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# SOUTH CAROLINA STATE REGISTER

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of the  
GENERAL ASSEMBLY

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# ***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.

## **2022 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	1/14	2/11	3/11	4/8	5/13	6/10	7/8	8/12	9/9	10/14	11/11	12/9
Publishing Date	1/28	2/25	3/25	4/22	5/27	6/24	7/22	8/26	9/23	10/28	11/25	12/23

## **REPRODUCING OFFICIAL DOCUMENTS**

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## **PUBLIC INSPECTION OF DOCUMENTS**

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

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

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

## **EMERGENCY REGULATIONS**

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

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

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

## **EFFECTIVE DATE OF REGULATIONS**

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

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

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DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY	HOUSE COMMITTEE	SENATE COMMITTEE
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5029			Credit for Reinsurance	01/31/2022	Department of Insurance	Regs and Admin Procedures	Banking and Insurance
5033			Raw Milk for Human Consumption; and Pasteurized Milk and Milk Products	03/14/2022	Department of Health and Envir Control	Regs and Admin Procedures	Ag and Nat Resources
5032			Seed Certification	03/16/2022	Clemson University	Regs and Admin Procedures	Ag and Nat Resources
5034			Emergency Temporary Work Permits	03/28/2022	LLR-Board of Cosmetology	Regs and Admin Procedures	Labor, Commerce and Industry
5037			Licensing Provisions; and Continuing Education	05/08/2022	LLR-Board of Funeral Service	Regs and Admin Procedures	Labor, Commerce and Industry
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5044			General Regulations on South Carolina Forestry Commission Lands	05/11/2022	Commission of Forestry	Regs and Admin Procedures	Fish, Game and Forestry
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5038			Appeal Procedures	05/11/2022	Department of Disabilities and Spec Needs	Regs and Admin Procedures	Medical Affairs
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5053			Palmetto Fellows Scholarship Program	05/11/2022	Commission on Higher Education	Regs and Admin Procedures	Education
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**Executive Order No. 2021-42**

**WHEREAS**, on December 14, 2021, a Grand Jury convened in Marlboro County returned two Indictments charging Charles B. Lemon, Sheriff of Marlboro County, with one count of Assault and Battery of a High and Aggravated Nature, in violation of section 16-3-600(B)(1) of the South Carolina Code of Laws, as amended, and one count of Misconduct in Office, in violation of the Common Law of South Carolina; and

**WHEREAS**, article VI, section 8 of the South Carolina Constitution provides, in relevant part, that “[a]ny officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . may be suspended by the Governor until he shall have been acquitted” and “[i]n case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law”; and

**WHEREAS**, Charles B. Lemon, as Sheriff of Marlboro County, is an officer of the State or its political subdivisions; and

**WHEREAS**, under South Carolina law, moral turpitude “implies something immoral in itself, regardless of whether it is punishable by law as a crime,” involves “an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man,” or otherwise includes conduct “contrary to justice, honesty[,] and good morals,” *State v. Horton*, 271 S.C. 413, 414–15, 248 S.E.2d 263, 263–64 (1978); *see also Baddourah v. McMaster*, 433 S.C. 89, 112, 856 S.E.2d 561, 573 (2021) (“Under South Carolina’s moral turpitude framework, we focus ‘primarily on the duty to society and fellow man [that] is breached by the commission of the crime.’”); and

**WHEREAS**, upon consideration of the circumstances presented, to include the particularized facts alleged in the Indictments and the statutory definition and classification of the offenses, the undersigned has determined that one or both of the aforementioned Indictments charge Charles B. Lemon with “a crime involving moral turpitude” for purposes of article VI, section 8 of the South Carolina Constitution, *see Baddourah*, 433 S.C. at 108, 113–14, 856 S.E.2d at 571, 574; *see also In re Lee*, 313 S.C. 142, 143–44, 437 S.E.2d 85, 86 (1993) (noting that “the crimes of misconduct in office . . . and assault and battery of a high and aggravated nature . . . may be [crimes of moral turpitude] depending on the facts as particularized in the indictment”); *State v. Bailey*, 275 S.C. 444, 446, 272 S.E.2d 439, 440 (1980) (observing that whether assault and battery of a high and aggravated nature is a crime of moral turpitude depends upon the facts of the particular case as set forth in the indictment); *Op. Att’y Gen.*, 2016 WL 7425912, at \*1–2 (S.C.A.G. Dec. 2, 2016) (noting that “both the statutory and common law offences of misconduct in office may constitute a crime of moral turpitude” and concluding that “the unlawful use of deadly force sufficient to constitute misconduct in office would constitute a crime of moral turpitude” (citations omitted)); *Op. Att’y Gen.*, 1994 WL 199758, at \*1 (S.C.A.G. Apr. 19, 1994) (opining that assault and battery of a high and aggravated nature was a crime of moral turpitude based on the facts alleged in the indictment); and

**WHEREAS**, for the foregoing reasons, and in accordance with article VI, section 8 of the South Carolina Constitution, the undersigned is authorized to suspend Charles B. Lemon from the office of Sheriff of Marlboro County until such time as he shall be acquitted or convicted; and

**WHEREAS**, section 8-1-100 of the South Carolina Code of Laws, as amended, provides that “any state or county officer who is indicted in any court for any crime may, in the discretion of the Governor, be suspended by the Governor, who in event of suspension shall appoint another in his stead until he shall be acquitted” and “[i]n case of conviction, the office shall be declared vacant by the Governor and the vacancy filled as provided by law”; and

**WHEREAS**, section 23-11-40(C) of the South Carolina Code of Laws, as amended, similarly provides that “[i]f any vacancy occurs in the office [of sheriff in any county of this State] at any time and is created by suspension by the Governor upon any sheriff’s indictment, the Governor shall appoint some suitable

#### **4 EXECUTIVE ORDERS**

person . . . to hold the office until the suspended sheriff is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first”; and

**WHEREAS**, Larry McNeil, of Bennettsville, South Carolina, is a fit and proper person to serve as Sheriff of Marlboro County.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby suspend Charles B. Lemon from the office of Sheriff of Marlboro County until such time as he shall be formally acquitted or convicted. Accordingly, pursuant to article VI, section 8 of the South Carolina Constitution and section 23-11-40(C) of the South Carolina Code of Laws, I hereby appoint Larry McNeil to serve as Sheriff of Marlboro County until Charles B. Lemon is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first. This action in no manner addresses the guilt or innocence of Charles B. Lemon and shall not be construed as an expression of any opinion on such question. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 14th DAY OF DECEMBER, 2021.**

**HENRY MCMASTER**  
Governor

#### **Executive Order No. 2021-43**

**WHEREAS**, the undersigned has been notified that a vacancy will exist in the office of Judge of Probate for Lancaster County due to the resignation of DeeAnn Bailey Studebaker, effective December 31, 2021; and

**WHEREAS**, in the event of a vacancy in the office of a county judge of probate, the undersigned is authorized to appoint a suitable person, who shall be an elector of the county, to serve as judge of probate pursuant to sections 1-3-220(2), 4-11-20(1), and 14-23-50 of the South Carolina Code of Laws, as amended; and

**WHEREAS**, Mary A. Rathel, of Heath Springs, South Carolina, is a fit and proper person to serve as Judge of Probate for Lancaster County.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby appoint Mary A. Rathel to serve as Judge of Probate for Lancaster County, effective December 31, 2021, until her successor is appointed or elected and qualified as provided by law. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 21st DAY OF DECEMBER, 2021.**

**HENRY MCMASTER**  
Governor

**Executive Order No. 2021-44**

**WHEREAS**, the United States continues to experience significant supply chain disruptions, which are adversely impacting the movement and availability of critical consumer goods and industrial materials in South Carolina and other States; and

**WHEREAS**, particularly as Americans face increasing prices for gasoline and essential fuels, as well as historic inflation, supply chain disruptions are imposing further burdens on businesses, individuals, and families; and

**WHEREAS**, notwithstanding the fact that businesses are attempting to cope with and account for significant supply chain disruptions, as well as labor shortages and other complicating factors, President Joseph R. Biden, Jr. and his Administration (collectively, “Biden Administration”) are increasing burdensome regulations and seeking to impose unwarranted and unprecedented vaccine mandates on the private sector; and

**WHEREAS**, although the State of South Carolina, which boasts robust and reliable transportation infrastructure, including the Port of Charleston and productive inland ports, is uniquely prepared and positioned to mitigate interruptions in the national and international supply chains, the United States continues to experience significant supply chain disruptions; and

**WHEREAS**, the Federal Motor Carrier Safety Regulations limit, *inter alia*, the hours of service for operators of commercial vehicles, 49 C.F.R. §§ 390 *et seq.*, and federal law prescribes certain weight limitations for vehicles on interstate highways, 23 U.S.C. § 127; and

**WHEREAS**, pursuant to 49 C.F.R. § 390.23, the governor of a state may suspend certain federal rules and regulations for commercial vehicles responding to an emergency if the governor determines that an emergency condition exists; and

**WHEREAS**, on November 19, 2021, the Governor of the State of Georgia declared that emergency conditions existed in his State due to, *inter alia*, the continued negative impacts of COVID-19 and the need to facilitate economic recovery and, in doing so, the Governor of the State of Georgia temporarily waived or suspended certain motor vehicle and transportation-related rules and regulations in connection with the same; and

**WHEREAS**, section 56-5-70(B) of the South Carolina Code of Laws, as amended, provides that “[w]hen an emergency is declared which triggers relief from regulations pursuant to 49 C.F.R. [§] 390.23 in North Carolina or Georgia, an emergency, as referenced in the regional emergency provision of 49 C.F.R. [§] 390.23(a)(1)(A), must be declared in this State by the Governor”; and

**WHEREAS**, for the aforementioned and other reasons and in accordance with the cited authorities, on November 23, 2021, the undersigned issued Executive Order No. 2021-40, having determined that the circumstances described therein in connection with existing, ongoing, and anticipated supply chain disruptions and any actual, potential, or perceived interruptions in the availability, transportation, or delivery of critical consumer goods and industrial materials in the State of South Carolina constituted an emergency for purposes of 49 C.F.R. § 390.23 such that it was necessary and prudent to provide additional relief to assist in facilitating, supporting, and strengthening South Carolina’s transportation industries and infrastructure so as to avoid, mitigate, or minimize further national and international supply chain interruptions; and

**WHEREAS**, on December 17, 2021, the Governor of the State of Georgia renewed his declaration that emergency conditions existed in his State due to, *inter alia*, the continued negative impacts of COVID-19 and the need to facilitate economic recovery and, in doing so, the Governor of the State of Georgia temporarily waived or suspended certain motor vehicle and transportation-related rules and regulations in connection with the same; and

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**WHEREAS**, for the aforementioned and other reasons, the undersigned has determined that the circumstances described herein in connection with existing, ongoing, and anticipated supply chain disruptions and any actual, potential, or perceived interruptions in the availability, transportation, or delivery of critical consumer goods and industrial materials in the State of South Carolina constitute an emergency for purposes of 49 C.F.R. § 390.23 such that it is necessary and prudent to provide additional relief to assist in facilitating, supporting, and strengthening South Carolina’s transportation industries and infrastructure so as to avoid, mitigate, or minimize further national and international supply chain interruptions.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby order and direct as follows:

### **Section 1. Transportation Waivers to Address Supply Chain Disruptions**

A. I hereby determine and declare that the existing, ongoing, and anticipated threats and circumstances described herein associated with supply chain disruptions and the impacts related to the same constitute an emergency pursuant to 49 C.F.R. § 390.23 for purposes of suspending certain rules and regulations, as set forth below, for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws.

B. I hereby authorize and direct the South Carolina Department of Transportation (“DOT”) and the South Carolina Department of Public Safety (“DPS”), including the State Transport Police, as needed, to waive or suspend application and enforcement of the requisite state and federal rules and regulations pertaining to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles and operators of commercial vehicles operating in accordance with the provisions of the FMCSA’s November 29, 2021 Extension of the Modified Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25, or any future amendments or supplements thereto; providing direct assistance as defined by 49 C.F.R. § 390.5 to the declared emergency in the State of Georgia; or otherwise assisting with the existing or anticipated threats and circumstances associated with supply chain disruptions as further described herein.

C. I hereby authorize DOT and DPS, as applicable, to apply for or request any additional federal regulatory relief, waivers, permits, or other appropriate flexibility deemed necessary, whether pertaining to the transportation of overweight loads on interstate highways or otherwise, on behalf of the State of South Carolina and to promptly implement the same without the need for further Orders.

D. This Section shall not be construed to require or allow an ill or fatigued driver to operate a commercial motor vehicle. In accordance with 49 C.F.R. § 390.23, “a driver who informs the motor carrier that he or she needs immediate rest must be permitted at least ten (10) consecutive hours off duty before the driver is required to return to such terminal or location.” Likewise, this Section shall not be construed as an exemption from the applicable controlled substances and alcohol use and testing requirements in 49 C.F.R. § 382, the commercial driver’s license requirements in 49 C.F.R. § 383, or the financial responsibility requirements in 49 C.F.R. § 387, and it shall not be interpreted to relieve compliance with any other state or federal statute, rule, order, regulation, restriction, or other legal requirement not specifically waived, suspended, or addressed herein or addressed in any additional or supplemental guidance, rules, regulations, restrictions, or clarification issued, provided, or promulgated by DOT or DPS.

E. Subject to any guidance, rules, regulations, restrictions, or clarification issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DOT or DPS, as authorized herein or as otherwise provided by law, and notwithstanding the waiver or suspension of certain rules and regulations as set forth above, drivers in South Carolina are still subject to the following state requirements to ensure public safety:

1. Weight, height, length, and width for any such vehicle with five (5) weight bearing axles on highways or roadways maintained by the State of South Carolina shall not exceed, for continuous travel on all

non-interstates, United States, and South Carolina designated routes, maximum dimensions of twelve (12) feet in width, thirteen (13) feet six (6) inches in height, and ninety thousand (90,000) pounds in gross weight.

2. Posted bridges may not be crossed.

3. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall be clearly identified as a utility vehicle or shall provide appropriate documentation indicating they are responding to the emergency.

4. Any vehicles that exceed the above dimensions, weights, or both, must obtain a permit with defined routes from the South Carolina Department of Transportation Oversized/Overweight Permit Office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. – 5:00 p.m., or (803) 206-9566 after normal business hours.

5. Transporters are responsible for ensuring they have oversize signs, markings, flags, and escorts as required by the South Carolina Code of Laws relating to oversized/overweight loads operating on South Carolina roadways.

F. I hereby authorize DOT and DPS to issue, provide, or promulgate any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application, implementation, or enforcement of this Section, or to otherwise provide clarification regarding the same, without the need for further Orders.

G. This Section is effective immediately and shall remain in effect for thirty (30) days or until the state of emergency in the State of Georgia is terminated, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws.

## **Section 2. Directives to Address Supply Chain Disruptions**

A. I hereby declare that the provisions of Section 2 of Executive Order No. 2021-21 shall remain in full force and effect unless otherwise modified, amended, extended, or rescinded by subsequent Order.

## **Section 3. General Provisions**

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. I hereby expressly authorize the Office of the Governor to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Order or to otherwise to provide clarification regarding the same, through appropriate means, without the need for further Orders.

## 8 EXECUTIVE ORDERS

E. This Order is effective immediately and shall remain in effect unless otherwise expressly stated herein or modified, amended, extended, or rescinded by subsequent Order.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 23rd DAY OF DECEMBER, 2021.**

**HENRY MCMASTER  
Governor**

### **Executive Order No. 2022-01**

**WHEREAS**, the undersigned has been notified of the passing of Peden Brown McLeod, who previously served as a member of the South Carolina House of Representatives and the South Carolina Senate; and

**WHEREAS**, in addition to his dutiful service as a member of the South Carolina House of Representatives and the South Carolina Senate, Peden Brown McLeod previously served the State of South Carolina as a member of the Board of Trustees of the Medical University of South Carolina, Code Commissioner and Director of the Legislative Council of the General Assembly of South Carolina, and in various other state and local capacities; and

**WHEREAS**, prior to his distinguished public service, Peden Brown McLeod served honorably in the United States Army and the United States Army Reserve; and

**WHEREAS**, Peden Brown McLeod was a dedicated public servant, accomplished attorney, principled leader, and devoted father and family man, and his passing warrants the people of this State further recognizing and appropriately honoring his extraordinary legacy and lifetime of service to the State of South Carolina; and

**WHEREAS**, Title 4, Section 7(m) of the United States Code, as amended, provides that “[i]n the event of the death of a present or former official of the government of any State, . . . the Governor of that State . . . may proclaim that the National flag shall be flown at half-staff”; and

**WHEREAS**, section 10-1-161(E) of the South Carolina Code of Laws, as amended, provides that “upon the death of a person of extraordinary stature, the Governor may order that the flags atop the State Capitol Building be lowered to half-staff at a designated time or for a designated period of time.”

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and of these United States and the powers conferred upon me therein, I hereby order that the flags atop the State Capitol be lowered to half-staff from sunrise until sunset on Tuesday, January 4, 2022, in honor of Peden Brown McLeod and in recognition of his extraordinary legacy and lifetime of service to the State of South Carolina. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 3rd DAY OF JANUARY, 2022.**

**HENRY MCMASTER  
Governor**

**Executive Order No. 2022-02**

**WHEREAS**, despite the diligent efforts of parents, teachers, and school administrators, it is axiomatic that the 2019 Novel Coronavirus (“COVID-19”) pandemic has negatively impacted the mental health and social and emotional wellbeing of many students and children in South Carolina; and

**WHEREAS**, according to recent studies, mental-health-related emergency department visits among adolescents increased by 31% in 2020, as compared to 2019, and in February and March of 2021, emergency department visits for suspected suicide attempts were 51% higher among girls between the ages of 12 and 17 than during the same period in 2019; and

**WHEREAS**, the Department of Mental Health (“DMH”) employs master’s level mental-health clinicians to provide mental-health assessment, intervention, and treatment services on site in South Carolina’s public schools (“School Mental Health Services Program”); and

**WHEREAS**, DMH has reported that it currently provides mental-health clinicians through the School Mental Health Services Program to fewer than 50% of the State’s public schools; and

**WHEREAS**, DMH has also indicated that over 80% of children receiving services under the School Mental Health Services Program are funded through the Medicaid program; and

**WHEREAS**, after accounting for any available and applicable insurance coverage, DMH “balance bills” families for any additional or remaining costs associated with services provided to a student, which may disincentive utilizing the School Mental Health Services Program; and

**WHEREAS**, the State must ensure that its investment in the mental health and wellbeing of South Carolina’s children is readily available to, and fully accessible by, those children and families in need of such services; and

**WHEREAS**, in view of the foregoing circumstances, the undersigned has determined that it is necessary and appropriate for the State to take proactive action to analyze and evaluate the mental-health services provided to South Carolina’s children, particularly in the State’s schools, and to consider and explore any opportunities to improve the same; and

**WHEREAS**, article IV, section 17 of the South Carolina Constitution provides that “[a]ll State officers, agencies, and institutions within the Executive Branch shall, when required by the Governor, give him information in writing upon any subject relating to the duties and functions of their respective offices, agencies, and institutions, including itemized accounts of receipts and disbursements”; and

**WHEREAS**, section 1-1-840 of the South Carolina Code of Laws, as amended, similarly authorizes the Governor to “call upon any department or institution at any time for such special reports as may be deemed in the interest of the public welfare”; and

**WHEREAS**, section 1-3-10 of the South Carolina Code of Laws, as amended, also requires that “[t]he departments, bureaus, divisions, officers, boards, commissions, institutions and other agencies or undertakings of the State, upon request, shall immediately furnish to the Governor, in such form as he may require, any information desired by him in relation to their respective affairs or activities”; and

**WHEREAS**, for the aforementioned and other reasons, the undersigned has determined that it is necessary and appropriate for the State to conduct a comprehensive review and analysis of DMH’s School Mental Health Services Program, which shall include evaluating those services currently provided, identifying any barriers to access, considering any opportunities for improvement, and determining the most effective manner in which to utilize existing funds and any additional funds or resources that may be available.

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**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby order and direct as follows:

### **Section 1. Review of School Mental Health Services Program**

A. I hereby authorize and direct the Department of Health and Human Services (“DHHS”) to perform a comprehensive review and analysis of the DMH’s School Mental Health Services Program, which shall, *inter alia*, assess the availability of such services to children in the State’s schools, identify any barriers to access, and determine the most effective manner in which to utilize existing funds and any additional funds or resources that may be available. DHHS shall provide recommendations it deems appropriate for improving the School Mental Health Services Program.

B. Pursuant to article IV, section 17 of the South Carolina Constitution and sections 1-1-840 and 1-3-10 of the South Carolina Code of Laws, and in furtherance of the principles, considerations, and initiatives set forth above, I hereby direct DMH to cooperate with, accommodate, and assist DHHS in conducting the aforementioned review and analysis and to provide DHHS with any and all data, information, documents, or materials requested by DHHS in connection with the same.

### **Section 2. General Provisions**

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. This Order is effective immediately and shall remain in effect unless otherwise expressly stated herein or modified, amended, extended, or rescinded by subsequent Order.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 12th DAY OF JANUARY, 2022.**

**HENRY MCMASTER  
Governor**



**Executive Order No. 2022-03**

**WHEREAS**, to enhance the services state agencies provide to the citizens of South Carolina, it is necessary to better utilize the State’s information technology (“IT”) resources while strengthening the security of the State’s systems to ensure the safety of the State’s data; and

**WHEREAS**, state agencies can best utilize IT and ensure the security of data when the State’s resources are consolidated and leveraged on a statewide basis; and

**WHEREAS**, effective consolidation of IT resources can be expected to reduce the overall costs of and improve the State’s return-on-investment for providing IT services; increase efficiencies by removing barriers to collaboration among agencies; reduce risks associated with providing IT services and increase information security; improve agencies’ business operations; and better allow for the preparation for, management of, and response to major technology incidents; and

**WHEREAS**, the Department of Administration (“Department”) is required to, *inter alia*, initiate a state plan for the management and use of IT and, more specifically, to develop a Statewide Strategic Information Technology Plan (“Plan”) and provide recommendations to the Governor regarding priorities for state government enterprise IT projects and resource requirements; and

**WHEREAS**, the Department has developed and maintains a Plan under which the Department serves as the IT shared services organization for state agencies to ensure reliable IT services are provided on behalf of the State; and

**WHEREAS**, the General Assembly has adopted a recurring proviso, currently set forth in 2021 S.C. Acts No. 94, Part IB, § 117.112 (“Proviso”), requiring agencies to use shared services provided by the Department and to comply with various rules, standards, plans, policies, and directives related to the implementation of the Plan; and

**WHEREAS**, the Department provides an IT Shared Services Catalog, which contains a wide variety of secure, reliable, and cost-effective IT services available to agencies throughout the State; and

**WHEREAS**, the effectiveness of the Plan and the Department’s overall efforts to improve the utilization of the State’s IT resources depends upon the successful implementation of the Plan and agency use of the aforementioned shared services offered by the Department; and

**WHEREAS**, in view of the foregoing circumstances, the undersigned has determined that it is necessary and appropriate to take further proactive action to ensure successful implementation of the Plan, facilitate efficient and cost-effective utilization of current and future IT resources, and strengthen the security of the State’s systems; and

**WHEREAS**, the South Carolina Constitution expressly provides that the Governor of the State of South Carolina is vested with “[t]he supreme executive authority of this State” and that he “shall take care that the laws be faithfully executed,” S.C. Const. art. IV, §§ 1, 15; and

**WHEREAS**, in recognition of the aforementioned authority, article IV, section 17 of the South Carolina Constitution states that “[a]ll State officers, agencies, and institutions within the Executive Branch shall, when required by the Governor, give him information in writing upon any subject relating to the duties and functions of their respective offices, agencies, and institutions, including itemized accounts of receipts and disbursements”; and

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**WHEREAS**, section 1-1-840 of the South Carolina Code of Laws, as amended, similarly authorizes the Governor to “call upon any department or institution at any time for such special reports as may be deemed in the interest of the public welfare”; and

**WHEREAS**, section 1-3-10 of the South Carolina Code of Laws, as amended, also requires that “[t]he departments, bureaus, divisions, officers, boards, commissions, institutions and other agencies or undertakings of the State, upon request, shall immediately furnish to the Governor, in such form as he may require, any information desired by him in relation to their respective affairs or activities”; and

**WHEREAS**, section 1-3-125 of the South Carolina Code of Laws, as amended, creates the Executive Budget Office to “support the Office of the Governor by conducting analysis, implementing and monitoring the annual general appropriations act, and evaluating program performance”; and

**WHEREAS**, section 1-11-10 of the South Carolina Code of Laws, as amended, requires the Director of the Department to assess the Plan, “recommend to the Governor priorities for state government enterprise information technology projects and resource requirements,” and “review information technology spending by state agencies and evaluate whether greater efficiencies, more effective services, and cost savings can be achieved through streamlining, standardizing, and consolidating agency information technology”; and

**WHEREAS**, for the aforementioned and other reasons, and in recognition and furtherance of the foregoing principles, considerations, and initiatives, the undersigned has determined that it is necessary and appropriate to take additional proactive action to ensure successful implementation of the Plan, facilitate efficient and cost-effective utilization of current and future IT resources, strengthen the security of the State’s IT systems and infrastructure, and enhance the ability of state agencies to deliver responsive services to the people of South Carolina.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby order and direct as follows:

### **Section 1. IT Shared Services Plan Implementation**

A. As set forth in the Plan and in furtherance of the requirements established by the General Assembly, I hereby direct agencies of the State of South Carolina, as detailed below and further defined in Section 1(H), to use shared services offered by the Department’s Office of Technology and Information Services. State agencies shall follow, adhere to, and comply with a shared services plan to be developed by the Department. The Department’s shared services plan shall further implement and serve as a supplement to the Proviso, and state agencies shall continue to comply with the requirements of the Proviso and any future legislative directives.

B. The Department shall work with state agencies to perform an assessment of each agency’s IT profile and to develop a timeline for implementation of each agency’s shared services plan. The Department may provide shared services to state agencies through the Department’s internal resources or the Department may procure shared services through contracts with third-party vendors.

C. Pursuant to article IV, section 17 of the South Carolina Constitution and sections 1-1-840 and 1-3-10 of the South Carolina Code of Laws, and in furtherance of the principles, considerations, and initiatives set forth above, I hereby authorize and direct state agencies to cooperate with, accommodate, and assist the Department in conducting the aforementioned assessment and to provide the Department with any and all data, information, documents, or materials requested by the Department in accordance with any timelines established by the Department.

D. Without prior approval from the Department, state agencies shall not take any action to implement or make any expenditure related to the agency’s:

1. IT strategic plan;
2. IT organizational plan;
3. IT asset plan;
4. IT software plan;
5. Planned IT projects, as defined by the Department; and
6. IT budget.

Agencies shall provide documentation of the above plans and projects in a manner and form and in accordance with a timeline prescribed by the Department. Agencies shall also provide to the Department documentation demonstrating their multiyear budgeting plans and documentation related to IT funding. Documentation of IT funding shall reflect new requests for funding from the General Assembly and existing budgetary authority for IT-related expenditures, including, but not limited to, expenditures for equipment, software, applications, contracts, and agency personnel. Agencies shall coordinate with and receive approval from the Department prior to submitting IT-related funding requests to the Executive Budget Office.

E. In a manner and form and in accordance with a timeline prescribed by the Department, state agencies shall report to the Department:

1. The agency's progress towards implementing IT shared services;
2. The agency's IT strategic plan and any changes to that plan;
3. The agency's forecast of IT expenditures, the agency's actual IT expenditures, and a reconciliation of any differences between forecasted and actual IT expenditures;
4. The status of the agency's IT-related funding requests (including, but not limited to, approvals, denials, and changes); and
5. The status of the agency's IT projects.

F. I hereby authorize the Department to provide or issue any necessary and appropriate additional or supplemental instructions, guidance, rules, regulations, or restrictions to state agencies regarding the application of this Section or to otherwise provide clarification regarding the same, through appropriate means, without the need for further Orders

G. The Department shall, on an annual basis, report to the Office of the Governor each agency's compliance with the requirements of this Order.

H. This Order shall apply to any agency, department, or office the director of which is appointed by the undersigned, with or without the advice and consent of the Senate, and is subject to removal from office by the undersigned pursuant to provisions of section 1-3-240(B) or (C) of the South Carolina Code of Laws, as amended. This Order shall not apply to the Legislative Branch, the Judicial Branch, public institutions of higher learning, technical colleges, political subdivisions, and quasi-governmental bodies.

## **Section 2. General Provisions**

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

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C. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

D. This Order is effective immediately and shall remain in effect unless otherwise expressly stated herein or modified, amended, extended, or rescinded by subsequent Order.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 12th DAY OF JANUARY, 2022.**

**HENRY MCMASTER  
Governor**

### **Executive Order No. 2022-04**

**WHEREAS**, the National Weather Service has determined from the latest forecast models that a severe winter storm may impact the southeastern region of the United States and has issued a winter storm watch for portions of the State of South Carolina; and

**WHEREAS**, according to preliminary forecasts, the aforementioned storm system will impact portions of the State of South Carolina beginning on January 15, 2022, and may cause significant damage to public and private property and disrupt essential utility services and systems throughout the State of South Carolina; and

**WHEREAS**, the undersigned has been advised that the forecasted severe weather event and anticipated impacts represent a significant threat to the State of South Carolina, which requires that the State proactively prepare for the same and take timely precautions to protect and preserve property, critical infrastructure, communities, and the general safety and welfare of the people of this State; and

**WHEREAS**, in light of the foregoing circumstances, the undersigned has determined that it is necessary and appropriate to take additional proactive action to expedite ongoing preparations and to facilitate future emergency management, response, recovery, and relief efforts in connection with the forecasted severe weather event and the anticipated impacts associated with the same; and

**WHEREAS**, as the elected Chief Executive of the State, the undersigned is authorized pursuant to section 25-1-440 of the South Carolina Code of Laws, as amended, to “declare a state of emergency for all or part of the State if he finds a disaster . . . has occurred, or that the threat thereof is imminent and extraordinary measures are considered necessary to cope with the existing or anticipated situation”; and

**WHEREAS**, in accordance with section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is “responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility,” to include issuing, amending, and rescinding “emergency proclamations and regulations,” which shall “have the force and effect of law as long as the emergency exists”; and

**WHEREAS**, in accordance with section 56-5-70(A) of the South Carolina Code of Laws, as amended, during a declared emergency and in the course of responding to the emergency, requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles travelling on non-interstate routes for up to one hundred twenty (120) days, provided that such vehicles do not exceed a gross weight of ninety thousand (90,000) pounds and do not exceed a width of twelve (12) feet, and requirements relating to time of service suspensions for commercial and utility vehicles travelling on interstate

and non-interstate routes are suspended for up to thirty (30) days, unless extended for additional periods pursuant to the Federal Motor Carrier Safety Regulations; and

**WHEREAS**, the Federal Motor Carrier Safety Regulations limit, *inter alia*, the hours of service for operators of commercial vehicles, 49 C.F.R. §§ 390 *et seq.*, and federal law prescribes certain weight limitations for vehicles on interstate highways, 23 U.S.C. § 127; and

**WHEREAS**, pursuant to 49 C.F.R. § 390.23, the governor of a state may suspend certain federal rules and regulations for commercial vehicles responding to an emergency if the governor determines that an emergency condition exists; and

**WHEREAS**, section 56-5-70(B) of the South Carolina Code of Laws, as amended, provides that “[w]hen an emergency is declared which triggers relief from regulations pursuant to 49 C.F.R. [§] 390.23 in North Carolina or Georgia, an emergency, as referenced in the regional emergency provision of 49 C.F.R. [§] 390.23(a)(1)(A), must be declared in this State by the Governor”; and

**WHEREAS**, due to the anticipated severe winter weather event, the Governor of North Carolina issued Executive Order No. 247 on January 13, 2022, declaring that an emergency exists in the State of North Carolina and temporarily waiving or suspending certain motor vehicle regulations; and

**WHEREAS**, the undersigned has determined that the prompt restoration of utility services and the uninterrupted transportation of essential goods, equipment, and products to or from the impacted areas are critical to the safety and welfare of the people of South Carolina and neighboring States, and it is necessary and appropriate for the State of South Carolina to expedite ongoing preparations and support future emergency management, response, recovery, and relief efforts by facilitating the operation of critical transportation services; and

**WHEREAS**, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned’s responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined that the forecasted severe weather event and anticipated impacts constitute an emergency for the State of South Carolina and that extraordinary measures are necessary to cope with the same.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby declare that a State of Emergency exists in South Carolina. Accordingly, for the foregoing reasons and in accordance with the cited authorities and other applicable law, I further order and direct as follows:

**Section 1. Emergency Measures**

A. I hereby activate the South Carolina Emergency Operations Plan (“Plan”) and direct that the Plan be further placed into effect and that all prudent preparations be taken at the individual, local, and state levels to prepare for and respond to the forecasted severe weather event and the impacts associated with the same. I further direct the utilization of all available resources of state government as reasonably necessary to address the current State of Emergency.

B. I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws, as amended, and direct the Adjutant General to issue the requisite supplemental orders as he deems necessary and appropriate. I further order the activation of South Carolina National Guard personnel and the utilization of appropriate equipment at the discretion of the Adjutant General, and in coordination with the Director of the South Carolina Emergency Management Division (“EMD”), to take necessary and prudent actions to assist the people of this State. I authorize Dual Status Command, as necessary, to allow the Adjutant General or his designee to serve as

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commander over both federal (Title 10) and state forces (National Guard in Title 32 and/or State Active Duty status).

C. I hereby order that all licensing and registration requirements regarding private security personnel or companies who are contracted with South Carolina security companies in protecting property and restoring essential services in South Carolina shall be suspended, and I direct the South Carolina Law Enforcement Division (“SLED”) to initiate an emergency registration process for those personnel or companies for a period specified, and in a manner deemed appropriate, by the Chief of SLED.

D. I hereby authorize and direct any agency within the undersigned’s Cabinet or any other department within the Executive Branch, as defined by section 1-30-10 of the South Carolina Code of Laws, as amended, through its respective director or secretary, to waive or “suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency,” in accordance with section 25-1-440 of the South Carolina Code of Laws and other applicable law.

E. I hereby declare that the prohibitions against price gouging pursuant to section 39-5-145 of the South Carolina Code of Laws, as amended, are in effect and shall remain in effect for the duration of this State of Emergency.

### **Section 2. Transportation Waivers**

A. I hereby determine and declare that the existing and anticipated threats and circumstances described herein associated with the forecasted severe winter storm and the impacts related to the same constitute an emergency pursuant to 49 C.F.R. § 390.23 for purposes of suspending certain rules and regulations, as set forth below, for commercial vehicles and operators of commercial vehicles in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws.

B. I hereby authorize and direct the South Carolina Department of Transportation (“DOT”) and the South Carolina Department of Public Safety (“DPS”), including the State Transport Police, as needed, to waive or suspend application and enforcement of the requisite state and federal rules and regulations pertaining to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles and operators of commercial vehicles operating in accordance with the provisions of the FMCSA’s November 29, 2021 Extension of the Modified Emergency Declaration No. 2020-002 Under 49 C.F.R. § 390.25, or any future amendments or supplements thereto; providing direct assistance as defined by 49 C.F.R. § 390.5 to the declared emergency in this State or any declared emergency in the State of Georgia or the State of North Carolina in connection with the severe weather event or providing direct assistance to supplement state and local efforts and capabilities related to the same, to include commercial vehicles and operators of commercial vehicles transporting equipment, materials, or persons necessary for the restoration of utility services or debris removal and those transporting essential goods and products, such as food, water, medicine, medical supplies and equipment, fuels and petroleum products (to include fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum), livestock, poultry, feed for livestock and poultry, and crops and other agricultural products ready to be harvested (to include timber and wood chips). I further authorize and direct DOT and DPS to issue, provide, or promulgate any necessary and appropriate clarification, guidance, rules, regulations, or restrictions regarding the application of this Section.

C. This Section shall not be construed to require or allow an ill or fatigued driver to operate a commercial motor vehicle. In accordance with 49 C.F.R. § 390.23, “a driver who informs the motor carrier that he or she needs immediate rest must be permitted at least ten (10) consecutive hours off duty before the driver is required to return to such terminal or location.” Likewise, this Section shall not be construed as an exemption from the applicable controlled substances and alcohol use and testing requirements in 49 C.F.R. § 382, the commercial driver’s license requirements in 49 C.F.R. § 383, or the financial responsibility requirements in 49 C.F.R. § 387, and it shall not be interpreted to relieve compliance with any other state or federal statute, rule,

order, regulation, restriction, or other legal requirement not specifically waived, suspended, or addressed herein or addressed in any additional or supplemental guidance, rules, regulations, restrictions, or clarifications issued, provided, or promulgated by DOT or DPS.

D. Subject to any guidance, rules, regulations, restrictions, or clarification issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DOT or DPS, as authorized herein or as otherwise provided by law, and notwithstanding the waiver or suspension of certain rules and regulations as set forth above, drivers in South Carolina are still subject to the following state requirements to ensure public safety:

1. Weight, height, length, and width for any such vehicle with five (5) weight bearing axles on highways or roadways maintained by the State of South Carolina shall not exceed, for continuous travel on all non-interstates, United States, and South Carolina designated routes, maximum dimensions of twelve (12) feet in width, thirteen (13) feet six (6) inches in height, and ninety thousand (90,000) pounds in gross weight.

2. Posted bridges may not be crossed.

3. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall be clearly identified as a utility vehicle or shall provide appropriate documentation indicating they are responding to the emergency.

4. Any vehicles that exceed the above dimensions, weights, or both, must obtain a permit with defined routes from the South Carolina Department of Transportation Oversized/Overweight Permit Office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. – 5:00 p.m., or (803) 206-9566 after normal business hours.

5. Transporters are responsible for ensuring they have oversize signs, markings, flags, and escorts as required by the South Carolina Code of Laws relating to oversized/overweight loads operating on South Carolina roadways.

E. I hereby authorize DOT and DPS to issue, provide, or promulgate any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application, implementation, or enforcement of this Section, or to otherwise provide clarification regarding the same, without the need for further Orders.

F. I hereby authorize and direct DPS, including the South Carolina Highway Patrol, as needed, to waive or suspend, in whole or in part, operation of the requisite rules and regulations, to include Regulation 38-600 of the South Carolina Code of Regulations, pertaining to the use of the South Carolina Highway Patrol Wrecker Rotation List.

G. This Section is effective immediately and shall remain in effect for thirty (30) days or until any declared emergency in the State of North Carolina or the State of Georgia is terminated, whichever is less, in accordance with 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws.

### **Section 3. General Provisions**

A. The provisions of this Order, or any subsequent Orders issued in connection with the State of Emergency declared herein, shall not be construed to modify, amend, or otherwise alter the provisions of Executive Order No. 2021-44, or any prior Orders addressed therein or any future issued in connection therewith, which shall remain in full force and effect in accordance with their respective terms unless and until otherwise modified, amended, or rescinded by subsequent Order.

B. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

## **18 EXECUTIVE ORDERS**

C. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

D. This Order shall be implemented consistent with and to the maximum extent provided by applicable law and shall be subject to the availability of appropriations. This Order shall not be interpreted, applied, implemented, or construed in a manner so as to impair, impede, or otherwise affect the authority granted by law to an executive agency or department, or the officials or head thereof, including the undersigned.

E. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

F. I hereby expressly authorize the Office of the Governor to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Order or to otherwise to provide clarification regarding the same, through appropriate means, without the need for further Orders.

G. This Order is effective immediately and shall remain in effect for a period of fifteen (15) days unless otherwise expressly stated herein or modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 14th DAY OF JANUARY, 2022.**

**HENRY MCMASTER  
Governor**



## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

## NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication on **January 28, 2022**, 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 Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201, at (803) 545-4200, or by email at [coninfo@dhec.sc.gov](mailto:coninfo@dhec.sc.gov).

**Affecting Charleston County****Medical University Hospital Authority d/b/a MUSC Medical Center**

Purchase of a da Vinci Xi robotic surgical system at a total project cost of \$2,753,580.

**Quality of Life Care, LLC**

Establishment of a Home Health Agency in Charleston County at a total project of \$40,000.

**Affecting Dorchester County****Trident Medical Center, LLC d/b/a Summerville Medical Center**

Construction for the addition of 56,943 sf and 50 general acute care beds for a total of 174 acute care beds at a total project cost of \$62,620,250.

**Affecting Lexington County****Lexington Health, Inc. d/b/a Lexington Medical Center**

Addition of 50 inpatient beds for a total of 607 beds at a total project cost of \$899,068.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from **January 28, 2022**. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Certificate of Need Program, 2600 Bull Street, Columbia, South Carolina 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200 or email [coninfo@dhec.sc.gov](mailto:coninfo@dhec.sc.gov).

**Affecting Berkeley County****Roper St. Francis Hospital-Berkeley, Inc. d/b/a Roper St. Francis Berkeley Hospital**

Construction for the addition of 124,691 sf and 50 general acute care beds for a total of 100 acute care beds at a total project cost of \$193,441,316.

**Affecting Darlington County****Carolina Pines Regional Medical Center**

Purchase of a Globus Medical Excelsius GPS Robotic Navigation System at a total project cost of \$1,925,308.

**Affecting Greenville County****St. Francis Hospital, Inc. d/b/a Bon Secours St. Francis Downtown**

Renovation of 4,700 existing sf to expand electrophysiology (EP) services by adding a second EP lab and equipment at a total project cost of \$7,047,701.

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### Affecting York County

Amisub of South Carolina, Inc., d/b/a Piedmont Medical Center

Purchase of a da Vinci Xi robotic surgical system at a total project cost of \$2,329,623.

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE OF GENERAL PUBLIC INTEREST

#### SETTLEMENT, CONTRIBUTION PROTECTION, AND COMMENT PERIOD

Philip Services Corporation (ThermalKEM) Site, LWM File #51316

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (DHEC) intends to enter into a Settlement and Consent Decree (Settlement) with numerous potentially responsible parties that have formed the Philip Services Corporation (PSC) PRP Group and the United States of America – collectively, the “Settling Parties” to address the contamination at the Philip Services Corporation Site (also known as “ThermalKEM”) (the “Site”). DHEC and the Settling Parties intend to seek approval of the Settlement with the United States District Court of South Carolina (Court).

Upon Court approval, the Settlement provides for the reimbursement of approximately \$4.4 million of DHEC’s past response costs and certain DHEC future response costs, and the funding and performance of the remedial action with DHEC’s oversight. The Settlement is subject to a thirty-day public comment period, consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9622, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. Section 44-56-200 (as amended).

The Settlement relates to the release, and threatened release, of hazardous substances, pollutants, or contaminants at the Site located in York County at 2324 Vernsdale Road in Rock Hill, South Carolina. In consideration of the foregoing, upon judicial approval of the Settlement and the obligation of payments to DHEC, the Settlement shall provide each of the Settling Parties with contribution protection and certain contribution rights against any non-settlers pursuant to CERCLA 42 U.S.C. Section 9613.

A notice of settlement, contribution protection, and comment period will also be provided to other potentially responsible parties via newspaper publication and on DHEC’s webpage. The Settlement is available:

- (1) On-line at <https://apps.dhec.sc.gov/Environment/PublicNotices> or
- (2) By contacting Gary Stewart at 803-898-0778 or [stewarrg@dhec.sc.gov](mailto:stewarrg@dhec.sc.gov).

Any comments to the Settlement must be submitted in writing, postmarked no later than Monday, February 28, 2022, and addressed to: Gary Stewart, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201. After considering all the comments received, DHEC intends to file the Settlement with the Court for approval.

**UPON APPROVAL AND ENTRY OF THE SETTLEMENT BY THE COURT, ANY AND ALL CLAIMS BY ANY AND ALL PERSONS AGAINST MEMBERS OF THE PSC PRP GROUP SEEKING CONTRIBUTION FOR MATTERS ENCOMPASSED BY THE AGREEMENT SHALL BE FORECLOSED.**

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

**NOTICE OF GENERAL PUBLIC INTEREST**

120-1. Definitions.

120-3. Licensure to Practice Veterinary Medicine.

120-9. Practice Standards for: Licensed Veterinary Technicians; Unlicensed Veterinary Assistants

The South Carolina Board of Veterinary Medical Examiners elects to terminate the promulgation process on Regulation Document 5091, which proposed amendments to Chapter 120: to define “emergency patient” and “radiography” in Regulation 120-1; to update and clarify Regulation 120-9 regarding the practice standards for licensed veterinary technicians and unlicensed veterinary aides; and to clarify Regulation 120-3 in accordance with the statutes for licensure and examinations for veterinarians.

## 22 PROPOSED REGULATIONS

Document No. 5105  
**DEPARTMENT OF MOTOR VEHICLES**  
CHAPTER 90  
Statutory Authority: 1976 Code Section 56-23-100

### Article 2. Driver Training Schools.

#### **Preamble:**

The South Carolina Department of Motor Vehicles is amending Chapter 90, Article 2 on Driver Training Schools regarding how these entities conduct business in the State of South Carolina and are regulated by the Department of Motor Vehicles.

Additionally, the Federal Motor Carrier Safety Administration (FMCSA) under the United States Department of Transportation (USDOT) requires certain standards for training entry-level commercial drivers to be adopted and implemented by the states commencing February 7, 2022. Because the FMCSA has published the required Entry-Level Driver Training Regulations (49 CFR §380.600), there is no need for certain duplicative information to be included in our state regulations. The current 1976 Code Section 56-1-2005 states, “The rules adopted by and regulations promulgated by the USDOT relating to the safety of operation and to equipment (49 CFR Parts 380, 382-385, and 390-399 and amendments thereto) . . . must be adopted and enforced in South Carolina.”

#### Section-by Section Discussion:

#### 90-100. Definitions.

A. Broadens the definition of behind-the-wheel training to make it consistent with the ELDT definition, but still applicable to non-commercial driving schools.

B. - F. No change.

G. Inserts definition of Non-Class A Tractor Trailer.

H. - V. Subsections are re-lettered to conform with insertion of new definition under G.

H. - K. No change.

L. Inserts the word “minimum, and the phrase “and demonstrates proficiency in all”; deletes the word “of” and adds the phrase “the ELDT program (if applicable); deletes the phrase “established by the school.”

N. Inserts the phrase “when used in the context of requisite driver training periods” to clarify.

O. No change.

P. Deletes “seventy” and inserts “eighty” to conform with ELDT minimum score requirements. Inserts the phrase “for commercial driving school students and seventy percent for non-commercial driving school students.

Q. No change.

R. Deletes and inserts language to define the word “range” consistent with the ELDT definitions.

S. Refines the definition of “record” for both commercial and non-commercial driver training schools; separates and moves the definition of “Driver Training School Instructor” to sub-category. Creates sub-category (1) to expand the records definition as to commercial driver training schools. Creates sub-category (2) to define Instructor and modifies definition consistent with ELDT.

T. Deletes the word “truck” to make definition apply to both commercial and non-commercial students.

U. Deletes reference to “CMV” and inserts “motor vehicle” to make applicable to both commercial and non-commercial driving schools.

V. Amends definition to ensure entities exempted under S.C. §56-23-20 are not included in “Truck Driver Training Schools” definition.

#### 90-101. Adds new section – Applicability.

#### 90-101. Driver Training School License Applicants Requirements.

Re-numbered to 90-102.

Deletes the word “Applicants” and adds the word “minimum” to the title for clarification.

A.(1). Deletes the phrase “applicant maintains an” and the word “office” and inserts the phrase “driver training school is a permanent business located” to replace the above deleted words.

A.(2). Inserts the phrase “applying for the driver training school license” for clarification.

Inserts the sentence “Records must be maintained by the driver training school for at least three (3) years” consistent with ELDT.

A.(3). Replaces the word “applicant” with “driver training school” to clarify to whom the regulation applies.

Inserts the phrase “or contracts with” to permit schools to hire qualified independent contractor driving instructors in addition to employing them as a statutory employee. Deletes the phrase “employed by the school and.” Replaces the word “licensed” with “holds an instructor permit.”

Inserts the phrase “provides driving instruction for the school” for clarification.

A.(4) – (5). No change.

B. Replaces the word “give” with the word “provide” for clarity.

#### 90-102. Driving School Requirements.

Re-numbered to 90-103.

A. - D. No change.

E. Inserts the phrase “to be made available upon request by the Department.”

F. Replaces the word “managers” with the phrase “those responsible for the day-to-day operation of the school, classes and students”. Inserts the word “of” and the phrase “upon initial certification.” Replaces the word “manager” with the phrase “management personnel.” Inserts the phrase “of the change along with submission of any new.” Inserts the phrase “for any new instructors.” Inserts the last sentence in that section “All management personnel are subject to self-reporting of criminal convictions and shall be subject to review and disqualification for just cause.”

G. - H. No change.

#### 90-103. Driving Training School License Application.

Re-numbered to 90-104.

A. - C. No change.

D. Changes application fee from \$50 to \$200 due to extended licensing period. Replaces word “obtain” with the word “maintain.”

E. Deletes requirement that renewals be submitted by June 1<sup>st</sup> each year. Requires applicant to submit renewal applications 30 days prior to expiration. Extends licensing period to every 4 years (as opposed to every 1 year), consistent with ELDT. Permits the DMV to grant written permission for a school with an expired license to continue operating temporarily while renewal application is pending as long as certain conditions are met.

#### 90-104. Driver Training School Motor Vehicle Liability Insurance.

Re-numbered to 90-105.

A. - B. No Change.

C. Moves the word “only” and adds the word instruction for clarity.

D. Adds the phrase “and upon the request of the Department.”

E. No Change.

#### 90-105. Driver Training School Instructor Qualifications.

Re-numbered to 90-106.

A. Adds language to clarify that commercial driving school instructions must meet all ELDT requirements in addition to those of the Department.

A.(1). Revises wording for clarity.

## 24 PROPOSED REGULATIONS

A.(2). Revises wording for clarity.

A.(3). Moves “contributing to the delinquency of a minor” to list of crimes that may lead to licensure disqualification.

A.(4) - (5). No change.

B. No change.

C. Adds requirement that commercial driving school instructors must satisfy requirements for inclusion on the federal Training Provider Registry as part of ELDT.

D. No change.

### 90-106. Driving Instructors Permit Application Requirements.

Re-numbered to 90-107.

Changes heading title by removing the phrase “Application Requirements.”

A. No change.

B. Broadens definition to allow driving schools to hire instructors as independent contractors and employees.

C. Inserts new subsection to state that driving school instructors must satisfy all Training Provider Registry requirements.

D. Inserts new sub-section for former 90-107 to combine former 90-106 and 90-107 for simplification.

### 90-107. Driver Training Instructor Permit.

Delete in its entirety. Content is included in 90-107(D).

### 90-108. Motor Vehicles Operated by Driver Training Schools.

No Change.

### 90-109. Driver Training School Motor Vehicle Safety and Identification Requirements.

A. No change.

B. No change.

C.(1). Inserts seat limitation for commercial vehicles.

C.(2). No change.

C.(3). Deletes prior sub-section and inserts revised section (7) from prior Reg.

C.(4). Deletes prior section and replaces it with former subsection (5) of this title.

C.(5). Deletes old subsection entirely and adds new subsection for record retention requirements.

C.(5). Renumbered to sub-section (4).

C.(6). Inserts new subsection consolidating prior Reg. 90-108.

C.(7). Renumbered and added to subsection (2) as amended.

C.(8). Renumbered and added to subsection (5).

### 90-110. Driver Training School Facilities.

Delete in its entirety.

### 90-111. Driver Training School Physical Facilities, Hours of Operation, etc.

Renumbered to 90-110.

Removed the word “Physical” from title.

A. Incorporates deleted 90-110 as new sub-section A.

B. Renumbered to conform with addition of A.

C. Renumbered to conform with addition of A. No change otherwise.

D. Renumbered to conform with addition of A.

- E. Renumbered to conform with addition of A.
- F. Renumbered to conform with addition of A.

90-112. Driver Training School Course of Instruction.

- Renumbered to 90-111.
- Revised heading title to specify applicability to non-commercial schools only.
- Added the words “all non-commercial” to first sentence to clarify to whom the regulation applies.

90-113. Driver Training School Student Instruction Record.

- Renumbered to 90-112.
- A.(1) – (5). No change.
- A.(6). Specifies additional documents to be included in the Student Instruction Record for commercial driving schools consistent with ELDT.
- B. No change.

90-114. Instruction Records and Files.

- Renumbered to 90-113.

90-115. Receipts for Fees Paid for Non-Commercial Instruction.

- Renumbered to 90-114.

90-116. Driver Training School Contracts.

- Renumbered to 90-115.
- A. - B. No change.
- C.(1). Inserts requirement that the school notify the Department of any scheduled third-party training at least 48 hours in advance of training.
- C.(2). The organization providing the third-party trainers must certify the third-party instructor has met all state and federal requirements to be a commercial driving instructor.
- C.(3). Requires the entity providing the third-party instructor to retain student records from the training for three years.

90-117. Inspection of School Facilities.

- Renumbered to 90-116.

90-118. Cancellation and Refund Policy.

- Renumbered to 90-117.

90-119. Driver Training School Advertising.

- Renumbered to 90-118.
- A. Replaces the word “intimate” with the words “otherwise represent” for clarity.
- B. No change.

90-120. Suspension, Revocation, Refusal to Renew Driver Training School License.

- Renumbered to 90-119.

## 26 PROPOSED REGULATIONS

A. - B. No change.

C. Amends subsection to clarify that failure to comply with federal or state licensing requirements and regulations is a ground for license revocation.

D. No change.

E. Inserts “or dependent upon” and “or other controlled substances” to clarify and expand grounds for revocation, suspension or refusal to renew license.

F. No change.

G. No change.

### 90-121. Minimum Training Hours for Commercial Driver Licenses.

Renumbered to 90-120.

A. Deletes entire heading.

A.(1). Renumbers to subsection A.

A.(1). Deletes second paragraph in light of ELDT adoption and requirements, so as not to conflict.

A.(2). Renumbered to subsection B. Deletes “in a format approved by the Department” from the first sentence and inserts “and records showing compliance with ELDT must be made available for inspection by the Department upon request.”

A.(2). Deletes “total coursework of 148” and inserts “completion of state minimum training hours” to reflect modified state minimum training hours required.

A.(3). Renumbered to subsection C.

A.(3). Deletes “consisting of a minimum of 148 hours consisting of theory instruction, range instruction and behind the wheel highway training must be completed by each student between dusk and dawn.”

A.(3). Inserts “satisfying the requirements of ELDT and.”

A.(3). Inserts “the following minimum hours for the type of training being conducted:”

B. Deletes entire heading.

B.(1). Deletes in its entirety.

B.(2). Deletes in its entirety.

B.(3). Deletes “consisting of a minimum of seventy hours of theory instruction, range instruction and behind the wheel instruction and observation on public roads, of which a minimum of ten hours of those must be behind the wheel on public roads.”

B.(3). New text added to Renumbered subsection C.

Inserts “satisfying the requirements of ELDT” and “the following minimum hours for the type of training being conducted.”

B.(4). Changed to D.

Deletes former limitations “with the original school, provided it is within six months of the completion date of the original training.”

C.(1). Inserts new text – Class A Tractor-Trailer.

C.(1)(a). Inserts new minimum hours requirements for a Class A Tractor Trailer course.

C.(1)(b). Inserts new section allowing BTW course to be taught separate from theory class.

C.(2). Inserts new text – Class A Non-Tractor Trailer.

C.(2)(a). Inserts new minimum hours for Class A Non-Tractor Trailer training.

C.(2)(b). Inserts new minimum hours for Class A Non-Tractor Trailer BTW course only.

C.(3). Inserts new minimum hours for Class B or Straight Truck/Passenger Bus Instruction.

C.(3)(a). Inserts minimum training hours for Class B/Straight Truck/Passenger Bus license.

C.(3)(b). Inserts minimum training hours for Class B BTW course only.

E. Inserts new section requiring that hazardous materials, school and passenger bus license upgrades be taught as a separate course of action.

The Notice of Drafting was published in the *State Register* on November 26, 2021.



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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court on Monday, February 28, 2022, at 9:00 a.m. Written comments may be directed to Lauren Phillips, Deputy Director, Legislative Affairs, South Carolina Department of Motor Vehicles, Post Office Box 1498, Blythewood, South Carolina 29016, no later than Monday, February 28, 2022, at 8:30 a.m. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

The SCDMV anticipates no state-incurred fiscal impact due to the amendment of these regulations.

**Statement of Need and Reasonableness:**

These regulations are amended in accordance with S.C. Code Ann. §56-23-100, which allows the Department to promulgate regulations to carry out the provisions within S.C. Code Title 56, Chapter 23 pertaining to Driver Training Schools. These regulations currently outline, in detail, driver training schools carry out their operations.

Furthermore, as of the publication date of this document, the Federal Motor Carrier Safety Administration (FMCSA) under the United States Department of Transportation (USDOT) will be requiring certain standards for training entry-level commercial drivers on February 7, 2022. Because the FMCSA is publishing, what it calls, the Entry-Level Driver Training Regulations (49 CFR §380.600), there is no need for certain duplicative information in state regulations. The current 1976 Code Section 56-1-2005 states, “The rules adopted by and regulations promulgated by the USDOT relating to the safety of operation and to equipment (49 CFR Parts 380, 382-385, and 390-399 and amendments thereto)...must be adopted and enforced in South Carolina.”

**DESCRIPTION OF REGULATION:**

**Purpose:** The Department is updating its regulations to consolidate duplicative regulations and to ensure that the regulations pertaining to commercial driving schools are consistent with the federal ELDT program requirements which are scheduled to become effective in South Carolina on February 7, 2022.

**Legal Authority:** 1976 Code Section 56-23-100.

**Plan for Implementation:** The revised regulations will take effect as set forth in Section 1-23-120 of the 1976 Code. The Department will notify current driver training schools of the revised regulations and post a link to the revised regulations on the agency’s website for at least one year after the effective date.

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

The Department is updating its regulations in anticipation of the launch of the federal Entry-Level Driver Training program in South Carolina on February 7, 2022. These amendments are necessary to provide private businesses in South Carolina flexibility while ensuring that appropriate safety checks and balances remain in place and so schools provide driver training using uniform standards statewide.

Furthermore, as of the publication date of this document, the Federal Motor Carrier Safety Administration (FMCSA) under the United States Department of Transportation (USDOT) will be requiring certain standards for training entry-level commercial drivers on February 7, 2022. Because the FMCSA is publishing, what it calls, the Entry-Level Driver Training Regulations (49 CFR §380.600), there is no need for duplicative information in state regulations.

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### DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the State, and the Department does not anticipate any increased operating costs for impacted driving schools. Additionally, there may be opportunities for cost savings for driving schools with these amended regulations.

### UNCERTAINTIES OF ESTIMATES:

The only uncertainty would be if the Federal Motor Carrier Safety Administration's (FMCSA) Entry-Level Driver Training Regulations (49 CFR §380.600) which take effect February 7, 2022 are amended from their current version to include fee changes. As of the publication of this document, however, there are no fees in FMCSA's regulations mentioned above.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment nor 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 nor public health if the regulation is not implemented.

### Statement of Rationale:

These regulations are updated to remove antiquated requirements for truck driver training schools and regular driver's license training schools.

Furthermore, as of the publication date of this document, the Federal Motor Carrier Safety Administration (FMCSA) under the United States Department of Transportation (USDOT) will be requiring certain standards for training entry-level commercial drivers on February 7, 2022. Because the FMCSA is publishing, what it calls, the Entry-Level Driver Training Regulations (49 CFR §380.600), there is no need for certain duplicative information in state regulations.

### Text:

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

Document No. 5104  
**SECRETARY OF STATE**  
CHAPTER 113

Statutory Authority: 1976 Code Sections 26-2-5 et seq.

- 113-400. Registration. (New)
- 113-410. Application for Registration as an Electronic Notary. (New)
- 113-420. Course of Instruction. (New)
- 113-430. Electronic Notary Signature and Electronic Notary Seal. (New)
- 113-440. Employers of Electronic Notaries. (New)
- 113-450. Rejection of Electronic Notary Public Application. (New)
- 113-460. Change of Registration Information. (New)
- 113-470. Access and Use of Electronic Notary Seal and Electronic Signature. (New)
- 113-480. Electronic Notary Journal Preservation. (New)

- 113-490. Application for Electronic Notary Providers. (New)
- 113-500. Requirements for Systems and Providers. (New)
- 113-510. Electronic Notarization System Provider Changes. (New)

**Preamble:**

The Office of the Secretary of State proposes to promulgate regulations to appear as Chapter 113, Article 4 of the South Carolina Code of Regulations. The South Carolina Electronic Public Notary Act (Section 26-2-5, et seq., Act 85 of 2021) was signed into law on May 18, 2021. The Act provides for notarial acts that can be performed electronically, restrictions for the performance of electronic notarizations, and the requirements to complete an electronic notarization. The Act further sets forth the procedures and requirements to become an electronic notary public and to be registered as an electronic notary solution provider. Prior to acceptance of electronic online notary public applications, administrative rules must be in effect and vendors of technology must be approved by the Secretary of State.

Section-by-Section Discussion:

- 113-400. Add new text that describes registration of notaries public to perform electronic notarial acts.
- 113-410. Add new text that sets forth information and requirements for application for registration as an electronic notary public.
- 113-420. Add new text that outlines the course of instruction and exam requirement for registration as an electronic notary public.
- 113-430. Add new text that describes the required elements of an electronic notary signature and electronic notary seal.
- 113-440. Add new text that describes limitations and requirements for employers of electronic notaries.
- 113-450. Add new text that describes when the Secretary of State may reject an electronic notary public application.
- 113-460. Add new text that sets forth requirements for electronic notaries public to notify the Secretary of State of changes to information provided in an application for registration.
- 113-470. Add new text that explains requirements for access and use of the electronic notary seal and electronic signature.
- 113-480. Add new text that describes requirements for electronic notary journal maintenance and preservation.
- 113-490. Add new text that sets forth information and requirements for application for registration as an electronic notary provider.
- 113-500. Add new text that describes the requirements for electronic notary systems and providers.
- 113-510. Add new text that sets forth requirements for electronic notarization system providers to notify the Secretary of State of changes to information provided in an application for registration.

The Notice of Drafting was published in the *State Register* on December 24, 2021.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court on March 23, 2022, at 10:00 a.m. Written comments may be directed to Melissa Dunlap, Deputy Secretary of State & Chief Legal Counsel, Office of the Secretary of State, 1205 Pendleton Street, Suite 525, Columbia, SC 29201, no later than 5:00 p.m., February 28, 2022. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

At this time, the agency believes any additional costs will be able to be absorbed by the agency.

## **30 PROPOSED REGULATIONS**

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

DESCRIPTION OF REGULATION: Chapter 113, Article 4 (Regulations 113-400 through 113-510), Electronic Notaries Public

Purpose: In accordance with the provisions of the Electronic Notary Public Act, the Office of the Secretary of State is to promulgate regulations to establish standards, procedures, and practices for registration of electronic notaries public and electronic notary solution providers.

Legal Authority: 1976 Code Sections 26-2-5 et seq.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Secretary of State will begin accepting applications for registration as an electronic notary and applications for registration as an electronic notary solution provider following promulgation of regulations.

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

These regulations are promulgated in accordance with South Carolina Electronic Public Notary Act (Section 26-2-5, et seq., Act 85 of 2021), which requires that administrative rules must be in effect and vendors of technology must be approved by the Secretary of State prior to acceptance of applications for registration as an electronic notary public. These regulations provide rules as to practices and procedures for electronic notaries public and electronic notary service providers in furtherance of the requirements set forth in the South Carolina Electronic Notary Public Act.

### **DETERMINATION OF COSTS AND BENEFITS:**

At this time, the agency believes any additional costs will be able to be absorbed by the agency. Promulgation of these regulations will allow the agency to implement the Electronic Notary Act, and allow the use of electronic notarization in the State of South Carolina.

### **UNCERTAINTIES OF ESTIMATES:**

At this time, there are no uncertainties of estimates concerning the regulations.

### **EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

These regulations will have no effect on the environment or public health of this State.

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

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

### **Statement of Rationale:**

Prior to acceptance of electronic online notary public applications, administrative rules must be in effect and vendors of technology must be approved by the Secretary of State. Therefore, promulgation of regulations is required to complete implementation of the South Carolina Electronic Notary Act.

**Text:**

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