

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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THE LEGISLATIVE COUNCIL
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GENERAL ASSEMBLY

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

THE 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 OF THE SOUTH CAROLINA STATE REGISTER

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 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.

2000 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	3/10	4/14	5/12	6/9	7/14	8/11	9/8	10/13	11/10	12/8
Publishing Date	1/28	2/25	3/24	4/28	5/26	6/23	7/28	8/25	9/22	10/27	11/24	12/22

REPRODUCING OFFICIAL DOCUMENTS

All documents appearing in the South Carolina *State Register* are prepared and printed at public expense. All media services are especially encouraged to give wide publicity to all documents printed in the *State Register*.

PUBLIC INSPECTION OF DOCUMENTS

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

CERTIFICATE

Pursuant to Section 1-23-20, Code of Laws of South Carolina, 1976, this issue contains all previously unpublished documents required to be published and filed before the closing date of the issue.

Lynn P. Bartlett
Editor

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 renewable once.

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

SUBSCRIPTIONS

The *State Register* is published on the fourth Friday of each month by the Legislative Council of the General Assembly of the State of South Carolina. Subscription rate is \$95.00 per year postpaid to points in the United States. Partial subscriptions may be ordered at the rate of \$8.00 per issue for the remainder of a subscription term. Subscriptions begin July 1 and end June 30.

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Enclosed is my check or money order for \$_____. Date _____

Name _____

Address _____

Telephone _____

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 South Carolina General Assembly Home Page: www.lpitr.state.sc.us

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1981			Policy Development	1-12-01	Board of Education
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DOC NO.	DATE	SUBJECT	AGENCY
2248	4 14 99	Primary and Substantial Portion (Video Game Machines)	Dept of Revenue

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DOC NO.	DATE	SUBJECT	AGENCY
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2469	2 23 00	Volunteer Pharm Tech Free Med Clinics	LLR: Board of Pharmacy

2 EXECUTIVE ORDERS

No. 2000-19

WHEREAS, Fletcher C. Mann, Jr. has resigned as Greenville County Clerk of Court, effective June 30, 2000; and

WHEREAS, the undersigned is authorized to appoint a County Clerk of Court in the event of a vacancy pursuant to the Code of Laws of South Carolina (1976), as amended, Sections 1-3-220(2) (Supp. 1999), 4-11-20(1) and 14-17-30; and

WHEREAS, Paul B. Wickensimer of Greenville County, South Carolina is a fit and proper person to serve as the Greenville County Clerk of Court.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Paul B. Wickensimer as Clerk of Court of Greenville County, effective July 1, 2000, until the next general election and until his successor shall qualify.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 15th DAY OF
JUNE, 2000.**

**JIM HODGES
Governor**

No. 2000-20

WHEREAS, pursuant to the Federal Implementing Legislation and Section 27-16-90 of the South Carolina Code of Laws, after completion of a comprehensive development plan, the Catawba Indian Nation may seek to have the existing Catawba Indian Reservation expanded to include non-contiguous tracts; and

WHEREAS, I have received the recommendation of the York County Council to approve the expansion of the Catawba Indian Reservation through its adoption of an ordinance approving same; and

WHEREAS, giving due deference to the recommendation of the York County Council, I have reviewed the Catawba Indian Nation's Non-Contiguous Development Plan Application; and

WHEREAS, S.C. Code Ann. § 27-16-90 requires me to approve or disapprove the Application on the basis of the criteria set forth in the Settlement Agreement, which is the written "Agreement in Principle" reached between the State of South Carolina and the Tribe; and

WHEREAS, S.C. Code Ann. § 27-16-90 provides that the Governor's "final action must be accompanied by a written statement of reasons" and that approval may not be withheld unreasonably; and

WHEREAS, the Settlement Agreement between the State of South Carolina and the Catawba Indian Nation states that the Non-Contiguous Development Plan Application must include "a statement of the Tribe's needs, objectives, and priorities for its Reservation, including planning goals for (1) single and multifamily residential units; (2) recreational amenities; (3) historical sites to be preserved; (4) business and industrial parks; (5) common areas, parks, and open space; (6) roads, streets, utilities, and tribal government and community facilities[;]" and

WHEREAS, the Non-Contiguous Development Plan Application also includes an acquisition and land-use plan as is required by the Settlement Agreement; and

WHEREAS, the acquisition and land-use plan endeavors to: (1) cluster the noncontiguous parcels within the Primary Expansion Zone so that each is located as close as possible to the expanded reservation; (2) locate all noncontiguous parcels within the Primary Expansion Zone, and confine the number of outlying parcels; (3) assemble only noncontiguous parcels of significant size; (4) show that the outlying parcel will be used for purposes which are compatible with desired existing uses of the surrounding property; (5) follow generally accepted standards of good land-use planning, providing for the mitigation of environmental impacts and incompatible land uses, and providing traffic and utility planning, building set-backs and density; (6) avoid leaving fragments of unusable land or creating hardship for owners of adjoining parcels; and

WHEREAS, pursuant to the Settlement Agreement, criteria controlling the Tribe's selection of outlying tracts that the Tribe will seek to purchase, provided its Application is finally approved shall include (1) the minimum area of tracts to be acquired; (2) the location of outlying tracts in relation to the expanded and the maximum distance between outlying tracts and the nearest boundary of the expanded reservation; (3) the number of outlying tracts the Tribe intends to acquire in each Zone; (4) an identification of outlying tracts already owned or under option or targeted for acquisition if the Application is finally approved; (5) provisions for assuring that proposed uses of tracts to be acquired are compatible with existing uses of surrounding property and will not interfere with essential public services; and (6) a means of assuring that noncontiguous tracts can be marked and readily identified as reservation property.

NOW, THEREFORE, by virtue of the power and discretion granted to me in the Federal Implementing Legislation and Section 27-16-90 of the South Carolina Code of Laws, I hereby approve the Catawba Tribe's Non-Contiguous Development Plan Application. I further hereby order that a copy of the Non-Contiguous Development Plan Application be filed with the Secretary of State along with this Executive Order.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 5th DAY OF
JULY, 2000.**

**JIM HODGES
Governor**

No. 2000-21

WHEREAS, domestic violence is a pervasive problem in our society that has a devastating impact upon victims, offenders, children, families, communities, government, and employers; and

WHEREAS, the need exists in South Carolina to increase awareness of domestic violence, its prevalence and harmful effects, and to create a stronger mechanism to meet those challenges by improving communication and coordination among the agencies and officials responsible for addressing domestic violence issues; and

WHEREAS, a model approach is needed to assist in establishing coordinated programs at the state and local level to provide comprehensive community response processes that incorporate all entities and disciplines affecting domestic violence; and

WHEREAS, it is essential that a group of informed and concerned public and private sector representatives collaborate to identify and evaluate current programs and strategies, devise new strategies to improve coordination and cooperation among existing domestic violence programs and agencies, provide assistance in the programs, promote

4 EXECUTIVE ORDERS

continuing communication and coordination among the agencies and officials, provide recommendations for further improvements to community response efforts to respond to domestic violence.

NOW, THEREFORE, I hereby establish the Governor's Task Force on Domestic violence (hereinafter referred to as "the Task Force"), that shall have the following responsibilities:

1. Identify current processes used by state and local communities to intervene and respond to criminal domestic violence and determine the availability of services for victims, their families, and offenders.
2. Devise strategies to improve coordination, communication, funding, and cooperation among existing domestic violence programs and agencies and create model policies designed to result in efficient, cost-effective, comprehensive community response processes that incorporate all entities and disciplines affecting criminal domestic violence.
3. Collaborate with private sector entities to more comprehensively identify community-driven, successful efforts to prevent domestic violence and increase employee and community productivity. Provide assistance in the development of training, education, community awareness, and prevention programs, and promote continuing communication and coordination among the agencies and officials responsible for addressing domestic violence.
4. Collect and utilize existing data, reports, statistics, studies, and best practices or existing model programs compiled by criminal justice, social services, and other agencies to devise strategies for possible inclusion in community response efforts.
5. Design strategies to facilitate the development of local domestic violence coordinating councils.

The membership of the Task Force referenced herein will be designated by the Governor and include medical and mental health providers, human services professionals, law enforcement and judicial experts, local communities and neighborhoods, employers, non-profit organizations, and treatment providers for victims and offenders.

It is further provided that the Task Force shall submit its recommendations to the Governor no later than September 30, 2000.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 5th DAY OF
JULY, 2000.**

JIM HODGES
Governor

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Public Notice #00-087-GP-N

July 28, 2000

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality, does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-04) "Concrete Batch Plants." This general permit was previously opened for a 30 day public comment period on May 2, 1996, with final issuance on August 5, 1996. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), the 1976 Code of Laws of South Carolina, as amended, and Regulation 61-62 "Air Pollution Control Regulations and Standards," these sources are hereby granted permission to discharge air contaminants into the ambient air. The Bureau of Air Quality authorizes the operation of these sources in accordance with the plans, specifications and other information submitted by each facility in the General Conditional Major Permit application. Facilities operating under this permit seek to limit their potential to emit to below the thresholds which define a major source by complying with the federally enforceable conditions contained in this permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

Interested persons may review the final general permit, materials submitted by the applicant, and any written comments received, during normal business hours, at the following location: SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina, 29201.

This notice is given pursuant to the requirements of South Carolina Regulation 61-62.1, Section II G(7)(c). Comments and questions concerning any of the following individual facility's coverage under this permit should be directed to: Mr. Carl W. Richardson, P.E., Director, Engineering Services Division, Bureau of Air Quality, SC DHEC, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

Lancaster County

Macleod Construction, Inc.
9160 Northfield Drive
Fort Mill, South Carolina

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

SOUTH CAROLINA DESIGNATED FACILITY PLAN

Under the authority of the Clean Air Act (CAA) as amended in 1990, the United States Environmental Protection Agency (USEPA) is required to develop regulations to control air pollutant emissions from Hospital/Medical/Infectious Waste Incinerators (HMIWI). Emissions from new HMIWI are addressed by standards of performance for new sources (New Source Performance Standards [NSPS]), and emissions from existing HMIWI are addressed by guidelines for

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existing sources (Emission Guidelines [EG]). The NSPS and EG for HMIWI were promulgated on September 15, 1997 (62 FR 48347), and codified in 40 CFR Part 60, subparts Ec and Ce respectively.

Section 111(d) of the CAA requires that “designated” pollutants, controlled under an NSPS must also be controlled at existing sources in the same source category to a level stipulated in an EG document. Section 129 of the CAA specifically addresses solid waste combustion and emissions controls based on what is commonly referred to as maximum achievable control technology (MACT). Section 129 requires the USEPA to promulgate MACT-based EG and then requires states to develop 111(d)/129 plans that implement and enforce these requirements.

The South Carolina Designated Facility Plan implements and provides for enforcement of the various EG promulgated by the USEPA. In accordance with the requirements of Section 111(d) and Section 129 of the CAA and regulations under 40 CFR Part 60, the South Carolina Department of Health and Environmental Control (Department) has revised the South Carolina Designated Facility Plan to establish emission limits and other requirements for HMIWI. The Department will conduct a public hearing on the proposed plan on August 29, 2000, to be held at 10:00 a.m. in Room 2280 on the Second Floor of the Department of Health and Environmental Control, Aycock Building at 2600 Bull Street, Columbia, SC. The purpose of the hearing is to answer questions and receive comments from interested persons on the proposed plan. All comments received and responses to those comments will be contained in a record of the public hearing that will be submitted to the USEPA along with the proposed plan for final approval.

Copies of the proposed plan for consideration at the public hearing on August 29, 2000, may be obtained by contacting Heather Preston at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4287.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication July 28, 2000, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 737-7200.

Affecting Beaufort County

Development of a Magnetic Resonance Imaging (MRI) facility featuring a General Electric 1.5 Tesla MRI Scanner.
MRI of Belfair, LLC
Bluffton, South Carolina
Project Cost: \$ 2,928,799

Affecting Greenville County

Renovations and expansion of the Emergency Department, Perioperative Services, and Radiology Department; provision of mobile MRI services.
Allen Bennett Memorial Hospital
Greer, South Carolina
Project Cost: \$ 5,507,162

Renovation for the addition of a Signa 1.5T open MRI to the physicians' office.
Greenville Radiology, P.A.
Greenville, South Carolina
Project Cost: \$ 2,163,900

Renovation and expansion of the Emergency Department and Perioperative Services.
Hillcrest Hospital
Simpsonville, South Carolina
Project Cost: \$ 3,250,000

Affecting Pickens County

Construction of an addition to the hospital which will house a Signa 1.0T open MRI.
Palmetto Baptist Medical Center Easley
Easley, South Carolina
Project Cost: \$ 2,406,556

Affecting Richland County

Addition of nineteen (19) rehabilitation beds through the conversion of twelve (12) private rooms to semi-private and renovation of existing space to add seven (7) beds for a total of 96 rehabilitation beds.
HealthSouth Rehabilitation Hospital
Columbia, South Carolina
Project Cost: \$ 297,340

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning July 28, 2000. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 737-7200.

Affecting Florence County

Renovation of the Emergency Department with construction not to begin until April 1, 2001.
McLeod Regional Medical Center
Florence, South Carolina
Project Cost: \$ 2,871,175

Affecting Richland County

Construction for the addition of two (2) surgery suites resulting in a total of four (4) surgery suites at the existing ambulatory surgery center which is restricted to eye surgery only.
Columbia Eye Surgery Center, Inc.
Columbia, South Carolina
Project Cost: \$ 469,094

Addition of nineteen (19) rehabilitation beds through the conversion of twelve (12) private rooms to semi-private and renovation of existing space to add seven (7) beds for a total of 96 rehabilitation beds.
HealthSouth Rehabilitation Hospital
Columbia, South Carolina
Project Cost: \$ 297,340

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Affecting Spartanburg County

Construction of a freestanding multi-specialty ambulatory surgery center to replace the seven (7) O.R.'s at the Spartanburg Hospital for Restorative Care.

Ambulatory Surgery Center of Spartanburg, LLC

Spartanburg, South Carolina

Project Cost: \$ 6,967,400

Change in licensure of an existing ambulatory surgery center restricted to urology only, to a multi-specialty ambulatory surgery center with two (2) operating rooms.

Spartanburg Urology Surgicenter, L.P.

Spartanburg, South Carolina

Project Cost: \$ 45,000

Affecting Union County

Construction of a new Outpatient Surgery Department; relocation and modernization of the OB/GYN Department; and renovation of patient rooms on the third floor of the hospital.

Wallace Thomson Hospital

Union, South Carolina

Project Cost: \$ 5,526,554

Affecting York County

Lease of space in Manchester Village for the development of an Urgent Care Center and Diagnostic Imaging Center to include a previously approved MRI.

Piedmont Healthcare System

Rock Hill, South Carolina

Project Cost: \$ 2,413,521

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

ERRATA

Corrects Document No. 1901

Regulation 61-9, NPDES Permits, was amended by State Register Document No. 1901 by publication in State Register Volume 20, Issue 6, Part II, on June 28, 1996. This amendment renamed R.61-9 "Water Pollution Control Permits." The revision included an overall Table of Contents at the beginning of the regulation and additional tables of contents were extended at each section in the text of the regulation. This errata is to correct the titles of the table of contents at 61-9.129.8 and 61-9.403.7 for consistency with the titles of these sections in the text of the regulation, as follows:

The title for R.61-9.129.8 at the Table of Contents at section 61-9.129 is corrected to read:

61-69.129.8. Removal Credits.

The title for R.61-9.403.8 at the Table of Contents at section 61-9.403 is corrected to read:

61-69.403.8. Compliance Date.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING

State Register Document No. 2518

The Department of Health and Environmental Control published a Notice of Proposed Regulation identified as Document No. 2518 in the State Register on March 24, 2000, to amend Regulation 61-16, Standards for Licensing Hospital and Institutional General Infirmaries. The Notice scheduled Staff-Informational Forums on April 25, 2000, May 2, 2000, May 12, 2000, and May 16, 2000, a write-in comment period, and a Public Hearing before the Department's Board on July 13, 2000. The Forums were conducted by staff, and the public comment write-in period closed May 16, 2000. The public hearing scheduled before the Department's Board for July 13, 2000, was cancelled and rescheduled for August 10, 2000. All comments received at the forums and during the write-in public comment period shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing noticed below.

A Public Hearing scheduled pursuant to S.C. Code Section 1-23-110 will be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on August 10, 2000, in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull St., Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Board's agenda is published ten (10) days in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the amendment to the regulation.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act. Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and individuals listed below, please submit your comments in writing, no later than August 28, 2000 to:

Contractor Certification Program
 South Carolina Department of Health and Environmental Control
 Bureau of Underground Storage Tank Management
 Attn: Chris Doll
 2600 Bull Street
 Columbia, SC 29201

The following companies and individuals have applied for certification as Underground Storage Tank Site Rehabilitation Contractors:

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Class I

Enviro Scan, Inc.
Progressive Engineering & Construction, Inc.

Class II

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

PUBLIC NOTICE

The Department of Health and Human Services (DHHS) hereby gives notice of the availability of the "FY-2001 Social Services Block Grant (SSBG) Pre-Expenditure Report" to the citizens of the State for review and comment. The report reflects plans of the DHHS/State of South Carolina to expend SSBG funds for the 2001 fiscal year for Human Services.

This notice is given pursuant to the requirements of Title XX, Section 2004 of the Social Security Act (as enacted in the Omnibus Budget Reconciliation Act of 1981 [P.L. 97-35] and codified at 42 U.S.C. 1397c). Comments regarding this notice will be accepted for a period of thirty days from the date it is posted.

Written comments about the FY-2001 Pre-Expenditure Report may be submitted to the Bureau of Community Services, Department of Health and Human Services, Post Office Box 8206, Columbia, South Carolina 29202-8206. Any written comments submitted may be reviewed by the public at the Department of Health and Human Services, Division of Program Development, 8th Floor, 1801 Main Street, Columbia, South Carolina, Monday through Friday between the hours of 9:00 A.M. and 5:00 P.M.

A copy of the full FY-2001 report may be obtained through written request to the DHHS address listed above or it may be accessed through the DHHS Internet site on the World Wide Web at "<http://www.dhhs.state.sc.us>". Copies are also on file in the state's public libraries.

**Department of Health and Human Services
FY 2001 Pre-Expenditure Report**

SERVICE NAME	ADULTS	CHILDREN	TOTAL FUNDS
Adoption Services		\$153,250	\$153,250
Case Management*	\$41,727	\$27,818	\$69,545
Counseling Services	\$298,771	\$264,947	\$563,718
Day Care Adults	\$255,704		\$255,704
Day Care Children		\$5,911,945	\$5,911,945
Education/Training Services	\$347,870		\$347,870
Foster Care Services - Children		\$3,082,175	\$3,082,175
Home Based Services	\$1,247,355	\$461,351	\$1,708,706
Home Delivered Meals	\$997,791		\$997,791
Prevention/Intervention		\$1,410,981	\$1,410,981
Protective Services Adults	\$1,314,169		\$1,314,169
Protective Services Children		\$4,371,914	\$4,371,914
Special Services for the Disabled	\$78,425		\$78,425
Transportation	\$97,404	\$12,039	\$109,443
Other Services	\$520,100	\$1,109,058	\$1,629,158
TOTAL SERVICE DOLLARS	\$5,199,316	\$16,805,478	22,004,794
Other Expenditures:			
DHHS Administration			\$1,932,308
TOTAL OTHER EXPENDITURES			\$1,932,308
GRAND TOTAL			\$23,937,102

Note: The SSBG program does not pay more than 8% indirect cost rate for purchase of services and training.

*For purchased services case management from providers other than SCDSS.

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CLEMSON UNIVERSITY

CHAPTER 27

Statutory Authority: 1976 Code Section 46-21-620

Notice of Drafting:

Clemson University proposed to amend Regulation 27-190 pertaining to seed certification standards. Interested persons may submit comments to Dr. David Howle, Department of Fertilizer and Seed Certification, 511 Westinghouse Road, Pendleton, SC 29670. To be considered, comments must be received no later than 5:00 PM on August 28, 2000, the close of the drafting comment period.

Synopsis:

Clemson University is addressing the periodic revision of this regulation as pertains to new and amended certification standards for various varieties of agricultural seeds and plants.

Legislative review will be required.

STATE DEPARTMENT OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-1-420, 59-1-430, 59-5-60(3,4,5,6,10) 59-13-20, 59-25-20, 59-29-30, 59-29, 150, 59-29-200, 59-32-10 et seq., 59-33-10 et seq., 59-53-1810 (1990) and S.C. Code Ann. Sections 59-1-440, 59-5-65(8), 59-18-100 et seq., 59-18-710, 59-18-1300, 59-18-1500 et seq., 59-19-340, 59-20-60(3, 4a), 59-24-10 et seq., 59-26-10 et seq., 59-29-10 et seq., 59-35-10, 59-39-100, 59-39-105, 59-39-190, 59-52-10 et seq., 59-63-20, 59-139-10 et seq. (Supp. 1999)

Notice of Drafting:

The State Department of Education proposes to draft amendments to the following State Board of Education Regulations: 24 S.C. Code Ann. Regs. Sections 43-130 (Supp. 1999), Accreditation Standards Filed; 43-205 (Supp. 1999), Administrative and Professional Personnel Qualifications, Duties and Workloads; 43-231 (Supp. 1999), Defined Program K-5; 43-232 (Supp. 1999), Defined Program 6-8; 43-234 (Supp. 1999), Defined Program Grades 9-12; 43-259 (Supp. 1999), Graduation Requirements; 43-259.5 (Supp. 1999), Superior Scholars for Today and Tomorrow (STAR) High School Diploma/Scholarship; 43-261 (Supp. 1999), District and School Comprehensive Planning; 43-301 (Supp. 1999) Intervention Where Quality of Education in a Local School District is Impaired and 43-300 (1991), Accreditation Criteria. The State Department of Education also proposes to draft a new regulation, which will outline the criteria for the state's accreditation system, which will include student academic performance. Interested persons may submit comments to Dr. Leonard McIntyre, Deputy Superintendent, Division of Professional Development and School Quality, State Department of Education, 1002 Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201. To be considered, comments must be received no later than 5:00 p.m., August 25, 2000, the close of the drafting period.

Synopsis:

The South Carolina Education Accountability Act No. 400 of 1998 requires the State Board of Education "to outline criteria for the state's accreditation system which must include student academic performance." [S.C. Code Ann. Section 59-18-300 (Supp. 1999)] In addition, other regulations require alignment of a significant number of existing educational programs and their relevant regulations with the Act. In so doing, the regulations listed above will be aligned to reflect the provisions of the South Carolina Education Accountability Act of 1998. Legislative review of this proposal will be required.

STATE DEPARTMENT OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. Section 59-5-60(1)(1990)

Notice of Drafting:

The State Department of Education proposes to draft amendments to Regulation 43-62, Requirements for Additional Areas of Certification that address certification degree requirements for Career and Technology Education teachers. Interested persons may submit comments to Dr. James R. Couch, Director, Office of Career and Technology Education, State Department of Education, Rutledge Building Room 912, 1429 Senate Street, Columbia, South Carolina 29201. To be considered, comments must be received no later than 5:00 p.m. on August 25, 2000, the close of the drafting comment period.

Synopsis:

Regulation 43-62 includes requirements for teacher certification for Agriculture, Business Education including the Data Processing Add-on Certification, Home Economics (now called Family and Consumer Sciences), Industrial Technology Education, and Distributive Education (called Marketing Education for at least fifteen years throughout the United States). It is the intent of the Department to revise the course requirements for each of these areas of certification to reflect current technology and workforce requirements. It is also the intent of the Department to combine the certification for the business and marketing education areas. Because of the shortage of business education and marketing education teachers and the shortage of students going into each of these programs at the postsecondary level, the Focus Committee recommended these two certification areas be combined. This committee was made up of postsecondary representatives, business education teachers, and marketing education teachers. Most states have already combined business and marketing with marketing being under the business umbrella. Because the two areas are so closely related, those currently holding business or marketing certification would become certified as business and marketing.

Legislative review of this proposal will be required.

STATE DEPARTMENT OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60(1) and 59-23-10, et seq. (1990)

Notice of Drafting:

The State Department of Education proposes to draft amendments to Regulation 43-191, Facility Specifications (S.C. School Facilities Planning and Construction Guide), which address school facilities planning and construction. Interested persons may submit comments to John B. Kent, Director, Office of School Facilities, State Department of Education, 1500 Hampton Street, Suite 250A, Columbia, South Carolina 29201. To be considered, comments must be received no later than 5:00 p.m. on August 25, 2000, the close of the drafting comment period.

Synopsis:

S.C. Code Ann. Section 59-23-40(1990) requires that drawings and specifications for all public school buildings be submitted to and approved by the State Superintendent of Education or her agent prior to being constructed. S.C. Code Ann. Section 59-23-190(1990) requires that all public school buildings be approved by the State Superintendent of Education or her agent before first occupied. Implementation of these mandated responsibilities has been conducted in accordance with the S.C. School Facilities Planning and Construction Guide (R43-191), last amended in 1983. This regulation contains procedures, standards and requirements, guidelines, and design recommendations. Passage of time

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has rendered certain sections of the regulation obsolete and outdated. Furthermore, it is the intent of the Department to drop from the regulation all procedures, guidelines, and recommendations that are subject to change over time. These changes will be published in an easily updated guide, separate and apart from the regulation.

Legislative review of this proposal will be required.

STATE DEPARTMENT OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-18-300, 59-18-310, and 59-18-320 (Supp. 1999)

Notice of Drafting:

The Department of Education proposes to draft a new policy that addresses the end-of-course examinations which are required by the South Carolina Education Accountability Act of 1998. Interested persons may submit comments to Dr. Paul D. Sandifer, Office of Assessment, State Department of Education, 607 Rutledge Building, 1429 Senate Street, Columbia, SC 29201. To be considered, comments must be received no later than August 25, 2000, the close of the drafting comment period.

Synopsis:

The General Assembly passed the Education Accountability Act (EAA) in 1998. The legislation requires that the State Board of Education “adopt specific academic standards for benchmark courses in mathematics, English/language arts, social studies, and science.” [S.C. Code Ann. Section 59-18-300 (Supp. 1999)] The legislation further provides that “The statewide assessment program shall include. . . end of course tests for gateway courses in English/language arts, mathematics, science, and social studies for grades nine through twelve.” [S.C. Code Ann. Section 59-18-310 (Supp. 1999)] and that “the end of course assessments will be administered to all public school students as they complete each benchmark course.” [S.C. Code Ann. Section 59-18-320 (Supp. 1999)]

The proposed regulation will define “benchmark” and “gateway” in terms of specific courses and define the purpose(s) and uses of the tests. Additionally, the proposed policy will provide for the establishment of performance standards and for giving students information about the requirements of the end of course tests.

Legislative review of this proposal will be required.

STATE DEPARTMENT OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. Section 59-5-60(1)(1990) and S.C. Code Ann. Section 59-24-40 (Supp. 1999)

Notice of Drafting:

The State Department of Education proposes to draft amendments to Regulation 43-165.1, Principal Evaluation Program. It is also proposed that the name be changed from “Principal Evaluation Program” to “Program for Assisting, Developing, and Evaluating Principal Performance.” This amended name reflects the additional components “assisting and developing.” Interested persons may submit comments to Dr. Russell Bedenbaugh, Director, Office of Professional Development, State Department of Education, 1429 Senate Street, Rutledge Building, Room 1112, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on August 25, 2000, the close of the drafting comment period.

Synopsis:

S.C. Code Ann. Section 59-24-40 was amended in May 1997 to require the development and adoption of statewide performance standards and criteria for the purposes of assisting, developing, and evaluating principals in school districts of the state. The State Board of Education must promulgate regulations for the evaluation of the performance of all principals based on those standards and criteria. A professional development plan must be established based on the principal's strengths and weaknesses and must take into consideration the school's strategic plan for improvement.

The proposed amendments (will) provide a framework for the State Department of Education to ensure the implementation of the Principal Evaluation Program. School districts will be able to appropriately administer the Principal Evaluation Program using the standards and criteria as the foundation for all processes used for assisting, developing, and evaluating principals. The proposed amendments address the purpose, definitions, participation, procedures, maintenance, appeals, training requirements, implementation and administration of the Principal Evaluation Program.

The Principal Evaluation Program Review Committee was established by the Office of Professional Development at the State Department of Education in collaboration with the South Carolina Educational Policy Center in the College of Education at the University of South Carolina. The Committee developed statewide performance standards and criteria for principal evaluation.

Legislative review of this proposal will be required.

STATE DEPARTMENT OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60(1), 59-33-10 et seq., 59-21-510 et seq., and 59-21-510
(1990 and Supp. 1999)

Notice of Drafting:

The South Carolina State Board of Education proposes to draft substantial amendments and additional regulations governing the education of students with disabilities. Interested persons may submit their comments in writing to Dr. Sandra Lindsay, Deputy Superintendent, Division of Curriculum Services and Assessment, 805 Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201. To be considered, all comments must be received no later than 5:00 p.m. on August 25, 2000, the close of the drafting comment period.

Synopsis:

The reauthorization of the Individuals with Disabilities Education Act creates the need for amending the State's requirements regarding the provision of a free and appropriate education to students with disabilities.

Legislative review of this proposal will not be required.

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STATE DEPARTMENT OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 1-23-310 et seq., 20-7-945 (A), 59-5-60, 59-5-70, 59-25-110 et seq., and 59-25-530 (1986, 1990 and Supp. 1999)

Notice of Drafting:

The South Carolina State Board of Education proposes to draft regulations governing the procedures for the suspension/revocation of teaching certificates issued by the State Department of Education. Interested persons may submit their comments in writing to Dale Stuckey, Director and Chief Counsel, Office of General Counsel, 1429 Senate Street, Room 1015, Columbia, South Carolina 29201. To be considered, all comments must be received no later than 5:00 p.m. on August 25, 2000, the close of the drafting comment period.

Synopsis:

This regulation is needed so that the procedures for the suspension/revocation of teaching certificates issued by the State Department of Education can be formally established.

STATE DEPARTMENT OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60(1) and 59-26-10, et al. (1990 and Supp. 1999)

Notice of Drafting:

The State Department of Education proposes to draft substantial revisions and additional regulations governing Teacher Certification, Teacher Education Program Approval, and Teacher Evaluation. Interested persons may submit their comments in writing to Dr. Sandra G. Rowe, Director, Office of Teacher Education and Certification, 1600 Gervais Street, Columbia, South Carolina 29201. To be considered, all comments must be received not later than 5:00 p.m. on August 24, 2000, the close of the drafting comment period.

Synopsis:

The development of South Carolina Curriculum Standards; the direction of National Standards for Teacher Education; development of INTASC standards for initial teacher licensure, enactment of the South Carolina Accountability Act; preliminary report from the Governor's Commission on Teacher Quality, and the work-related task forces create the need for restructuring the state system for training, certifying and evaluating teachers.

Legislative review of this proposal will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-30 and 47-20-165

Notice of Drafting:

The Department is proposing to amend R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*. A Notice of Drafting for the proposed revisions was initially published in the State Register on November 26, 1999. The Department is reissuing the Notice of Drafting to extend the timeframe needed for development of the regulations. Interested persons may submit written comments to Alton Boozer, Bureau Chief, Bureau of Water, S.C. Department of

Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, all written comments must be received no later than 5:00 p.m. on August 28, 2000, the close of the drafting comment period. Comments received from the initial drafting comment period as well as this current reissuance will be considered.

Synopsis:

The Department is proposing to revise R.61-43 by replacing Part 100 (Swine Facilities) in its entirety and modifying Parts 200 (Other Animal Facilities) and Part 300 (Innovative and Alternative Technology). The proposed amendments will address the permitting requirements for commercial agricultural animal production facilities, including the residual materials. The amended regulation will address the following:

1. Swine operations.
2. Poultry (including broiler, layer, turkey, quail, pigeon) operations.
3. Dairy and beef operations.
4. All other animal operations with a wet waste handling system.
5. All other animal operations with a dry waste handling system.
6. Manure broker operations.
7. Innovative and alternative Technologies.
8. Integrator permits and/or registration.

The amendments of the regulation will address methods of handling, treating, and disposing of residual material from animal production facilities. It will include land application considerations such as agronomic rates for crop utilization. Also, minimum requirements for the location of facilities for production and residual material treatment and handling will be included. The administrative permitting process and technical criteria for permit issuance will be included. The amended Part 100 of these regulations will be the separate and distinct regulations for swine facilities as required by Title 47, Chapter 20, Confined Swine Feeding Operations Act. Legislative review of these proposed amendments will be required.

In addition to the proposed regulations as stated above, the public and regulated community are invited to recommend additional issues for consideration.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control (Department) proposes to amend Regulation 61-62.5, Standard 3, *Waste Combustion and Reduction*, of the Air Pollution Control Regulations and Standards, R.61-62. Interested persons are invited to present their views in writing to Heather Preston, Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered comments must be received by August 28, 2000.

Synopsis:

On June 25, 1999, a revision to Regulation 61-62.5, Standard 3, *Waste Combustion and Reduction*, was published in the *State Register* (Document Number 2352). The Department undertook this last revision for the purpose of clarifying portions of the regulation, not to add new requirements or make the regulation any more stringent. However, as the regulation was in the final steps of being promulgated, several industry groups brought forward concerns about the interpretation of certain aspects of the regulation. Specifically, when the emission limitations for industrial and utility boilers were converted from lb/1000 gallons of liquid waste or waste fuel being burned to lb/10⁶ BTU total heat input, some facilities that burned coal in addition to waste fuel found that the metals inherent to coal would possibly preclude

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them from meeting the emission limitations if the unit also combusted waste. To resolve this issue, the Department published a Notice of General Public Interest in the *State Register* on June 25, 1999. The notice established three options for determining emission limitations for industrial and utility boilers that burn coal and waste and stated that these options would be available to facilities until such time as the Department revised the regulation.

The Department proposes to revise Regulation 61-62.5, Standard 3, *Waste Combustion and Reduction*, to review the emission limitations stated above. In addition, the Department intends to review the exemption provided for total reduced sulfur control devices that burn other waste fuels and may consider other amendments as determined to be necessary.

The proposed amendment will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control (Department) proposes to amend the South Carolina Air Quality Implementation Plan and Regulation 61-62, Air Pollution Control Regulations and Standards. Interested persons are invited to present their views in writing to Heather Preston, Air Planning, Development & Outreach Division, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered comments must be received by August 28, 2000.

Synopsis:

The United States Environmental Protection Agency (EPA) published a final rule on October 27, 1998, requiring 22 states (of which South Carolina is one) and the District of Columbia to submit a State Implementation Plan (SIP) revision to prohibit specified amounts of emissions of oxides of nitrogen (NO_x) - one of the precursors of ozone pollution - for the purposes of reducing NO_x and ozone transport across state boundaries in the eastern half of the United States. This rule is generally referred to as the NO_x SIP Call.

By publishing this rule, EPA has determined that sources in these 22 states and the District of Columbia emit NO_x in amounts that significantly contribute to nonattainment of the 1-hour National Ambient Air Quality Standard (NAAQS) for ozone in one or more down-wind states. The NO_x SIP Call requires reductions of summertime emissions of NO_x in South Carolina by about 19 percent. South Carolina is required to identify pollution-reduction measures(s) and develop a plan to achieve these reductions. EPA believes that utilities and large non-utility point sources are the most likely sources of NO_x emissions reductions. If the Department fails to submit an approvable plan, the EPA will establish a Federal Implementation Plan to achieve these reductions.

On November 27, 1998, the Department published a notice of drafting in the Volume 22, Issue 11, of the *State Register* to propose amendments to the South Carolina Air Quality Implementation Plan and Regulation 61-62, Air Pollution Control Regulations and Standards, to satisfy EPA's NO_x SIP Call. The purpose of this notice is to reopen the drafting period established by the previous notice and to state the Department's intention to amend portions of Regulation 61-62. The Department will consider appropriate reductions in NO_x emissions, including consideration of a NO_x trading program and requests comment on the approach for developing the required plan. All previous comments, as well as any additional comments received after this publishing will be considered.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 30
(DHEC Office of Ocean and Coastal Resource Management)
Statutory Authority: S.C. Code Section 48-39-50

Notice of Drafting:

The Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management (OCRM), proposes to modify Regulations 30-1, Statement of Policy; 30-2, Applying for a Permit; and 30-12, Specific Project Standards for Tidelands and Coastal Areas. Interested persons may submit written comments to Richard Chinnis, Director of Regulatory Programs Division, OCRM, 1362 McMillan Avenue, Suite 400, Charleston, South Carolina, 29405. To be considered, comments must be received by 5:00 p.m. on August 28, 2000, the close of the drafting comment period.

Synopsis:

This proposed amendment is related to permitting in the critical areas of the Coastal Zone. Modifications consist of addition of a definition and revision of language in existing sections. A new definition will be added to R.30-1(D) to define the term "boat" as it applies to specific uses in the critical areas. The regulation regarding permit applications (R.30-2) is to receive additional language to incorporate the requirements of stormwater management plans, dock master plans, and other pertinent information in order to provide a complete review of certain project proposals. Specific project standards for dock construction (R.30-12) will be modified. These modifications will envelop handicapped access, the requirement of dock master plans for subdivisions and multi-family dwellings, navigable creek issues, and the addition of a subsection restricting boat storage. A subsection on roofs within the boatlift standards will be deleted. Section 30-12(N), Access to Small Islands, will be revised to clarify language and improve OCRM's ability to review bridge proposals.

Legislative review of this proposed amendment will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code
Sections: 44-96-290, 44-96-300, 44-96-360, 44-96-400, 44-96-450, and 44-96-460

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-107.6, *Solid Waste Processing Facilities*. This notice was originally published in the August 27, 1999 State Register. However, due to time constraints, the Notice of Drafting must be reissued. Interested persons may submit their views by writing to Art Braswell at SCDHEC, Bureau of Land and Waste Management, 2600 Bull St., Columbia, SC, 29201. To be considered, written comments must be received no later than 5:00pm on August 28, 2000, the close of the drafting period.

Synopsis:

The amendment will define specific types of processing facilities and requirements for each .proposed revision, will address, but not be limited to, operating standards, monitoring and reporting requirements and permit application requirements as they relate to each type of processing facility. The types of facilities which will be specifically addressed, at a minimum, are as follows: municipal solid waste processing facilities, construction and demolition debris processing facilities and industrial/special waste processing facilities.

Legislative review of this proposal is required.

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DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control proposes to revise Regulation 61-9, Water Pollution Control Permits. Interested persons may submit their comments in writing to Mr. Andrew Yasinsac, Jr., Senior Technical Advisor, Industrial, Agricultural, and Stormwater Permitting Division, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. To be considered, all comments must be received no later than August 11, 2000, the close of the drafting period.

Synopsis:

The Department intends to make changes to the regulation to modify existing sections and requirements that will clarify and improve the regulation. The Department proposes to amend the regulation and is considering several revisions or requirements that will address, but will not necessarily be limited to, the following:

1. Change the stormwater discharge requirements to provide the consolidation of control criteria for sediment and erosion control. This will be done in conjunction with other changes being proposed via a separate Notice of Drafting which results from the promulgation of Federal round II regulations (Federal Register [FR] December 8, 1999);
2. Methods and procedures for making permit calculations and related activities in regard to chemical specific and whole effluent toxicity permit limitations;
3. Requirements to enhance the financial viability of wastewater facilities;
4. Requirements for standard NPDES language and/or conditions;
5. Requirements related to operation and maintenance (such as attendance of operators and staffing issues at wastewater facilities);
6. Requirements for all wastewater sewerage systems (such as collection systems, interceptor systems, pump stations, force mains) including a renewable operating permit;
7. Clarification of the application of fecal coliform limits for land application and/or surface waters;
8. Requirements or discussion of monitoring frequencies;
9. Miscellaneous administrative changes such as minor permit modifications, revision to permit-transfer provisions, authorization of a permit reopener;
10. Requirements to reflect any other state regulation requirements published since the June 28, 1996, State Register amendment of R.61-9 that may require appropriate changes, modifications, additions, or deletions to this regulation;
11. Miscellaneous changes such as renumbering, relocation, or revision of the existing regulation to reflect the changes resulting from the appropriate revised requirements.

Proposed revisions will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control proposes to revise Regulation 61-9, Water Pollution Control Permits. Interested persons may submit their comments in writing to Mr. Andrew Yasinsac, Jr., Senior Technical Advisor, Industrial, Agricultural, and Stormwater Permitting Division, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. To be considered, all comments must be received no later than August 11, 2000, the close of the drafting period.

Synopsis:

The Department intends to make changes to the regulation to modify existing sections and requirements for federal compliance with existing regulations promulgated in the Federal Register. The Department proposes revisions to the regulations including, but not limited to,

1. Changing storm water discharge requirements to include Federal Phase II stormwater NPDES regulations (64 Federal Register [FR] 68722, December 8, 1999);
2. U.S. Environmental Protection Agency regulation requirements from FR including 60 FR 33932 , June 29, 1995; 62 FR 38414, July 17, 1997; 64 FR 42434, August 4, 1999; 64 FR 42554, August 4, 1999; and 65 FR 30886, May 15, 2000;
3. Any other FR regulations requirements published since the June 28, 1996, State Register amendment of R.61-9 that may require appropriate changes, modifications, additions, or deletions to this regulation;
4. Miscellaneous administrative changes such as renumbering, relocation, or revision of the existing regulation to reflect the changes resulting from the appropriate federal requirements.

Proposed revisions will not require legislative review.

DEPARTMENT OF SOCIAL SERVICES
CHAPTER 114

Statutory Authority: 1976 Code Section 43-1-80

Notice of Drafting:

The South Carolina Department of Social Services is considering revising regulations concerning the Food Stamp Program. Interested persons should submit their comments in writing to Ms. Gwen G. Kuhns, Director, Office of Family Independence, South Carolina Department of Social Services, Post Office Box 1520, Columbia, South Carolina 29202-1520. To be considered, comments must be received not later than 5:00 p.m., August 31, 2000.

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Synopsis:

Provisions in the United States Code, Title 7, Agriculture, Chapter 51—Food Stamp Program, permit South Carolina to adopt certain options in its administration of the Food Stamp Program. The Department proposes to develop new regulations and amend current regulations that will set forth the options chosen. The areas in which new regulations will be developed or amended include, but are not limited to the following: (a) deletion of the requirement to close the Food Stamp case when a client moves from one county to another county; (b) adding a provision that would permit the Department to operate a simplified Food Stamp program for Family Independence recipients upon the publishing of eligibility criteria in the Department's *Food Stamp Policy Manual*; and (c) removes the requirement to sanction the entire family when the head of household fails to comply with Food Stamp Employment and Training participation requirements.

Legislative review of these additions and changes will be required.

Document No.2535

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Chapter 61

Statutory Authority: S.C. Code Sections 48-1-30 through 48-1-60 *et seq.*

R.61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*

Preamble:

The United States Environmental Protection Agency (USEPA), in accordance with Section 111 of the Clean Air Act (CAA), is required to publish and periodically revise a list of categories of stationary sources that may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare. Section 111 requires the USEPA to promulgate regulations establishing Federal standards of performance for new sources within these categories that reflects the degree of emission limitation achievable through the application of the best system of emission reduction. These standards are generally referred to as Standards of Performance for New Stationary Sources or New Source Performance Standards (NSPS). On October 19, 1976, the USEPA delegated to the State of South Carolina the authority to implement and enforce the NSPS that had been promulgated prior to January 15, 1976. On January 29, 1981, the USEPA again delegated to the State of South Carolina the authority for the NSPS that had been promulgated between January 15, 1976, and January 29, 1981. Since that time, the State of South Carolina has periodically requested and received delegation authority for NSPS.

The Department proposes to amend R.61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*, of the *Air Pollution Control Regulations and Standards*, R.61-62, by adding a list of NSPS for which prior delegation has been granted. These regulations will be incorporated in R.61-62.60. Since this revision is consistent with Federal requirements, legislative review is not required.

A Notice of Drafting for the proposed amendment was published in the *State Register* on March 24, 2000. Since this amendment is consistent with Federal law, neither a preliminary fiscal impact statement nor a preliminary assessment report is required.

Discussion of Proposed Revisions

SECTION CITATION:	EXPLANATION OF CHANGE
Purpose	Section is added.
Subpart A	Subpart A is added and incorporated by reference.
Subparts B through Cb	Subparts B through Cb are reserved.
Subpart Cc	Subpart Cc is amended.
Subparts Cd through Ce	Subparts Cd through Ce are reserved.
Subparts D, Da, Db, Dc, E, Ea, & Eb	Subparts are added and incorporated by reference.
Subpart Ec	Subpart Ec is reserved.

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Subparts F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, Aas, BB, CC, DD, & EE	Subparts are added and incorporated by reference.
Subpart FF	Subpart FF is reserved.
Subpart GG & HH	Subparts are added and incorporated by reference.
Subparts II and JJ	Subparts II and JJ are added reserved.
Subparts KK, LL, MM, & NN	Subparts are added and incorporated by reference.
Subpart OO	Subpart OO is reserved.
Subparts PP, Qq, RR, SS, TT, UU, VV, WW, & XX	Subparts are added and incorporated by reference.
Subpart AAA	Subpart AAA is reserved.
Subpart BBB	Subpart BBB is added and incorporated by reference.
Subpart CCC	Subpart CCC is reserved.
Subpart DDD	Subpart DDD is added and incorporated by reference.
Subpart EEE	Subpart EEE is reserved.
Subparts FFF, GGG, HHH, III, JJJ, KKK, & LLL	Subparts are added and incorporated by reference.
Subpart MMM	Subpart MMM is reserved.
Subpart NNN	Subpart NNN is added and incorporated by reference.
Subpart OOO	Subpart OOO is reserved.
Subparts PPP, QQQ, RRR, SSS, TTT, UUU, VVV, & WWW	Subparts are added and incorporated by reference.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public to attend a staff-conducted informational forum to be held on August 28, 2000, at 10:00 a.m. on the second floor of the Aycock Building in Room 2380 at the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. 29201. The purpose of the forum is to answer questions and receive comments from interested persons on the proposed regulation.

Interested persons are also provided an opportunity to submit written comments to Heather Preston at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 28, 2000. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing scheduled below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Heather Preston at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4287.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on October 12, 2000, to be held in Room 3420 (Board Room) of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Heather Preston at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 28, 2000. Comments received shall be considered by the staff in formulating the final proposed regulation for public hearing on October 12, 2000, as noticed above. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the proposed regulation for consideration at the public hearing on October 12, 2000, may be obtained by contacting Heather Preston at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4287.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

Purpose: The proposed amendment will add a list to R.61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*, of New Source Performance Standards (NSPS) for which delegation has been granted. These regulations will be incorporated into R.61-62.60, by reference.

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

Plan for Implementation: The proposed amendments will take effect upon promulgation by the Board and publication in the *State Register*.

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

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The United States Environmental Protection Agency (USEPA), in accordance with Section 111 of the Clean Air Act (CAA), is required to publish and periodically revise a list of categories of stationary sources that may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare. Section 111 requires the USEPA to promulgate regulations establishing Federal standards of performance for new sources within these categories that reflects the degree of emission limitation achievable through the application of the best system of emission reduction. These standards are generally referred to as Standards of Performance for New Stationary Sources or New Source Performance Standards (NSPS). On October 19, 1976, the USEPA delegated to the State of South Carolina the authority to implement and enforce the NSPS that had been promulgated prior to January 15, 1976. On January 29, 1981, the USEPA again delegated to the State of South Carolina the authority for the NSPS that had been promulgated between January 15, 1976, and January 29, 1981. Since that time, the State of South Carolina has periodically requested and received delegation authority for NSPS. This amendment incorporates a list by reference of those NSPS for which prior delegation has been granted thereby clarifying the regulations and making them more useful to the regulated community. This regulation will be periodically revised as future Federal NSPS are promulgated to keep the State regulation updated.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions nor will the amendment result in any increased cost to the regulated community. The standards to be adopted are already effective and applicable to the regulated community as a matter of Federal law. The proposed amendment merely adds a listing of these standards to the regulations. Adding this list to the regulations will benefit the regulated community by clarifying the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

EPA has provided the estimated costs and benefits for these standards in the Federal Register notices that are cited within this regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The standards to be adopted are already effective as a matter of Federal law. This amendment merely adds a listing of these standards to the regulation, making the law clearer to the regulated community. This in turn will facilitate compliance with the law that will benefit the environment and public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: None.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: www.lpitr.state.sc.us. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Filed: June 23, 2000, 4:50 pm

Document No. 2534

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS FOR THE LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE
AND FAMILY THERAPISTS, AND PSYCHO-EDUCATIONAL SPECIALISTS
 CHAPTER 36

Statutory Authority: 1976 Code Section 40-75-05, et seq.

Emergency Situation:

The Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-educational Specialists seek to ensure that the provisions of the practice act enacted in 1998 are carried out by promulgation of regulations establishing guidelines for the licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists.

Text:

36-04. General Licensing Provisions for Professional Counselor Interns.

An applicant for initial licensure as a professional counselor intern must:

- (1) submit an application on forms approved by the Board, along with the required fee; and
- (2) submit evidence of successful completion of a graduate degree with a minimum of forty-eight (48) graduate semester hours primarily in counseling or related discipline from a college or university accredited by the Commission on the Colleges of the Southern Association of Colleges and Schools, one of its transferring regional associations, the Association of Theological Schools in the United States and Canada, or a regionally-accredited institution of higher learning subsequent to receiving the graduate degree, along with evidence of an earned master's degree, specialist's degree or doctoral degree. On graduate transcript the applicant must demonstrate successful completion of one (1) three-hour graduate level course in each of the following areas:

(a) Human growth and development: coursework content providing an understanding of the nature and needs of individuals at all developmental levels, normal and abnormal human behavior, personality theory, and learning theory (all) within cultural contexts; and

(b) Social and cultural foundations: coursework content providing an understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles; and

(c) Helping relationships: coursework content providing an understanding of philosophic bases of helping processes, counseling theories and their applications, helping skills, consultation theories and applications, helper self-understanding and self-development, and facilitation of client or consultee change; and

(d) Groups: coursework content providing an understanding of group development, dynamics, and counseling theories; group leadership styles, group counseling methods and skills, and other group approaches; and

(e) Lifestyle and career development: coursework content providing an understanding of career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance, and education; lifestyle and career decision-making; and career development program planning, resources, and evaluation; and

(f) Appraisal: coursework content providing an understanding of group and individual education and psychometric theories and approaches to appraisal, data, and information gathering methods, validity and reliability, psychometric statistics, factors influencing appraisals, and use of appraisal results in helping processes; and

(g) Research and evaluation: coursework content providing an understanding of types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, and ethical and legal considerations; and

(h) Professional orientation: coursework content providing an understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, and professional credentialing; and

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- (i) Psychopathology: coursework content providing an understanding of psychopathology, abnormal psychology, abnormal behavior, etiology dynamics, and treatment of abnormal behavior; and
 - (j) Diagnostics: coursework content providing an understanding of the diagnostics of Psychopathology; and
 - (k) Practicum: a minimum of one (1) supervised one hundred fifty (150) hour counseling practicum; and
- (3) submit evidence of a passing score on an examination approved by the Board; and
- (4) submit a supervision plan, satisfactory to the Board, designed to take effect after notice of a passing score on the required examination.

36-05. General Licensing Provisions for Licensed Professional Counselors.

An applicant for licensure as a professional counselor must:

- (1) submit an application on forms approved by the Board, along with the required fee; and
- (2) hold a current, active, and unrestricted professional counselor intern license; and
- (3) submit evidence satisfactory to the Board of a minimum of two thousand (2000) hours of supervised clinical experience in the practice of professional counseling performed over a period of not less than two (2) years under the supervision of a licensed professional counselor supervisor or other qualified licensed mental health practitioner as provided in Section 36-05.1. The experience must include a minimum of one thousand five hundred (1500) hours of direct counseling with individuals, couples, families, or groups and a minimum of one hundred fifty (150) hours spent in immediate supervision with the licensed professional counselor supervisor, including one hundred (100) hours of individual supervision and fifty (50) hours of either individual or group supervision. A maximum of five hundred (500) hours of experience gained prior to the award of a graduate degree may be included in the total required experience; and
- (4) submit evidence that the supervision plan has been completed, including a recommendation by the licensed professional counselor supervisor, on forms approved by the Board.

36-06. General Licensing Provisions for Licensed Professional Counselor Supervisors.

An applicant for licensure as a professional counselor supervisor must:

- (1) submit an application on forms approved by the Board, along with the required fee; and
- (2) hold a current, active, and unrestricted South Carolina Professional Counselor License. For supervisors initially licensed after July 1, 1998, a current South Carolina Professional Counselor License is a requirement for renewal and the lapse of a South Carolina Professional Counselor License shall cause the Professional Counselor Supervisor License to lapse. For supervisors initially licensed prior to July 1, 1998, a current South Carolina Professional Counselor License is not required for the continuation of supervisory activities under a current supervisor's license; however, the supervisor may not also engage in the practice of Professional Counseling unless a current, active, and unrestricted Professional Counselor License is first obtained; and
- (3) submit evidence acceptable to the Board of at least five (5) years of continuous clinical experience immediately preceding the application. Continuous clinical experience is any counseling experience gained as in certification by the National Board for Certified Counselors (NBCC), National Association of Alcoholism and Drug Abuse Counselors (NAADAC), or South Carolina Association of Alcoholism and Drug Abuse Counselors (SCAADAC) or a licensed professional counselor; and
- (4) submit evidence acceptable to the Board of at least two (2) years supervising the clinical casework of other NBCC, NAADAC, or SCAADAC certified counselors or licensed counselors; and
- (5) submit evidence of a minimum of thirty-six (36) hours of individual supervision, by a Board licensed supervisor, of the applicant's supervision of at least two (2) licensed professional counselor interns; and
- (6) submit evidence of a minimum of thirty (30) contact hours of formal academic training or continuing education in supervision oriented to their discipline.

36-07. General Licensing Provisions for Marriage and Family Therapy Interns.

An applicant for initial licensure as a marriage and family therapy intern must:

- (1) submit an application on forms approved by the Board, along with the required fee; and
- (2) submit evidence of successful completion of a minimum of forty-eight (48) graduate semester hours in marriage and family therapy from a college or university accredited by the Commission on the Colleges of the Southern Association of Colleges and Schools, one (1) of its transferring regional associations, the Association of Theological

Schools in the United States and Canada, a post-degree program accredited by the Commission on Accreditation for Marriage and Family Therapy Education, or a regionally accredited institution of higher learning subsequent to receiving the graduate degree, along with evidence of an earned master's degree, specialist's degree, or doctoral degree. The applicant must demonstrate successful completion of:

(a) a minimum of nine (9) graduate semester hours in theoretical foundations. The coursework content in this area must enable students to conceptualize and distinguish the critical epistemological issues in marriage and family therapy. The material in this area must be related conceptually to clinical concerns. The applicant must demonstrate completion of an introductory course including historical development, theoretical foundations, and contemporary conceptual directions in the field of marriage and family therapy of at least three (3) graduate semester hours as part of this requirement; and

(b) a minimum of fifteen (15) graduate semester hours in clinical practice. The coursework content in this area must address marriage and family therapy practice and be related conceptually to theory. Coursework in this area must focus on assessment, including marriage and family therapy methods and major mental health assessment methods and instruments, and must provide a comprehensive survey and substantive understanding of the major models of marriage and family therapy, as well as address a wide variety of clinical problems. Coursework must educate students about appropriate collaboration with related disciplines, and must include three (3) semester hours of psychopathology, abnormal psychology, abnormal behavior, etiology dynamics or treatment of abnormal behavior, and three (3) semester hours of diagnostics of psychopathology; and

(c) a minimum of six (6) graduate semester hours in individual development and family relations. The coursework content in this area must include significant material on individual development, family development, and family relationships. Coursework must include significant material on issues of sexuality as it relates to marriage and family therapy theory and practice. Sexual dysfunctions and difficulties, as well as individual development, gender, multi-cultural and sexual orientation, as related to marriage and family therapy theory and practice must be included; and

(d) a minimum of three (3) graduate semester hours in professional identity, legal, and ethical issues. The coursework in this area must include information about legal responsibilities and liabilities in the practice of marriage and family therapy. The coursework must include research, family law, confidentiality issues, and codes of ethics; and

(e) a minimum of three (3) graduate semester hours in research. The coursework content in this area must include significant material on research in marriage and family therapy. This area must focus on research methodology, data analysis, and the evaluation of research; and

(f) a minimum of nine (9) graduate semester hours in clinical experience. The coursework content in this area must include client contact and clinical supervision with individuals, couples, and families in a clinical setting. The clinical experience must include a minimum of three hundred (300) hours of face to face client contact, one half (1/2) of which must be relational. A minimum of fifty (50) hours of clinical supervision must be provided by a marriage and family therapy supervisor; and

(3) submit evidence of a passing score on an examination approved by the Board; and

(4) submit a supervision plan, satisfactory to the Board, designed to take effect after notice of a passing score on the required examination.

36-08. General Licensing Provisions for Marriage and Family Therapists.

An applicant for licensure as a Marriage and Family Therapist must:

(1) submit an application on forms approved by the Board, along with the required fee; and

(2) hold a current, active, and unrestricted Marriage and Family Therapy Intern license unless applying under the provisions of Section 36-11; and

(3) submit evidence satisfactory to the Board of a minimum of twelve hundred (1200) hours of supervised clinical experience in the practice of marriage and family therapy performed over a period of not less than two (2) years under the supervision of a licensed marriage and family therapy supervisor. The experience must include a minimum of one thousand (1000) hours of direct client contact with individuals, couples, families, or groups and a minimum of two hundred (200) hours spent in immediate supervision with the licensed marriage and family therapy supervisor, including one hundred (100) hours of individual supervision. A maximum of five hundred (500) hours of experience gained prior to the award of a graduate degree may be included in the total required experience; and

(4) submit evidence that the supervision plan has been completed, including a recommendation by the

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licensed marriage and family therapy supervisor, on forms approved by the Board.

36-09. General Licensing Provisions for Licensed Marriage and Family Therapy Supervisors.

An applicant for licensure as a marriage and family therapy supervisor must:

- (1) submit an application on forms approved by the Board, along with the required fee; and
- (2) hold a current, active, and unrestricted South Carolina Marriage and Family Therapy License. For supervisors initially licensed after July 1, 1998, a current South Carolina Marriage and Family Therapy License is a requirement for renewal and the lapse of a South Carolina Marriage and Family Therapy License shall cause the Marriage and Family Therapy Supervisor License to lapse. For supervisors initially licensed prior to July 1, 1998, a current South Carolina Marriage and Family Therapy License is not required for the continuation of supervisory activities under a current supervisor's license; however, the supervisor may not also engage in the practice of Marriage and Family Therapy unless a current, active, and unrestricted Marriage and Family Therapy License is first obtained; and
- (3) submit evidence acceptable to the Board of at least five (5) years of continuous clinical experience immediately preceding the application including one hundred eighty (180) hours of clinical supervision under a licensed Marriage and Family Therapy Supervisor; and
- (4) submit evidence of a minimum of thirty-six (36) hours of individual supervision of the applicant's supervision of at least two (2) marriage and family therapy interns; and
- (5) submit evidence of a minimum of three (3) semester hours of graduate study in supervision.

36-10. General Licensing Provisions for Psycho-educational Specialists.

An applicant for initial licensure as a psycho-educational specialist must:

- (1) submit an application on forms approved by the Board, along with the required fee; and
- (2) submit evidence of successful completion of an earned master's degree plus thirty (30) graduate semester hours, or an earned sixty (60) graduate semester hour master's degree, or a sixty (60) graduate semester hour specialist's degree, or a doctoral degree in school psychology from an institution of higher education whose program is approved by the National Association of School Psychologists or the American Psychological Association or a program which the Board finds to be substantially equivalent. A substantially equivalent program must include an earned master's, specialist's, or doctoral degree in an applied area of psychology, education, or behavioral sciences from a regionally accredited institution, completion of at least sixty (60) graduate semester hours, and substantial preparation, including coursework, in the following areas:
 - (a) psychological foundations, including biological bases of behavior; human learning; child and adolescent development; social/cultural bases of behavior; and individual differences (exceptionalities/psychopathology of children and youth); and
 - (b) educational foundations, including organization and operation of schools; and instructional/remedial design; and
 - (c) assessment and intervention, including diverse methods of individual assessment that can be linked to intervention; direct intervention including counseling and behavior analysis/intervention; and indirect intervention including a consultation with school personnel and families; and
 - (d) statistics and research methodologies; and
 - (e) professional school psychology, including history and foundations of school psychology; legal and ethical issues; professional issues and standards; alternative models of service delivery; emergent technologies; and roles and functions of school psychologists; and
 - (f) a one-year twelve hundred (1200) hour internship, at least one-half (1/2) of which must be in an approved school setting. The internship shall include a full range of psycho-educational services supervised by a licensed psycho-educational specialist or certified or licensed school psychologist. If a portion of the internship is completed in a non-school setting, supervision may be provided by a psychologist appropriately credentialed for that setting as approved by the Board. The possession of a National Certified School Psychologist (NCSP) credential issued after January 1, 1988 shall be evidence of completion of a satisfactory program as provided above; and
- (3) provide evidence satisfactory to the Board of certification by the South Carolina Department of Education in school psychology level II or III; and
- (4) provide evidence satisfactory to the Board that the applicant has successfully served as a certified school psychologist for at least two (2) years in a school or comparable setting. After January 1, 2000, one (1) year must have

been under the supervision of a licensed psycho-educational specialist. One (1) year of experience is defined as full-time employment for one (1) contract year of at least one hundred ninety (190) work days. Two (2) consecutive years of half-time work may, at the discretion of the Board, be deemed to be equivalent to one (1) full year of experience. The experience must include provision of a full range of services to children, youth, and families. Experience acquired under a provisional or temporary certificate in school psychology, or in a pre-degree practicum or internship, may not count toward this experience requirement; and

- (5) submit evidence of a passing score on an examination approved by the Board.

36-13. Continuing Education Requirements for Professional Counselors and Marriage and Family Therapists.

(1) Persons licensed as professional counselors or marriage and family therapists shall complete forty (40) hours of continuing education related to their respective professional license during every two-year licensure period. Persons licensed both as professional counselors and marriage and family therapists must complete fifty (50) hours of formal continuing education during every two-year licensure period as a condition of renewal of their licenses. Of the fifty (50) hours, at least twenty-five (25) hours must be related to each discipline. Persons licensed as professional counselor supervisors or marriage and family therapy supervisors must complete ten (10) hours of formal continuing education in supervision of their discipline during every two-year licensure period as a condition of renewal of their license. Persons licensed both as professional counselor supervisors and marriage and family therapy supervisors must complete ten (10) hours of formal continuing education in supervision, at least five (5) hours of which must be in supervision of each discipline. A maximum of fifteen (15) hours may be obtained through informal continuing education, as long as the activity is approved in advance by the Board.

(2) Any formal continuing education activity sponsored by a professional counselor certifying body, marriage and family therapy certifying body, NAADAC, or SCAADAC approved by the Board as a continuing education sponsoring body, or one of its regional or state divisions, is automatically approved for the formal continuing education requirement.

(3) Unapproved sponsoring organizations must request advance approval on Board-approved forms ninety (90) days prior to each continuing education event. In order to request approval, the sponsoring organization must submit an agenda of the session, the curriculum vitae of all presenters and a copy of the evaluation documents.

(4) The Board may approve informal continuing education using the following guidelines:

(a) a first time presentation of a paper, workshop, or seminar for a national, regional, statewide, or other professional meeting may be approved for a maximum of five (5) continuing education hours; and

(b) a published paper in a referred journal may be approved for a maximum of five (5) continuing education hours and may be used only once; and

(c) preparation of a new or related course for an educational institution or organization may be approved for a maximum of five (5) continuing education hours; and

(d) individual self-study to include use of audio-visual materials, reading of professional journals and books, and participation in professional study and discussion groups may be approved based on the number of hours recommended by the sponsoring organization or the number of hours engaged in the activity for a total of fifteen (15) hours during each two-year licensure period.

(5) No hours may be carried forward from the renewal period in which they were earned.

36-14. Continuing Education Requirements for Psycho-educational Specialists.

(1) Persons licensed as psycho-educational specialists shall complete forty (40) hours of continuing education related to their professional licensure during every two-year licensure period.

(2) Continuing education credit may be awarded for documented completion of the following activities:

(a) a minimum of twenty (20) continuing education hours in workshops, conferences, formal in-service training, college or university courses, and teaching and training activities. A maximum of ten (10) hours may be awarded for attendance at workshops, conferences, or in-service training. For teaching and training activities, credit may be awarded only for the first time the content is taught and limited to a maximum of ten (10) hours; or

(b) a maximum of twenty (20) continuing education hours in research and publications, supervision of interns, post-graduate supervised experiences, program planning/evaluation, self-study, and professional organizational leadership. A maximum of ten (10) hours may be awarded for unpublished research. A maximum of twenty (20) hours

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may be awarded for research and publication or presentation. A maximum of ten (10) hours may be awarded for articles published or posters presented. Each project may be claimed only once. A maximum of twenty (20) hours may be awarded for supervision of interns. No more than one (1) post-graduate supervised experience may be claimed in any renewal period. A maximum of fifteen (15) hours may be awarded for program planning/evaluation. A maximum of twenty (20) hours may be awarded for self-study. No more than one (1) activity may be counted per organization per year and a maximum of ten (10) hours may be awarded in professional organization leadership.

Statement of Need and Resonableness:

DESCRIPTION OF REGULATION:

Purpose: To ensure that the provisions of the 1998 enacted practice act are carried out by promulgation of regulations establishing guidelines for the licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists.

Legal Authority: 1976 Code Title 40, Chapter 75, Section 05, et seq.

Plan for Implementation: The Board will see that these practices are implemented by informing the licensees through written communication, newsletters, and the LLR web page.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS THEREIN AND EXPECTED BENEFITS: The need to immediately establish these regulations is to ensure that the provisions of the practice act are carried out by promulgation of regulations establishing guidelines for the licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists.

DETERMINATION OF COSTS AND BENEFITS: No additional costs will be incurred by the State or any political subdivision.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates concerning these regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: These regulations will have no effect on the environment and public health of this State.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH OF THE REGULATIONS IS NOT IMPLEMENTED: These regulations will have no detrimental effect on the environment and public health of this State if the regulations are not implemented in this State.

Filed June 23, 2000, 4:50 pm

Document No. 2536
DEPARTMENT OF LABOR, LICENSING AND REGULATION
RESIDENTIAL BUILDERS COMMISSION
 CHAPTER 106
 Statutory Authority: 1976 Code Section 40-59-70

Emergency Situation:

The Residential Builders Commission has determined that the fees for Residential Builders that were initially established by S.C. Code Ann. §40-59-70(D) should be adjusted to reflect the transfer of responsibility for administering the licensing examination on computer through a testing contractor, effective July 1, 2000. The examination portion of the application fee will be eliminated from the schedule of fees payable to the Commission, because that expense will be paid directly to the testing contractor by the applicant. The special examination fee will be repealed since the test is now available to applicants electronically. The application fee will remain at \$100.00 to meet the costs of administrative processing. Other established fees will remain unchanged.

Text:

106-5. Fees.

A. Residential Builders:

- (1) An application/processing fee of one hundred dollars;
- (2) An oral examination fee of two hundred dollars;
- (3) A residential license fee of one hundred dollars;
- (4) An annual renewal fee of one hundred dollars;
- (5) A late fee of fifty dollars for renewals received after July 31;
- (6) An additional renewal fee of one hundred dollars will be required when a renewal is received more than twelve months after expiration of the license.

B. Residential Specialty Contractors:

- (1) A registration fee of twenty dollars;
- (2) An annual renewal fee of twenty dollars;
- (3) A late fee of ten dollars for renewals received after July 31st;
- (4) An additional renewal fee of twenty dollars will be required when a renewal is received more than twelve months after expiration of the registration.

C. Other Fees and Penalties:

- (1) A replacement fee of ten dollars for replacing any lost, destroyed, or mutilated residential builders license or registration card;
- (2) A fee of five dollars for furnishing an examinee with a certified copy of the record of his examination grades;
- (3) A fee of twenty five dollars for a duplicate copy of a license when any change is requested by the licensee to the information printed on the license.
- (4) A fee of ten dollars for a duplicate copy of a registration, when any change is requested by the holder to the information printed on the card.

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Statement of Need and Resonableness:

DESCRIPTION OF REGULATION:

Purpose: The purpose of this regulation is to allow the Residential Builders Commission to implement changes in the fee structure consistent with Section 40-59-70(D) and to meet its financial responsibility, as required by Section 40-1-50(D), in the 2000-2001 fiscal year.

Legal Authority: 1976 Code Title 40, Chapter 59, Section 70

Plan for Implementation: Administratively, the Commission will see that these adjusted fees are implemented by informing individual applicants through written and oral communication and by the promulgation of permanent regulations in accordance with the South Carolina Administrative Procedures Act.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS THEREIN AND EXPECTED BENEFITS: The need to immediately establish these adjusted fee amounts for residential builders is imperative in order to prevent a disruption in the provision of residential building services by the Department and qualified applicants for licensure beginning July 1, 2000.

DETERMINATION OF COSTS AND BENEFITS: No additional costs incurred by the State or any political subdivision. Examination fees will be paid directly to the testing contractor by applicants. Expected benefit will be the improved use of public funds and elimination of staff time in processing examination fees.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates concerning this regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation will have no effect on the environment and public health of this State.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH OF THE REGULATIONS IS NOT IMPLEMENTED: This regulation will have no detrimental effect on the environment and public health of this State if the regulations are not implemented in this State.

Resubmitted April 19, 2000

Document No. 2495
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
 CHAPTER 49
 STATUTORY AUTHORITY: 1976 CODE SECTION 40-22-130

Synopsis:

The Board of Registration for Professional Engineers and Land Surveyors has drafted regulations that would eliminate the requirement that a registrant seeking to renew within three months of the lapse of his or her license be issued a new certificate number and eliminate the requirement that such a registrant file a new application to renew within the three month "grace period."

Instructions: Amend current regulations, by amending Section 49-209(B) as it appears in the text below.

Text:

49-209. Individual Licenses.

B. Reinstatement.

(1) A registrant whose renewal fees are not more than one year in arrears and who can truthfully certify that he or she has not been engaged in the practice of engineering or land surveying in South Carolina during the period the certificate was not in a current status, barring any other irregularities, shall be reinstated and retain the original registration number upon payment of the renewal fees and penalties. A registrant whose renewal fees are more than one year in arrears may be required to take and pass examinations as required by the Board.

(2) Those persons who cannot certify that they have refrained from practicing their profession in this State during the period in which their license was not valid will be required to file a new application accompanied by the required application fee. An applicant may be required to take or retake and pass examinations as required by the Board.

Fiscal Impact Statement: There will be no increased cost to the State or its political subdivision

Document No. 2515
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS
 CHAPTER 93
 Statutory Authority: 1976 Code Section 40-35-230

Synopsis:

The Board of Long Term Health Care Administrators has drafted regulations to conform the licensing requirements for community residential care facility administrators to the requirements in the statute. The regulation will state the licensing requirements as set forth in the statute.

Instructions: Amend current regulations, by changing Regulation 93-70 A (2) as it appears in the text below.

Text:

93-70. Pre-examination and Licensing Requirements.

A. No person shall be permitted to take an examination for licensure unless he shall first submit evidence satisfactory to the Board that he meets the following criteria:

(1) A Nursing Home Administrator must:

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- (a) be at least twenty-one years of age;
 - (b) be of reputable and responsible character;
 - (c) be of sound physical and mental health;
 - (d) have the following education and experience:
 - 1. A baccalaureate degree in nursing home administration or related health care administration from an accredited college or university and one year of practical experience in nursing home administration or related health care administration;
 - 2. A baccalaureate degree other than in health care administration from an accredited college or university and two years of practical experience in nursing home administration or related health care administration; or
 - 3. A combination of education and experience acceptable under regulations promulgated by the Board;
 - (e) submit a completed application which has been approved by the Board;
 - (f) successfully complete the nursing home administrator examination;
 - (g) pay the application, examination and licensing fees according to 93-100.
- (2) A Community Residential Care Facility Administrator must:
- (a) be at least twenty-one years of age;
 - (b) be of reputable and responsible character;
 - (c) be of sound physical and mental health;
 - (d) has a high school diploma or the equivalent and at least two years of on-site work experience with supervisory and direct resident care responsibilities under the supervision of a licensed community residential care facility administrator before July 1, 2000;
 - 1. beginning July 1, 2000, all initial applicants must have:
 - a) a minimum of an associate degree with at least one year of on-site work experience with supervisory and direct resident care responsibilities under the supervision of a licensed community residential care facility administrator; however, a person who has a health related associate degree or higher is required to have only six months of on-site work experience with supervisory and direct resident care responsibilities under the supervision of a licensed community residential care facility administrator; or
 - b) had at least three months of on-site work experience under the supervision of a licensed community residential care facility administrator and has a:
 - (i) health related baccalaureate degree and at least two years= work experience, as defined by the board, in a health related field other than in a community residential care facility; or
 - (ii) non-health related baccalaureate degree with at least three years= work experience, as defined by the board, in a health related field other than in a community residential care facility; and
 - 2. has successfully completed the community residential care facility administrators= examination administered by the board and has paid the established fees.

Fiscal Impact Statement: There will be no additional cost incurred by the State or any political subdivision.

Document No. 2439
PUBLIC SERVICE COMMISSION
CHAPTER 103

Statutory Authority: S.C. Code Sections 58-3-140, as amended, and 58-23-1010

103-102 Definitions of Terms.

103-112 Class "C" Motor Carrier – Certificate of Public Convenience and Necessity

103-133 Proof Required to Justify Approving an Application

Synopsis: 26 S.C. Code Ann. Regs. 103-102, 103-112, and 103-133 (Supp. 1999) are being amended to define the terms non-emergency vehicle, wheelchair van, wheelchair van patient, and Federal Motor Carrier CSA Safety Regulations; to classify non-emergency vehicles as Class "C" motor carriers; and to outline the requirements for applicants who wish to obtain a Certificate of Public Convenience and Necessity for non-emergency vehicles. The amendments also address driver qualifications, vehicle requirements, vehicle maintenance requirements, drug

testing requirements, minimum periodic inspection standards, and minimum insurance limits. See Section-By-Section Discussion herein.

Section-By-Section Discussion

103-102(23) Text is being added to define the term non-emergency vehicle

103-102(24) Text is being added to define the term wheelchair van

103-102(25) Text is being added to define the term wheelchair van patient

103-102(26) Text is being added to state any and all definitions addressed in the Federal Motor Carrier CSA Safety Regulations shall apply to all non-emergency vehicle regulations

103-112 The existing text of Regulation 103-112 is being amended to classify non-emergency vehicles as Class "C" motor carriers

103-133(6)(A) Text is being added which outlines driver qualifications/requirements that an applicant must meet for a Certificate of Public Convenience and Necessity

103-133(6)(B) Text is being added which identifies the vehicle requirements that an applicant must possess before a Certificate of Public Convenience and Necessity will be granted by the Commission.

103-133(6)(C) Text is being added that outlines vehicle maintenance requirements for applicants for a Certificate of Public Convenience and Necessity for non-emergency vehicles

103-133(6)(D) Text is being added for drug testing requirements for applicants who wish to obtain a Certificate of Public Convenience and Necessity for non-emergency vehicles

103-133(6)(E) Text is being added regarding minimum periodic inspection standards that must be adhered to by applicants for a Certificate of Public Convenience and Necessity for non-emergency vehicles

103-133(6)(F) Text regarding a schedule of minimum of insurance limits is being added for applicants who wish to be granted a Certificate of Public Convenience and Necessity for non-emergency vehicles

Instructions: Amend 26 S.C. Code Ann. Regs. 103-102, 103-112, and 103-133 to read as set forth below.

Text:

Subarticle 11

NON EMERGENCY VEHICLES

103-102 Definitions

23. Non-Emergency Vehicle. "Non-Emergency Vehicle" means a vehicle that is used for providing, for a fee or charge, non-emergency transportation, for patients in stable medical condition who may or may not require the use of a walker, crutches, canes, or personal assistant, to scheduled visits to a physician's office or hospital for treatment, routine physical examinations, x-rays or laboratory tests, for transporting patients upon discharge from a hospital or nursing home to a hospital or nursing home or residence, or for other non-emergency purposes. Non-Emergency Vehicles are not equipped with the medical equipment or personnel required for the specialized care provided in an ambulance. "Non-Emergency Vehicle" includes "Wheelchair Van." "Non-Emergency Vehicle" shall not include vehicles owned by facilities that provide such transportation as described above without charging a separate fee for the transportation service.

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24. Wheelchair Van. "Wheelchair Van" means a Non-Emergency Vehicle which is modified, equipped and used for the purpose of providing non-emergency medical transportation for Wheelchair Van Patients. These vehicles are specifically designed and modified to load and transport both ambulatory and wheelchair-bound patients in a safe and secure manner.

25. Wheelchair Van Patient. "Wheelchair Van Patient" means a patient whose medical condition is such that the person may be transported safely and securely in a Wheelchair Van. These patients must be transported in a sitting position in a secured wheelchair and/or require a ramp or lift to board the vehicle.

26. Any and all definitions addressed in the Federal Motor Carrier CSA Safety Regulations (Code of Federal Regulations Title 49, Parts 40 and 355-397) (hereinafter known as the CSA Safety Regulations) apply to all Non-Emergency Vehicle regulations.

103-112. Class "C" Motor Carrier – Certificate of Public Convenience and Necessity

A Class C motor carrier is a common carrier by motor vehicle of passengers, generally known as "taxi cabs," "charter buses," "charter limousine," and "non-emergency vehicles," which does not operate over regular routes or upon regular schedules, and which does not, in any way, solicit or receive patronage outside of the radius of two miles of the corporate limits of the city in which it is licensed to do business, except upon such highways as are not served by a Class A or B motor carrier. A Class C motor carrier must obtain a Certificate of PC&N from the Commission, except "charter buses," which must obtain a Charter Bus Certificate.

103-133(6). PC&N (Non-Emergency Vehicles)

In addition to meeting the requirements set out in 103-133(4) above, applicants for a Certificate of PC&N for non-emergency vehicles must meet the following requirements:

A. Driver Qualifications/Requirements

1. Carrier must comply with Part 391-Qualifications of Drivers, CSA Safety Regulations, excluding 391.49, in addition to the following requirements:

- a. Driver must possess at least a current American Red Cross Standard First Aid and CPR Certificate or its equivalent. Records of such must be kept on file at company's primary place of business within South Carolina.
- b. Driver must be in compliance with all OSHA regulations.
- c. Driver must be adequately trained in the use of all vehicle installed safety equipment such as two-way radios, first aid kits, fire extinguishers, and other equipment as outlined in the Vehicle Requirement Section of these Regulations.
- d. Driver must be able to physically perform actions necessary to assist persons with disabilities, including wheelchair users.
- e. Driver must wear a professional uniform and photo identification badge that easily identifies the driver and the company for whom that driver works.
- f. Driver must complete 12 hours of in-service training annually in the area of safety. Records of such must be kept on file at company's primary place of business within South Carolina.

B. Vehicle Requirements

1. Any vehicle purchased on or after the effective date of these regulations shall comply with the following vehicle requirements. The Applicant must certify on a Commission prescribed form that its vehicles meet, at a minimum, the following standards.

- a. All Non-Emergency Vehicles shall be equipped with at least the following:

- (1) Approved seat belt assemblies for all passenger seating locations.
- (2) Interior and exterior lighting which must meet ADA requirements set forth in Title 49, Parts 37 and 38

C.F.R. In addition, all standard motor vehicle equipment must be in working order (i.e. all lamps, windshield wipers, horn, emergency flashers/hazard lights, and all other standard motor vehicle equipment.)

- (3) Locking devices for all doors and all door latches which shall be in operation from inside and outside on all vehicles manufactured and first registered after January 1, 1980.
- (4) Foot stool or extra step for loading.

(5) Sanitary and functional seat covers.

(6) Spare wheel, jack and tire tools necessary to make minor repairs, except when operating service cars are immediately available.

(7) Current maps of streets in the area where service is provided.

(8) Fire extinguisher, Type 4-B;C dry powder or carbon dioxide, inspected annually. Proof of annual inspection shall be attached to each fire extinguisher.

(9) Identification display of the name under which the Non-Emergency Vehicle is doing business or providing service, on both sides and the rear of each such vehicle in letters that contrast sharply with the van's background and are easily read from at least 20 feet. All Non-Emergency Vehicles operated under the same certificate shall display the same identification.

(10) Exterior rearview mirrors affixed to both sides of the vehicle and in working order. There may not be any chips, cracks, or anything else that limits the driver's view.

(11) A two-way radio, mobile or cellular phone equipment which shall be included in the vehicle while patients are being transported. All two-way radios must be in contact with a dispatcher or someone acting as a dispatcher, i.e., must have instant access to standard phone lines and the ability to summon immediate police, fire or ambulance assistance, if needed.

(12) A "No Smoking" sign prominently displayed in the patient compartment if oxygen tanks, whether patient tanks or vehicle equipment, are carried. If oxygen tanks are carried, they must be readily accessible and securely stored.

(13) Heating and cooling systems which meet ADA requirements set forth in Title 49, Parts 37 and 38 C.F.R.

(14) Emergency warning devices.

(15) Any other emergency and safety equipment required in order to meet ADA requirements set forth in Title 49, Parts 37 and 38 C.F.R.

b. In addition to the requirements of subsection (a) above, all wheelchair vans shall be equipped with at least the following:

(1) A loading entrance in compliance with ADA requirements and standards.

(2) Fasteners to secure the wheelchair(s) or stretcher(s) to the vehicle which must be of sufficient strength to prevent the chair or stretcher from rotating and to prevent the chair or stretcher wheels from leaving the floor in case of sudden movement and to support chairs, stretchers and patients in the event the vehicle is overturned.

(3) A lift or ramp with a load capacity as specified by ADA requirements and standards.

2. Any vehicle manufactured after the effective date of these regulations shall comply with the vehicle requirements set forth in Title 49, Parts 37 and 38 C.F.R. and FMVSS.

C. Vehicle Maintenance Requirements

All carriers must comply with Part 396-Inspection, Repair, and Maintenance of CSA Safety Regulations, excluding 396.9, 396.11(d) as to the last phrase "or to any motor carrier operating only one motor vehicle", and excluding 396.15.

D. Drug Testing Requirements

All carriers must implement a verifiable drug testing program for drivers. Pre-employment, post-accident, and random drug screens shall be mandatory.

E. Minimum Periodic Inspection Standards

1. All carriers must comply with Appendix G to Subchapter B-Minimum Periodic Inspection Standards of CSA Safety Regulations.

2. A vehicle does not pass inspection if deficient under any standard included in 1 above. Further, a vehicle does not pass an inspection if any defects or deficiencies are detected with reference to the wheelchair lift or any component relating to the loading of passenger or patient into the vehicle.

3. All carriers are subject to the regulations found in Part 396, CSA Safety Regulations. In addition, any Public Service Commission representative or any officers, drivers, agents, representatives, and employees directly concerned with the inspection or maintenance of motor vehicles may recommend that a vehicle be put "out of service" for defects or deficiencies detected with reference to Appendix G to Subchapter B-Minimum Periodic Inspection Standards and defects or deficiencies detected with reference to the wheelchair lift or any component relating to the loading of a passenger or patient into the vehicle.

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F. Schedule of Minimum Insurance Limits

1. Insurance policies and surety bonds for bodily injury and property damage will have limits of liability not less than the following:

- a. Liability Combined Each Occurrence \$1,000,000
- b. Medical Payments/Each Person \$1,000

Fiscal Impact Statement:

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

Resubmitted May 16, 2000

Document No. 2512
DEPARTMENT OF SOCIAL SERVICES
CHAPTER 114
Statutory Authority: S.C. Code Ann. Section 43-1-80

114-110 Fair Hearings

Synopsis:

The Department proposes to amend and replace in its entirety Article I of Chapter 114, Department of Social Services Fair Hearings. The proposed amendment will clarify general procedures in the Office of Administrative Hearings and Individual & Provider Rights, and also concentrate in one Chapter the various appeal rights under specific Federal and State programs administered by the Department.

Section-by-Section Synopsis
Article I – Fair Hearings

Section Citation	Explanation of change
114-100	Former Section 114-110(A); defines additional terms relating to the hearing process and the Office of Administrative Hearings
114-110	Sets forth purpose of the fair hearing process
114-120	Sets forth objectives of the fair hearing process
114-130(B)	Sets forth general fair hearing procedures to apply in all cases, unless a specific program provides otherwise
114-130(C)	Former 114-110(T)(1); clarifies claimant's right to representation
114-130(D)	Sets forth the role of counsel to Office of Administrative Hearings
114-130(E)	Former 114-110(H); sets forth and expands conduct and duties of hearing officers; provides procedure for disqualification of hearing officers/committee members
114-130(F)	Defines and prohibits ex-parte communication
114-130(G)	Former 114-110(E)(1); describes scheduling and time frame; priority given to cases involving the placement of children

114-130(H)	Former 114-110(E)(1)(e), 114-110(f); provides for dismissals and for reinstatement of case upon timely request for good cause
114-130(I)	Former 114-110(J); describes and expands general conduct of hearing including opening and closing statements, evidence, swearing of witnesses, objections, child witnesses, out-of-court statements by certain children
114-130(J)	Former 114-110(L); describes decision and its effect
114-130(K)	Provides for the Office of Administrative Hearings reconsideration of a decision on motion of a party or of the Office of Administrative Hearings; reasons for reconsideration; procedure to be followed on reconsideration
114-130(L)	Describes record of final administrative decision
114-130(M)	Former 114-110(M); describes appeal and preparation of transcript
114-140	Describes appeal procedures for foster care program; shifts jurisdiction from the Administrative Law Judge Division
114-150	Describes specific appeal procedures for adoptions
114-160	Describes specific appeal procedures for day care
114-170	Describes specific appeal procedures for child protective services
114-180	Describes specific appeal procedures for eligibility hearings under Food Stamp and Family Independence programs, Administrative Disqualification Hearings and Electronic Benefit Transfer Hearings
114-190	Describes specific appeal procedures for food services

Instructions: Replace Article 1 of Chapter 114 in its entirety, Fair Hearings.

Text:

Article I

Fair Hearings

114-100 Definitions

- A. Adverse Action - any action in which the Department:
 - (1) denies, suspends, revokes or refuses to renew a license or other permit to operate a child day care facility, foster home, child placing agency, residential child care facility or group home;
 - (2) disqualifies a person from receiving benefits, or terminates, suspends or decreases benefits, which the person was previously determined eligible to receive;
 - (3) or any other action defined as adverse within a program specific section of these regulations.
- B. Petitioner/Claimant - a party who has requested a fair hearing.
- C. Respondent - the party responding to the fair hearing request.
- D. Person - an individual, partnership, corporation, association, governmental subdivision or public or private

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agency or organization.

- E. Department - the South Carolina Department of Social Services.
- F. Client - an applicant for or recipient of aid granted under programs administered by the Department.
- G. Adoption Subsidies - Federal or State funds provided to assist an adoptive family in meeting some of the financial needs of the adopted child who has been identified as a special needs child.
- H. OAH - Office of Administrative Hearings.
- I. Ex-Parte Communication - any direct or indirect communication concerning the merits of a pending hearing, made by one party in the absence of another party, to a hearing officer or committee member assigned to a hearing and which was neither on the record nor on reasonable prior notice to all parties.
- J. Fair Hearing - an orderly proceeding before an impartial Department employee or committee of employees in which a petitioner may challenge an adverse action and in which both parties may present evidence to defend their positions.
- K. Party - each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.
- L. Advance notice period - for the Family Independence and Food Stamp programs, period of time between the date of adverse action notification and the date the adverse action becomes effective.
- M. Time – computation of time shall be governed by S. C. Code Ann. Section 15-1-10 and the South Carolina Rules of Civil Procedure.
 - (1) In computing any period of time herein, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday.
 - (2) A notice sent by regular United States mail is presumed to have been received by the fifth day following the posting; if sent by certified mail, return receipt requested, the date of receipt is the date the recipient signed the certificate of receipt.
 - (3) In determining whether a request for hearing is timely filed, the date of the postmark or the date of receipt by the OAH or by the Department shall be used, whichever is earlier.

114-110 Purpose

The fair hearing process is an official state action required by Federal and State laws and regulations in accordance with the Fourteenth Amendment to the United States Constitution. The process allows an individual to contest an adverse action taken by the Department and to have his or her objections to the adverse action heard by an impartial hearing officer or committee.

114-120 Objectives

The objectives of the hearing process are:

- A. To provide an opportunity for a party aggrieved by an adverse action to be heard pursuant to Federal and State laws and regulations and/or departmental policies;
- B. To provide a forum for one who is the subject of a child protective services indicated case for which an appeal is allowed by statute;
- C. To ensure uniform application of social services regulations and policies throughout the state;

- D. To assure that an appeal of adverse action is resolved by prompt, definitive, and final administrative action.

114-130 General Fair Hearing Procedures

- A. Except as otherwise specified, the procedures outlined in this section apply to all hearing requests.

- B. Request for Fair Hearing

- (1) A request for hearing must be made either in writing or orally, except where otherwise specified for particular programs, to the caseworker or to the OAH within thirty (30) days of receiving notification of adverse action.
- (2) A request shall contain
 - (a) The name of the party requesting the hearing;
 - (b) Information sufficient to identify the decision, which is being contested; and
 - (c) The relief requested.

- C. Representation

- (1) The claimant/petitioner may appoint a representative or may represent himself/herself.
- (2) The claimant/petitioner or representative may review the evidence in the case file, either on the date of the hearing or at an earlier time upon request, and present additional evidence.
- (3) The claimant/petitioner or representative may present witnesses and question any witnesses at the hearing.

- D. Legal Counsel to the Office of Administrative Hearings

- (1) Legal counsel to the OAH shall have authority to attend the fair hearing and assist the hearing officer/committee in the preparation of its findings of fact, statements of policy, and conclusions of law. Legal counsel to the OAH shall not provide legal assistance to either party to the proceeding.
- (2) Legal counsel to the OAH may be present during the committee's deliberations on its decisions.

- E. Hearing Officers

- (1) A hearing officer shall preside over all hearings. In those cases to be decided by a committee, a single hearing officer shall preside over the hearing.
- (2) The presiding hearing officer has the authority to conduct a fair and impartial hearing, including the authority to:
 - (a) order a pre-hearing conference for the simplification of issues or a settlement conference;
 - (b) review case material prior to the hearing and to establish a procedure commensurate to the complexity of the issues presented and the types of proof likely to be introduced during the hearing;
 - (c) issue subpoenas;
 - (d) rule on offers of proof and the admissibility of evidence;
 - (e) issue orders, rulings, and dismissals;
 - (f) permit depositions to be taken when the ends of justice would be served;
 - (g) regulate the course of the fair hearing and the conduct of the parties and their counsel;
 - (h) administer oaths or affirmations;
 - (i) rule on procedural and substantive motions;
 - (j) call, examine, sequester and/or disqualify witnesses;
 - (k) exclude people from the hearing room pursuant to confidentiality laws governing particular program areas; and
 - (l) conclude the hearing when satisfied that all pertinent information bearing on the issue has been introduced and examined.
- (3) Disqualification
 - (a) The hearing officer/committee member shall disqualify himself or herself from participating in a hearing in which the officer's/member's impartiality might be reasonably questioned based upon a personal bias or prejudice, familial relationship or other basis, or in which the hearing officer/committee member may have any interest in the matter pending for decision.
 - (b) A disqualification pursuant to subsection (a) shall be in writing with notice to the file and a copy

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delivered to the Director of Individual and Provider Rights in the OAH.

(c) A party who feels that the hearing officer's/member's impartiality might be reasonably questioned may, upon notice to the opposing party, file a motion to have the officer/member disqualified.

(i) Such a motion shall set forth the grounds upon which the party feels the officer's/ member's impartiality has been compromised.

(ii) The Director of Individual and Provider Rights in the OAH shall rule on the motion and serve a written statement of the reasons supporting his or her decision.

F. Ex-Parte Communications

(1) Ex-parte communications are prohibited and shall not be considered in deciding any matter in issue.

(2) If a hearing officer or committee member receives an ex-parte communication that he or she knows or has reason to believe is prohibited, he or she shall promptly make the communication part of the record and shall furnish a written copy of the communication to all parties explaining the circumstances under which he or she became aware of the communication.

(3) Any party who makes an ex-parte communication may be subject to having a witness disqualified or evidence excluded at the discretion of the hearing officer in the interest of fairness and equity.

G. Pre-Hearing Procedure

(1) Scheduling of Hearings

The Office of Administrative Hearings shall schedule hearings to provide thirty (30) days notice of the hearing date to the parties, unless waived by them. Because of issues of attachment and the best interests of the child, requests for hearings regarding the placement of children shall receive priority over other appeal cases.

(2) The notice of hearing shall include the following:

(a) Date, time, and place of the hearing;

(b) Statement of the issues;

(c) Notice of the right to appoint a representative;

(d) Notice that the claimant/petitioner's failure to appear without good cause will result in dismissal of the appeal;

(e) Request to notify the OAH if special accommodations or a translator will be needed at the hearing.

(3) Pre-Hearing Conferences

(a) Upon request of a party or a hearing officer/committee member, a pre-hearing conference may be held prior to the hearing to simplify the issues to be determined; to obtain stipulations as to the admissibility of evidence, undisputed facts or the application of a particular law; to identify and exchange documentary evidence intended to be introduced at the hearing; to determine deadlines for the completion of any discovery and, if possible, to reach a settlement.

(b) A pre-hearing conference shall be an informal proceeding conducted by the hearing officer and may be conducted via telephone, in the discretion of the hearing officer/presiding committee member.

(c) Any agreement reached may be the subject of an order issued by the hearing officer.

(4) Motions

(a) All pre-hearing motions shall contain the caption of the case, title of the motion, the name, address and signature of the person preparing it, the grounds for relief and the relief sought.

(b) All motions shall be filed and served upon the opposing party not later than ten (10) days before the hearing date, unless otherwise ordered by the hearing officer.

(c) A party may file and serve a response to a motion within ten (10) days unless the time is extended or shortened by the hearing officer.

(d) A motion for a continuance shall state the reasons for the request and whether the opposing party has consented to the request; however, no such motion may be made ex-parte except in an emergency when notice to the opposing party is not feasible.

(e) Any motion regarding discovery shall state that the moving party has made a good faith attempt to resolve, with the other party, the issues raised by the motion.

(f) The hearing officer may rule on the basis of the written motion and any response thereto or may order argument on the motion. The decision to hold oral argument is within the discretion of the hearing officer.

(5) Discovery

Discovery shall be permitted as provided in S.C. Code Ann. Section 1-23-320 (1976 & Supp. 1993); however, each party shall be limited to taking three depositions, except for good cause shown.

(6) Pre-Hearing Exchange of Information

Upon notice, the hearing officer may, in appropriate cases, require the parties to exchange prior to the hearing:

- (a) a final list of witnesses the party reasonably expects to testify ;
- (b) a final list of all exhibits expected to be offered at the hearing;
- (c) a final list of all facts that the party intends to request judicial notice of, with supporting documentation.

H. Dismissals

(1) The OAH has the authority to dismiss a request for hearing when

- (a) the request for hearing is not timely filed;
- (b) the claimant/petitioner or representative requests withdrawal of the request for hearing;
- (c) the claimant/petitioner fails to appear at the scheduled time and place for the hearing;
- (d) changes in either Federal or State law require automatic grant adjustments for classes of clients.

(2) A party whose case has been dismissed may request reinstatement of the case if he/she can show good cause. Such request must be made within ten (10) days of the dismissal.

I. Hearing Procedure

(1) The hearing officer will give an opening statement briefly describing the nature of the proceeding and identifying the issues of the hearing.

(2) The parties shall be allowed to make opening and closing statements subject to reasonable limitations as determined by the presiding hearing officer.

(3) Evidence

- (a) S. C. Code Ann. Section 1-23-330 (1976) (as amended) shall govern questions of admissibility;
- (b) Each party shall have the opportunity to present documentary evidence and witnesses, including child witnesses, who will be subject to cross-examination. First, the Department will present evidence to support the action or inaction that is being appealed, and then the petitioner will present his or her case; however, the order of presentation may be changed at the discretion of the hearing officer/committee. The parties may present rebuttal evidence.

(4) The hearing officer shall swear or affirm each witness. At the hearing officer's discretion, witnesses may be sequestered during the hearing.

(5) Objections

All objections to procedure, the admissibility of evidence, or other matters must be made timely and stated on the record.

(6) Child Witnesses

The hearing officer may modify procedures and room accommodations to minimize the trauma of testifying, including, but not limited to:

- (a) allowing a parent or other support person to be present in the room;
- (b) allowing frequent breaks to be taken as necessary for the child's focus;
- (c) allowing leading questions during direct examination, to the extent necessary to develop the child's testimony;
- (d) allowing a more comfortable configuration of the hearing room;
- (e) requiring attorneys, or other questioners, to pose questions and objections while seated and in a manner that is not intimidating.

(7) Out-of-Court Statements by Certain Children

(a) An out-of-court statement made by a child who is under twelve years of age, or who functions cognitively, adaptively, or developmentally under the age of twelve, concerning any issue in dispute is admissible if the requirements of S.C. Code Section 19-1-180(B), (C), (D) and (E) are met, regardless of whether it would otherwise be admissible.

(b) The limitations of Section 19-1-180(A) do not apply.

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J. Decision

(1) The Office of Administrative Hearings will issue a final decision, in writing, which shall include separate findings of fact and conclusions of law promptly after the date of the conclusion of the hearing. In cases heard by a committee, the entire committee shall participate in rendering the final decision, and in cases where the committee decision is not unanimous, the majority vote shall govern.

(2) The determination by the hearing committee is the final administrative determination by the Department to be afforded to the petitioner.

K. Motion for Reconsideration

(1) Any party aggrieved by a final order may, within ten (10) days of the service of the order, file a written Motion for Reconsideration, which shall specify in detail the grounds for relief sought and supporting authorities. The OAH may order a reconsideration on its own motion within ten (10) days after the service of the final order.

(2) The filing of a motion for reconsideration shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the Office of Administrative Hearings and shall continue in effect unless the motion is granted or until the order is superseded, modified, or set aside as provided by law.

(3) The Motion for Reconsideration will be granted only on the basis of:

(a) a material error of law;

(b) a material error of fact; or

(c) the discovery of new evidence sufficiently strong to reverse or modify the order, which could not have been previously discovered by due diligence.

(4) The Office of Administrative Hearings may order a rehearing or enter an order with reference to the motion without ordering a hearing, and shall dispose of the motion within thirty (30) days after it is filed.

(5) If the Office of Administrative Hearings determines, in its discretion, that a rehearing is necessary, the matter shall be set for further proceedings as soon as practicable.

(6) If after such rehearing, it appears that the original decision, order, or determination is in any respect unlawful or unreasonable, the hearing officer/committee may reverse, change, modify, or suspend the same accordingly. Any decision, order or determination made after such reconsideration, reversing, changing, modifying or suspending the original determination shall have the same force and effect as the original decision, order, or determination.

L. Record After the Final Decision

The record of the contested case shall contain:

(1) all correspondence, pleadings, motions, rulings and deposition transcripts filed with OAH;

(2) all scheduling notices;

(3) all evidence received or considered and proffers of evidence excluded;

(4) a statement of matters judicially noticed;

(5) the hearing officer's final decision;

(6) the tape of the testimony taken during the proceeding and the transcript if prepared.

M. Appeal and Request for Transcript

(1) The final decision rendered by the OAH is subject to administrative or judicial review as provided by law.

(2) Upon filing a petition for review to the appropriate authority, the appellant shall request that the OAH prepare the transcript and enclose a copy of the petition for review.

(3) Either party may request that the OAH prepare the transcript in a case that has not been appealed.

(4) Within thirty (30) days of receipt of a request to prepare the transcript, the OAH shall transmit a copy of the record along with the transcript of the hearing to counsel for the Department of Social Services, the appellant and the appropriate appellate body.

(5) Upon request, an individual other than a party to the hearing, which is not otherwise confidential by statute, may receive a copy of the tape of the hearing for a reasonable fee.

N. Confidentiality

Information, records and other material used in connection with a hearing are confidential, according to

confidentiality laws governing the subject matter/program area of the hearing.

114-140 Foster Care

A. Right to Appeal

- (1) A foster parent has the right to appeal:
 - (a) the denial or revocation of his or her foster home license;
 - (b) the denial of an application for the renewal of a foster home license; and
 - (c) the removal of a foster child from the foster home, except as provided herein.
- (2) A foster parent shall not have the right to appeal:
 - (a) the removal of a foster child from his or her home if a court has authorized the removal or if the court has approved a placement or permanency plan which provides for such removal;
 - (b) the removal of a foster child from his or her home if the denial or revocation of the foster home license has been finally decided by the Department and the last day for requesting an appeal of the Department's decision has passed;
 - (c) when the foster parents have requested the removal.

B. Removal of Foster Children

- (1) Foster children who have resided in the foster home for 120 days or longer shall remain in the home during the hearing process, except under the following circumstances:
 - (a) the Department finds good cause to believe that the health or safety of the child is threatened by the child's continued presence in the foster home;
 - (b) the foster parent(s) failed to supply all the necessary information that they are required to file to complete the adoption home study within ninety (90) days after receipt of written notification that adoption is the plan for the child.
- (2) When the Department intends to remove a foster child, the Department shall provide the foster parent(s) written notice ten (10) days in advance of the removal of the child. In all cases when the Department intends to remove a foster child, the Department shall give written notice to foster parent(s); however, the 10-day advance notice period shall not apply to those cases where the Department determines there are emergency circumstances warranting immediate removal of the child or to cases of removal pursuant to Section 114-140(A)(2).

C. Appeal Process

- (1) Appeals authorized by this section shall not be conducted by the Administrative Law Division but by the Department as set forth in these regulations.
- (2) A request for hearing shall be made pursuant to section 114-130(B), except such request must be in writing.
- (3) The caseworker will forward the request to the OAH within two (2) working days of Receipt thereof.
- (4) A conference shall be held within fourteen (14) days of receipt of the request for a hearing; however, the foster parent may waive his or her right to the conference and proceed directly with the hearing. This conference shall be attended by the foster parent and his or her representative and the county director or designee. The caseworker and the caseworker's supervisor may also attend this conference.
- (5) The OAH shall schedule a hearing to be held no sooner than thirty (30) days and no later than ninety (90) days after receipt of the request for a hearing, unless continued pursuant to section 114-130(G)(4)(d). The hearing shall be conducted by a three-member committee consisting of a hearing officer and two members appointed by the State Director or his or her designee.
- (6) Decision

The final decision shall be issued within thirty (30) days of the date of the conclusion of the hearing through certified mail to the foster parent and to the respondent.

114-150 Adoptions

A. Application to Become Adoptive Parent - Right to Appeal

- (1) A person is entitled to appeal the Department's decision to deny or terminate its approval of that person to become an adoptive parent.

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(2) A person is not entitled to appeal the Department's decision to deny its consent or refuse approval of the applicant for adoption of a specific child, except as provided in 114-150(B). (cross-reference S.C. Code Ann. Section 20-7-1690(D)).

B. Nonresident Applicants

A nonresident of this State who believes the Department, in violation of S.C. Code Section 20-7-1670(B), has delayed or denied placement of a child for adoption has the right to a hearing regarding such delay or denial.

C. Adoption Subsidies

(1) Adoptive parents may request a hearing if:

(a) the Department denies a request for adoption subsidies;

(b) the Department fails to notify or advise adoptive parents of the availability of adoption subsidies for a child with special needs;

(c) he or she believes the Department erroneously determines that a child is ineligible for adoption subsidies.

(2) In lieu of a hearing, the parties may agree upon the material facts and a proposed resolution. If the parties reach such an agreement, the hearing committee shall review the proposed agreement for conformity with existing law and determine the amount and the effective date of the subsidy.

D. Appeal Process

(1) The request for hearing must be made in writing to the OAH within thirty (30) days of receipt of notification of the Department's decision to deny such an application or to terminate the approval.

(2) The OAH shall schedule a hearing to be held no sooner than thirty (30) days and no later than ninety (90) days after receipt of the request for hearing, unless continued pursuant to section 114-130(G)(4)(d). The hearing shall be conducted by a three-member committee consisting of a hearing officer and two members appointed by the State Director or his or her designee.

(3) Decision

The final decision shall be issued within thirty (30) days of the date of the conclusion of the hearing through certified mail to the adoptive parent and to the respondent.

114-160 Day Care (cross-reference S.C. Code Ann. Section 20-7-2760)

A. Request for Hearing

A request for fair hearing shall be made in writing to the OAH within thirty (30) days of the receipt of written notification of adverse action.

B. Final Decisions

All final decisions regarding day care appeals shall be rendered by the State Director of the Department of Social Services.

114-170 Child Protective Services (cross-reference S.C. Code Ann. Sections 20-7-655, 20-7-670, 20-7-680 (editor's note) section 10 of 1997 Act, No. 132)

A. Request for Hearing

A request for hearing shall be made in writing to the Department within thirty (30) days of receipt of notification of an indicated finding.

B. Interim Reviews

(1) Within fourteen (14) days of receiving the hearing request, the Department will conduct an interim review of the findings pursuant to S.C. Code Ann. Section 20-7-655(E) and will transmit a written notice of the outcome of such review to the OAH.

(2) If the finding is reversed upon an interim review, the OAH shall notify both parties that the case is closed.

C. Decision

(1) A decision shall be rendered by a three-member committee, composed of a hearing officer and two department representatives who have program knowledge and who are appointed by the State Director of the Department of Social Services; however, no department representatives shall be residents of or employees of the county where the case originates or, if the case decision being appealed involves institutional abuse, a member of the investigative unit which investigated the case.

(2) All committee members shall be present for the hearing; however, if a committee member is absent the parties may agree to proceed in his or her absence provided that the absent member listens to a tape recording of the full hearing prior to rendering a decision.

114-180 Eligibility Hearings

A. This section applies to any claims under the Family Independence and Food Stamp Programs, Administrative Disqualification Hearings and Electronic Benefit Transfers.

B. These hearings shall be conducted by use of the telephone, with the client and the caseworker situated in the client's county of residence and the hearing officer situated in the State Office, unless:

- (1) The client requests a face-to-face hearing;
- (2) The hearing officer determines that a face-to-face hearing is necessary.

C. Family Independence and Food Stamps

(1) Procedure

(a) Requests for hearing must be filed with the caseworker or the OAH within sixty (60) days of notice of the adverse action for Family Independence and within ninety (90) days of notice of the adverse action for Food Stamps.

(b) The three-member hearing committee shall be composed of a hearing officer and two members, designated by the State Director of the Department of Social Services, who have appropriate program knowledge.

(c) Decisions are based upon a majority vote. All reasonable efforts will be made to reach a decision acceptable to all panel members in accordance with Federal and State laws and regulations.

(d) A client is not entitled to a hearing of a reduction in benefits if said reduction results from federal or state law that affects the amount of benefits all recipients receive.

(2) Continuation of Benefits Pending Appeal

(a) Family Independence - a claimant/petitioner may request continued benefits if he or she requests a hearing within ten (10) days of receipt of notice of the adverse action.

(b) Food Stamps

(i) Food stamps shall be continued if:

- (a) the claimant requests the hearing within the advance notice period;
- (b) the case would be open if the adverse action had not been initiated.

(ii) Cases that closed because the certification ended are not eligible for continued benefits.

(iii) A claimant can elect to refuse continued benefits.

(c) Continued benefits under the Food Stamp and Family Independence programs are subject to recoupment without additional appeal rights, if the decision becomes final and is not in the claimant's favor.

(3) A final decision on food stamp eligibility appeals shall be rendered and mailed to the parties within sixty (60) days of the date the appeal was filed.

D. Administrative Disqualification Hearings (ADH) and Electronic Benefits Transfer (EBT) Hearings

(1) Purpose

The purpose of these hearings is to determine whether the client willfully intended to deceive the department and to impose a disqualification if such intent is found.

(2) Procedure

(a) A hearing can be requested by either the client or a claims worker or other authorized departmental representative when the client refuses to discuss the issue or declines to sign an Administrative Consent Agreement ("ACA"), wherein the client accepts the Department's determination of disqualification and agrees to reimburse the over issuance of benefits, if any.

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- (b) The request shall conform to the requirements set forth in Section 114-130(B).
- (c) The hearing may take place in the client's absence.
- (d) The hearing officer shall be the sole decision maker.

114-190 Food Services

A. Summer Food Service Program

(1) Adverse Action

An applicant or participant in the Summer Food Service Program may appeal the following:

- (a) a denial of an application for participation;
- (b) a denial of a sponsor's request for an advance payment;
- (c) a denial of a sponsor's claim for reimbursement, except for late submissions;
- (d) the Department's refusal to forward to Food and Consumer Service, USDA, an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim;
- (e) a claim against a sponsor for remittance of a payment;
- (f) termination of the sponsor or a site;
- (g) a denial of a sponsor's application for a site;
- (h) a denial of a food service management company's application for registration;
- (i) the revocation of a food service management company's registration.

(2) Notice

(a) The sponsor or food service management company shall be advised in writing of the grounds upon which the Department based the adverse action.

(b) The notice, which shall be sent by certified mail, return receipt requested, shall also state that the sponsor or food service management company has the right to appeal the Department's action and shall state that such appeal must be made within the specified time.

(3) Request for Review/Hearings

(a) All requests to review an adverse action must be made in writing within fourteen (14) days of receipt of the notification of such action.

(b) The petitioner shall be given an opportunity to refute the charges contained in the notice of action either in person or by filing written documentation with the hearing officer. Written documentation must be submitted by the petitioner within seven (7) days of submitting the request for review, must clearly identify the state action being appealed, and must include a photocopy of the notice of action issued by the Department.

(c) A hearing shall be held in addition to, or in lieu of, a review of written information submitted by the petitioner only if the petitioner specifically requests a hearing in the written request for review. The decision shall be made by a three-member committee consisting of a hearing officer and two members appointed by the State Director of the Department of Social Services or his or her designee.

(d) If the petitioner requests a hearing in accordance with these regulations, the petitioner and the Department shall be provided with at least five (5) days advance written notice, sent certified mail, return receipt requested, of the time and place of the hearing.

(e) The hearing shall be held within fourteen (14) days of the date of the receipt of the request for review, but where applicable not before the petitioner's written documentation is received in accordance with paragraphs (3) (b) and (c) of this section.

(f) The petitioner shall be given an opportunity to review any information upon which the adverse action was based.

(4) Decision

Within five (5) working days after the hearing, or within five (5) working days after receipt of written documentation if no hearing is held, the hearing committee shall make a determination based on a full review of the administrative record and inform the petitioner of the decision of the review and the basis for such decision, by certified mail, return receipt requested.

(5) The Department's action shall remain in effect during the review process. However, participating sponsors and sites may continue to operate the Program during a review of a termination, and if the review results in overturning the Department's decision, reimbursement shall be paid for meals petitioner served during the review

process. However, such continued Program operation shall not be allowed if the Department's action is based upon imminent danger to the health or safety of children.

B. Child and Adult Food Service Program

(1) Adverse Action

An institution or sponsoring organization participating in the Child and Adult Food Service Program may appeal the following:

- (a) a denial of the institution's application for participation;
- (b) a denial of an application submitted by a sponsoring organization on behalf of a facility;
- (c) a termination of the participation of an institution or facility;
- (d) a suspension of an institution's agreement;
- (e) a denial of an institution's application for start-up payments;
- (f) a denial of an advance payment;
- (g) a denial of all or a part of the claim for reimbursement, except for a late submission;
- (h) a denial by the Department to forward to Food and Consumer Service an exception request by the institution or sponsoring organization for payment of a late claim or a request for an upward adjustment to a claim;
- (i) a demand for the remittance of an overpayment.

(2) Notice

(a) The institution shall be advised in writing of the grounds on which the Department based its adverse action.

(b) The notice, which shall be sent certified mail, return receipt requested, shall also include a statement indicating that the institution has the right to appeal the action no later than fifteen (15) calendar days from the date of receipt of said notice.

(3) Request for Review/Hearing

(a) The petitioner must file a written request for review with the OAH or the petitioner's food service worker no later than fifteen (15) days from the date the petitioner received the notice of adverse action, and the Department shall acknowledge the receipt within ten (10) days.

(b) The petitioner may refute the charges contained in the notice of adverse action in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official not later than thirty (30) days after the petitioner received the notice of adverse action.

(c) A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the petitioner only if the petitioner so specifies in the written request for review.

(d) If a hearing is requested by the petitioner, the petitioner and the Department shall be provided with at least ten (10) days advance written notice, sent certified mail, return receipt requested, of the time and place of the hearing.

(e) Any information upon which the adverse action was based shall be available to the petitioner for inspection from the date of receipt of the request for review.

(4) Decision

Within 120 days of the Department's receipt of the request for review, the review official shall inform the Department and the petitioner of the review official's decision.

(5) The Department's action shall remain in effect during the review process. However, participating institutions and facilities may continue to operate under the Program during a review of termination, unless the Department's action is based on imminent danger to the health or safety of participants. If the institution or facility has been terminated for this reason, the Department shall so specify in its notice of action. Institutions electing to continue operating while appealing a termination shall not be reimbursed for any meals served during the period of the appeal if the Department's action is upheld.

Fiscal Impact Statement:

The Department of Social Services and the Office of Administrative Hearings estimate there will be no additional cost incurred by the State and its political subdivisions in complying with the proposed regulation.