

SOUTH CAROLINA STATE REGISTER DISCLAIMER

While every attempt has been made to ensure the accuracy of this State Register, the Legislative Council makes no warranties or representations regarding its accuracy or completeness, and each user of this product understands that the Legislative Council disclaims any liability for any damages in connection with its use. This information is not intended for commercial use and its dissemination by sale or other commercial transfer is not authorized, absent a written licensing agreement with the Legislative Council. For further information contact the Legislative Council at 803-734-2145.

SOUTH CAROLINA STATE REGISTER

PUBLISHED BY
THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

STEPHEN T. DRAFFIN, DIRECTOR
LYNN P. BARTLETT, EDITOR

P.O. BOX 11489
COLUMBIA, SC 29211
TELEPHONE (803) 734-2145

Published November 26, 2004

Volume 28 Issue No. 11

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.

2004 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	1/9	2/13	3/12	4/9	5/14	6/11	7/9	8/13	9/10	10/8	11/12	12/10
Publishing Date	1/23	2/27	3/26	4/23	5/28	6/25	7/23	8/27	9/24	10/22	11/26	12/24

REPRODUCING OFFICIAL DOCUMENTS

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

PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 734-2145.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

SUBSCRIPTIONS

Subscriptions to the *South Carolina State Register* are available electronically through the South Carolina Legislature Online website at www.scstatehouse.net via an access code, or in a printed format. Subscriptions run concurrent with the State of South Carolina's fiscal year (July through June). The annual subscription fee for **either** format is \$95.00. Payment must be made by check payable to the Legislative Council. To subscribe complete the form below and mail with payment. Access codes for electronic subscriptions will be e-mailed to the address submitted on this form.

X-----X-----X

South Carolina State Register Subscription Order Form

Name	Title
Firm	
Mailing Address	
Billing Address (if different from mailing address)	
Contact Person(s)	E-mail Address
Phone Number	Fax Number
Number of subscriptions: (Cost is \$95 per subscription. Checks payable to: Legislative Council)	
	Electronic
	Printed

Mail this form to:
South Carolina State Register
Lynn P. Bartlett, Editor
P.O. Box 11489
Columbia, SC 29211
Telephone: (803) 734-2145

TABLE OF CONTENTS

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

Status and Legislative Review Expiration Dates	1
--	---

NOTICES

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Certification of Need.....	2
Notice and Rescheduling of Public Hearing, The Practice of Selling and Fitting Hearing Aids.....	5
Notice of Settlement	5

LABOR, LICENSE AND REGULATION, DEPARTMENT OF

OFFICE OF STATE FIRE MARSHAL

Adoption of the National Fire Protection Association Codes	6
--	---

NATURAL RESOURCES, DEPARTMENT OF

Proposed State Scenic River Designation.....	7
--	---

DRAFTING NOTICES

BUDGET AND CONTROL BOARD

OFFICE OF RESEARCH AND STATISTICS

Health Care Data Reported by Health Care Facilities and Providers.....	8
--	---

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Radioactive Materials.....	8
----------------------------	---

INSURANCE, DEPARTMENT OF

Agent Fees for DMV Compliance	9
Annual Renewal Plan (Repeal)	9
Exclusion of Wind and Hail Insurance	9
Workers' Compensation Appeals	10
Workers' Compensation Advisory Board.....	10
Workers' Compensation Assigned Risk Rates	11

MOTOR VEHICLES, DEPARTMENT OF

Motorist Insurance Identification Database Program	11
--	----

PUBLIC SAFETY, DEPARTMENT OF

Highway Patrol Division: Transportation of Unmanufactured Forest Products	11
Motorist Insurance Identification Database Program	12

TABLE OF CONTENTS

PROPOSED REGULATIONS

CLEMSON UNIVERSITY

State Crop Pest Commission

Document No. 2938	Pesticides	13
Document No. 2939	Designation of Plant Pests	17

EDUCATION, BOARD OF

Document No. 2940	Administrative and Professional Personnel Qualifications, Duties, and Workloads	34
Document No. 2941	Assisting, Developing, and Evaluating Professional Teaching (ADEPT)	36
Document No. 2942	Graduation Requirements	41

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Document No. 2943	Air Pollution Control Regulations and Standards	19
Document No. 2944	Infectious Waste Management	26
Document No. 2945	Standards for Licensing Tattoo Facilities	30

HIGHER EDUCATION, COMMISSION ON

Document No. 2946	HOPE Scholarship Program	45
Document No. 2947	LIFE Scholarship Program	46
Document No. 2948	Palmetto Fellows Scholarship Program	48

LABOR, LICENSING AND REGULATION, DEPARTMENT OF

Board of Dentistry

Document No. 2949	Examination	50
Document No. 2950	Re-examination	52

Board of Long Term Health Care Administrators

Document No. 2951	Inactive or Retired Licensure Status	54
-------------------	--	----

REVENUE, DEPARTMENT OF

Document No. 2937	ABL Regulations	55
-------------------	-----------------------	----

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: www.scstatehouse.net

DOC No.	RAT FINAL No. ISSUE	SUBJECT	EXP. DATE	AGENCY
2886		Pilot and Apprentice Age Limitations and Pilot Registration	1/11/05	LLR: Commissioners of Pilotage
2887		Residential Builders Commission	1/11/05	LLR: Residential Builders Commission
* 2753		LIFE Scholarship Program	1/15/05	Commission on Higher Education
2889		Barrier Free Design, Building Codes Council	1/17/05	LLR: Building Codes Council
2890		Chapter Revisions	1/17/05	LLR: Manufactured Housing Board
2873		Air Pollution	1/30/05	Department of Health and Envir Control
* 2800		Environmental Protection Fees	2/27/05	Department of Health and Envir Control
2905		Credit for Reinsurance	3/14/05	Department of Insurance
2900		Student Attendance	3/22/05	Board of Education
2897		State Primary Drinking Water	3/28/05	Department of Health and Envir Control
2908		Continuing Insurance Education	4/03/05	Department of Insurance
2906		Repeal Video Poker Regulations	4/03/05	Department of Revenue
2907		ABL - Drive Thru Prohibited	4/03/05	Department of Revenue
2909		Adoption of National Explosives Standards	4/03/05	LLR: Office of State Fire Marshal
2899		Certification Program for Public Librarians	4/10/05	State Library
* 2801		Individual Sewage Treatment and Disposal Systems	4/19/05	Department of Health and Envir Control
2903		Total Maximum Daily Loads for Pollutants in Water	4/24/05	Department of Health and Envir Control
2901		Child Care Centers Licensing Regulations	5/08/05	Department of Social Services

* Resolutions to disapprove not enacted during 2004 Session

2 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 November 26, 2004, 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 Anderson County

Renovation for the replacement of a mobile Magnetic Resonance Imaging System (MRI) with a fixed 1.5T MRI.

Anderson Diagnostic Imaging, Inc.
Anderson, South Carolina
Project Cost: \$1,715,564

Affecting Greenville County

Addition of sixty (60) nursing home beds that do not participate in the Medicaid (TITLE XIX) Program for a total of one hundred eighty (180) nursing home beds.

NHC HealthCare/Mauldin
Greenville, South Carolina
Project Cost: \$4,804,800

Affecting Horry County

Addition of one operating room (OR) for a total of three (3) operating rooms (ORs).

Carolina Regional Surgery Center d/b/a Grande Dunes Surgery Center
Myrtle Beach, South Carolina
Project Cost: \$651,253

Construction to establish a fifty (50)-bed inpatient hospital by expanding the Seacoast Medical Center resulting in 50 licensed Acute Care beds.

Seacoast Medical Center
Little River, South Carolina
Project Cost: \$24,100,000

Affecting Lexington County

Construction of an ambulatory surgery center with two (2) operating rooms (ORs).

Moore Orthopaedic Clinic Outpatient Surgery Center, LLC.
Lexington, South Carolina
Project Cost: \$6,332,106

Affecting Spartanburg County

Addition of fifty (50) general acute care beds for a total of five hundred eighty-two (582) licensed general acute care beds.

Spartanburg Regional Medical center
Spartanburg, South Carolina
Project Cost: \$4,718,493

Construction of a fifteen (15) bed inpatient hospice facility.
Spartanburg Regional Healthcare System – Regional Hospice House
Spartanburg, South Carolina
Project Cost: \$5,163,000

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 November 26, 2004. "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 Anderson County

Renovation for the replacement of a mobile Magnetic Resonance Imaging System (MRI) with a fixed 1.5T MRI.
Anderson Diagnostic Imaging Inc.
Anderson, South Carolina
Project Cost: \$1,715,564

Affecting Charleston County

Replacement of existing single slice Computerized Tomography (CT) scanner with a multi slice CT scanner.
Bon Secours St. Francis Xavier Hospital, Inc.
Charleston, South Carolina
Project Cost: \$921,381

Affecting Charleston

Replacement of existing single slice Computerized Tomography (CT) scanner with a multi slice CT scanner.
Roper Hospital, Inc.
Charleston, South Carolina
Project Cost: \$951,381

Replacement of a 1.0T Magnetic Resonance Imaging (MRI) unit with a 1.5T MRI unit
Southeastern Spine Institute, LLC
Mount Pleasant, South Carolina
Project Cost: \$1,422,599

Affecting Cherokee County

Establish an outpatient narcotic treatment program (Methadone Treatment Center) to be located at 103 Stuard Street, Gaffney, South Carolina 29341.
Gaffney Treatment Associates
Gaffney, South Carolina
Project Cost: \$263,341

4 NOTICES

Affecting Florence County

Renovation for the addition of a multi-slice Computed Tomography (CT) scanner, three (3) x-ray devices, and two (2) nuclear cameras at the McLeod Health Plaza.

McLeod Regional Medical Center

Florence, South Carolina

Project Cost: \$6,714,539

Affecting Horry County

Replace the existing 0.23T Magnetic Resonance Imaging (MRI) unit with a 1.5T MRI, replace the existing Computed Tomography (CT) scanner with a multi-slice CT, and discontinue the mobile MRI service.

Open MRI of Myrtle Beach, LLC d/b/a

Long Bay Diagnostic Imaging

Myrtle Beach, South Carolina

Project Cost: \$2,813,761

Affecting Lancaster County

Addition of six (6) inpatient substance abuse beds for a total of eighteen (18) inpatient substance abuse beds and the relocation of four (4) inpatient acute care beds from the hospital tower to the Lancaster Recovery Center building for a total licensed bed capacity of 168 inpatient acute care beds, 14 nursing care beds and 18 substance abuse beds.

Springs Memorial Hospital, Inc.

Lancaster, South Carolina

Project Cost: -0-

Affecting Richland County

Construction for the establishment of a twelve (12)-bed inpatient Hospice.

Portsbridge Inpatient Hospice

Columbia, South Carolina

Project Cost: \$1,711,597

Affecting York County

Construction and relocation of ten (10) Social Detoxification beds and four (4) Residential Treatment beds for a total of fourteen (14) licensed beds.

Keystone Inpatient Services

Rock Hill, South Carolina

Project Cost: \$1,199,226

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE AND RESCHEDULING OF PUBLIC HEARING

The Department of Health and Environmental Control issued a Notice of Proposed Regulation for an amendment to Regulation 61-3, *The Practice of Selling and Fitting Hearing Aids* in the September 24, 2004, issue of the State Register, identified as Document No. 2927. The Notice scheduled a Staff Informational Forum on October 27, 2004, a write-in comment period, and a public hearing before the Board on December 9, 2004. The public hearing scheduled for December 9, 2004, has been postponed. The proposed regulation is being revised based on comments received. All comments received from the Staff Informational Forum and write-in public comment period that ended October 27, 2004, are being considered. All comments received through October 27, 2004, shall be submitted to the Board for consideration at the public hearing in a Summary of Public Comments and Department Responses.

The public hearing to be conducted by the Board of Health and Environmental control for this proposed amendment to the regulation has been rescheduled. The hearing will be held at the regularly-scheduled Board meeting on January 13, 2005, in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull St., Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The agenda is published by the Department 24 hours in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the amendment to the regulations.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Bureau of Land and Waste Management

I-85 Manufacturing & Distribution Center Site, Spartanburg County

South Carolina Department of Health & Environmental Control vs. Cable-Spartanburg

Associates, L.P.; et al.

US District Civil Action No.: 7:03-0805-20

NOTICE OF SETTLEMENT

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control ("the "Department") intends to enter into two separate Consent Decrees with (1) Spartan Dyers, Inc. and (2) Harold A. Theran. Prior to final execution by the Department, each Consent Decree is subject to a 30-day public comment period, consistent with the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") Section 122, 42 U.S.C. Section 9622 and the South Carolina Hazardous Waste Management Act ("SCHWMA") S.C. Code Ann. Section 44-56-200 (2002).

The Consent Decrees relate to the alleged release, and threatened release, of hazardous substances, pollutants, or contaminants at the I-85 Manufacturing & Distribution Center Site, located 100 International Drive in Spartanburg, South Carolina, and all surrounding areas impacted by the migration of hazardous substances, pollutants or contaminants (the "Site"). The Consent Decrees provide for recovery of response costs from: (1) Spartan Dyers, Inc. in the amount of \$170,000.00, and (2) Harold A. Theran in the amount of \$150,000.00. In consideration of the foregoing, each Consent Decree provides for a release of each settling party from further liability related to the matters covered by the Consent Decrees and confers contribution protection upon each settling party pursuant to CERCLA Section 113, 42 U.S.C. Section 9613.

6 NOTICES

Notice of these Settlements has been provided to all identified potentially responsible parties. Copies of the Consent Decrees may be obtained by providing a written Freedom of Information request to the South Carolina Department of Health and Environmental Control at:

Freedom of Information Office
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201-1708

Any comments must be submitted in writing, postmarked no later than December 27, 2004, and addressed to:

Jessica J.O. King, Esquire
Office of General Counsel
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201

UPON FINAL EXECUTION OF THE CONSENT DECREES, ANY AND ALL CLAIMS BY ANY AND ALL PERSONS AGAINST THE SETTLING PARTIES SEEKING CONTRIBUTION FOR MATTERS ENCOMPASSED BY THE CONSENT DECREES SHALL BE FORECLOSED.

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF STATE FIRE MARSHAL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. National Fire Protection Association 58, Liquefied Petroleum Gas Code, 2004 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is referenced by:
South Carolina Code of Laws Section 40-82-70
South Carolina Rules and Regulation 71-8304.1

The Office of State Fire Marshal specifically requested comments concerning sections of these editions that may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal hereby promulgates this latest edition without amendment.

DEPARTMENT OF NATURAL RESOURCES

Proposed State Scenic River Designation. A 46-mile segment of the Little Pee Dee River in Dillon County is being considered for designation as a State Scenic River under the South Carolina Scenic Rivers Act (1989). The proposed State Scenic River starts at the Parish Mills Bridge on State Secondary Road #363 in Dillon County, near the Marlboro County line, and extends downstream to the bridge crossing on State Secondary Road #72 in Dillon County, near the Marion County line.

A public meeting is scheduled for Thursday, January 13, 2005 from 7:00 to 9:00 PM at the Dillon County Courthouse (main Courtroom) at 301 West Main Street in Dillon, South Carolina. The purpose of this meeting is to inform the public and address questions and concerns regarding the proposed scenic river. All interested citizens are encouraged to attend.

The purpose of the State Scenic Rivers Program is to conserve and protect unique and outstanding river resources throughout South Carolina. To accomplish this purpose, **a volunteer, cooperative, and non regulatory** management program has been created which involves landowners, community interests, and the Department of Natural Resources working together to conserve and protect designated scenic river corridors. Designating a State Scenic River requires legislative action by the South Carolina General Assembly; however, the designation process begins at the local level where the Department of Natural Resources seeks the support of the local citizens, landowners, and the county councils of the affected counties before legislation is enacted.

For more information contact: South Carolina Department of Natural Resources, Land, Water, and Conservation Division, P.O. Box 167, Columbia SC 29202; Telephone # 734-9100 or e-mail Bill Marshall MarshallB@dnr.sc.gov

8 DRAFTING

BUDGET AND CONTROL BOARD

CHAPTER 19

Statutory Authority: Act 178 of 1981, and 1976 Code §§ 4-29-140, 44-7-1590, and 48-3-140

Notice of Drafting:

The South Carolina Budget & Control Board, Office of Research & Statistics proposes to draft revisions to regulations that address health care data reported by health care facilities and providers. Interested persons may submit comments to Mr. Walter P. "Pete" Bailey, Office of Research & Statistics, South Carolina Budget & Control Board, 1919 Blanding Street, Columbia, S.C. 29201. To be considered, comments must be received no later than December 23, 2004, 5:00 p.m. on, the close of the drafting comment period.

Synopsis:

The General Assembly passed the "Medically Indigent Assistance Act" (Section 44-6-132-44-6-220) that established a State administered program to provide assistance to medically indigent patients, established the Medicaid Expansion Fund and provided for data reporting by health care facilities and providers. The Act requires the South Carolina Budget & Control Board, Office of Research & Statistics to administer the data collection program and promulgate regulations for submission and release of data. Regulations were adopted Chapter 19, Articles 8, 10 and 11.

The proposed revisions to these regulations will address the incorporation of the Federal Health Insurance Portability and Accountability Act, 1996, administrative simplifications regulations, industry changes in health care reporting, and revisions to the procedures for the release of data.

Legislative review of this proposal will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Sections 13-7-10 et seq.; 13-7-40

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R. 61-63, Radioactive Materials (Title A). Interested persons may submit comments to Pearce O'Kelley, Chief, Bureau of Radiological Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, comments must be received by 5 p.m. on December 27, 2004.

Synopsis:

The Nuclear Regulatory Commission continually updates regulations, and state regulations are amended regularly to incorporate federal updates. The Department plans to adopt into regulation the Nuclear Regulatory Commission updates as an item of compatibility. Section 274 of the Atomic Energy Act of 1954, as amended, requires that the states adopt federal regulations for compatibility. The Department intends to make changes to R. 61-63 to this extent. The intended action revises the skin dose limit (Part III), and amends the regulations regarding the medical use of radioactive materials (Parts II, III and IV). Proposed regulations will comply with 10 CFR Parts 20, 32 and 35, Final Rules, published in the Federal Register on April 5, 2002, and April 24, 2002 (Volume 67). Legislative review will not be required.

DEPARTMENT OF INSURANCE**CHAPTER 69**

Statutory Authority: 1976 Code Sections 38-3-110, 38-55-50, 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to create a new regulation related to Agent Fees for DMV Compliance. Interested persons should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director/Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105.

Synopsis:

The regulation will establish the fee that can be charged by insurance agents to process insurance compliance transactions with the Department of Motor Vehicles.

The proposed regulation will require legislative review.

DEPARTMENT OF INSURANCE**CHAPTER 69**

Statutory Authority: 1976 Code Sections 38-3-110, 1-23-10, *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to repeal Regulation 69-2, Annual Renewal Plan. Interested persons should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105.

Synopsis:

The South Carolina Department of Insurance proposes to repeal Regulation 69-2 related to Annual Renewal Plan. The regulation is outdated and this proposal is in line with the Department's efforts to update Code of Regulations to accurately reflect changes made in the Code of Laws. The regulation is no longer valid as it does not accurately correspond to and reflect current law.

The proposed regulation will require legislative review.

DEPARTMENT OF INSURANCE**CHAPTER 69**

Statutory Authority: 1976 Code Sections 38-3-110, 38-75-1230, 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to create a new regulation related to the Exclusion of Wind and Hail Insurance. Interested parties should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director/Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105.

10 DRAFTING

Synopsis:

The regulation will provide the process for insurers to seek approval to exclude wind and hail insurance in areas not covered by the South Carolina Wind and Hail Underwriting Association.

The proposed regulation will require legislative review.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110, 38-73-495, 1-23-10, *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to create a new regulation related to Workers' Compensation Appeals. Interested persons should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director, Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105.

Synopsis:

The regulation will outline the process of filing appeals with the Department as well as describe the procedure for how such appeals will be handled.

The proposed regulation will require legislative review.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110, 38-73-510, 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to create a new regulation related to the Workers' Compensation Advisory Board. Interested persons should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director/Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105.

Synopsis:

The regulation will specify the appointment and operations of an advisory board to the Director of Insurance. The powers of the board will include hearing appeals, receiving reports from rating bureaus and providing advice to the Director.

The proposed regulation will require legislative review.

DEPARTMENT OF INSURANCE**CHAPTER 69**

Statutory Authority: 1976 Code Sections 38-3-100, 38-73-640, 1-23-10 *et seq.*

Notice of Drafting:

The South Carolina Department of Insurance proposes to create a new regulation related to Workers' Compensation Assigned Risk Rates. Interested persons should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director/Legislative Liaison, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105.

Synopsis:

The regulation will describe the process for notification of possible changes to assigned risk rates as well as the process to be followed by the Director when making a determination of such rates.

The proposed regulation will require legislative review.

DEPARTMENT OF MOTOR VEHICLES**CHAPTER 90**

Statutory Authority: 1976 Code Section 56-10-640

Notice of Drafting:

The Department of Motor Vehicles is publishing new regulations previously promulgated in Chapter 38, Subarticle 15, to revise the regulations specifications for the reporting of compliance transactions and frequency of reporting of transactions. Interested persons may submit comments to Mr. John Caldwell, S.C. Dept. of Motor Vehicles, P.O. Box 1498, Columbia, S.C. 29216.

Synopsis:

Regulations have been expanded to include specifications for the reporting of compliance transactions and frequency of reporting of transactions through the South Carolina Automobile Liability Reporting (SC ALIR) system. The regulations further allow the Working Group to expand the types of transactions that may be reported through the SC ALIR system.

DEPARTMENT OF PUBLIC SAFETY**HIGHWAY PATROL DIVISION****CHAPTER 38**

Statutory Authority: 1976 Code Sections 23-6-20 and 23-6-30

Notice of Drafting:

The South Carolina Department of Public Safety is considering amending regulations 38-390 *et seq.*, relating to the transportation of unmanufactured forest products. Interested parties should submit their comments in writing to Ms. Rachel Erwin, South Carolina Department of Public Safety, Office of General Counsel, P.O. Box 1993, Blythewood, S.C. 29016.

12 DRAFTING

Synopsis

The proposed amendments will revise the existing regulations to incorporate other federal safety regulations. The language of existing regulations will be revised and new language will be added.

DEPARTMENT OF PUBLIC SAFETY

CHAPTER 38

Statutory Authority: 1976 Code Section 56-10-640

Notice of Drafting:

The Department of Public Safety plans to repeal Regulations 38-260 through 38-269, relating to the Motorist Insurance Identification Database. Interested persons may submit comments to Ms. Rachel Erwin, South Carolina Department of Public Safety, P.O. Box 1993, Blythewood, SC 29016.

Synopsis:

The responsibility for administering the provisions of the South Carolina Automobile Liability Insurance Reporting System now falls under the Department of Motor Vehicles. The Department of Motor Vehicles is currently publishing new regulations on this matter under their regulation chapter (Chapter 90).

Document No. 2938
STATE CROP PEST COMMISSION/CLEMSON UNIVERSITY
CHAPTER 27
 Statutory Authority: S. C. Code Section 46-13-55

Article 17

Preamble:

The State Crop Pest Commission proposes to amend Article 17 (Regulations 27-1070 through 27-1085). The proposed actions will provide additional definitions, procedures and requirements.

The Notice of Drafting was published in the State Register on September 24, 2004. No comments were received.

Section-by-Section Discussion

27-1070 Definitions

- A. No change
- B. No change
- C. Defines “business” and “business activity”
- D. Defines “structural pest control activities” and provides for certain exclusions.
- E. Defines and describes “warranty sales”.
- F. Defines “branch office”.
- G. Defines “termiticide”.
- H. Defines and describes “pretreat” and “pretreatment”
- I. Defines “pesticide use”.
- J. Defines and describes “public health pest control activities”.
- K. Defines and describes “turf and ornamental pest control activities”.
- L. Defines and describes “aquatic pest control activities”.
- M. Defines and describes “structure” and “building”.
- N. Defines pronoun usage

27-1071 Registration of Pesticides

- A. Rewritten to provide for registration for products to be discontinued and dealing with unregistered products.
- B. Rewritten to clarify Federal Experimental Use Product procedures.
- C. Rewritten to clarify Director’s authority to determine registration independent of federal registration.

27-1072

- A. No change
- B. No change
- C. No change
- D. No change
- E. Amplifies procedures for extension of state experimental use permits.

27-1073 Coloration and Discoloration

- A. No change
- B. Deleted

14 PROPOSED REGULATIONS

27-1074 Pesticide Samples

- A. Rewritten to clarify authority to collect pesticide samples.
- B. Written to clarify locations from which pesticide samples may be collected.
- C. Formerly contained in paragraph A. above.
- D. Formerly paragraph B, now relabeled as D.
- E. Formerly paragraph C, no other change.

27-1075 Restricted Use Pesticide Classifications

- A. Deleted second sentence which is superfluous.
- B. Authorizes Director to classify additional pesticides as “restricted use”.
- C. Inserts “labeled for” in all subparagraphs.
- D. Clarifies circumstances under which certain pesticides may be distributed, sold, stored, or used.

27-1076 Licensing of Pesticide Dealers and Dealer Records Maintenance

- A. No Change
- B. No Change
- C. No change
- D. Sets minimum fee for licensing
- E. Rewritten for clarity
- F. The last sentence has been rewritten for clarity.
- G. No Change
- H. Rewritten to include minimum record retention period, information to be retained and inspector’s authority.

27-1077 Certification and Licensing of Private Applicators

- A. Rewritten for clarity, no change.
- B. Rewritten for clarity, no change.
- C. No change.
- D. Rewritten for clarity, no significant change.
- E. Formerly subparagraph D(4).
- F. Rewritten for clarity, no significant change.
- G. Requires that only Commercial Applicators (Category 1C) may apply Restricted Use Pesticides to agricultural commodities held in a commercial storage or processing facility.

27-1078 Certification and Licensing of Commercial Applicators

- A. No change
- B. Formerly Subsection B(1).
- C. Formerly Subsection B(2). Establishes different levels of financial responsibility, based on the type license issued. Restates consequences of lapsed financial responsibility.
- D. Insurance company must be licensed in South Carolina, and must give notice to the Department prior to cancellation of coverage.
- E. No change.
- F. Formerly subsection B(5). Rewritten for clarity.
- G. Formerly subsection B (6).
- H. Formerly section C. Adds categories 1(c) stored product pest control and 12 miscellaneous.
- I. Formerly section D (1).
- J. Formerly section D (2).
- K. Formerly section D (3).
- L. Formerly section D (4).
- M. Formerly section D (5).
- N. Formerly Section E.

27-1079 Certification and Licensing of NonCommercial Applicators

- A. No change
- B. Rewritten to clarify financial responsibility requirements
- C. Rewritten for clarity. Incorporates former section D.

27-1080 Exemptions from the Requirement of a License and of Certification

- A. No change
- B. No change

27-1081 Safe Handling, Storage, Display and Distribution of Pesticides

- A. Expanded from “sales” to include all “distributions”.
- B. Adds requirement for securely-locked room in subsection (1).
- C. Adds requirement in subsection (1) that registrant’s container be an ‘approved’ container.
- D. Specifies in subsection (5) that TBT paint products are not exempt from certain storage and display requirements.
- E. No significant change.
- F. No significant change.
- G. No change.

27-1082 Disposal of Pesticides and Pesticide Containers.

No change

27-1083 Pesticide Application, Assurance, Vehicle Identification, Applicator Records
Maintenance and Direct Supervision

- A. Specifies the requirements for notice to customers by applicators concerning application of all pesticides to customer’s property.
- B. Specifies markings required on all vehicles transporting pesticides to application sites by commercial and noncommercial applicators.
- C. Specifies the records required to be maintained by companies, licensed commercial and noncommercial applicators, and time periods for retention.
- D. Defines term “Direct Supervision” and specifies availability requirements for licensed commercial and noncommercial applicators during applications.

27-1084 Denial, Suspension or Revocation of a License or Certification; Assessment of Criminal Penalties

- A. New second sentence in subparagraph (1) defines “use”. No other changes.

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

- A. Specifies that this section defines the “minimum” treatment standards.
- B. Specifies those situations in which the presence of the wood-destroying organism must be disclosed in writing, the timing of such disclosure, and retention period for required records.
- C. Specifies those situations in which waivers of these standards may be appropriate, mechanism for and timing of execution of waiver, and record retention time.
- D. Specifies chemical and control measures, standards which are applicable to all structures for all treatments, use of termite control products or devices, training requirements, waiver record requirements, recordation of pesticide use.
- E. Specifies procedures for inspection by the Department, and minimum residue requirements.
- F. Specifies and procedures for correcting discrepancies in treatments.
- G. Specifies mechanics for various treatment procedures for posttreatments, and requires that when federal and state standards may differ, the more thorough treatment prescribed shall be followed. Provides amplification of wood-to-ground contact, including certain insulating materials.

16 PROPOSED REGULATIONS

- H. Provides for pretreatment standards and requirements, warranty requirements, and correction of pretreatment deficiencies.
- I. Specifies procedures for dealing with wood-destroying organisms which normally are not capable of reinfesting structural or other seasoned wood.
- J. Specifies acceptable levels of moisture and control measures.
- K. Prescribes the format for the Wood Infestation Report (CL-100), the limits of the inspection, areas and items not inspected, the qualifications of the inspector, and infestation/damage disclosure requirements.
- L. Specifies licenses required for various pest control activities.
- M. Specifies business license requirements, qualifications of and requirements for Designated Certified Applicator, treatment records requirements, vehicle identification, official identification card and required information, and prohibition on warranty sales.

Notice of Public Hearing and for Public Comment:

Interested members of the public and the regulated community are invited to make oral or written comments on the proposed changes to the regulation at a public hearing scheduled to be held in Conference Room 1, Center for Applied Technology, 511 Westinghouse Road, Pendleton, SC 29670 on Wednesday, January 12, 2005 at 11:00. AM. Should such hearing not be requested pursuant to Section 1-23-110(a)(3) on or before close of business on Monday, January 3, 2005, such hearing will be canceled without further notice.

Interested parties are also invited to submit written comments to the proposed amendments by writing to Cam Lay, Department of Pesticide Regulation, 511 Westinghouse Road, Pendleton, SC 29670. To be considered comments must be received no later than close of business on January 3, 2005.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: Chapter 27, Article 17, State Crop Pest Commission

Purpose. Regulations 27-1070 through 27-1085 are being amended by adding new definitions, revising the old regulations..

Legal Authority. The legal authority for Chapter 27, Article 17, is Section 46-13-55, South Carolina Code of Laws.

Plan for Implementation. The proposed amendments will take effect upon approval by the General Assembly and publication in the State Register. The proposed amendments will be implemented by providing copies to the regulated community and media notices to the general public.

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

The proposed amendments will provide a greater degree of protection to both the regulated community and the consumer by clearly specifying duties and requirements.

DETERMINATION OF COSTS AND BENEFITS:

Both the regulated community and the consumer will benefit by having clearly defined and understood standards for treatments.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The amendments do not have any appreciable effect on the environment and public health; these factors are considered in the pesticide labels..

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: The purpose of these regulations is to ensure that property of consumers is protected from the ravages of wood-destroying insects by prescribing proper treatment methods and by providing for enforcement of these methods. Failure to implement these regulations will blind the consumer and remove all guidance for the pest control operators.

Statement of Rationale:

Information concerning the Statement of Rationale may be obtained from Mr. Cam Lay, Department of Pesticide Regulation, 511 Westinghouse Road, Pendleton, SC 29670.

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. 2939
STATE CROP PEST COMMISSION
CLEMSON UNIVERSITY
CHAPTER 27
Statutory Authority: 1976 Code Section 46-9-40

27-135. Designation of Plant Pests

Preamble;

The State Crop Pest Commission proposes to amend Regulation 27-135 (2) by adding certain plant pests. The proposed actions will better align the Commission's list of plant pests with the federal list of noxious weeds, will clarify the names by which certain plant pests are known, will add certain plant pests to the list and incorporate certain pests which are listed in the Select Agents Lists of the U. S. Department of Agriculture.

The Notice of Drafting was published in the State Register on August 27, 2004. No comments were received.

18 PROPOSED REGULATIONS

Section-by-Section Discussion

(1) Add plant pests.

27-135 (b). The addition of these plant pests will better align the Commission's list of plant pests with designated federal noxious weeds, will add certain plant pests which could be harmful to agriculture, and incorporate certain pests which are listed in the Select Agents Lists of the U. S. Department of Agriculture.

Notice of Public Hearing and for Public Comment:

Interested members of the public and the regulated community are invited to make oral or written comments on the proposed changes to the regulation at a public hearing scheduled to be held in Conference Room 1, Center for Applied Technology, 511 Westinghouse Road, Pendleton, SC 29670 on Wednesday, January 12, 2005 at 1:00. PM. Should such hearing not be requested pursuant to Section 1-23-110(a)(3) on or before close of business on Monday, January 3, 2005, such hearing will be canceled without further notice.

Interested parties are also invited to submit written comments to the proposed amendments by writing to Christel Harden, Department of Pesticide Regulation, 511 Westinghouse Road, Pendleton, SC 29670. To be considered comments must be received no later than close of business on January 3, 2005.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: Chapter 27, Article 17, State Crop Pest Commission

Purpose. Regulation 27- 135 is being amended by adding new new plant pests.

Legal Authority. The legal authority for Chapter 27, Article 17, is Section 46-9-40, South Carolina Code of Laws.

Plan for Implementation. The proposed amendments will take effect upon approval by the General Assembly and publication in the State Register. The proposed amendments will be implemented by providing copies to the regulated community and media notices to the general public.

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

The proposed amendments will provide a greater degree of protection to the agricultural community by providing notice of organisms deemed to be injurious to agriculture. Such notice should act to deter the knowing importation of such organisms into South Carolina.

DETERMINATION OF COSTS AND BENEFITS:

Agriculture will benefit if these plant pests are not brought into South Carolina, or remain under effective control in South Carolina. Furthermore the State will benefit by not having to divert critically needed resources to combat an invasion of the plant pests.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed plant pests are organisms which if unchecked would pose a serious threat to agriculture. Combating these plant pests will require the application of various pesticides. While pesticides have generally proved beneficial to public health, any unnecessary applications of pesticides should be avoided.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: Should these amendments not be implemented, there is the possibility that the plant pest may arrive in state sooner rather than later, will not be timely detected, will multiply unnoticed, and that eradication activities will be hampered.

Statement of Rationale:

A detailed rationale may be obtained upon request by Christel Harden, Department of Pesticide Regulation, 511 Westinghouse Road, Pendleton, SC 29670.

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. 2943

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

R.61-62, Air Pollution Control Regulations and Standards

Preamble:

On December 31, 2002 (67 FR 80185), the United States Environmental Protection Agency (EPA) finalized revisions governing the New Source Review (NSR) program mandated by parts C and D of title I of the Clean Air Act (CAA). The major NSR program contained in parts C and D of title I of the CAA is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under the CAA. In areas not meeting health-based National Ambient Air Quality Standards (NAAQS), the program is implemented under the requirements of part D of title I of the CAA. This is referred to as the nonattainment NSR program. In areas meeting the NAAQS (attainment areas), the NSR requirements under part C of title I apply. This is referred to as the Prevention of Significant Deterioration (PSD) program. Collectively, these programs are commonly referred to as the major NSR program.

In accordance with EPA's final rule revisions, the Department must adopt and submit revisions to the State Implementation Plan (SIP) to include the minimum program elements outlined in the final rules. The Department may choose to adopt provisions that differ from the final rules, however, to be approvable under the SIP, the Department must show that the regulation is at least as stringent as EPA's amendments. In accordance with these rules, the Department is required to adopt and submit revisions to the SIP no later than January 2, 2006.

20 PROPOSED REGULATIONS

The Department is proposing to amend R.61-62 to revise R.61-62.1, *Definitions and General Requirements*, R.61-62.5, Standard 7, *Prevention of Significant Deterioration*, and will add new R.61-62.5, Standard 7.1, *Nonattainment New Source Review*.

A Notice of Drafting was published in the *State Register* on January 23, 2004. A second notice extending the drafting comment period was published on June 25, 2004.

Discussion of Proposed Regulations

SECTION CITATION:	EXPLANATION OF CHANGE
--------------------------	------------------------------

R.61-62.1, DEFINITIONS AND GENERAL REQUIREMENTS

Section II- Permit Requirements	Paragraph H(1)(a) has been amended to allow for synthetic minor permits in attainment and nonattainment areas.
---------------------------------	--

SECTION CITATION:	EXPLANATION OF CHANGE
--------------------------	------------------------------

R.61-62.5, STANDARD 7, PREVENTION OF SIGNIFICANT DETERIORATION

(a)(2)	Section (a) has been revised to (a)(1) and (2). New section (a)(2) has been added to specify new applicability tests for review of modified sources.
(b)	Fifteen new definitions have been added, and all definitions have been put in alphabetical order. Section (b) introduction revised to refer to the regulation instead of section.
(b)(1)(i), (b)(ii) and (b)(iv)	Revised to add language to the definition of actual emissions detailing that actual emissions refer to regulated NSR pollutants and that this paragraph does not apply to Plantwide Applicability Limitations. Clarified that actual emissions are based on a consecutive 24-month period. Removed reference to electric utility steam generating unit.
(b)(3)	Made modification to section.
(b)(4)	A new definition has been added for "Baseline actual emissions."
(b)(4)(i)(a)	The word "malfunction" was deleted from the Federal rule in this paragraph. This change makes this paragraph more stringent than the Federal rule. This change is justified because the Department has never permitted malfunction emissions, and since malfunction emissions were to be calculated in both the baseline actual emissions and the projected future actual emissions, the Department concluded that there was no advantage to including malfunction emissions in either calculation.
(b)(5) – (b)(6)	Made modifications to section.
(b)(6)(i)	Added the words "minor source."
(b)(8)	Made modification to section.
(b)(12)	A new definition has been added for "Clean Unit."
(b)(15)	Made modification to section.
(b)(16)	A new definition has been added for "Continuous emissions monitoring system."

- (b)(17) A new definition has been added for “Continuous emissions rate monitoring system.”
- (b)(18) A new definition has been added for “Continuous parameter monitoring system.”
- (b)(20) Added language to designate two types of emissions units: new and existing.
- (b)(22) Made modification to section.
- (b)(29) A new definition has been added for “Lowest achievable emission rate.”
- (b)(30) Added language to specify that a major modification occurs when there is a significant emissions increase and a significant net emissions increase.
- (b)(30)(ii) Added language stating that a source that is a major modification for volatile organic compounds is significant for ozone.
- (b)(30)(iii)(c) Deleted the word Federal.
- (b)(30)(iii)(h) Added language specifying that pollution control projects are available at all emission units.
- (b)(30)(iv) Added language to specify that the definition of major modification under paragraph (b)(30) does not apply to stationary sources complying with a Plantwide Applicability Limitation.
- (b)(32) Made modifications to this section. Added language to clarify that sources that are major for oxides of nitrogen are major for ozone.
- (b)(34) Made modifications to this section. Added language to specify that calculations of the baseline actual emissions in determining the net emissions increase will not include projects that include multiple emissions units. Added language to state that increases or decreases in emissions are credible if the Department has not used those increases or decreases in permitting another project at the stationary source. Added language to state that increases or decreases in emissions at a Clean Unit are not credible. Added language to clarify that decreases in actual emissions are credible if they are federally enforceable. Added language to specify that reductions at Clean Units cannot be later used in netting analyses at other emission units. Added new subsection for determining creditable increases and decreases.
- (b)(35) Added language to include pollution control projects that are presumed to be environmentally beneficial. Also, language added to make these types of projects available to all emission units.
- (b)(36) A new definition has been added for “Pollution prevention.”
- (b)(38) A new definition has been added for “Predictive emissions monitoring system.”
- (b)(39) A new definition has been added for “Prevention of Significant Deterioration Program.”
- (b)(40) A new definition has been added for “Project.”
- (b)(41) A new definition has been added for “Projected actual emissions.”
- (b)(41)(ii)(b) The word “malfunction” was deleted from the Federal rule in this paragraph. This change makes this paragraph more stringent than the Federal rule. This change is justified because the Department has never permitted malfunction emissions, and

22 PROPOSED REGULATIONS

since malfunction emissions were to be calculated in both the baseline actual emissions and the projected future actual emissions, the Department concluded that there was no advantage to including malfunction emissions in either calculation.

- (b)(43) A new definition has been added for “Reasonably available control technology.”
- (b)(44) A new definition has been added for “Regulated NSR pollutant.”
- (b)(45) A new definition has been added for “Replacement unit.”
- (b)(47) Definition of representative actual annual emissions is deleted and section is reserved.
- (b)(49) Deleted pollutant emission rates for asbestos, beryllium, mercury, and vinyl chloride. Added oxides of nitrogen to the significance level of ozone. Made modifications to this section.
- (b)(50) A new definition has been added for “Significant emissions increase.”
- (b)(51) Made modifications to this section.
- (b)(53) The reference to the definition of volatile organic compound has been change to refer to Regulation 61-62.1, *Definitions and General Requirements*.
- (g)(2) – (g)(5) Made modifications to these sections.
- (h)(2) Made a modification to this section.
- (i) Has been replaced in its entirety to comply with Federal regulations.
- (j)(1) – (j)(3) Made modifications to these sections.
- (l) Made modifications to this section.
- (m)(1)(iv) Made a modification to this section.
- (m)(3) Made modifications to this section.
- (p)(1) Made a modification to this section.
- (p)(3) – (p)(8) Made modifications to this section.
- (q)(1) – (q)(2) Made modifications to these sections.
- (r) A statement at the beginning of this paragraph has been added to clarify that an owner/operator of a stationary source shall comply with all parts of this regulation.
- (r)(5) New subsection has been added and reserved.
- (r)(6) Language added setting out monitoring, recordkeeping, and reporting requirements.
- (r)(6)(i) and (r)(7) Language added to clarify that sources must submit or retain information per Department’s minor source permitting regulation. This change makes this

paragraph more stringent than the Federal rule. This change is justified because the Department's minor source permitting program is an applicable condition that sources must meet in order to construct in this state.

- (t) Made a modification to this section.
- (v)(2)(ii) – (v)(2)(iii) Made modifications to this section.
- (w)(1) – (w)(2) Made modifications to this section.
- (x) A new paragraph has been added for Clean Units at emission units subject to Best Available Control Technology or Lowest Achievable Control Rate.
- (x)(3)(iii) Language was added to clarify that a facility shall request a modification to their Title V permit from the Department prior to using the Clean Unit Test. This change makes this paragraph more stringent than the Federal rule. This language is justified because according to Federal regulations, a facility must have those emission units that have been designated as Clean Units identified in their Title V operating permit. The language in this paragraph will make the Department aware of such designation and allow the Department to efficiently incorporate the designation into the Title V permit.
- (y) A new paragraph has been added for Clean Units that achieve an emission limitation comparable to Best Available Control Technology (BACT).
- (z) A new paragraph has been added for pollution control project exclusion procedural requirements.
- (z)(1) Language added to clarify that a source shall comply with the Department's minor source permitting program before beginning actual construction of the pollution control project. This change makes this paragraph more stringent than the Federal rule. This change is justified because the Department's minor source permitting program is an applicable condition that sources must meet in order to construct in this state.
- (z)(2) Language added to clarify that projects that are presumed to be environmentally beneficial shall comply with the Department's minor source permitting program. This change makes this paragraph more stringent than the Federal rule. This change is justified because the Department's minor source permitting program is an applicable condition that sources must meet in order to construct in this state.
- (z)(3) Language added to clarify that projects that are not presumed to be environmentally beneficial shall comply with the Department's minor source permitting program and public participation requirements under paragraph (q) of this regulation. This change makes this paragraph more stringent than the Federal rule. This change is justified because the Department's minor source permitting program is an applicable condition that sources must meet in order to construct in this state. The Department also believes that projects that are not presumed to be environmentally beneficial should have the opportunity for public comment. The Federal regulations do not provide for this opportunity.
- (aa) A new paragraph has been added for Actuals Plantwide Applicability Limitation (PAL).
- (aa)(1)(ii)(b) Language added clarifying that Plantwide Applicability Limitation applications will be reviewed under the Department's minor source permitting program. This change makes this paragraph more stringent than the Federal rule. This change is

24 PROPOSED REGULATIONS

justified because the Department's minor source permitting program is an applicable condition that sources must meet in order to construct in this state.

(aa)(6)(ii)

Language added specifying that when establishing the 10 year actual Plantwide Applicability Limitation level, the use of an emissions unit's potential to emit shall be restricted to only those unit's that were constructed less than 24-months prior to the date of the Plantwide Applicability Limitation application. This change makes this paragraph more stringent than the Federal rule. This change is justified because facilities that have experienced continuous construction in the last ten years could receive large Plantwide Applicability Limitation limits based on the emissions unit's allowable emissions. The Department believes that if a unit has actual emissions data, then that data should be used since it is more representative of actual operating conditions.

(bb)

A severability clause has been added to this regulation.

R.61-62.5, STANDARD 7.1, NONATTAINMENT NEW SOURCE REVIEW

A new regulation has been added.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested persons of the public to attend a staff-conducted informational forum to be held on December 28, 2004, at 10:00 am in Room 2280 at the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. 29201.

Interested persons are also provided an opportunity to submit written comments to Thomas J. Flynn, III, Division of Air Planning, Development and Outreach, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 pm on December 28, 2004. Comments received by the deadline will be submitted to the Board in a Summary of Public Comments and Department Responses.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Thomas J. Flynn, III, Division of Air Planning, Development and Outreach, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201.

Notice of Board Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-111:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on January 13, 2005, to be held in Room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Thomas J. Flynn, III, Division of Air Planning, Development and Outreach, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 pm on December 28, 2004. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Thomas J. Flynn, III, Division of Air Planning, Development and Outreach, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201.

Preliminary Fiscal Impact Statement:

The proposed regulations will not result in any increased costs to the State or its political subdivisions. Existing staff and resources will be utilized to implement these amendments.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

Purpose: On December 31, 2002 (67 FR 80185), the United States Environmental Protection Agency (EPA) finalized revisions governing the New Source Review (NSR) program mandated by parts C and D of title I of the Clean Air Act (CAA). The major NSR program contained in parts C and D of title I of the CAA is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under the CAA. In areas not meeting health-based National Ambient Air Quality Standards (NAAQS), the program is implemented under the requirements of part D of title I of the CAA. This is referred to as the nonattainment NSR program. In areas meeting the NAAQS (attainment areas), the NSR requirements under part C of title I apply. This is referred to as the Prevention of Significant Deterioration (PSD) program. Collectively, these programs are commonly referred to as the major NSR program.

In accordance with EPA's final rule revisions, state agency programs must adopt and submit revisions to their State Implementation Plans (SIPs) to include the minimum program elements outlined in the final rules. States may choose to adopt provisions that differ from the final rules, however, to be approvable under the SIP, the state must show that the regulation is at least as stringent as EPA's amendments. In accordance with these rules, states are required to adopt and submit revisions to their SIPs no later than January 2, 2006.

Legal Authority: The legal authority for regulation 61-62 is Sections 48-1-10 et seq., S.C. Code of Laws.

Plan for Implementation: The proposed amendments will take effect upon approval by the Board of Health and Environmental Control, the General Assembly and publication in the *State Register*. The proposed amendments will be implemented by providing the regulated community with copies of the regulation.

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

The proposed regulation is needed and is reasonable because it fulfills the Department's obligation to submit revisions to the State Implementation Plan (SIP) incorporating the finalized rules published by EPA on December 31, 2002. While the bulk of EPA's finalized rules were incorporated, the Department is exercising its discretion by proposing revisions to tailor the final rules to South Carolina's distinctive conditions.

DETERMINATION OF COSTS AND BENEFITS:

The bulk of these revisions are being made to comply with a Federal mandate. EPA estimates that overall these revisions will provide more operational flexibility and reduce the overall burden on the state permitting program and the regulated community by reducing the number of permit modifications that will be required. The Department is proposing some revisions that go beyond the scope of the Federal rule, however, most of these revisions are minor. For instance, provisions have been added to the regulation to clarify that, even though major NSR permits may not be required, the minor source permitting requirements of R.61-62.1, will still apply. Finally, amendments have been added to the Federal rule concerning the calculations for baseline actual emissions, projected actual emissions, and plant-wide applicability limits. The Department believes that these changes are reasonable and will result in more accurate calculations. Furthermore, the Department does not believe that these changes will result in any increased costs to the regulated community. See Preliminary Fiscal Impact Statement above for costs to the State and political subdivisions.

26 PROPOSED REGULATIONS

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions. Refer to the above paragraph for cost estimates for the regulated community.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

In promulgating these revisions, EPA has stated that they are necessary because the current permitting process is overly burdensome and results in disincentives to installing pollution control equipment needed to protect the environment.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:

As stated above, EPA believes that the current permitting process results in disincentives to modernize pollution control equipment. They believe that the environment and public health will benefit from a less burdensome permitting process and these benefits will not be realized if these revisions are not implemented.

STATEMENT OF RATIONALE:

The bulk of these revisions are being promulgated in order to comply with a Federal mandate requiring States to revise their major source permitting programs. The Department is proposing some additional language that goes beyond the scope of the Federal rule. However, most of the additional language the Department is proposing is fairly minor and the Department does not believe that these changes will result in any increased costs to the regulated community.

Text of Proposed Regulations for Public Notice and Comment:

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. 2944

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Section 44-93-10 *et seq.*;
44-93-100 (Act 351, July 20, 2002)

R.61-105. Infectious Waste Management Regulations

Preamble:

The South Carolina General Assembly amended the Infectious Waste Management Act by Act 351, effective July 20, 2002. This amendment of Section 44-93-100 requires that used sharps, such as, needles and syringes, from generators producing less than 50 pounds of infectious waste per month be treated prior to landfill disposition. Therefore, the Department is proposing to revise R.61-105 to conform to these changes.

Also, the Department is clarifying Section G (Small Quantity Generators) of R. 61-105 by more clearly stating that if small quantity generators produce 50 pounds of infectious waste or more in any one calendar month, they must manage the waste according to R. 61-105. Generator status may be re-evaluated after the generator produces documentation showing 12 consecutive calendar months of waste production less than 50 pounds every month. Additionally, stylistic changes are proposed to include corrections for clarification, references, and spelling to improve the overall text of the regulation.

A Notice of Drafting for this proposed amendment was published in the State Register on March 26, 2004. See Discussion of Proposed Revisions and Statements of Need and Reasonableness and Rationale herein.

Discussion of Proposed Revisions:

<u>SECTION</u>	<u>CHANGE</u>
61-105.F(6)(h)	Revised by moving a portion of the language to F(6)(i) and adding "transport offsite for treatment at a permitted treatment facility" for clarification.
61-105.F(6)(i)	Revised by moving existing language to F(6)(j) and by moving "offer infectious waste for offsite transport only to a transporter who maintains a current registration with the Department; and" from F(6)(h) to F(6)(i).
61-105.F(6)(j)	Moved existing language from F(6)(i) to F(6)(j).
61-105.G(1)(a)	Deleted reference to 6(h) and added 6(i) to end of sentence.
61-105.G(1)(b)(i)-(iii)	Revised these subitems to comply with Act 351 regarding use of sharps. This revision changes subsection items G(1)(b)(i)-(iii) to G(1)(b)(i)-(ii). "Sharps, microbiological cultures, products of conception, and human blood and blood products must be managed pursuant to this regulation."
61-105.G(3)	Corrected the reference "EE" by replacing with "DD" .
New 61-105.G(4)	Added to clarify requirement that "If in any calendar month 50 pounds or more of infectious waste is produced, the generator must notify the Department in writing; manage the infectious waste pursuant to the entire regulation; and pay the annual fee as outlined in Section DD of this regulation. A generator will be able to claim designation as a small quantity generator after submitting documentation demonstrating 12 calendar months of waste production less than 50 pounds."
Existing 61-105.U(14)(g)	Revised to assure that treatment residues are disposed of in accordance with applicable State and Federal requirements.
Existing 61-105.W(5)	Revised by deleting "and pay a fee as specified in the fees section".

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite members of the public and regulated community to attend a staff-conducted informational forum on December 30, 2004, at 10:00 a.m. in room 1710, of the Stern Business Center located at 8911 Farrow Road, Columbia, South Carolina. The purpose of the forum is to answer questions, clarify issues and receive comments from interested persons on the proposed amendment of R.61-105. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for public hearing scheduled January 13, 2005, as noticed below.

Interested persons are provided an opportunity to submit written comments to the forum on the proposed amendments for public notice and comment by writing to Phillip Morris, Manager, Infectious Waste Management Section, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; Fax (803) 896-4002. Written comments must be received no later than 10:00 a.m. on December

28 PROPOSED REGULATIONS

30, 2004. Comments received by the deadline shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the hearing, as noticed below.

Copies of the Text of the Proposed Amendment for Public Notice and Comment may be obtained by contacting Phillip Morris, Manager, Infectious Waste Section, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201: Telephone number (803) 896-4173; Fax (803) 896-4002.

Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-110 and 1-23-111:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment of R.61-105 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on January 13, 2005. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items in the order presented on its agenda. The agenda is published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentation for the record.

Interested persons are provided an opportunity to submit written comments on the proposed amendment of R.61-105 by writing to Phillip Morris, Manager, Infectious Waste Management Section, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; Fax (803) 896-4002. Written comments must be received no later than 10:00 a.m. on December 30, 2004. Comments received by the deadline shall be considered by staff in formulating the final proposed regulation for public hearing on January 13, 2005, as noted above. Comments received shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing noticed above.

Copies of the Final Proposed Regulation for Public Hearing before the DHEC Board may be obtained by contacting Phillip Morris, Manager, Infectious Waste Section, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201: Telephone number (803) 896-4173; Fax (803) 896-4002.

Preliminary Fiscal Impact Statement:

There will be minimal cost to the state and its political subdivisions.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: R.61-105, Infectious Waste Management

Purpose of Regulation: The purpose of this revision is to amend R.61-105 to comply with the provisions of Act 351, effective July 20, 2002, that amended the Infectious Waste Management Act. This amendment of Section 44-93-100 requires that used sharps, such as needles and syringes, from generators producing less than 50 pounds of infectious waste per month be treated prior to landfill disposition. Additionally, this amendment will clarify Section G (Small Quantity Generators) of R. 61-105 by more clearly stating that if small quantity generators produce 50 pounds of infectious waste or more in any one calendar month, they must manage the waste according to R. 61-105. Generator status may be re-evaluated after the generator produces documentation showing 12 consecutive calendar months of waste production less than 50 pounds every month. This amendment will also include corrections for clarification, references, and spelling to improve the overall text of the regulation.

Legal Authority: The Infectious Waste Management Regulations are authorized by the Infectious Waste Management Act of S.C. Code Section 44-93-10 *et seq.*, 1976, as amended; Section 44-93-100 (Act 351, July 20, 2002)

Plan for Implementation: The proposed amendments will make changes to and be incorporated into R.61-105 upon approval of the Board of Health and Environmental Control, the General Assembly and publication in the *State Register*. The proposed amendments will be implemented in the same manner in which the existing regulations are implemented.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: Since Regulation 61-105 was last amended, the South Carolina General Assembly amended the Infectious Waste Management Act. To bring the regulation up-to-date to comply with the statutory amendment, the Department is proposing to amend Section G, under Small Quantity Generators, to require small quantity generators to treat sharps before disposal prior to landfill disposition. Also, it is necessary that the Department amend Section G by more clearly stating that if small quantity generators produce 50 pounds of infectious waste or more in any one calendar month, they must manage the waste according to R.61-105. Generator status may be re-evaluated after the generator produces documentation showing 12 consecutive calendar months of waste production less than 50 pounds every month. Additionally, stylistic changes to include corrections for clarification, references, and spelling will be made to improve the overall text of the regulation.

DETERMINATION OF COST AND BENEFITS: There will be minimal cost to the state and its political subdivisions to implement these changes. There will be costs to the regulated community. Some small quantity generators will incur costs to properly dispose of sharps. Proper treatment of sharps before disposal is inexpensive.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no adverse effect on the environment. The amendments will promote public health by improving the management of infectious waste within the health care community.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: The State's Infectious Waste Management Regulations are believed to be beneficial to public health and the environment. There would be an adverse effect on the Department's ability to carry out its statutory mandate to ensure the proper management of infectious waste in a manner that is protective of public health and the environment.

Statement of Rationale: Effective July 20, 2002, Act 351 amended S. C. Code Section 44-93-100. This Act requires small quantity generators, those producing less than 50 pounds of infectious waste per month, to properly treat sharps prior to landfill disposition. The Department supported this legislation because proper disposal of contaminated sharps preserves public health by protecting solid waste workers and the public from injury and disease transmission. The proposed regulatory changes are necessary to comply with the change in the law. Also, the Department is clarifying the Small Quantity Generator section. The revisions are not significant changes and can be described as administrative refinement of existing policy. No new scientific studies or information precipitated the development of the proposed revisions. The experience and professional judgment of the Department's staff were relied upon in developing the regulation. The revisions address questions from the regulated community regarding generator status.

30 PROPOSED REGULATIONS

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. 2945

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Ann. Section 44-34-10, *et seq.* (1976, as amended)

R.61- , Standards for Licensing Tattoo Facilities

Preamble:

Act 250, effective June 17, 2004, codified at S.C. Code Ann. Section 44-34-10 *et seq.*, (1976 as amended), established requirements and procedures for tattooing in South Carolina, including provisions for the issuance of the promulgation of regulations by the Department of Health and Environmental Control.

To comply with the Act, the Department is proposing a new regulation entitled *Standards for Licensing Tattoo Facilities*. The proposed regulation provides for establishing of criteria, procedures and standards for: licensing requirements, reporting requirements, sterilization requirements, enforcement action procedures, inservice training, facility policy/procedures, tattoo artist requirements, client record content and maintenance, infection control, facility maintenance, emergency and fire protection procedures, mobile units, temporary tattoo locations, and a severability clause.

A Notice of Drafting for this new proposed regulation was published in the *State Register* on July 23, 2004. Legislative review will be required.

Discussion of Proposed New Regulation:

The Title is: *Standards For Licensing Tattoo Facilities*:

Section 100 of the new proposed regulation addresses definitions and references used in this regulation.

Section 200 addresses application and licensing requirements, fees, and exceptions to the standards.

Section 300 addresses investigations, inspections, consultations, and other requirements in order to enforce the regulation.

Section 400 addresses enforcement actions including denial, revocation, suspension or refusal of a license, violation classifications, and provisions for appeal of an enforcement action.

Section 500 addresses the requirements for facility policies and procedures.

Section 600 addresses staff training and health status.

Section 700 addresses facility reporting requirements.

Section 800 addresses client records, content, and record maintenance.

Section 900 addresses the requirements for client procedures and services provided.

Section 1000 addresses client rights, informed consent, and the grievance/complaint procedure.

Section 1100 addresses facility maintenance.

Section 1200 addresses infection control sterilization of tattoo equipment and the practices that promote the prevention of the spread of infectious diseases.

Section 1300 addresses emergency procedures and medical emergencies.

Section 1400 addresses fire prevention, evacuation, fire response training and arrangements for fire department response.

Section 1500 addresses the design and construction requirements of the facility.

Section 1600 addresses the required accommodations of the tattoo facility.

Section 1700 addresses fire protection equipment and firefighting systems.

Section 1800 addresses temporary tattoo locations and mobile tattoo units.

Section 1900 addresses a severability clause that indicates that if a court of competent jurisdiction determines that part of the regulation is invalid or otherwise unenforceable then the remainder of the regulation will not be affected and will still be in force.

Section 2000 addresses conditions that have not been referenced in the regulation.

Notice of Staff Informational Forum:

The staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a staff-conducted informational forum to be held on December 30, 2004, at 1:30 p.m. in the second floor conference room in the Heritage Building at 1777 St. Julian Place, Columbia, S.C. The purpose of this forum is to receive comments by interested persons on the proposed regulation. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for Board public hearing scheduled pursuant to S.C. Code Ann. Sections 1-23-110 and -111 (1976, as amended) as noticed below.

Interested persons are also provided an opportunity to submit written comments to the staff forum by writing to Dennis L. Gibbs, Director, Division of Health Licensing, DHEC, 2600 Bull Street, Columbia, S.C. 29201. Written comments must be received no later than 4:00 p.m. on December 30, 2004. Comments received at the forum and by mail by the deadline shall be considered by the staff in formulating the final draft proposed regulation for submission to the Board for public hearing on March 10, 2005, as noticed below. Comments received from the forum and comment period shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the proposed regulation for public notice and comment are available by contacting Mr. Dennis L. Gibbs at the Division of Health Licensing, S.C. DHEC, 2600 Bull Street, Columbia, S.C. 29201 or in person at 1777 St. Julian Place Columbia, S.C.

32 PROPOSED REGULATIONS

Notice of Board Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code 1-23-110 and 1-23-111:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on March 10, 2005, to be held in the Board Room of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The Board's agenda will be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons may also submit written comments on the proposed regulation by writing to Mr. Dennis L. Gibbs, Director, Division of Health Licensing, DHEC, 2600 Bull St., Columbia, S.C. 29201. Telephone number (803) 545-4370; Fax number (803) 545-4212. To be considered, written comments must be received before 4:00 p.m. on December 30, 2004. Comments received by the deadline shall be considered by the staff in formulating the final proposed regulation for submission to the Board for public hearing on March 10, 2005, as noticed above. Comments received by the deadline shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Interested persons may obtain a copy of the final proposed regulation for public hearing by contacting Dennis L. Gibbs at the above address.

Preliminary Fiscal Impact Statement:

The Department estimates that the State and its political subdivisions will incur a fiscal impact of \$79,718 (1 Inspector, and 0.5 Administrative Specialists to provide clerical support for the issuance of licenses) plus \$4,500 (one-time office set-up cost for the two employees) in non-recurring funds by the promulgation of these regulations. Cost of implementation will be met, in part, by licensing fees imposed by the new proposed regulation. There will be costs to the regulated community. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and S.C. Code, Section 44-30-20.

DESCRIPTION OF REGULATION:

Purpose: This new proposed regulation will establish standards for the licensing and inspection of tattoo facilities in South Carolina.

Authority: The legal authority for this proposed new regulation is S. C. Code Ann. Section 44-34-10 *et seq.*, (1976, as amended); (Act 250, June 17, 2004).

Plan for implementing: The proposed regulation will take effect upon publication in the *State Register* following approval by the Board and the S.C. General Assembly. The proposed regulation will be implemented by providing the regulated community with copies of the regulation, and enforced through inspections by the Department.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: This regulation is needed because its development will satisfy a legislative mandate pursuant to Act 250, effective June 17, 2004, S.C. Code Ann. Section 44-34-10 *et seq.*, of the S.C. Code of Laws.

The regulation is reasonable because it will promote public health by providing standards for tattoo facilities thereby reducing the likelihood of adverse outcomes as a result of unsafe procedural conditions; can be implemented using staff authorized by the Act; provides procedures, standards and criteria to license tattoo establishments; informs interested persons on the procedures for applying for a tattoo facility license; requires only the basics that are needed to ensure protection of health for the citizens of South Carolina.

The regulation will benefit everyone as a result of reducing the likelihood of adverse outcomes as a result of unsafe tattoo equipment and tattoo procedures.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: The Department estimates that the State and its political subdivisions will incur a fiscal impact of \$79,718 (1 Inspector, and 0.5 Administrative Specialists to provide clerical support for the issuance of licenses) plus \$4,500 (one-time office set-up cost for the two employees) in non-recurring funds by the promulgation of these regulations. Cost of implementation will be met, in part, by licensing fees imposed by the proposed regulation.

External Costs: There will be costs to the regulated community through a fee for licensing a tattoo facility. The licensing fee will be \$400.00 for a tattoo facility that has no more than eight tattoo work stations and an additional \$50.00 fee for each tattoo work station over eight. There is no maximum licensing fee. A certification fee of \$50.00 will also be charged to an applicant that covers the costs associated with determining if a proposed tattoo facility conforms to S.C. Code, Section 44-34-100. The licensing and certification fees will be charged in order to recover increased licensing, inspection/investigation operational costs.

UNCERTAINTIES OF ESTIMATES:

None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The proposed regulation will promote public health by providing standards for tattoo facilities thereby reducing the likelihood of adverse outcomes as a result of unsafe procedural conditions.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be an adverse effect on the public health if the new proposed regulation is not implemented since the implementation of uniform, comprehensive standards based on effective established sanitary and infection control procedures and practices would not be realized, thus denying the public these protections thereby increasing the potential that the public may be harmed. In addition, if not implemented the Department would not be expeditiously meeting the legislative mandate to promulgate regulations as required by Act 250, effective June 17, 2004.

Statement of Rationale:

See the Statement of Determination of Need and Reasonableness above for more information regarding the factors influencing the Department to promulgate the regulation.

34 PROPOSED REGULATIONS

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. 2940
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. § 59-5-60 (2004) and 20 U.S.C § 6301 *et seq.* (2002)

43-205. Administrative and Professional Personnel Qualifications, Duties, and Workloads

Preamble:

The State Department of Education recommends that the State Board of Education propose amendments to R 43-205, Administrative and Professional Personnel Qualifications, Duties, and Workloads to add further qualifications for teachers as required by the federal No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002) and to align with regulations and guidelines, as well as to reflect current terminology.

The Notice of Drafting was published in the *State Register* on June 25, 2004.

Section-by-Section Discussion

- | | |
|----------------|--|
| Section I | Format and wording changes are made to reflect current terminology and preferred usage. |
| Section II.A. | New language is inserted to add the qualifications for teachers required by the federal No Child Left Behind Act. Format and wording changes are made to reflect current terminology and preferred usage. |
| Section II.B. | Format and wording changes are made to align with current regulations and guidelines, as well as to reflect current terminology and preferred usage. |
| Section III.A. | New language is inserted to add the qualifications for teachers required by the federal No Child Left Behind Act. Format and wording changes are made to align with current regulations and guidelines, as well as to reflect current terminology and preferred usage. |
| Section III.B. | Format and wording changes are made to align with current regulations and guidelines, as well as to reflect current terminology and preferred usage. |
| Section III.C. | Format and wording changes are made to align with current regulations and guidelines, as well as to reflect current terminology and preferred usage. |
| Section IV.A. | New language is inserted to add the qualifications for teachers required by the federal No Child Left Behind Act. Format and wording changes are made to align with current regulations and guidelines, as well as to reflect current terminology and preferred usage. |
| Section IV.B. | Format and wording changes are made to align with current regulations and guidelines, as well as to reflect current terminology and preferred usage. |
| Section IV.C. | Format and wording changes are made to align with current regulations and guidelines, as well as to reflect current terminology and preferred usage. |

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on January 11, 2005, at 10:00 A.M., at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and, as a courtesy, are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Janice Poda, Senior Director, Division of Teacher Quality, Landmark II Office Building Suite 500, 3700 Forest Drive, Columbia, South Carolina 29204 or e-mail jpoda@scteachers.org. Comments must be received no later than 5:00 P.M. on December 28, 2004. Comments received by the deadline will be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement: None**Statement of Need and Reasonableness:**

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Ann. § 1-23-115 (Supp. 2003).

DESCRIPTION OF REGULATION: R 43-205, Administrative and Professional Personnel Qualifications, Duties, and Workloads

Purpose: Regulation 43-205, Administrative and Professional Personnel Qualifications, Duties, and Workloads, is being amended to further align South Carolina's regulation on professional staff qualifications with the new federal No Child Left Behind Act of 2001.

Legal Authority: The legal authorities for Regulation 43-205 are S.C. Code Ann. § 59-5-60 (2004) and 20 U.S.C. § 6301 *et seq.* (2002).

Plan for Implementation: The proposed amendments will be posted on the State Department of Education Web site for review and comment. The amendments will take effect upon approval by the General Assembly and upon publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed amendments will further align South Carolina's regulation on professional staff qualifications with the new federal No Child Left Behind Act of 2001.

DETERMINATION OF COSTS AND BENEFITS: None

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed amendments to the South Carolina regulation on paraprofessional qualifications, if implemented, will have no effect on the environment or public health.

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

36 PROPOSED REGULATIONS

Statement of Rationale: The proposed amendments further align South Carolina's regulation on professional staff qualifications with the new federal No Child Left Behind Act of 2001. A copy of the Statement of Rationale is available in the Division of Teacher Quality, Landmark II Office Building, Suite 500, 3700 Forest Drive, Columbia, South Carolina 29204.

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. 2941
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. § 59-26-10, *et seq* (2004)

43-205.1. Assisting, Developing, and Evaluating Professional Teaching (ADEPT)

Preamble:

The State Department of Education (SDE) recommends that the State Board of Education propose amendments to Regulation 43-205.1, Assisting, Developing, and Evaluating Professional Teaching (ADEPT), to align the regulation with the recent amendments to the ADEPT statute (S.C. Code Ann. §§ 59-26-30 and 59-26-40, to be codified at Supp. 2004) and with current research and best practices.

The Notice of Drafting was published in the *State Register* June 25, 2004.

Section-by-Section Discussion

- Section I. The term "performance standards" replaces the previous term "performance dimensions." Descriptions of the performance standards have been removed from the regulation and are now simply referenced there instead. The actual standards are to be placed in the State Board of Education's ADEPT implementation guidelines.
- Section II. Pursuant to the ADEPT statutory amendments (July 2004), the term "teacher candidates" replaces the previous term "student teachers."
- Section II.A. Language is amended to reflect current terminology.
- Sections II.B.1.–7. The original subsections have been deleted. The ADEPT procedural requirements relative to teacher candidates have been removed from the regulation and are now simply referenced there instead. The specific procedural requirements for teacher candidates are to be placed in the State Board of Education's ADEPT implementation guidelines.
- Section II.B. This section, as amended, contains requirements for teacher education program ADEPT plans.
- Section II.C. This newly added section requires teacher education programs to submit annual assurances to the SDE that they are complying with the State Board of Education's ADEPT implementation guidelines.

- Section II.D. This newly added section describes reporting requirements and related ADEPT funding.
- Section II.E. This newly added section transfers language from (former) Section II.B.7. regarding the provision of SDE assistance to teacher education programs.
- Section III.A. The “152-day” requirement has been removed from this section and placed in a later section of the regulation (Section IX.) that deals with “Teachers Employed Under a Letter of Agreement.”
- Sections III.B.1.–9. The original subsections have been deleted. The ADEPT procedural requirements relative to induction-contract teachers have been removed from the regulation and are now simply referenced there instead. The specific procedural requirements for induction are to be placed in the State Board of Education’s guidelines for assisting induction-contract teachers.
- Section III.B. This section, as amended, contains language regarding requirements for school district induction plans.
- Section III.C. The provisions of the original section have been moved to (amended) Section III.D. Section III.C., as amended, describes employment and eligibility provisions for induction contract teachers (formerly contained in Section III.E).
- Sections III.D.–F. The original sections have been deleted. The requirements for teacher induction have been removed from the regulation and are to be placed in the State Board of Education’s ADEPT implementation guidelines.
- Section III.D. This section, as amended, describes school district reporting requirements for ADEPT funding (formerly contained in Section III.C.). The November 1 deadline has been removed; the reporting date will be determined annually by the SDE.
- Section III.E. This section, as amended, transfers language from (former) Section III.H. regarding district plans for induction teachers. The amended language requires school districts to submit annual assurances to the SDE that they are complying with the State Board of Education guidelines for assisting induction-contract teachers. A copy of the district’s proposed induction timeline must accompany the assurances.
- Section III.F. This section, as amended, clarifies end-of-year induction teacher reporting requirements for school districts.
- Section III.G. This section, as amended, provides SDE assistance to school districts. Requirements for district induction plans have been moved to (amended) Section III.E.
- Section IV. Pursuant to the ADEPT statutory amendments (July 2004), the section on provisional-contract teachers (Section IV.) has been deleted from the regulation. Section IV., as amended, contains requirements for annual-contract teachers (formerly Section V.).
- Section V. The original Section V. (Annual-Contract Teachers) has become amended Section IV.
- Section IV.A. This section, as amended, removes the procedural rights of annual-contract teachers from the regulation and simply references them instead. The specific procedural rights of annual-contract teachers are contained in the referenced statute.

38 PROPOSED REGULATIONS

- Sections V.B.1.–10. The original subsections have been removed from the regulation and are now simply referenced there instead (amended Section. IV.B.). The specific procedural requirements for formal evaluation are to be placed in the State Board of Education’s ADEPT implementation guidelines.
- Section V.C. The technical specifications for formal evaluation processes have been moved to amended Section IV.D.
- Section IV.C. This section as amended, requires that teachers not be employed under an annual contract for more than four years, pursuant to the ADEPT statutory amendments (July 2004).
- Section IV.D. This section, as amended, adds definitions for the terms “formal performance evaluation” and “diagnostic assistance.” Technical specifications for formal evaluation processes (moved from former Section V.C.) are included in this section.
- Section IV.D.1. This subsection, as amended, describes requirements for advancement to the continuing-contract level.
- Section IV.D.2. This subsection, as amended, adds the provision for teachers who have successfully completed a formal evaluation at the annual-contract level but who have not yet met all requirements for the professional teaching certificate to be evaluated either formally or informally (i.e., goals-based), at the discretion of the school district, during subsequent annual-contract years.
- Section IV.D.3. This subsection, as amended, includes provisions for teachers who fail to meet requirements at the annual contract level. Pursuant to the ADEPT statutory amendments (July 2004), language is added to provide for, and to further describe, a diagnostic-assistance year at the annual-contract level.
- Section IV.D.4. This subsection, as amended, describes state-imposed sanctions for annual-contract teachers who do not meet the formal evaluation criteria for the second time.
- Section IV.E. This section, as amended, contains language regarding requirements for school district ADEPT plans for annual-contract teachers.
- Section IV.F. This section, as amended, requires school districts to establish criteria for successfully completing the annual contract year. These criteria must include, but need not be limited to, the State Board of Education’s formal evaluation requirements and eligibility for the professional teaching certificate.
- Sections IV.G.–I. These sections, as amended, clarify requirements for district reporting and include the provision for SDE technical assistance.
- Section VI. The original Section VI. (Continuing-Contract Teachers) has become amended Section V.
- Section V.A. This section, as amended, clarifies that teachers must meet the requirements for a professional teaching certificate before becoming eligible for employment under a continuing contract, pursuant to the ADEPT statutory amendments (July 2004).
- Section V.B. This section, as amended, clarifies that teachers employed under continuing contracts must be evaluated on a continuous basis. Continuing-contract teachers must receive written notification no later than April 15 (a change from the previous May 15

requirement) if they are being recommended for formal evaluation for the following year. Additional requirements regarding the content of the notification are included.

- Section V.C. This section, as amended, specifies requirements for district ADEPT plans for continuing-contract teachers.
- Sections VI.D.1.–10 Section E., and Sections F.1.–5. These sections have been removed from the regulation and are now simply referenced there instead. The specific procedural requirements for (formally and informally) evaluating continuing-contract teachers are to be placed in the State Board of Education’s ADEPT implementation guidelines.
- Section V.D. This section, as amended, specifies requirements for district ADEPT plans for continuing-contract teachers.
- Section VI.G. This original section, now amended Section V.E., specifies requirements for end-of-year reporting on continuing contract teachers by school districts.
- Section VI.H. This original section, now amended Section V.E., includes the provision for SDE technical assistance. Specifications for ADEPT plans have been moved to amended Section V.D.
- Section VII. The contents of original Section VII. (Teachers Employed from Out of State) have been moved to amended Section VII.
- Section VI. This section, as amended, clarifies provisions for an “incomplete” ADEPT evaluation.
- Section VII. Language is added to address ADEPT requirements for teachers entering the public schools from nonpublic-school settings.
- Section VIII. Language is updated to reflect current terminology. For clarification purposes, requirements for career and technology education teachers, candidates pursuing alternative routes to teacher certification (formerly Section X.), and teachers employed on a part-time basis (formerly Section IX.) are combined into the same section.
- Section IX. The contents of the original section have been moved to Section VIII. Section IX., as amended, describes provisions for districts to employ teachers under letters of agreement.
- Section X. The contents of the original section have been moved to Section VIII. Section X., as amended, adds language to address ADEPT requirements for teachers who hold international teaching certificates.
- Section XI. This new section adds language to address the application of the ADEPT process to teachers employed in charter schools.
- Section XII. This new section adds state sanctions for teacher education programs and school districts who fail to report ADEPT information to the SDE.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on January 11, 2005, at 10:00 A.M., at the Rutledge Building, State Department of Education, Columbia, South

40 PROPOSED REGULATIONS

Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and are asked to provide, as a courtesy, a written copy of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Janice Poda, Senior Director, Division of Teacher Quality, Landmark II Office Building Suite 500, 3700 Forest Drive, Columbia, South Carolina 29204 or by e-mailing her at jpoda@scteachers.org. Comments must be received no later than 5:00 P.M. on December 28, 2004. Comments received by the deadline will be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement: None

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: R 43-205.1, Assisting, Developing, and Evaluating Professional Teaching (ADEPT)

Purpose: R 43-205.1, Assisting, Developing, and Evaluating Professional Teaching (ADEPT), is being amended to align these requirements with the amendments to the ADEPT statute (S.C. Code Ann. §§ 59-26-30 and 59-26-40, to be codified at Supp. 2004) and with current research and best practices.

Legal Authority: The legal authority for Regulation 43-205.1, Assisting, Developing, and Evaluating Professional Teaching (ADEPT), is S.C. Code Ann. § 59-26-10 *et seq.* (2004).

Plan for Implementation: The proposed amendments will be posted on the SDE Web site for review and comment. The amendments will take effect upon approval by the General Assembly and upon publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed amendments stem from the results of the 2003 comprehensive external evaluation of the ADEPT system and are necessitated by the subsequent amendments to the ADEPT statute (S.C. Code Ann. §§ 59-26-30 and 59-26-40, to be codified at Supp. 2004).

DETERMINATION OF COSTS AND BENEFITS: No additional cost to the state

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed amendments to the South Carolina ADEPT regulation (R 43-205.1), if implemented, will have no effect on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effect on the environment and public health if the amendments to the South Carolina ADEPT regulation (R 43-205.1) are not implemented.

Statement of Rationale: The proposed amendments align the ADEPT regulation with the recent amendments to the ADEPT statute (S.C. Code Ann. §§ 59-26-30 and 59-26-40, to be codified at Supp. 2004) and with current research and best practices.

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. 2942
STATE BOARD OF EDUCATION
 Chapter 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60 (1, 3, and 6)(2004), 59-30-10(f) (2004), 59-39-100 (2004) and No Child Left Behind Act, 20 U.S.C. Section 6301 *et seq.*(2002)

43-259. Graduation Requirements

Preamble

The State Board of Education proposes amending R 43-259, Graduation Requirements, to delete the twenty-unit diploma requirements and obsolete language. An amendment requiring every high school student to take physical science prior to taking the exit examination was added and an amendment addressing the phase-out of out-of-field teaching permits in special education under the federal No Child Left Behind Act, 20 U.S.C. Section 6301 *et seq.* (2002), was inserted. Clarifications for teacher certification requirements and granting course credit in adult education programs are also included.

Section-by-Section Discussion

- | | |
|--------------|--|
| I(A)(1) | Inserts grammatical and editorial changes in language. |
| I(A)(2) | Deletes the twenty-unit high school diploma requirements.

Add former footnote 3 regarding the computer literacy requirement. |
| I(A)(3) | Add former footnote 2, regarding student programs of study. |
| I(A)(4) | Inserts grammatical and editorial changes in language. |
| I(A)(5) | Inserts grammatical and editorial changes in language. |
| I(A)(6) | Inserts grammatical and editorial changes in language. |
| I(A)(7) | Inserts grammatical and editorial changes in language. |
| I(A)(8) | Inserts grammatical and editorial changes in language. |
| I(A)(9) | Inserts text requiring all students to take one unit of physical science prior to taking the exit examination. |
| I(B)(1)(a-b) | Inserts grammatical and editorial changes in language. |
| I(B)(2) | Inserts grammatical and editorial changes in language. |
| I(C) | Adds new section titled Distance Learning Credit. Text was formerly in Section I(B)(3) and aligns with R 43-234, Defined Program, Grades 9–12. |

42 PROPOSED REGULATIONS

- I(D) Adds new section containing language for dual credit and aligns with R 43-234, Defined Program, Grades 9–12
- I(E) Adds text to align with federal No Child Left Behind Act, 20 U.S.C. Section 6301 et seq. (2002), by addressing the phase-out of out-of-field teaching permits in special education.
- Inserts a relocated footnote concerning the certification status of a teacher of students with disabilities.
- Inserts language for clarification of special needs student placement in alignment with text from R 43-234, Defined Program, Grades 9–12.
- Inserts grammatical and editorial changes in language.
- II(A)(1)(2)(a-b) Inserts grammatical and editorial changes in language and revises outline format.
- II(A)(2)(c) Amends requirement for over eighteen-year-old high school students to submit a signed withdrawal form for approval to take General Educational Development (GED) exam.
- II(A)(3) Amends language providing GED exceptions for juvenile offenders under certain conditions.
- II(A)(3)(a-e) Inserts grammatical and editorial changes in language.
- II(C)(1)(a-f) Inserts grammatical and editorial changes in language.
- II(C)(2) Inserts grammatical and editorial changes in language.
- III(A)(1) Inserts grammatical and editorial changes in language.
- III(A)(2) Deletes the twenty-unit high school diploma requirements.
- Inserts former footnote 1 requiring the student to demonstrate computer literacy before graduation.
- Deletes former Section (C)(1)(c) pertaining to subject matter examinations that are now inserted in III(A)(5).
- III(A)(3-4) Inserts grammatical and editorial changes in language.
- III(A)(5) Adds section to allow the waiver of classroom attendance by demonstration of subject-matter attainment on a state-approved subject-matter examination.
- III(A)(6) Adding language regarding passing of an examination on the provisions and principles of the United States Constitution, Declaration of Independence, the Federalist papers, and American institutions and ideals as found in section I(A)(2)(4).

III(A)(7)(a-c)	Inserts grammatical and editorial changes in language.
III(B)(1-2)	Inserts grammatical and editorial changes in language. Deletes former Section (C)(2)(c) addressing issuance of credit in occupational courses.
III(B)(3)	Adds language that restricts credit for occupational training and experience to those students twenty-one years of age and older. Inserts grammatical and editorial changes in language.
III(B)(4)	Adds language allowing an adult to earn credit by passing a state-approved subject matter examination when the teacher is not certified in the specific area of credit.
III(C)	Adding language requiring an adult education high school diploma program to offer instruction for a minimum of thirty weeks.
III(C)(1-4)	Inserts grammatical and editorial changes in language. Deletes former Sections (C)(3)(e-f) regarding the qualifications for adult basic education teachers.
III(C)(5)	Adds language that requires each adult basic education teacher be properly certified
III(C)(6)	Inserts grammatical and editorial changes in language.
III(C)(7)	Adds text aligned with federal No Child Left Behind Act, 20 U.S.C. Section 6301 et seq. (2002), by addressing adult learning laboratory teacher qualifications.
III(C)(8)	Adds text aligned with federal No Child Left Behind Act, 20 U.S.C. Section 6301 et seq. (2002), restricting the use out-of field permits.
III(C)(9)	Inserts grammatical and editorial changes in language and aligns with Section (3)(A)(4).
III(C)(10-13)	Inserts grammatical and editorial changes in language.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed new regulation at a public hearing to be conducted by the State Board of Education at its meeting on January 11, 2005, at 10:00 A.M., at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and, as a courtesy, are asked to provide written copies of their presentation for the record.

44 PROPOSED REGULATIONS

Interested persons are also provided an opportunity to submit written comments on the proposed new regulation by writing to Mr. Calvin Jackson, Deputy Superintendent, Division of District and Community Services, 1429 Senate Street, Room 908, Rutledge Building, Columbia, South Carolina 29201 or e-mail cjackson@SDE.State.SC.US. Comments must be received no later than 5:00 P.M. on December 28, 2004. Comments received by the deadline shall be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Statement of Need and Reasonable:

DESCRIPTION OF REGULATION: 43-259, Graduation Requirements

Purpose: Regulation 43-259, Graduations Requirements, is being amended to delete the twenty-unit diploma requirements and obsolete language. An amendment requiring every high school student to take physical science prior to taking the exit examination was added and an amendment addressing the phase-out of out-of-field teaching permits in special education under the federal No Child Left Behind Act, 20 U.S.C. Section 6301 *et seq.* (2002), was inserted. Clarifications for teacher certification requirements and granting course credit in adult education programs are also included.

Legal Authority: S.C. Code Ann. Sections 59-5-60 (1, 3, and 6)(2004), 59-30-10(f) (2004), 59-39-100 (2004) and No Child Left Behind Act, 20 U.S.C. Section 6301 *et seq.* (2002)

Plan for Implementation: The proposed amendments will be posted on the State Department of Education's Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The amendments to Regulation 43-259, Graduation Requirements, are needed to delete obsolete requirements and language and to clarify the provisions for granting credit in adult education programs.

DETERMINATION OF COSTS AND BENEFITS: There will be no additional costs to the state or its political subdivisions.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation does not have any effect on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effect on the environment or public health if this regulation is not implemented.

Statement of Rationale: A copy of the detailed statement of rationale can be obtained by writing to Mr. Calvin Jackson, Deputy Superintendent, Division of District and Community Services, 1429 Senate Street, Room 908, Rutledge Building, Columbia, South Carolina 29201 or e-mail cjackson@SDE.State.SC.US. Amendments are being made to delete obsolete requirements and language and to clarify the provisions for granting credit in adult education programs.

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. 2946
COMMISSION ON HIGHER EDUCATION
 CHAPTER 62
 Statutory Authority: 1976 Code Section 59-150-370

62-900.85-140 South Carolina HOPE Scholarship

Preamble:

The Commission on Higher Education proposes to amend and replace in its entirety R.62-900.85-140 of the South Carolina HOPE Scholarship Program. The proposed amendments will clarify the policies and procedures for administering the SC HOPE Scholarship Program. Beginning with the 2005-06 academic year, the proposed amendments will allow active duty service members of the United States Armed Forces to receive the maximum number of terms of scholarship eligibility due to military mobilization. The proposed regulation also removes language from the definition of independent institutions discontinuing participation of Johnson and Wales University as an eligible independent institution (since they have relocated out-of-state). The proposed regulations will clarify the eligibility criteria for home school students. The Notice of Drafting for the proposed amendments to the regulation for the HOPE Scholarship Program was published in the *State Register* on September 24, 2004.

Preliminary Fiscal Impact Statement: There will be no increased costs to the State or its political subdivisions.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons should submit their comments in writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. To be considered for the public hearing, comments must be received no later than 5:00 p.m. on December 27, 2004, the close of the proposed regulation comment period. The public hearing will be held on January 6, 2005, at 10:30 a.m. at the offices of the South Carolina Commission on Higher Education located at 1333 Main Street, Suite 200, Columbia, SC 29201.

Statement of Need and Reasonableness:

1. DESCRIPTION OF REGULATION: HOPE Scholarship Program

Purpose: This regulation amends Chapter 62-900.85 in order to clarify the administration of the HOPE Scholarship Program. The proposed amendments will clarify the policies and procedures for administering the SC HOPE Scholarship Program. Beginning with the 2005-06 academic year, the proposed amendments will allow active duty service members of the United States Armed Forces to receive the maximum number of terms of scholarship eligibility due to military mobilization. The proposed regulation also removes language from the definition of independent institutions discontinuing participation of Johnson and Wales University as an eligible independent institution (since they have relocated out-of-state).

Legal Authority: Under Sections 59-150-370 of the S.C. Code of Laws, the South Carolina Commission on Higher Education has authority to promulgate regulation and establish procedures to administer the HOPE Scholarship Program.

Plan for Implementation: Once the regulation has been approved by the General Assembly, the Commission on Higher Education will distribute the regulation to the financial aid officers at all participating higher education institutions. The high schools will be notified through correspondence to each principal and director of guidance. The public will be notified through this publication, news releases and other Commission publications.

46 PROPOSED REGULATIONS

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

The proposed regulation is needed to clarify the administration of the HOPE Scholarship Program.

3. DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not increase any costs to the State or its political subdivisions.

4. UNCERTAINTIES OF ESTIMATES:

At present there are no estimates to report.

5. EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on the environment or public health.

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

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

Statement of Rationale: These revisions are proposed to provide additional clarity to the existing regulation. The revisions are not significant changes and can be described as administrative refinement of existing policy. No new scientific studies or information precipitated the development of the proposed revisions. The experience and professional judgment of the Commission's staff were relied upon in developing the regulation. The revisions are proposed based on staff judgment and to address questions from the regulated community regarding particular sections of the existing regulations.

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. 2947
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-149-10

62-900.1-70 Legislative Incentives for Future Excellence (LIFE) Scholarship Program

Preamble:

The Commission on Higher Education proposes to add in its entirety R.62-900.1-70 for the Legislative Incentives for Future Excellence (LIFE) Scholarship Program. The LIFE Scholarship Program was established under Act 418 in 1998 and amended by the S.C. Education Lottery Act during the 2002 legislative session and the Life Sciences Act during the 2004 legislative session. The Commission on Higher Education shall develop the LIFE Scholarship Program in order to increase access to higher education, improve the employability of South Carolina students so as to attract business to the State, provide incentives for students to be better prepared for college, and to encourage students to graduate from college on time. The law authorizes the Commission on Higher Education to promulgate regulations to administer and set forth the

terms of the LIFE Scholarship Program. The Notice of Drafting for the proposed amendments to the regulation for the LIFE Scholarship Program was published in the *State Register* on September 24, 2004.

Preliminary Fiscal Impact Statement: There will be no increased costs to the State or its political subdivisions.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons should submit their comments in writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. To be considered for the public hearing, comments must be received no later than 5:00 p.m. on December 27, 2004, the close of the proposed regulation comment period. The public hearing will be held on January 6, 2005, at 10:30 a.m. at the offices of the South Carolina Commission on Higher Education located at 1333 Main Street, Suite 200, Columbia, SC 29201.

Statement of Need and Reasonableness:

1. DESCRIPTION OF REGULATION: LIFE Scholarship Program

Purpose: This regulation creates Chapter 62-900 in order to clarify the administration of the LIFE Scholarship Program. The Commission on Higher Education shall develop the LIFE Scholarship Program in order to increase access to higher education, improve the employability of South Carolina students so as to attract business to the State, provide incentives for students to be better prepared for college, and to encourage students to graduate from college on time.

Legal Authority: Under Sections 59-149-130 of the S.C. Code of Laws, the South Carolina Commission on Higher Education has authority to promulgate regulation and establish procedures to administer the LIFE Scholarship Program.

Plan for Implementation: Once the regulation has been approved by the General Assembly, the Commission on Higher Education will distribute the regulation to the financial aid officers at all participating higher education institutions. The high schools will be notified through correspondence to each principal and director of guidance. The public will be notified through this publication, news releases and other Commission publications.

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

The proposed regulation is needed to clarify the administration of the LIFE Scholarship Program.

3. DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not increase any costs to the State or its political subdivisions.

4. UNCERTAINTIES OF ESTIMATES:

At present there are no estimates to report.

5. EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on the environment or public health.

48 PROPOSED REGULATIONS

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

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

Statement of Rationale: This regulation is proposed to provide clarity to the administration of the LIFE Scholarship Program. No new scientific studies or information precipitated the development of the proposed revisions. The experience and professional judgment of the Commission's staff were relied upon in developing the regulation. This regulation is proposed based on staff judgment and to address questions from the regulated community.

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 Number 2948
COMMISSION ON HIGHER EDUCATION
Chapter 62
Statutory Authority: 1976 Code Section 59-104-20

62-300 Palmetto Fellows Scholarship Program

Preamble:

The Commission on Higher Education proposes to amend and replace in its entirety R.62-300 of the Palmetto Fellows Scholarship Program. The proposed amendments will clarify the policies and procedures for administering the Palmetto Fellows Scholarship Program. Beginning with the 2005-06 academic year, one of the proposed amendments will allow students to rank within the top six percent of the class instead of the top five percent of the class in order to be eligible to apply for the scholarship. The classes used for eligibility will be expanded from the sophomore and junior classes to also include the senior class. Regarding the SAT, students will be allowed more opportunities to meet the minimum 1200 score requirement by adding language to extend the deadline through the June national test administration. The proposed regulation will clarify the eligibility criteria for home school students and students attending out-of-state preparatory high schools. Finally, another proposed amendment will allow active duty service members of the United States Armed Forces to receive the maximum number of terms of scholarship eligibility due to military mobilization. There are also additional clarifications being proposed that will add several definitions and will make minor grammatical changes to promote consistency among the State scholarship and grant programs. The Notice of Drafting for the proposed amendments to the regulation for the Palmetto Fellows Scholarship Program was published in the *State Register* on September 24, 2004.

Preliminary Fiscal Impact Statement:

Based on the implementation of the 2005 budget Proviso 5A.26 allowing the top 6% of the class to apply for the Palmetto Fellows Scholarship, approximately 100 additional students will be awarded if this regulation is implemented. There will be an increased cost to the State or its political subdivisions of approximately \$670,000 per academic year for a period of four years.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons should submit their comments in writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. To be considered for the public hearing, comments must be received no later than 5:00 p.m. on December 27, 2004, the close of the proposed regulation comment period. The public hearing will be held on January 6, 2005, at 10:30 a.m. at the offices of the South Carolina Commission on Higher Education located at 1333 Main Street, Suite 200, Columbia, SC 29201.

Statement of Need and Reasonableness:

1. DESCRIPTION OF REGULATION: Palmetto Fellows Scholarship Program

Purpose: This regulation amends Chapter 62-300 in order to clarify the administration of the Palmetto Fellows Scholarship Program. The proposed amendments will allow more students to qualify by increasing the class ranking percentage from 5% to 6%, by adding the senior year as another year for calculating eligibility, and by extending the final deadline to June (which will allow for additional administrations of the SAT/ACT to be included).

Legal Authority: Under Section 59-104-20 of the S.C. Code of Laws, the South Carolina Commission on Higher Education has authority to promulgate regulation and establish procedures to administer the Palmetto Fellows Scholarship Program.

Plan for Implementation: Once the regulation has been approved by the General Assembly, the Commission on Higher Education will distribute the regulation to the financial aid officers at all participating higher education institutions. The high schools will be notified through correspondence to each principal and director of guidance. The public will be notified through this publication, news releases and other Commission publications.

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

The proposed regulation is needed to clarify and to comply with the 2005 budget Proviso 5A.26 the eligibility criteria to apply for the Palmetto Fellows Scholarship. It also clarifies the process for handling members of the United States Armed Forces who are mobilized.

3. DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will require approximately \$670,000 additional costs to the State. Funding for the Palmetto Fellows Scholarship Program is provided through general State revenue and proceeds from the Education Lottery. This estimate was calculated using the number of additional students who were funded during the Fall 2004 term based upon the implementation of Proviso 5A.26 in the 2004 budget.

4. UNCERTAINTIES OF ESTIMATES:

Staff used the previous academic year as a basis for the increased costs associated with the promulgation of this regulation. Accordingly, this is only an estimate and the number of eligible students may fluctuate from one year to the next.

50 PROPOSED REGULATIONS

5. EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on the environment or public health.

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

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

Statement of Rationale: These revisions are proposed to provide additional clarity to the existing regulation. The revisions are not significant changes and can be described as administrative refinement of existing policy. No new scientific studies or information precipitated the development of the proposed revisions. The experience and professional judgment of the Commission's staff were relied upon in developing the regulation. The revisions are proposed based on staff judgment and to address questions from the regulated community regarding particular sections of the existing regulations.

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. 2949

DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF DENTISTRY

CHAPTER 39

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

Preamble:

The Board of Dentistry proposes to amend Regulation 39-4 regarding examination of applicants for licensure to delete the requirement that the National Board examination must have been passed within fifteen years so as to remove an impediment to the licensing of qualified dentists and dental hygienists.

Section by Section Discussion:

The following is a section by section discussion of the amendments proposed by the Board of Dentistry:

Regulation 39-4. Examination of Dentists and Dental Hygienists.

Dentists and dental hygienists must have passed the National Board (Joint Commission on National Dental Examinations). The requirement that the National Board must have been passed within fifteen years will be deleted.

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 of Laws of South Carolina, as amended, such hearing will be conducted at the Administrative Law Court at 9:30 a.m. on Tuesday, January 11, 2005. Written comments may be directed to H. Rion Alvey, Administrator, Board of Dentistry, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Tuesday, December 28, 2004.

Preliminary Fiscal Impact Statement:

There will be no additional cost incurred by the State or any political subdivision.

Statement of Need and Reasonableness:

The Board of Dentistry has determined that the requirement that the National Board examination be passed within fifteen years has not substantially improved the qualifications of applicants for licensure. Therefore, the Board believes that the requirement should be deleted.

DESCRIPTION OF REGULATION:

Purpose: To delete requirement that National Board examination must be passed within fifteen years.

Legal Authority: Statutory Authority: 1976 Code Sections 40-1-40, 40-15-40, and 40-15-140

Plan for Implementation: Administratively, Board will see that provisions are implemented by informing applicants through written and oral communications.

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

This regulation needs to be amended in order to delete requirement that National Board examination must be passed within fifteen years.

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment. The public health of this State will be enhanced by deleting an impediment to the licensing of qualified dentists and dental hygienists.

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

These regulations will have no detrimental effect on the environment and public health of this State if the regulations are not implemented in this State.

Statement of Rationale:

There was no scientific or technical basis relied upon in the development of this regulation.

Text:

39-4. Examination of Dentists and Dental Hygienists.

52 PROPOSED REGULATIONS

All applicants for the general dentistry examination, and all applicants for the dental hygiene examination applying for licensure by examination in South Carolina must have passed the National Board (Joint Commission on National Dental Examinations).

Document No. 2950

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF DENTISTRY**

CHAPTER 39

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

Preamble:

The Board of Dentistry proposes to add Regulation 39-4.1 to establish procedures for re-examination of applicants for licensure who have failed the licensing examination.

Section by Section Discussion:

Regulation 39-4.1

- A. Allows the privilege of a second or third examination with payment of the regular examination fee.
- B. Provides that an applicant, after three times of failing the examination, may petition the Board for special permission to take the examination after completing one year of additional training or explaining special or compelling factors acceptable to the Board.

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 of Laws of South Carolina, as amended, such hearing will be conducted at the Administrative Law Court at 11:00 a.m. on Tuesday, January 11, 2005. Written comments may be directed to H. Rion Alvey, Administrator, Board of Dentistry, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Tuesday, December 28, 2004.

Preliminary Fiscal Impact Statement:

There will be no additional cost incurred by the State or any political subdivision.

Statement of Need and Reasonableness:

The Board of Dentistry has determined the need for procedures for re-examination of applicants for licensure who have failed the licensure examination in order that the re-examination process will be fairly and consistently administered to qualified applicants.

DESCRIPTION OF REGULATION:

Purpose: To establish procedures and requirements for re-examination of applicants in order that re-examination process will be fairly and consistently administered to qualified applicants.

Legal Authority: Statutory Authority: 1976 Code Sections 40-1-40, 40-15-40, and 40-15-140

Plan for Implementation: Administratively, Board will see that provisions are implemented by informing applicants through written and oral communications.

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

This regulation needs to be implemented in order to establish procedures for re-examination of applicants for licensure in order that the process for re-examination of applicants will be fairly and consistently administered to qualified applicants.

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment. The public health of this State will be enhanced by providing that more training or special permission will be required for applicants who fail the licensing examination more than three times.

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

These regulations will have no detrimental effect on the environment and public health of this State if the regulations are not implemented in this State.

Statement of Rationale:

There was no scientific or technical basis relied upon in the development of this regulation.

Text:

39-4.1 Re-examination

A. In case of failure at any examination, the applicant shall have the privilege of a second or third examination with the payment of the regular fee.

B. If the applicant has not met the Board's criteria for passing the examination after three takings, applicant shall not be permitted to retake the examination, and any score received after three takings shall not be considered, except by special permission of the Board. It shall be the responsibility of the applicant to petition the Board and to successfully complete at least one year of additional dental or dental hygiene education in an American Dental Association approved dental school or residency, as applicable, or explain in detail any special or compelling factors presented by the applicant to the Board the applicant wishes the Board to consider.

54 PROPOSED REGULATIONS

Document No. 2951

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS
CHAPTER 35**

Statutory Authority: 1976 Code Section 40-35-10 through 40-35-136, 40-35-230, 40-1-70

Preamble:

The South Carolina Board of Long Term Health Care Administrators proposes to amend Regulation 93-150 to establish guidelines for long term health care administrators with inactive or retired licensure status in this state.

Section by Section Discussion

93-150. Inactive or Retired Status Licenses

- A. Provides that the board consider licensee's request for inactive or retired status.
- B. Provides that licensees looking to place their licenses on inactive or retired status must not currently be practicing long term health care administration.
- C. No substantive change.
- D. Provides that licensees seeking retired status must be at least 65 years old or licensed for 20 years and must not currently be a practicing long term health care administration.
- E. Provides that applicants for reactivation of retired or inactive status licenses must submit proof of continuing education requirements as well as an application and application fee. Continuing education requirements are different for inactive and retired licensees seeking reinstatement.
- F. Provides that inactive and retired status licensees must also pass an examination approved by the board if inactive or retired for five years or more in addition to the continuing education requirements.

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 a hearing will be conducted at the Administrative Law Court at 2:00 p.m., Tuesday, January 11, 2005. Written comments may be directed to Dana S. Blanton, Administrator, South Carolina Board of Long Term Health Care Administrators, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Tuesday, December 28, 2004.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The Board proposes to amend Regulation 93-150 to update guidelines for long term health care administrators with inactive or retired licensure status in this state.

Legal Authority: 1976 Code, 40-35-10 through 40-35-136, 40-35-230, 40-1-70

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

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

The proposed regulation will update guidelines for long term health care administrators with inactive or retired licensure status in this state

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment. This regulation contributes to the Board's function of protecting public health in the state of South Carolina.

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

There will be no detrimental effect on the environment and public health of this State if this regulation is not implemented.

Statement of Rationale:

There was no scientific or technical basis relied upon in the development of this regulation.

Text:

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

Document No. 2937
DEPARTMENT OF REVENUE
CHAPTER 7
Statutory Authority: 1976 Code Section 12-4-320

Regulation 7-200.1 Applications

Preamble:

The South Carolina Department of Revenue is considering amending SC Regulation 7-200.1 to delete the cooking license provisions of subsection F and replace those provisions with one stating that the holder of a retail permit or license issued pursuant to Title 61 must obtain and maintain a retail sales tax license issued pursuant to Chapter 36 of Title 12. In addition, the provisions will state that if the retail sales tax license is revoked, then the Department must cancel, suspend or revoke all permits and licenses issued under Title 61. The Department is also considering amending subsection J to clarify that the request for refund only applies to the permit or license fee when a timely refund request is received with respect to a permit or license that was not used.

56 PROPOSED REGULATIONS

Discussion

The South Carolina Department of Revenue is considering amending SC Regulation 7-200.1 to delete the cooking license provisions of subsection F and replace those provisions with one stating that the holder of a retail permit or license issued pursuant to Title 61 must obtain and maintain a retail sales tax license issued pursuant to Chapter 36 of Title 12. In addition, the provisions will state that if the retail sales tax license is revoked, then the Department must cancel, suspend or revoke all permits and licenses issued under Title 61. The Department is also considering amending subsection J to clarify that the request for refund applies to the permit or license fee. The proposal to amend SC Regulation 7-200.1 is needed to ensure that taxpayers understand (1) that only a cooking license is needed if a location that offers meals to the public purchases liquor for use solely in the cooking and preparing meals served by the location and not for sale to the public; (2) that all holders of a retail permit or license issued pursuant to the alcoholic beverage laws must also maintain a retail sales tax license for the same location; and (3) that only the permit or license fee is refundable if a timely refund request is received with respect to a permit or license that was not used.

Notice of Public Hearing:

The S.C. Department of Revenue has scheduled a public hearing before the Administrative Law Judge Division at the Administrative Law Judge Division in the Edgar Brown Building on the Capitol Complex in Columbia, South Carolina 91205 Pendleton Street, Suite 224) for Tuesday, February 1, 2005, at 10:00 a.m. if the requests for a hearing meet the requirements of Code Section 1-23-110(A)(3). The public hearing, if held, will address a proposal by the department to delete the cooking license provisions of subsection F and replace those provisions with one stating that the holder of a retail permit or license issued pursuant to Title 61 must obtain and maintain a retail sales tax license issued pursuant to Chapter 36 of Title 12. In addition, the provisions will state that if the retail sales tax license is revoked, then the Department must cancel, suspend or revoke all permits and licenses issued under Title 61. The Department is also considering amending subsection J to clarify that the request for refund applies to the permit or license fee. The proposal to amend SC Regulation 7-200.1 is needed to ensure that taxpayers understand (1) that only a cooking license is needed if a location that offers meals to the public purchases liquor for use solely in the cooking and preparing meals served by the location and not for sale to the public; (2) that all holders of a retail permit or license issued pursuant to the alcoholic beverage laws must also maintain a retail sales tax license for the same location; and (3) that only the permit or license fee is refundable if a timely refund request is received with respect to a permit or license that was not used. The department will be asking the Administrative Law Judge Division, in accordance with S.C. Code Ann. ' 1-23-111 (2000) issue a report that the proposal to amend the regulations is needed and reasonable.

Comments:

All comments concerning this proposal should be mailed to the following address by December 28, 2004:

S.C. Department of Revenue
Legislative Services - Mr. Meredith Cleland
P.O. Box 125
Columbia, South Carolina 29214

Preliminary Fiscal Impact Statement:

There will be no impact on state or local political subdivisions expenditures in complying with this proposed legislation.

Summary of the Preliminary Assessment Report:

A preliminary assessment report is not required for this proposal.

Preliminary Assessment Report:

A preliminary assessment report is not required for this proposal.

Statement of Need and Reasonableness:

The proposal to amend SC Regulation 7-200.1 is needed to ensure that taxpayers understand (1) that only a cooking license is needed if a location that offers meals to the public purchases liquor for use solely in the cooking and preparing meals served by the location and not for sale to the public; (2) that all holders of a retail permit or license issued pursuant to the alcoholic beverage laws must also maintain a retail sales tax license for the same location; and (3) that only the permit or license fee is refundable if a timely refund request is received with respect to a permit or license that was not used. The proposal to amend SC Regulation 7-200.1 is also reasonable in that it is the department's responsibility to maintain regulations that are up-to-date and consistent with the law.

Statement of Rationale:

The proposal amend SC Regulation 7-200.1 is needed (1) since the statute requires only a cooking license under Code Section 61-6-700 and does not require a minibottle license when a location that offers meals to the public purchases liquor for use solely in the cooking and preparing meals served by the location and does not sell liquor as a beverage to the public, and (2) since only the permit or license fee is refundable if a timely refund request is received with respect to a permit or license that was not used. In addition, it is needed to advise taxpayers that all holders of a retail permit or license issued pursuant to the alcoholic beverage laws must also maintain a retail sales tax license for the same location.

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.