworks or Pyrotechnics in South Carolina.

A. Vehicles transporting Display Fireworks (pyrotechnics classified as 1.3 explosives) in any quantity and Consumer Fireworks (pyrotechnics classified as 1.4 explosives) in quantities greater than 1000 lbs. shall be in the custody of drivers with a CDL with a HAZMAT endorsement.

B. On both sides, on the front, and on the rear, vehicles transporting Display Fireworks (pyrotechnics classified as 1.3 explosives) in any quantity and Consumer Fireworks (pyrotechnics classified as 1.4 explosives) in quantities greater than 1000 lbs. shall prominently display signs marked "EXPLOSIVES" that conform to the United States Department of Transportation and other federal regulations.

C. The fire and police departments shall be promptly notified when a vehicle transporting pyrotechnics is involved in an accident, break down, or fire. Only in the event of such an emergency shall the transfer of pyrotechnics from one vehicle to another be allowed on highways and then only when qualified supervision is provided.

D. Any vehicle used for the transportation of pyrotechnics covered by item A or B above shall have not less than one approved-type fire extinguisher with a minimum rating of 2A 10 B:C and shall be so located as to be readily available for use.

E. Operators must notify the Office of State Fire Marshal within 24 hours of any fires or thefts involving fireworks. The operator shall provide the Office of State Fire Marshal with a copy of the report filed with the police department or the incident report from the fire department. Operators must also provide the Office of State Fire Marshal with a copy of ATF Form 5400.5.

Fiscal Impact Statement:

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

Statement of Rationale:

These regulations are updated in conformance with national adopted codes and standards