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# SOUTH CAROLINA STATE REGISTER

PUBLISHED BY  
THE LEGISLATIVE COUNCIL  
of the  
GENERAL ASSEMBLY

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**Published March 23, 2007**

Volume 31 Issue No. 3

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

# ***SOUTH CAROLINA STATE REGISTER***

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

## **STYLE AND FORMAT**

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

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

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

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

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

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

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

**Executive Orders** are actions issued and taken by the Governor.

## **2007 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	1/12	2/9	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/26	2/23	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

## **REPRODUCING OFFICIAL DOCUMENTS**

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## **PUBLIC INSPECTION OF DOCUMENTS**

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## **ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS**

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

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

## **EMERGENCY REGULATIONS**

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

## **REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW**

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

## **EFFECTIVE DATE OF REGULATIONS**

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

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

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# REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

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 The history, status, and full text of these regulations are available on the  
 South Carolina General Assembly Home Page: [www.scstatehouse.net](http://www.scstatehouse.net)

DOC NO.	RAT FINAL NO. ISSUE	SUBJECT	EXP. DATE	AGENCY
3047	SR31-2	Milk Producers Tax Credit	1/15/07	Department of Agriculture
3057	SR31-2	Retail Licenses And Partnerships	2/01/07	Department of Revenue
3002	SR31-2	Shellfish	2/08/07	Department of Health and Envir Control
3059	SR31-3	Highway Advertising Control	3/06/07	Department of Transportation
3042		Practice and Procedures	3/20/07	Public Service Commission
3061		Termination of the SCAAIP Joint Underwriting Association	3/21/07	Department of Insurance
3052		Telecommunications Utilities	4/09/07	Public Service Commission
3055		Public Swimming Pools	5/09/07	Department of Health and Envir Control
3069		Air Pollution Control	5/09/07	Department of Health and Envir Control
3091		Procurement	5/09/07	Budget and Control Board
3092		Licensure CPA's & Practitioners, Registration Accounting Firms	5/09/07	LLR: Board of Accountancy
3073		Farmers Markets	5/09/07	Department of Agriculture
3063		Sewerage and Water Utilities	5/09/07	Public Service Commission
3080		Nursing Programs	5/09/07	LLR: Board of Nursing
3072		Reading, Writing, and Mathematics Objectives Grades 9-12	5/09/07	Department of Education
3090		Charter School Appeals	5/09/07	Department of Education
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3088		Defined Program, Grades 9-12	5/09/07	Department of Education
3087		Administrative and Professional Personnel	5/09/07	Department of Education
3084		Septic Tank Site Evaluation Fees	5/17/07	Department of Health and Envir Control
3085		Non-Game and Endangered Species	5/17/07	Department of Natural Resources
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3093		Driver Training Schools	5/25/07	Department of Motor Vehicles
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3102		Practice of Psychology	5/30/07	LLR: Board of Examiners in Psychology
3103		Practice of Optometry	5/30/07	LLR: Board of Examiners in Optometry
3104		National Electrical Code	5/30/07	LLR: Building Codes Council
3105		Reporting Fatalities and Hospitalization Incidents to OSHA	5/30/07	LLR: Occupational Safety and Health
3101		Req Protesting Beer /Wine Permits or Alcoholic Liquor Licenses	1/08/08	Department of Revenue
3100		Manufactured Homes and Modular Homes	1/08/08	Department of Revenue
3096		Hazardous Waste Management	1/14/08	Department of Health and Envir Control
3118		Mobile Dental Facilities and Portable Dental Operations	2/03/08	LLR: Board of Dentistry
3119		Educational Requirements	2/03/08	LLR: Real Estate Appraisers Board
3108		Intrastate Movement of Certain Animals	2/10/08	Clemson Univ, Livestock-Poultry Comm
3115		Preferred Mortality Tables, Minimum Reserve Liabilities	2/10/08	Department of Insurance
3116		Malpractice Insurance Claims	2/10/08	Department of Insurance
3117		Workers' Compensation Assigned Risk Rates	2/10/08	Department of Insurance

**Committee Requested Withdrawal:**

2927	The Practice of Selling and Fitting Hearing Aids	Department of Health and Envir Control
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**Permanently Withdrawn:**

3021	Penalties Noncompliance Regulated Child Care Settings	Department of Social Services
3022	Licensing of Residential Group Care Organ for Children	Department of Social Services
3056	End-of-Course Tests	Department of Education

## 2 EXECUTIVE ORDERS

### PREAMBLE

For the last twenty years of my life, I have seen the ever-so-gradual effects of rising ocean levels at our farm in Beaufort County. In some cases, it's been watching pine trees die in that fragile zone between uplands and salt marsh; in other cases it's meant finding roots in areas that would never grow a tree, given the current salt water levels. While I understand very clearly the debate on whether or not these events come as a result of man's activity – or just the effects of nature taking its course – I've had other personal experiences that strongly suggest to me that man is having an impact on the environment. The last time I was in Beijing on a trade trip, we happened to be there on a bad smog day. When I went outside I could see no more than a quarter of a mile and my eyes watered.

Man is quite clearly having an impact in that part of the world, and while it's been my longtime belief as a conservative that I should exercise as many rights and freedoms as possible, those rights and freedoms end when they begin to infringe upon the rights of others. Lloyd's of London, in fact, just commissioned a study looking at the rising cost of insurance around the world based on the rising risk of catastrophic damage due to changes in climate. So based on this notion of some people losing rights and freedoms because of the actions of others - in either the quality of the air they breathe, geography they hold dear, the cost of their insurance, or future environmental impacts to children they love – I think it is very reasonable for us to study climate change and its possible impacts for South Carolina.

The American way is to lead, and to lead in looking for solutions. It's my earnest hope that, consistent with the administration's conservative philosophy and commitment to market principles, some recommendations can be found that will have an impact in this state – and even other states and the nation as a whole – as a growing consensus emerges on the need to at least consider this issue in ways that have not been done in the past.

With that said, I hereby issue the following Executive Order:

#### **Executive Order No. 2007-04**

**WHEREAS**, the potential effects of global climate change in the Southeastern United States – including more frequent and severe storm events and flooding; sea level rise, water supply disruption, agricultural crop yield changes and forest productivity shifts; water and air quality degradation; and threats to coastal areas, tourism, and infrastructure – could significantly impact South Carolina's economy, level of public expenditures, and quality of life; and

**WHEREAS**, there is growing interest in the United States to review the risks and impacts of climate change while also creating new economic opportunities, and a number of states are already addressing climate change; and

**WHEREAS**, actions that make our homes and workplaces more energy efficient enhance energy security and affordability may reduce emissions of carbon dioxide and other sources; spur greater resource productivity and business innovation, provide cost savings, improve air quality and public health, and enhance economic development, job creation, and quality of life in South Carolina; and

**WHEREAS**, many such actions can be implemented efficiently through market-based policies and other economically sound approaches to enhance South Carolina's position and participation in national and global markets and advance the State's leadership in the development and application of new efficient technologies and practices, and allow South Carolina to enjoy greater competitive advantage; and

**WHEREAS**, a deliberative stakeholder process to address climate change risks, which may enable the State to have greater influence in eventual climate change policy determinations at the national level and to ensure that South Carolina businesses are in the best position to benefit from possible future federal climate change policy actions.

**NOW, THEREFORE**, I do hereby establish the Governor's Climate, Energy and Commerce Advisory Committee ("Committee").

1. The Committee shall consider the potential benefits, costs, savings, and feasibility of furthering building and infrastructure efficiency, and of carbon dioxide mitigation options and related energy policy and economic opportunities, and develop specific recommended actions.
2. The Committee shall not exceed 30 members appointed by the Governor, including representatives from some or all of the following sectors: Tourism and Recreation, Agriculture and Forestry, Renewable Energy, Transportation, Insurance, Banking and Finance, Manufacturing, Electric Power Generation, Advanced Technology, Construction and Building, Small Business, Public Health, Conservation Organizations, State and Local Government, Educational Institutions, and the General Public.
3. The Committee shall be authorized to hold public meetings and take such actions as it deems necessary and advisable to achieve its purpose.
4. The Committee shall meet as needed and submit a Climate, Energy and Commerce Action Plan to the Governor by March 2008.
5. The Committee may receive support from the Departments of Natural Resources and Health and Environmental Control in achieving its mission.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 16th DAY OF FEBRUARY, 2007**

**MARK SANFORD**  
Governor

**Executive Order No. 2007-05**

**WHEREAS**, on February 7, 2007, I received a Decision of the South Carolina State Election Commission, in its capacity as the State Board of Canvassers, sustaining the Order of the Kershaw County Election Commission (Kershaw County Board of Elections and Voter Registration) to void the November 7, 2006, election for Kershaw County Council District 6 due to voting irregularities that may have brought into doubt the outcome of the election; and

**WHEREAS**, on January 31, 2007, the South Carolina Supreme Court denied a petition for writ of certiorari appealing the decision of the Kershaw County Board of Elections and Voter Registration, thereby upholding the decisions of both the South Carolina State Election Commission and the Kershaw County Election Commission to void the November 7, 2006 election for Kershaw County Council District 6; and

#### **4 EXECUTIVE ORDERS**

**WHEREAS**, the Kershaw County Board of Elections and Voter Registration (“Board”) has requested that a new election be held on April 10, 2007; and

**WHEREAS**, the Board has stated that, in requesting this date, it has complied with the notice provisions in the South Carolina Code of Laws and the pre-clearance requirements of Section 5 of the Voting Rights Act of 1965; and

**WHEREAS**, Section 7-13-1170 of the South Carolina Code of Laws (1976), as amended, provides “when any election official of any political subdivision of this State charged with ordering, providing for, or holding an election has neglected, failed, or refused to order, provide for, or hold the election at the time appointed, or if for any reason the election is declared void by competent authority, and these facts are made to appear to the satisfaction of the Governor, he shall, should the law not otherwise provide for this contingency, order an election or a new election to be held at the time

and place, and upon the notice being given which to him appears adequate to insure the will of the electorate being fairly expressed. To that end, he may designate the existing election official or other person as he may appoint to perform the necessary official duties pertaining to the election and to declare the result.”

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby (a) order that a new election be held for Kershaw County Council District 6 on April 10, 2007, subject to pre-clearance approval by the United States Department of Justice, or at the earliest possible date and time after April 10, 2007, as is permitted by the United States Department of Justice; and (b) designate the Kershaw County Board of Elections and Voter Registration to perform the necessary official duties pertaining to the election to declare the result.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 20th DAY OF FEBRUARY, 2007.**

**MARK SANFORD  
Governor**

#### **Executive Order No. 2007-06**

**WHEREAS**, the economic health of this State is a top priority for our citizens; and

**WHEREAS**, as chief executive of the State, I am charged with improving the way our state government does business; and

**WHEREAS**, it is necessary to determine ways in which the Executive Branch government systems and services can be made more productive, more efficient and less costly, while providing an emphasis on customer satisfaction and productivity; and

**WHEREAS**, other states and the federal government have successfully undertaken similar efforts and identified sound management practices while enhancing accountability and performance, thereby serving the best interests of their citizens.

**NOW, THEREFORE**, I do hereby establish the Government Efficiency and Accountability Review Committee (the “Committee”).

1. The Committee shall analyze the systems and services within and provided by the South Carolina State Budget and Control Board in an effort to propose changes which will reduce costs, increase accountability, improve services, consolidate similar functions, return functions to the private sector and help South Carolina become more competitive in a world economy.
2. The Committee shall be comprised of nine members. Five shall be appointed by the Governor, one of whom shall serve as Chair. The State Treasurer, the State Comptroller General, the Senate Finance Chairman and the Chairman of the House of Representatives Ways and Means Committee, as members of the Budget and Control Board, may each appoint one member. In making said appointments, members of the Budget and Control Board should give consideration to persons with expertise in areas particular to the functions of the Budget and Control Board, such as Information Technology, Procurement Services, Fleet Management, Retirement and Pension Services, Budget and Finance, Insurance and Grant Services, and Real Estate.
3. The Committee shall be authorized in the furtherance of its mission to hold public hearings, conduct site visits of the Budget and Control Board, and take such other actions as it deems necessary and advisable.
4. The Committee will release its final report by June 15, 2007.
5. The Governor's Office and the Office of the Executive Director of the Budget and Control Board, shall provide staff support as necessary to assist the Committee in carrying out the directives of this Executive Order.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 26th DAY OF FEBRUARY, 2007**

**MARK SANFORD  
Governor**

## 6 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication March 23, 2007, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

#### Affecting Aiken County

Acquisition of the existing 176-bed nursing home, known as Mattie C. Hall Nursing Home by United Health Services of South Carolina, Inc.; the new licensee will be Heritage Healthcare at Mattie C. Hall, Inc.  
Heritage Healthcare at Mattie C. Hall, Inc.  
Aiken, South Carolina  
Project Cost: \$8,448,000

#### Affecting Charleston County

Addition of a da Vinci "S" Surgical System to be housed in the existing surgical suite  
Roper Hospital, Inc.  
Charleston, South Carolina  
Project Cost: \$1,976,153

#### Affecting Chesterfield County

Construction of a replacement facility for the existing 100-bed nursing home, with the addition of twenty (20) nursing home beds resulting in a total of 120 nursing home beds, of which twenty (20) will not participate in the Medicaid (Title XIX) Program  
Cheraw Healthcare, Inc.  
Cheraw, South Carolina  
Project Cost: \$7,222,505

#### Affecting Florence County

Purchase of a mobile digital mammography unit and coach for use throughout the McLeod service area  
McLeod Regional Medical Center  
Florence, South Carolina  
Project Cost: \$808,219.20

Replacement of a single-slice Computed Tomography (CT) scanner with a sixty-four (64) slice CT scanner  
Carolinas Hospital System  
Florence, South Carolina  
Project Cost: \$1,225,941

#### Affecting Greenwood County

Upfit of shelled space for the establishment of an electrophysiology laboratory  
Self Regional Healthcare  
Greenwood, South Carolina  
Project Cost: \$3,100,000

## Affecting Richland County

Construction and renovation to include an expanded Emergency Department (ED), addition of a 1.5T Magnetic Resonance Imaging (MRI) unit, and the addition of thirty-eight (38) general acute care beds for a total licensed bed capacity of eighty-four (84) general acute care beds

Providence Hospital Northeast

Columbia, South Carolina

Project Cost: \$81,811,228

## Affecting Spartanburg County

Establishment of a comprehensive Breast Health Center to be located on the first floor of Gibbs Regional Cancer Center at Spartanburg Regional Medical Center

Spartanburg Regional Healthcare System

Spartanburg, South Carolina

Project Cost: \$13,277,630

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning March 23, 2007. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

## Affecting Aiken County

Replacement of the existing single-slice Computed Tomography (CT) scanner with a sixteen (16)-slice CT scanner

Aiken Regional Medical Center

Aiken, South Carolina

Project Cost: \$704,662

## Affecting Florence County

Purchase of a mobile digital mammography unit and coach for use throughout the McLeod service area  
McLeod Regional Medical Center

Florence, South Carolina

Project Cost: \$808,219.20

## Affecting Greenwood County

Upfit of shelled space for the establishment of an electrophysiology laboratory

Self Regional Healthcare

Greenwood, South Carolina

Project Cost: \$3,100,000

## Affecting Lexington County

Addition of thirty-eight (38) acute care beds for a total of 384 acute care beds.

Lexington Medical Center

West Columbia, South Carolina

Project Cost: \$8,145,395

## 8 NOTICES

Affecting York County

Conversion of six (6) existing skilled nursing beds to six (6) comprehensive rehabilitation beds for a total bed complement of forty (40) comprehensive rehabilitation beds

HealthSouth Rehabilitation Hospital of Rock Hill

Rock Hill, South Carolina

Project Cost: \$20,000

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### PUBLIC NOTICE

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 April 23, 2007 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 and/or individuals have applied for certification as Underground Storage Tank Site Rehabilitation Contractors:

#### Class I

Kadence Consultants, Inc.  
Attn: Kenneth R. Earnest  
11 Marquise Oaks Place  
Woodlands, TX 77382

#### Swift Creek Environmental, Inc.

Attn: B. Thomas Houghton  
8201 County Dr  
Disputanta, VA 23842

#### Class II.



## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

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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 and/or individuals have applied for certification as Underground Storage Tank Site Rehabilitation Contractors:

Class IClass II.Consultech Environmental, LLC

Attn: Raj B. Shah  
PO Box 5306  
Cary, NC 27512

## 10 DRAFTING

### DEPARTMENT OF AGRICULTURE

#### CHAPTER 5

Statutory Authority: 1976 Code Section 39-9-70.

#### **Notice of Drafting:**

The South Carolina Department of Agriculture is considering the clarification and amendment of regulations which govern, to the extent authorized by the S.C. Code, Title 39, Chapter 9, related to the procedures and requirements for carrying out the standardization of all weights and measures used to weigh items of commerce publicly sold and traded in South Carolina.

Interested parties should submit written comments to Anne E. Crocker, South Carolina Department of Agriculture, P.O. Box 11280, Columbia, SC 29211-1280. To be considered, comments should be received no later than April 27, 2007, the close of the drafting comment period.

#### **Synopsis:**

The proposed regulations are amended to properly reflect the standards being used by the Department related to the uniform weight and measurement of standard commodity products sold by South Carolina producers and purchased by South Carolina consumers.

These proposed regulations will require legislative action.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

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

#### **Notice of Drafting:**

The Department of Health and Environmental Control proposes to revise Regulation 61-9, Water Pollution Control Permits. Interested persons may submit their comments in writing to Mr. Andrew Yasinsac, Jr., Senior Technical Advisor, Water Facilities Permitting Division, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. For questions, call 803/898-4237 or E-mail [yasinsaa@dhec.sc.gov](mailto:yasinsaa@dhec.sc.gov). To be considered, all comments must be received in writing no later than ---April 25, 2007, the close of the drafting period.

#### **Synopsis:**

The Department intends to make changes to the regulation to modify existing sections and requirements based on pretreatment provisions of the United States Environmental Protection Agency regulations which will clarify and improve the South Carolina regulation. The Department proposes to amend the regulation and is considering several revisions or requirements that will address the following:

1. This proposed rule would revise several provisions of the General Pretreatment Regulations, including changes published at 70 Federal Register 60134, October 14, 2005, that address requirements for, and oversight of, Industrial Users who introduce pollutants into Publicly Owned Treatment Works (POTW). This proposed rule includes changes to certain program requirements to be generally consistent with National Pollutant Discharge Elimination System (NPDES) requirements for direct dischargers to surface waters. This action would allow POTW to better focus oversight resources on Industrial Users with the greatest potential for affecting POTW operations or the environment. Other regulation changes related to pretreatment may also be included.

2. Miscellaneous changes such as clerical corrections, renumbering, relocation, or revision of the existing regulation to reflect the changes resulting from the appropriate revised requirements.

Proposed revisions will require legislative review.

### DEPARTMENT OF INSURANCE

#### CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-63-10; 38-65-10; 38-69-10; 38-57-40; and 1-23-10 *et seq.*

#### **Notice of Drafting:**

The South Carolina Department of Insurance proposes to amend Regulation 69-39, Annuity and Deposit Fund Disclosure Regulation. Interested persons should submit their views in writing to: Gwendolyn Fuller McGriff, Deputy Director and General Counsel, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2007, the close of the drafting comment period.

#### **Synopsis:**

The South Carolina Department of Insurance proposes to amend Regulation 69-39 in order to update the Appendix to incorporate the most recent version of the NAIC Buyer's Guide to Annuities.

The proposed regulation will require legislative review.

### DEPARTMENT OF INSURANCE

#### CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-60, 38-63-10, 38-65-10, 38-69-10, and Chapter 57.

#### **Notice of Drafting:**

The South Carolina Department of Insurance proposes to amend Regulation 69-30, Solicitation of Life Insurance Regulation. Interested persons should submit their views in writing to: Gwendolyn Fuller McGriff, Deputy Director and General Counsel, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105. To be considered, comments must be received no later than 5:00 p.m. on February 3, 2007, the close of the drafting comment period.

#### **Synopsis:**

The South Carolina Department of Insurance proposes to amend Regulation 69-30 in order to update the Appendix to incorporate the most recent version of the NAIC Life Insurance Buyer's Guide.

The proposed regulation will require legislative review.

## 12 DRAFTING

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
BOARD OF VETERINARY MEDICAL EXAMINERS  
CHAPTER 120**

Statutory Authority: 1976 Code Section 40-69-70, et seq.

### **Notice of Drafting:**

The Board of Veterinary Medical Examiners is considering repealing existing regulations 12-1.1 through 120-12.1 and replacing with new Regulations 120-1 through 120.10 in conformance with 2006 Act 294. Written comments may be submitted to Donald W. Hayden, Board Administrator, at 110 Centerview Drive, 3<sup>rd</sup> Floor, Columbia, South Carolina, 29211-1329.

### **Synopsis:**

The Department of Labor, Licensing and Regulation, Board of Veterinary Medical Examiners, proposes to repeal existing regulations 12-1.1 through 120-12.1 and replacing with new Regulations 120-1 through 120-10 in conformance with 2006 Act 294.

Document No. 3123  
**DEPARTMENT OF AGRICULTURE**  
 CHAPTER 5

Statutory Authority: 1976 Code Section 39-41-80 & 39-41-150.

R 5-440 et al. Gasoline, Lubricating Oils & Other Petroleum Products.

**Preamble:**

The Department of Agriculture proposes these amendments to clarify and to provide a more efficient process for regulating and analyzing petroleum products, as authorized by S.C. Code, Title 39, Chapter 41. These regulations will also address the standards and regulations for new alternative fuel products.

Notice of Drafting for the proposed amendments was published in the State Register on September 22, 2006.

**Section by Section Discussion**

(1.) Registering of Gasoline

SECTION CITATION; EXPLANATION:

5-440 This section sets out the penalties for failure to maintain the bill of lading for the required 30 day period after petroleum delivery. This section also provides that fines may be avoided if the bill of lading is produced within 72 hours after citation by the inspector for failure to maintain records on the premises.

(2) Definitions.

SECTION CITATION; EXPLANATION:

5-444 This section adds a number of definitions commonly used in the petroleum industry and specifically, definitions used by the American Society for Testing & Materials (ASTM) which sets the standards for almost all of the petroleum products regulated under the Department's authority. Definitions include common terms, as well as some specialty terms like "biodiesel" and "biodiesel blend", "renewable fuel" and "renewable diesel."

(3) Standard Fuel Specifications

SECTION CITATION; EXPLANATION:

5-445 This section sets the standards for gasoline, diesel, kerosene, ethanol, aviation gasoline and a variety of other petroleum products. The standards adopted by these amendments are all industry standards as published by the American Society for Test & Materials (ASTM).

(4). Classification and Method of Sale of Petroleum Products

SECTION CITATION; EXPLANATION:

5-446 This section lists the specific labeling requirements and grade listing requirements for various petroleum products. For example, if a leaded gasoline product is being sold, then it must meet certain labeling requirements as compared to the more common unleaded petroleum products. These various labeling and grade requirements are in place to help alert consumers and provide them with necessary information related to the petroleum products they are purchasing and dispensing into their engines.

(5). Retail Storage Tanks

SECTION CITATION; EXPLANATION:

5-447 This section deals with the acceptable level of water or moisture content allowable in retail storage tanks. Too much water in a storage tank can lead to engine damage to consumers pumping petroleum products that

## 14 PROPOSED REGULATIONS

have too much water in the mixture. Furthermore, each retail location must maintain information related to the storage capacity and calibration factors related to the storage tanks on its premises.

### (6). Condemned Product

#### SECTION CITATION; EXPLANATION:

5-448 This section explains the stop-sale process at both the retail and manufacturing level should a violation of the South Carolina Petroleum Law be found.

### (7). Product Registration & Test Methods

#### SECTION CITATION; EXPLANATION:

5-449 This section lays out the process for registering petroleum products with the Department. This process includes filing an application with the Department, including the business name, business location, product description and a signature of an authorized representative. Filing procedures and requirements may vary slightly depending upon the type of petroleum product being registered. All products must meet the standards of the American Society for Test & Materials (ASTM) as adopted by the proposed regulations.

### **Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the S.C. Code, as amended, such hearing will be held on April 27 at 10:00 a.m. at the Ramage Conference Center, 1001 Bluff Road, Columbia, SC 29201. Persons desiring to make oral comment at the hearing are asked to provide written copies of their presentation for the record. If no request for a hearing is received by April 25, 2007, the hearing will be canceled.

In addition, written comments may also be submitted. All written comments and requests for a public hearing should be directed to Ms. Beth Crocker, General Counsel, S.C. Department of Agriculture, P.O. Box 11280, Columbia, SC 29211-1280 no later than April 25, 2007.

### **Preliminary Fiscal Impact Statement:**

No additional state funding is requested.

### **Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: Gasoline, Lubricating Oils & Other Petroleum Products.

Purpose: To clarify and improve the terms and standards used for the regulation of quality petroleum products sold and used in South Carolina. These standards are national in scope and will provide protection to consumer using engines designed to run on petroleum products meeting uniform and national standards. Consumer expect and depend upon quality petroleum products to be available commercially, and the use of non-standardized petroleum products and cause costly and detrimental economic damage due to engine repair and replacement. This provision adopts nationally recognized petroleum standards and provides procedures for the enforcement of these standards.

Legal Authority: The legal authority for Regulations 5-444 et seq. is Section 39-9-70, S.C. Code of Laws.

Plan for Implementation: The proposed regulations will take effect upon publication in the *State Register* and may be implemented by providing copies of the regulation upon request.

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

The proposed regulations will provide clarification and efficiency of procedures, standards and terminology used by the Department in carrying out its responsibilities, quality analysis and enforcement of petroleum product regulation throughout the State.

**DETERMINATION OF COSTS AND BENEFITS:** There will be a benefit to citizens and consumers of petroleum products because these regulations will help to clarify and improved the terminology and standards commonly used by citizens with regard to the variety of petroleum products currently available for public use. Standardization of these products will provide consumer protection and allow greater consumer confidence in commercially available petroleum products by limiting engine damage that might occur from using a petroleum product with a non-standard composition.

**UNCERTAINTIES OF ESTIMATES:** None.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:** The proposed regulations help to clarify and improve the standards used by this Department to ensure quality, uniform petroleum products are offered for sale to all citizens of South Carolina. These proposed regulations also help to recognize new alternative fuel sources currently available to the public, and provide standards for those products as well.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:** There will be no detrimental effect upon the environment or the public health if these regulations are not implemented.

**Text:**

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

Document No. 3122  
**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-11-2200 and 50-11-2210.

**Preamble:**

The South Carolina Department of Natural Resources is proposing to amend the existing regulations that govern conduct and activities of visitors to all lands owned by the Department of Natural Resources.

These regulations will add equestrian use of the following DNR properties: Santee Coastal Reserve, Palachucola WMA, Edisto WMA, Bonneau Ferry WMA, Woodbury WMA, Marsh WMA, Hamilton Ridge WMA, Laurel Fork Heritage Preserve, Henderson Heritage Preserve and Ditch Pond Heritage Preserve.

**Notice of Public Hearing and Opportunity for Public Comment:**

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at 1000 Assembly Street on May 25, 2007 at 10:00 am in room 335, third floor, Rembert C. Dennis Building. Written comments may be directed to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

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### **Fiscal Impact Statement:**

This amendment of Regulations 123-205 will not change public hunting opportunities or result in changes in the generation of State revenue through license sales.

### **Statement of Rational:**

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

### **Statement of Need and Reasonableness:**

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

#### 1. DESCRIPTION OF THE REGULATION:

**Purpose:** These regulations amend Chapter 123-205 in order to establish additional uses on Department of Natural Resources-owned properties.

**Legal Authority:** Under Sections 50-11-2200 and 50-11-2210 of the S.C. Code of Laws, the Department of Natural Resources has jurisdiction over all DNR-owned properties and the authority to establish additional uses on specific properties.

**Plan for Implementation:** Once the regulation has been approved by the General Assembly, the Department will establish signage at each location to notify the users. The public will also be notified through news releases and other Department media outlets and publications.

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

Since existing regulations prohibit equestrian use on many DNR properties regulations must be filed to allow additional uses.

#### 3. DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state. It is currently unknown if equestrian use will require additional property maintenance. There may be new costs in the future to maintain properties as a result of increased public use.

#### 9. UNCERTAINTIES OF ESTIMATES:

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

#### 10. EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on public health. Potential environmental impacts are currently unknown for equestrian use.



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

No detrimental impact on public health or the environment will occur if this proposed regulation is not implemented.

**Summary of Preliminary Assessment Report:**

The proposed regulation does not require an assessment report.

**Text:**

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

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Filed: March 13, 2007 1:05 pm

Document No. 3121  
**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-105, 50-11-520, 50-11-530, 50-11-2200 and 50-11-2210.

### Emergency Situation:

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Numbers 123-51. These regulations set open and closed seasons, bag limits and methods of taking wildlife; define special use restrictions related to hunting and methods for taking wildlife on Wildlife Management Areas. Because the turkey season begins on March 15 in some areas it is necessary to file these regulations as emergency.

SUBARTICLE 3  
OTHER BIG GAME

### 123-51. Turkey Hunting Rules and Seasons

1. Total limit of 5 turkey statewide per person, 2 per day gobblers only, unless otherwise specified. Total statewide and county bag limits include turkeys harvested on Wildlife Management Areas (WMAs). Small unnamed WMAs in counties indicated are open for turkey hunting. Turkey seasons and limits on DNR-owned lands and Wildlife Management Area lands are as follows:

AREA	DATES	LIMIT	Other Restrictions
Webb-Palachucola WMA's	April 1 - May 1	2	All hunters must sign in and out daily at self-check kiosk at check station.
Woodbury WMA	April 1 - May 1	2	Wed. - Sat. Only
Hamilton Ridge WMA	April 1 - May 1	2	All hunters must sign in and out daily at self-check kiosk at check station.

2. The following Regulations apply to all Wildlife Management Area lands. No turkey hunting permitted on Turkey Restoration Sites which have not been formally opened by the Department.

- e. It is unlawful to hunt turkeys on Sundays on Wildlife Management Area land.

### Statement of Need and Reasonableness:

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

**Fiscal Impact Statement:**

This amendment of Regulation 123.51 will result in increased public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

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Document No. 3059

### DEPARTMENT OF TRANSPORTATION

Chapter 63

Statutory Authority: South Carolina Code Section 57-25-110 *et seq.*

#### 63-341 – 354 Highway Advertising Control Act

##### **Synopsis:**

The South Carolina Department of Transportation is promulgating amended regulations concerning the Highway Advertising Control Act, 63-341 to 63-354, to conform with current Federal regulations concerning changeable message signs and to amend other regulations dealing with definitions and permitting procedures for outdoor advertising signs.

Proposed amendments were published in the State Register on February 24, 2006. No hearing concerning the regulations was requested pursuant to S. C. Code Section 1-23-110(A)(3). No correspondence was received by SCDOT in response to the publication of the notice of drafting or proposed regulations. An assessment report was not requested pursuant to 1-23-115.

**Instructions:** The text of the amended regulations 63-341 to 63-354 should replace the existing regulations bearing those same numbers. Illustration #1 is the same as the existing illustration #1. Renumber illustration #6 as #2. Delete all other illustrations.

##### **Text:**

###### 63-341. Preface.

The regulations promulgated herein have been formulated pursuant to S. C. Code Section 57-25-110, *et seq.*, entitled the Highway Advertising Control Act, which is intended to regulate outdoor advertising along Interstate and federal-aid primary highways.

###### 63-342. Definition of Terms.

A. "Abandoned Sign," means a sign which is not being maintained as required by the regulations, or which is overgrown by trees or other vegetation not on the highway right-of-way, or which has had obsolete advertising messages or no advertising messages for a period of six months, or for which a permit has not been obtained or is not current, or for which the fee has not been paid more than thirty (30) days after demand by the Department. An obsolete advertising message does not include public service signing.

B. "Act," means Highway Advertising Control Act or its successors.

C. "Back-to-Back Sign," means any sign constructed on a single set of supports with two sign facings in opposite directions each of which may have up to two sign faces visible.

D. "Control Area," means that area within 660 feet of the nearest edge of the right-of-way of Interstate or Federal-aid primary highways and visible from the main-traveled way of the Interstate or Federal-aid primary highways. The distance is measured from the outer edge of the right-of way on a line which is perpendicular to the edge of the pavement at the points in question.

E. "Cutouts and Extensions," means any addition to a sign in excess of the permitted sign face area which aids in the display of a particular message. These cutouts and extensions should be apparent from the sign face and cannot increase the permitted sign face area by more than 150 square feet.

F. "Department," means South Carolina Department of Transportation.

G. "Destroyed Sign," means a sign no longer in existence due to factors other than vandalism or other criminal tortuous act. A sign damaged by greater than 50 percent of its replacement costs as determined from nationally recognized catalogues of vendors of construction and outdoor advertising materials based on single item

purchases, not bulk purchase orders. Salvage parts cannot be used to determine replacement value unless approved by the Department.

H. "Double faced Sign," means any sign with only one set of supports, one sign facing and no more than two sign faces visible.

I. "Erect," means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish. It does not mean changing or repainting an existing sign face.

J. "Highway," means all roads, streets and other ways open, or intended to be opened and for which the alignment has been approved by the Department, to the use of the public for travel by motor vehicles.

K. "Illegal Sign," means any sign which was erected or maintained in violation of any of the provisions of the Act or these regulations, including an abandoned sign.

L. "Interchange," means an intersection or junction of highways, either open or intended to be opened and for which the location has been approved by the Department, whether at grade or involving one or more grade separations, together with that additional area used or needed for connecting roadways from one highway to another.

M. "Lease," means any writing by which possession or use of land or interest therein is given by the owner to another person for a specified period of time.

N. "Legible," means capable of being read or understood without visual aid by a person of normal visual acuity while traveling in an ordinary passenger car on the main-traveled way at the speed limit.

O. "Main-Traveled Way," means the traveled way of a highway on which through traffic is carried.

P. "Nonconforming Sign," means one which was lawfully erected but which does not comply with the provisions of the Act or these regulations passed at a later date or which fails to comply with the Act or these regulations because of changed conditions at the site, such as the inclusion of a new highway in those roads governed by the Act, construction of a new interchange, etc.

Q. "On-Premise Sign," means any sign which is designed, intended or used to advertise or inform of the principal activity taking place, or the product being sold on the property where the sign is located.

R. "Removed," when used in reference to a sign or sign structure, means the dismantling and complete removal from the view of the motoring public of all parts and materials of a sign or sign structure to include but not limited to, faces and beams, poles, braces, stringers, guys, and struts, which are used or intended to be used to support or display a sign.

S. "Residence," means a building or mobile home used as a permanent dwelling place whose occupancy is primarily unrelated to any commercial activity conducted on or adjacent to the premises.

T. "Rest Area," means an area or site established and maintained within or adjacent to the right-of-way for the convenience of the traveling public.

U. "Sham activity," means any activity which

(1) is a commercial or industrial activity but which was created primarily or exclusively to qualify an area as an unzoned commercial or industrial area, or

(2) does not conduct any meaningful business at the activity site, or

(3) is an activity that fails to meet the standards set forth under the definition of transient or temporary at the time of investigation.

V. "Sign" or "outdoor advertising sign," means any sign structure or combination of sign structure and message in the form of outdoor sign, display, device, figure, painting, drawing, message, plaque, poster, billboard, advertising structure, advertisement, logo, symbol or other form which is designed, intended or used to advertise or inform, any part of the message or informative contents of which is visible from the main-traveled way. The term does not include official traffic control signs, official markers, nor specific information panels erected, caused to be erected, or approved by the Department.

W. "Sign Direction," means the direction from which the message or informative contents are most visible to oncoming traffic on the main-traveled way.

X. "Sign Face," means the part of the sign including stringers which contains the message or informative contents and includes borders or decorative trim. It does not include lighting fixtures, aprons and catwalks unless part of the message or informative contents of the sign is displayed thereon.

Y. "Sign Facing," means all sign faces erected on the same sign structure facing the same (or approximately the same) sign direction.

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Z. "Sign Structure," means all the interrelated parts and material, such as beams, poles and braces, which are used or designed to be used or are intended to be used to support or display a sign.

AA. "Single Faced Sign," means any sign with only one sign face.

BB. "State System," means that portion of the highways located within this state as designated, or as may hereafter be so designated, by the Department.

CC. "Transient or temporary activities," shall mean activities that fail to maintain:

(1) one year of continuous business operation at the proposed sign location prior to receipt of the application by the Department for those activities that have been established for more than one year at that location, or continuous business operation from the date the activity was established to the date the application is received by the Department for those activities that have been established for less than one year, and

(2) continuous business operation of the activity for one year after receipt of the application, unless determined by the Department to qualify. Continuous business operation, as used in this Chapter, shall be determined by the Department based on adequate documentation to prove meaningful business; and

(3) capable of showing significant commercial activity on the premises; and

(4) at least one employee attendant at the activity site, performing meaningful work and available to the public for at least thirty-six hours per week on at least four days per week for at least forty-eight weeks per year; and

(5) electricity, published telephone number, telephone answered at the activity, excluding cell phones and call forwarding, running water, indoor restroom, permanent flooring other than dirt, gravel, sand, etc; adequate heating; and

(6) the activity, or a major portion of it, conducted from a permanent building constructed principally of brick, concrete block, stone, concrete, metal, or wood or some combination of these materials or from a mobile home or trailer which the applicant can prove is considered part of the real estate and taxed accordingly.

DD. "Traveled Way," means the portion of a roadway over which vehicles move. It does not include such facilities as frontage roads, turning roadways, parking areas, ramps or shoulders. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way.

EE. "Triangular Sign," means a combination of single faced or double faced signs which are placed facing three sign directions of travel in a triangular formation with the closest edges of two sign facings located not more than 5 feet apart.

FF. "Unzoned commercial or industrial areas," means:

(1) those areas in a political subdivision which are not zoned on which there is located one or more permanent structures devoted to a commercial or industrial activity, a portion of which activity is located within the control area, and that area within 600 feet from the furthest edge of the area within the control area regularly used for such activity and a corresponding zone directly across a primary highway which is not a freeway primary Federal-aid highway and which has not been declared to be a scenic highway; (See Illustration 1)

(2) they do not include recreational facilities such as campgrounds, golf courses (not including driving ranges or par-three courses), tennis courts, baseball or football fields or stadiums, or racetracks, except for any portions of those facilities occupied by offices, clubhouses, etc. which meet the minimum standards to keep the activity from being considered a transient or temporary activity;

(3) they do not include areas occupied by prohibited or illegal activities;

(4) they do not include areas occupied by sham activities;

(5) they do not include areas occupied by apartment houses, condominiums, nursing homes or other long term care facilities;

(6) they do not include junkyards as defined in S. C. Code Section 57-27-20(c) or parking or storage lots;

(7) they do not include areas occupied by schools or other buildings primarily used for educational purposes, whether public or private non-profit;

(8) they do not include quarries, borrow pits, or nurserylands, except for any portions of those facilities which are occupied by a permanent office located at the site which meets the minimum standards to keep the activity from being considered a transient or temporary activity;

(9) they do not include cemeteries or churches, synagogues, mosques, or other places primarily used for worship.

GG. "V-type Sign," means a combination of single faced or double faced signs which are placed facing two sign directions of travel in a V formation with the angle formed by the intersection of each being no more than 90 degrees and with their closest edges located not more than 5 feet apart.

HH. "Visible," means capable of being seen (whether or not legible) and readily recognized as a sign or commercial or industrial activity by a person of normal visual acuity. The presence of a sign, whether attached to the building or free-standing shall not be considered in determining whether or not a commercial or industrial activity is visible.

II. "Zoned," means subject to a complete system of land use, including the regulation of size, lighting, and spacing of signs, for tracts which comprise at least 20 percent of the land within a political subdivision established and actively enforced by duly constituted zoning authorities. The mere labeling of land as zoned commercial or industrial does not mean the area is zoned for purposes of the Act. Rather there must be the establishment and enforcement of a complete set of regulations to govern land use within the portion of the political subdivision which is zoned. Unrestricted land shall be treated as unzoned. Land subject to court ordered zoning or development restrictions shall not be considered zoned.

JJ. "Zoned industrial or commercial areas," means those areas inside the control area within a political subdivision which are zoned for commercial or industrial use. They shall not include any areas in which limited commercial or industrial activities are permitted as an incident to other primary land uses, nor shall they include areas which the Department determines were so designated for the principal purpose of creating locations for outdoor advertising signs adjacent to or near Interstate or federal-aid primary highways. They shall not include areas which are unrestricted. No small parcels or narrow strips of land designated for a use classification different from and less restrictive than that of the surrounding area and which is made without consideration of the neighborhood land use character shall be considered a zoned industrial or commercial area. Narrow strips shall mean any configuration of land which cannot be put to ordinary commercial or industrial use.

KK. "Off-premise changeable message signs," means an outdoor advertising sign, display, or device which changes the message or copy of the sign by methods which include but are not limited to electronic movement, or rotation of panels or slats. Changeable message signs are considered outdoor advertising signs, and as such must comply with all requirements applicable to outdoor advertising signs. Changeable message signs shall not include animated, continuous or scrolling messages.

#### 63-343. General Standards for Outdoor Advertising Signs.

A. Criteria for determining if a sign is intended to be read from the main-traveled way:

- (1) The sign is visible and any advertising or message is legible.
- (2) Consideration shall be given to the nature of sign, what it is directing the readers' attention toward, and where the product or service can be obtained in relation to the highway.
- (3) Viewing time of any advertising or message is a primary factor to consider. If the viewing time during which any portion of the advertising or message is legible is five seconds or longer, by an individual traveling in a passenger car at the speed limit, the sign shall be deemed to be intended to be read from the main-traveled way.

B. Where a sign is legible from two or more highways, one or more of which is a highway subject to the provisions of the Act, the more stringent of applicable control requirements will apply.

C. If any commercial or industrial activity which has been used in determining the existence and size of an unzoned commercial or industrial area ceases to operate or reduces its operations to the extent that it would be classified as transient or temporary, the unzoned commercial or industrial area shall be redetermined based on the remaining activities. Any sign located within the former unzoned commercial or industrial area, but which is located outside of the unzoned commercial or industrial area based on the redetermined dimensions, becomes a nonconforming sign.

D. When the Department declares a sign to be illegal, the Department must only give notice once in writing. If the illegal sign is relocated to any site which is illegal under the Act, including an otherwise legal site for which a permit has not been received, or is removed and later erected again at the same site, no additional notice is required before the Department is authorized to remove the sign. If the owner of the sign cannot be identified by information on the sign, notice may be given by prominently posting notice on the sign for a period of thirty days after which time notice shall be complete.

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### 63-344. General Restrictions on Outdoor Advertising Signs Subject to the Act.

A. No sign nor any portion of a sign may imitate or resemble any official traffic control device including, but not limited to, Interstate or other route symbols, stop signs, stop lights, or yield signs.

B. No sign may advertise or inform of any activity that is illegal under Federal or state laws or regulations in effect at the location of the activity.

C. No sign may be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic.

D. No sign may be erected or maintained upon trees or painted or drawn upon rocks or other natural features.

E. No permit identification tag may be attached to a sign which is not permanently affixed to the site described in the application. Any tag attached to a sign which is not permanently affixed to the site described in the application is void and may be confiscated by Department personnel.

F. If any portion of a sign is located on highway right-of-way, the sign is illegal and must be completely removed from the right-of-way.

G. Any sign permitted because of an activity subsequently determined to be a sham activity shall be illegal and must be removed at the sign owner's or landowner's expense. Until the sign supported by the sham activity is completely removed from its site, the Department may not approve any application for any sign permit made by the sign owner. Also, the Department may not approve any other application for a sign permit on any site owned or controlled by the landowner of the property on which the sham activity is located.

### 63-345. Size Limitations of Outdoor Advertising Signs.

#### A. Measurements.

(1) The dimensions of a sign shall include border, trim, cutouts and extensions, but shall not include aprons, decorative bases and supports, unless those items are used to convey any message, other than the name of the sign owner or permittee, in which case the apron, decorative base or support so used shall be included in its entirety.

(2) Square footage shall be measured by the combination of the areas of the smallest circles, triangles, or rectangles required to cover the sign faces.

#### B. Signs erected under S. C. Code Section 57-25-140(a)(7) and (a)(8).

(1) Signs shall not exceed a maximum of 672 square feet. Cutouts and extensions can be used in addition to this amount but may not increase the size by more than one hundred fifty (150) square feet.

(2) No sign facing shall exceed a length of sixty (60) feet.

(3) No sign facing shall exceed a height of forty eight (48) feet.

(4) Double faced, back-to-back or V-type signs shall be considered as one sign.

(5) In this connection, the larger of facings shall be applicable in computing square foot total for permit purposes.

### 63-346. Spacing Limitations for Outdoor Advertising Signs.

#### A. Measurements:

(1) Involving the distance between signs, shall be taken along the edge of the traveled way between lines perpendicular to the edge of the traveled way which intersect the center of the sign supports nearest the traveled way.

(2) Involving unzoned commercial or industrial areas shall be taken within the control area from the outermost edge of the regularly used buildings and areas regularly used and required for parking, storage, and processing, or from the property lines of the tract or tracts owned or leased by the activity on which the activity is being conducted, whichever is the narrower. Only those portions of the activity which are within the control area and which are visible from the main traveled way shall be considered. (See Illustration 1).

(3) Involving interchanges, weigh stations, and rest areas adjacent to the main traveled way of interstates and freeway primary federal-aid highways shall be made from the nearest point of the beginning or ending of



pavement widening at the exit from or entrance to the main-traveled way. Where there is insufficient space to end an entrance ramp before beginning an exit ramp, the ramp shall be regarded as continuous and no signs will be permitted between the interchanges in areas which are not within the boundaries of an incorporated municipality.

(4) Illustrations for measuring spacing are contained in Illustrations 1 and 2 of these regulations.

B. Signs erected under S. C. Code Section 57-25-140(a)(7) and (a)(8).

(1) Adjacent to Interstate or freeway primary federal-aid highways:

a) No signs may be erected less than five hundred (500) feet apart measured from the center of the sign supports nearest the main traveled way along a line parallel with the main traveled way.

b) No sign in a rural, unincorporated area may be erected within five hundred (500) feet of an interchange or rest area.

(2) Adjacent to federal-aid primary highways which do not have controlled access:

a) No signs may be erected less than three hundred (300) feet apart on the same side of the highway in rural, unincorporated areas.

b) No signs may be erected less than one hundred (100) feet apart on the same side of the highway within incorporated municipalities unless the signs are separated by a building or other obstruction (other than another sign) which prevents more than one sign facing from being visible at any one time.

(3) Signs erected under S. C. Code Section 57-25-140(a)(1),(2),(3),(5) and (6) shall not be considered for spacing purposes.

#### 63-347. Lighting of Outdoor Advertising Signs.

A. Signs which are lighted must be constructed and maintained in order to effectively shield or prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate or federal-aid primary highway.

B. Signs with lighting of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interferes with any driver's operation of a motor vehicle are prohibited.

C. No sign may have attached to it or be illuminated by flashing or pulsing lights or lights which change color. This prohibition does not apply to reader signs which have brief messages advertising goods or services offered on the premises where the sign is located and also provide time and temperature readings, provided that such reader signs shall not be unduly distracting and shall not use lights that change color.

#### 63-348. Local Zoning Approval.

A. Land subject to zoning plans which have been reviewed and approved by the Department shall be considered zoned. Zoning plans must include effective methods of enforcement.

B. Any changes to an approved zoning plan must be submitted to the Department for review and approval before being effective for purposes of the Act.

C. The Department will provide in writing the reasons why the zoning plan is not approved.

#### 63-349. Permits.

A. All signs lawfully erected under S. C. Code Section 57-25-140(a)(4), (a)(7) and (a)(8) and all nonconforming signs require permits and identification tags. This includes all signs that were legally in place on the effective date of the Act as well as those legally constructed after the effective date of the Act including those signs in place at the time the controlled highway was made a part of the Interstate or federal-aid primary system.

B. No sign subject to the Act for which a permit is required may be erected without first obtaining from the Department a permit authorizing the same.

C. Applications for permits shall be made to the Director of Outdoor Advertising, SCDOT, P.O. Box 191, Columbia, SC 29202.

D. All applications must be submitted on forms provided by the Department. Applications must be typed including the name of the person who signs the application. Applications must provide all applicable

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information requested. If an application is not typed, or is illegible, incomplete, inaccurate, or not accompanied by the appropriate fee, it must be corrected by applicant prior to processing.

E. No permit may be approved unless the applicant has first obtained the written permission of the owner or other person in lawful possession of the site designated as the location of the sign in the permit application. All applications must be accompanied by a copy of the written lease or other written agreement between the applicant and the landowner or other person in lawful possession or control of the site designated as the location of the sign in the permit application, if the applicant and the landowner of the site are different. All such documents shall be considered trade secrets and therefore not subject to disclosure under the Freedom of Information Act.

F. Where local government regulation exists, no permit shall be issued unless the applicant submits along with the application either:

- (1) A copy of the permit issued for the site by the local government, or
- (2) A statement from the appropriate local government official indicating that:
  - (a) The sign complies with all local government requirements;
  - (b) The local government will issue a permit to that applicant upon issuance of the state permit by the Department, and
  - (c) A certificate of occupancy, occupancy letter, or documentation indicating that the final inspection and building permit requirements for the qualifying activity have been obtained and completed by the local government, where applicable.

G. All applications shall be accompanied by adequate documents capable of showing significant commercial activity and meaningful business operation at the premise pursuant to Regulation 63-342(CC). If adequate documentation is not provided the application may be reviewed up to one (1) year in accordance with provision (L) herein. After one year from the receipt of the application, the application shall be approved or denied by the Department.

H. The proposed location for a new sign shall be clearly identified on the ground by a stake with no less than two feet of the stake clearly visible above the ground line. Staking of the site is considered part of the application. The stake shall not be moved or removed until the application is disapproved, or, if it is approved, until the sign has been erected.

I. Construction of a sign must not, under any circumstances, begin until the permit, having been approved by the Department, has been received by the applicant. Any portion of the sign structure erected prior to the applicant's receipt of the approved permit is illegal and must be completely dismantled before any application from the sign owner for that site or any other site can be considered.

J. Permits will be considered on a first-come, first-served basis. If applications are submitted for the same or conflicting sites, each will be dealt with in turn. Any other applications for the same or conflicting sites, received between the time a disapproved application is returned to the applicant and the time it is resubmitted, must be considered before the resubmitted application may be considered.

K. The submission of an application for a sign permit shall grant to the Department the authority for its employees or agents to enter onto the land where the sign is or is intended to be displayed in order to conduct whatever investigations may be appropriate both at the time of application and at any time thereafter unless such application be withdrawn by the applicant.

L. Upon receipt of the permit application, the District Sign Coordinator will inspect the sign site in order to ascertain if the location legally qualifies. The Department reserves the right to consider any application for a sign permit for up to thirty days from the date the application is submitted. Any application not approved within that time may be deemed by the applicant to have been rejected unless the Department notifies the applicant in writing of the reasons that it requires further time to investigate the application. The review period shall be no longer than one year from the date of receipt of the sign application by the Department.

M. In the event the permit is cancelled, revoked, or disapproved, the applicant may appeal pursuant to the Administrative Law Court procedures. All appeals will be conducted in accordance with the Administrative Procedures Act. The applicant shall bear the burden of showing that the Department should issue the permit. A decision regarding any other applications for the same or conflicting sites submitted subsequent to the initial submission of the disapproved application will be held in abeyance pending the court's resolution of the appeal. If the Department's disapproval is sustained, the other applications will be considered in turn.

N. No new application may be submitted by the same applicant or its assignee or successor for a site which has been disapproved unless there has been a significant change in the site such as a change in the zoning at the site, a change in the geometry or designation of a highway, the removal of an existing, conflicting sign etc. This prohibition extends to any sites which depend for approval on the same facts which led to the disapproval of the first application.

O. Construction of the sign structure and sign face shall be completed within 180 days from the date of the permit's issuance. The Department has the discretion to cancel permits and forfeit fees if construction is not completed. An applicant whose permit is voided for not completing construction may not reapply for the same or a conflicting site for a period of ninety days, unless the applicant can show that the delay was caused by events beyond his control. Examples of events which are not considered beyond the applicant's control include, but are not limited to, delays in ordering necessary materials, delays in obtaining financing, and disputes with local governmental bodies.

P. Each permitted sign structure must have the owner's name prominently displayed on it so that the name is readable from the highway.

Q. Upon issuance of the permit, the identification tag must be placed by the Department or the permittee, as the Department requires, on the support or lower corner of the sign nearest the main-traveled way so as to be readable from the edge of the highway. The tag will be issued for and may be attached only to the sign described in the permit application. Under no circumstances may the tag be moved from one sign to another nor may the sign to which it is attached be relocated to another location. If the tag issued for a sign is not attached as required, the sign is illegal.

R. Owners of signs which become subject to the Act because of the construction of a new highway or the change in designation of a highway must apply to the Department for a permit within thirty days after being notified by the Department that the sign has become subject to the Act. If the owner of the sign cannot be identified by information on the sign, notice may be given by prominently posting notice on the sign for a period of thirty days after which time notice shall be complete. Failure to apply for a permit within thirty days after notice results in the sign being illegal.

S. If a permitted sign is voluntarily removed or dismantled for a period of more than 30 days, the permit will be voided. If a permitted sign is removed, dismantled, or destroyed by an act of God or by vandalism for a period of more than ninety days, the permit will be voided.

T. Replacement tags for those which are lost or vandalized must be obtained from the Department by submitting a new application, an affidavit as to the loss of the tag, and a fee equal to the annual renewal fee.

U. Permits may be transferred from one sign owner to another pursuant to Department procedures.

V. The failure of any check submitted to the Department for a permit fee to be honored upon presentation shall make the permit void. The applicant may be required to submit a new application and may thereafter be required to submit cash or a certified check with any application or renewal.

W. The Department may revoke any permit issued and order the sign removed if it subsequently determines that the information submitted or subsequently discovered by the Department regarding the application, sign, or business location, was false or materially misleading and any fees submitted with the application shall be forfeited.

X. The Department may issue a permit for a sign which could otherwise be permitted even though it is located within the proposed right-of-way for a highway for which the alignment has been approved but which has not yet begun construction or even though it is located within the proposed right-of-way for an interchange for which the location has been approved but which has not yet begun construction provided that in either such case the sign owner and the landowner must agree to remove the sign without cost to the Department and without compensation within thirty (30) days after written notice from the Department to the sign owner and landowner at the addresses provided in the application.

Y. Notice of matters affecting permits, including a sign's being declared illegal, must only be given to the address(es) provided on the sign application. If there is a change in address, the sign owner is responsible for notifying the Department. If notice is forwarded to the landowner or sign owner and is returned undelivered, it shall nevertheless be considered to have been effected if sent to the most current address(es) provided by the sign owner.

Z. No sign shall be erected within 600 feet of areas where vegetation has been illegally removed, as determined by the discretion of the Department, or removed without prior written approval of the Department.

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### 63-350. Maintenance Standards for All Signs Controlled by the Act.

A. All signs subject to the Act must be structurally safe and maintained in a good state of repair which includes but is not limited to the following:

(1) The sign face must be maintained free of peeling, chipping, rusting, wearing and fading so as to be fully legible at all times.

(2) All parts of the sign, including the cutouts, extensions, border, trim, and sign structure must be maintained in a safe manner, free from rusting, rotting, breaking and other deterioration.

(3) The sign face must not have any vegetation growing upon it or touching or clinging to it.

B. Any sign which does not conform to the maintenance standards in 63-350(A) or which is abandoned is illegal. A notice will be given by certified mail to the sign owner and landowner to repair any sign which does not conform to these standards within thirty days of the date of mailing. A one-time extension of sixty days may be granted if the sign owner can show just cause for the delay because of unusual weather conditions or other reasons beyond the sign owner's control. If the repairs are not completed within the specified time, the sign must be removed at the sign owner or landowner's expense.

C. Nonconforming signs must be maintained subject to the following restrictions:

(1) No maintenance may occur which will lengthen the life of the device.

(2) There must be existing property rights in the sign.

(3) The right to continue a nonconforming sign is confined to the permitted sign owner or his transferee.

(4) In the event a nonconforming device is partially destroyed by wind or other natural forces including tornadoes, hurricanes, or other catastrophic occurrences, the Department must determine whether to allow the sign to be rebuilt. If the Department determines that the damage to the sign was greater than 50 percent of its replacement costs as determined by nationally recognized catalogues of vendors of construction and outdoor advertising materials as of the time of the damage, the sign must be dismantled at no cost to the Department and may not be erected again. A current issue of the catalogue or advertisement indicating materials to be replaced must be submitted with the request to rebuild. Salvage parts cannot be used to determine replacement value unless approved by the Department.

(5) A nonconforming sign which is destroyed by an Act of God or catastrophic act cannot be rebuilt, and the debris from the destroyed sign shall be removed by the sign owner, or by the Department at the sign owner's expense and the permit cancelled.

(6) A nonconforming sign when relocated or moved shall no longer be considered a nonconforming sign and thereafter shall be subject to all the provisions of law and of these regulations relating to outdoor advertising.

(7) The sign must remain substantially the same as it was on the effective date of the State law or regulations which rendered the sign nonconforming. Reasonable repair and maintenance of a nonconforming sign is not a change which would terminate nonconforming use. Extension, enlargement, rebuilding, changing the materials of the sign structure, changing the size of the sign structure materials, adding catwalks, adding guys or struts for stabilization of the sign or structure, adding lights to an unilluminated sign, changing the height of the sign above ground or re-erection of the sign will make the sign illegal. Maintenance will be limited to:

(a) Replacement of nuts and bolts;

(b) Additional nailing, riveting or welding;

(c) Cleaning and painting;

(d) Manipulation to level or plumb the device, but not to the extent of adding guys or struts for stabilization of the sign or structure;

(e) A change of the advertising message, including changing faces, as long as similar materials are used and the sign face is not enlarged. If the sign face or faces are reduced, they may not thereafter ever be increased.

(8) The Department must be notified of any maintenance to a nonconforming sign prior to the work being performed.

(9) Any nonconforming sign suffering damage in excess of normal wear cannot be repaired without:

(a) Notifying the Department in writing of the extent of the damage, the reason the damage is in excess of normal wear, and providing clear, color, on-site photographs of the damaged sign and all salvageable parts thereof, and a description of the repair work to be undertaken including the estimated cost of repair on the approved form; and

(b) Receiving written notice from the Department authorizing the repair work as described above. If said work authorization is granted, it shall be mailed to the applicant within thirty days of receipt of the information described in (a) above. Any such sign which is repaired without Department authorization becomes illegal.

D. No individual, company, corporation, public or private entity may cut, trim, remove or otherwise cause to be removed planted or natural vegetation from within the limits of highway rights-of-way unless specifically provided for by a properly executed agreement between the Department, individual, company, corporation, public or private entity. No such agreement may be granted for sign locations which have been permitted for less than two years. All such agreements shall be entered into at the sole discretion of the Department.

E. Signs may not be serviced from or across the right-of-way of Interstate or freeway primary federal-aid highways or across controlled access lines of federal-aid primary routes. Any sign which is so serviced becomes illegal and must be removed.

### 63-351. Directional and Other Official Signs.

#### A. Definitions for this Section:

(1) "Scenic Area," means any area of particular scenic beauty or historical significance as determined by the Federal, state or local officials having jurisdiction thereof and includes land which has been acquired for the restoration, preservation, and enhancement of scenic beauty.

(2) "Parkland," means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge, or historical site.

(3) "Federal or State Law," means a federal or state constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a state or federal agency or a political subdivision pursuant to a federal or state constitution or statute.

(4) "Directional and Other Official Signs and Notices," means only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

(5) "Official Signs and Notices," means signs and notices erected by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or non-profit historical societies may be considered official signs.

(6) "Public Utility Signs," means warning signs, information signs, notices, or markers which are customarily erected and maintained by publicly or privately owned utilities, as essential to their operations.

(7) "Service Club and Religious Notices," means signs and notices relating to meetings of non-profit service clubs or charitable associations, or religious services, which do not exceed eight square feet in area.

(8) "Directional Signs," means signs deemed by the Department to be in the interest of the traveling public and containing directional information about public places owned or operated by federal, state or local government or their agencies; publicly or privately owned natural phenomena; historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation.

#### B. The following signs are prohibited:

(1) Signs advertising activities that are illegal under federal or state laws in effect at the location of those signs or at the location of those activities.

(2) Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic.

(3) Signs which are erected upon trees or rocks or other natural features.

(4) Obsolete signs.

(5) Signs which are structurally unsafe or in disrepair.

(6) Signs which move or have any animated moving parts.

(7) Signs located in rest areas, parklands or scenic areas.

#### C. Directional signs shall not exceed the following size limits:

(1) Maximum area – one hundred fifty square feet.

(2) Maximum height – twenty feet.

(3) Maximum length – twenty feet.

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All dimensions include border and trim, but exclude supports.

D. Lighting requirements are the same as Regulation 63-347.

E. Spacing of directional signs:

(1) Each location of a directional sign must be approved by the Department.

(2) No directional sign may be located within two thousand feet of an interchange, or intersection at grade along the interstate highways or freeway primary federal-aid highways (measured along the highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way).

(3) No directional sign may be located within two thousand feet of a rest area, parkland, or scenic area.

(4) No two directional signs facing the same direction of travel may be spaced less than one mile apart;

(a) Not more than three directional signs legible to the same direction of travel may be erected along a single route approaching the activity;

(b) Signs located adjacent to an Interstate highway must be within seventy five air miles of the activity;

(c) Signs located adjacent to a federal-aid primary highway must be within fifty air miles of the activity.

F. Message content--Directional Signs.

The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

G. Persons or firms desiring to construct or qualify signs as directional must first comply with the following procedures:

(1) Submit, in writing, to the Director of Outdoor Advertising, SCDOT, P.O. Box 191, Columbia, SC 29202, a detailed outline of the sign. This shall include overall dimensions and message portion of the sign to include type of construction and lighting.

(2) Application for sign must be submitted on the form provided by the Department and must be accompanied by the appropriate fees.

(3) Specify reasons why the activity being advertised should be approved for directional signing. Submission must document why the activity is regionally or nationally known.

(4) The Department shall consider all requests and shall consult, as necessary, with other state agencies and local organizations possessing cultural or historical expertise in rendering a decision.

(5) If the Department's decision is in the affirmative, a permit and identification tag will be issued. If the permit is denied, the applicant will be notified in writing outlining the specific reasons for refusal. The applicant may appeal the decision of the Department by filing written notice with the Department within thirty days of the Department's mailing of notice to the applicant at the address provided on the application. All appeals will be conducted in accordance with the Administrative Procedures Act. The applicant shall bear the burden of showing that the Department should issue the permit.

(6) All signs authorized by the Department under this section shall be subject to maintenance standards outlined in Regulation Section 63-350.

(7) No sign shall be authorized for a highway if the attraction for which the sign is sought is already identified on official signs and notices visible from that highway.

#### 63-352. On-Premise Signs.

A. Signs erected pursuant to S. C. Code Section 57-25-140(a)(5) and (6) are not required to be permitted, however, there are certain criteria that must be applied to these signs in order to determine if, in fact, they are on-premise signs.

B. "For Sale" and "For Lease" signs may be considered on-premise if they meet the following requirements:

(1) They must be located only on property which is for sale or lease.

(2) They may contain only information pertinent to sale or lease of the property such as "For Sale," acreage, name of person or firm having such property for sale, and phone number.

(3) They may not have information relating to any activity or product not directly connected with the sale or lease of the property on which they are located.

C. Signs advertising activities, products or services offered or performed on the property upon which they are located shall be considered on-premise provided they meet the following requirements:

- (1) Signs must be physically located on the same premise as activity advertised.
- (2) The intent of the sign must be the identification of the activity, product or service offered at the location.
- (3) In the event a sign site is located on a narrow strip of land contiguous to the advertised activity or on land connected to the advertised activity by a narrow strip of land, the sign site shall not be considered part of the premises on which the activity being advertised is conducted. A narrow strip shall include any configuration of land which cannot be put to any reasonable use related to the activity other than for signing purposes.
- (4) Two or more activities which share a common property line may share a single on-premise sign so long as the sign is located on the common property line and meets all other requirements of on-premise signs.
- (5) The sale of the land between the main building and the advertising device or the diversion of the land to uses other than commercial or industrial by lease, rental agreement, easement, or license, etc., will be prima facie evidence that the sign is no longer on-premise and shall be subject to appropriate provision of the law. The diversion of land to other uses includes, but is not limited to, cultivation to raise crops or forest even though land may be of a single ownership, or land which is separated from the activity by a public highway, or other obstruction as may be determined by the Department.
- (6) Land under cultivation to raise crops or forest may not be considered a part of a given activity even though the land may be in a single ownership, nor may land which is separated from the activity by a public highway, or other obstruction.

D. Upon vacating a premise which is not thereafter occupied by another business within one year, the owner of the property must, without cost to the Department, dismantle and remove any free-standing on-premise sign. Any on-premise sign which is not so removed is illegal.

E. The Department shall have sole discretion to determine if the sign is a traffic or safety hazard, including the ability to determine if the sign's lighting or illumination creates a traffic or safety hazard. If the Department determines the sign to be a traffic or safety hazard, the sign shall be removed at the expense of the sign owner.

#### 63-353. Design of Outdoor Advertising Signs.

- A. Signs with 350 square feet of facing or more must be constructed with steel supports.
- B. Signs with 672 square feet of facing must be constructed on a steel monopole.
- C. No stacked (double deck) sign faces shall be allowed.

#### 63-354. Off-premise Changeable Message Signs.

- A. Changeable message signs shall not contain or display flashing, intermittent or moving lights.
- B. Changeable message signs shall conform with size requirements as described in Regulation Section 63-345.
- C. Changeable message signs shall be spaced 500 feet apart on the same side of the highway.
- D. Only conforming sign structures may be modified to changeable message signs upon compliance with changeable message sign standards and approval of the Department. Nonconforming sign structures shall not be modified to changeable message signs.
- E. Each message displayed shall remain fixed for at least six seconds.
- F. When a message is changed, it shall be accomplished within an interval of two seconds or less.
- G. Changeable message signs may only be constructed as a single face and V-shape structures. Changeable message signs shall not be side by side or stacked.
- H. If a conforming sign is to be revised to a changeable message sign, an application shall be submitted noting the sign is to become a changeable message signs and requesting approval for this change.
- I. Brilliancy and light intensity shall remain the same throughout the display period.

**Fiscal Impact Statement.** The Department of Transportation expects there to be no fiscal impact to the state or its political subdivisions in complying with these amended regulations.

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### Statement of Need and Reasonableness:

DESCRIPTION OF REGULATIONS 63-341- 354 Highway Advertising Control Act.

Purpose of amendment: The amendments are designed to bring state regulations into conformity with certain federal requirements and to clarify certain definitions, delete obsolete language and to revise certain application processes.

Legal Authority: The legal authority for regulation 63-341 to 354 is section 57-25-110, *et seq.*, SC Code of Laws.

Plan for Implementation: The amendments will have no effect on the practices of SCDOT.

DETERMINATION OF NEED AND REASONABLENESS OF PROPOSED REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed amendments will benefit the public by deleting confusing and outdated information from the regulations and by improving the process for reviewing applications for outdoor advertising permits.

The proposed amendments will benefit the public by deleting confusing and outdated information from the regulations and by improving the process for reviewing applications for outdoor advertising permits.

DETERMINATION OF COSTS AND BENEFITS: There will be no costs imposed by these changes to the State.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENTAL AND PUBLIC HEALTH: None.

DETRIMENTAL EFFECTS ON ENVIRONMENTAL AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: None.