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SOUTH CAROLINA STATE REGISTER

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of the
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.

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2007 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/12	2/9	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/26	2/23	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

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ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

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South Carolina General Assembly Home Page: www.scstatehouse.net

DOC NO.	RAT FINAL NO. ISSUE	SUBJECT	EXP. DATE	AGENCY
3047	SR31-2	Milk Producers Tax Credit	1/15/07	Department of Agriculture
3057	SR31-2	Retail Licenses And Partnerships	2/01/07	Department of Revenue
3002	SR31-2	Shellfish	2/08/07	Department of Health and Envir Control
3059	SR31-3	Highway Advertising Control	3/06/07	Department of Transportation
3042	SR31-4	Practice and Procedures	3/20/07	Public Service Commission
3061	SR31-4	Termination of the SCAAIP Joint Underwriting Association	3/21/07	Department of Insurance
3052	SR31-4	Telecommunications Utilities	4/09/07	Public Service Commission
3055	SR31-5	Public Swimming Pools	5/09/07	Department of Health and Envir Control
3069	SR31-5	Air Pollution Control	5/09/07	Department of Health and Envir Control
3091	SR31-5	Procurement	5/09/07	Budget and Control Board
3092	SR31-5	Licensure CPA's & Practitioners, Registration Accounting Firms	5/09/07	LLR: Board of Accountancy
3073	SR31-5	Farmers Markets	5/09/07	Department of Agriculture
3063	SR31-5	Sewerage and Water Utilities	5/09/07	Public Service Commission
3080	SR31-5	Nursing Programs	5/09/07	LLR: Board of Nursing
3072	SR31-5	Reading, Writing, and Mathematics Objectives Grades 9-12	5/09/07	Department of Education
3090	SR31-5	Charter School Appeals	5/09/07	Department of Education
3089 R38	SR31-5	At-Risk Students	5/09/07	Department of Education
3088	SR31-5	Defined Program, Grades 9-12	5/09/07	Department of Education
3087	SR31-5	Administrative and Professional Personnel	5/09/07	Department of Education
3084		Septic Tank Site Evaluation Fees	5/17/07	Department of Health and Envir Control
3085		Non-Game and Endangered Species	5/17/07	Department of Natural Resources
3083		Air Pollution Control	5/22/07	Department of Health and Envir Control
3093		Driver Training Schools	5/25/07	Department of Motor Vehicles
3094		Truck Driver Training Schools	5/25/07	Department of Motor Vehicles
3102		Practice of Psychology	5/30/07	LLR: Board of Examiners in
Psychology				
3103		Practice of Optometry	5/30/07	LLR: Board of Examiners in Optometry
3104		National Electrical Code	5/30/07	LLR: Building Codes Council
3105		Reporting Fatalities and Hospitalization Incidents to OSHA	5/30/07	LLR: Occupational Safety and Health
3086		Hunting in Wildlife Management Areas	6/06/07	Department of Natural Resources
3101		Req Protesting Beer /Wine Permits or Alcoholic Liquor Licenses	1/08/08	Department of Revenue
3100		Manufactured Homes and Modular Homes	1/08/08	Department of Revenue
3096		Hazardous Waste Management	1/14/08	Department of Health and Envir Control
3119		Educational Requirements	2/03/08	LLR: Real Estate Appraisers Board
3108 R47		Intrastate Movement of Certain Animals	2/10/08	Clemson Univ, Livestock-Poultry
Comm				
3115 R32	SR31-5	Preferred Mortality Tables, Minimum Reserve Liabilities	2/10/08	Department of Insurance
3116		Malpractice Insurance Claims	2/10/08	Department of Insurance
3117		Workers' Compensation Assigned Risk Rates	2/10/08	Department of Insurance
3109		Property Tax	2/19/08	Department of Revenue
3110		Restocking Fees	2/19/08	Department of Revenue
3079		Office Based Surgery	3/03/08	LLR: Board of Medical Examiners
3120		Hunting in Wildlife Management Areas	3/04/08	Department of Natural Resources
3113		Solid Waste Management	3/16/08	Department of Health and Envir Control
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3118		Mobile Dental Facilities and Portable Dental Operations	2/03/08	LLR: Board of Dentistry
Permanently Withdrawn:				
3021		Penalties Noncompliance Regulated Child Care Settings		Department of Social Services
3022		Licensing of Residential Group Care Organ for Children		Department of Social Services
3056		End-of-Course Tests		Department of Education
2927		The Practice of Selling and Fitting Hearing Aids		Department of Health and Envir Control

2 EXECUTIVE ORDERS

Executive Order No. 2007-07

WHEREAS, the State Grand Jury of South Carolina indicted Christopher Campbell, Mayor of the Town of Eastover, on April 18, 2007, for willfully, dishonestly, and with bad-faith and corrupt intent engaging in acts and omissions of misconduct in office including one count each of Conspiracy, Illegal Conduct at Elections, Forgery, Intimidation of a Witness, and the Obstruction of Justice in his role as Mayor of the Town of Eastover; and

WHEREAS, South Carolina law recognizes that “an act in which fraud is an ingredient involves moral turpitude. . .,” see *State v. Horton*, 248 S.E.2d 263 (1978) and the above-referenced indictment is for crimes that involve moral turpitude; and

WHEREAS, Christopher Campbell is an officer of a political subdivision of the State and Article VI, Section 8 of the South Carolina Constitution provides that “[a]ny officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . may be suspended by the Governor until he shall have been acquitted”; and

WHEREAS, a certified true copy of the indictment against Christopher Campbell has been provided to me.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby suspend Christopher Campbell from the office of Mayor of Eastover until such time as he shall be formally acquitted or convicted.

This action in no manner addresses the question of the guilt or innocence of Mr. Campbell and should not be construed as an expression of any opinion one way or another on such question.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 19th DAY OF APRIL, 2007.**

**MARK SANFORD
Governor**

Executive Order No. 2007-08

WHEREAS, the State of Florida has been besieged by wildfires due to drought and has requested assistance from the State of South Carolina under the terms of the Emergency Management Assistance Compact, as provided in Section 25-9-420 of the South Carolina Code of Laws; and

WHEREAS, Florida civil authorities have specifically requested the support of the South Carolina National Guard aviation units; and

WHEREAS, the South Carolina National Guard possesses the unique and immediately available capability to fly fire suppression missions.

NOW THEREFORE, pursuant to the powers conferred upon me by the Constitution and Laws of the State of South Carolina, I hereby direct the Adjutant General to place on state duty and utilize the South Carolina National Guard personnel and equipment requested through the Emergency Management Division and in consultation with the Governor's Office, to fulfill the mission in support of the State of Florida during this time of emergency in accordance with the Emergency Management Assistance Compact.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 9th DAY OF MAY, 2007.**

**MARK SANFORD
Governor**

4 NOTICES

**STATE BUDGET AND CONTROL BOARD
OFFICE OF RESEARCH & STATISTICS**

Millage Caps for Local Governing Bodies under Code Section 6-1-320

Section 6-1-320 of Act 388, R417, House Bill 4449 from the 116th Session of the South Carolina General Assembly establishes millage caps for local governing bodies equal to the increase in the average of the twelve monthly consumer price indexes for the most recent twelve-month period consisting of January through December of the preceding calendar year, plus, beginning in 2007, the percentage increase in the previous year in the population of the entity as determined by the Office of Research and Statistics of the State Budget and Control Board.

Pursuant to this Code Section, the Office of Research and Statistics has calculated the millage caps for counties, cities and school districts. Following are charts detailing the millage caps for the counties, cities and school districts. Special purpose districts will have the same millage cap as the county of their location.

Data Tables

Table 1 County Millage Caps

Table 2 Municipal Millage Caps

Table 3 School District Millage Caps

**Table 1
County
Millage Caps**

County	April 1, Census 2000	July 1, Estimate 2005	July 1, Estimate 2006	Population Factor	CPI	Millage Cap
Abbeville County	26,167	26,051	25,935	-0.4%	3.2%	2.8%
Aiken County	142,552	150,053	151,800	1.2%	3.2%	4.4%
Allendale County	11,211	10,873	10,748	-1.1%	3.2%	2.1%
Anderson County	165,740	175,258	177,963	1.5%	3.2%	4.8%
Bamberg County	16,658	15,787	15,678	-0.7%	3.2%	2.5%
Barnwell County	23,478	23,289	23,265	-0.1%	3.2%	3.1%
Beaufort County	120,937	138,037	142,045	2.9%	3.2%	6.1%
Berkeley County	142,651	149,526	152,282	1.8%	3.2%	5.1%
Calhoun County	15,185	15,059	15,026	-0.2%	3.2%	3.0%
Charleston County	309,969	329,482	331,917	0.7%	3.2%	4.0%
Cherokee County	52,537	53,620	53,886	0.5%	3.2%	3.7%
Chester County	34,068	33,093	32,875	-0.7%	3.2%	2.6%
Chesterfield County	42,768	43,191	43,191	0.0%	3.2%	3.2%
Clarendon County	32,502	33,127	33,339	0.6%	3.2%	3.9%
Colleton County	38,264	39,430	39,467	0.1%	3.2%	3.3%
Darlington County	67,394	67,369	67,551	0.3%	3.2%	3.5%

Dillon County	30,722	30,851	30,984	0.4%	3.2%	3.7%
Dorchester County	96,413	112,784	118,979	5.5%	3.2%	8.7%
Edgefield County	24,595	25,343	25,261	-0.3%	3.2%	2.9%
Fairfield County	23,454	23,844	23,810	-0.1%	3.2%	3.1%
Florence County	125,761	130,259	131,297	0.8%	3.2%	4.0%
Georgetown County	55,797	60,215	60,860	1.1%	3.2%	4.3%
Greenville County	379,616	407,154	417,166	2.5%	3.2%	5.7%
Greenwood County	66,271	67,860	68,213	0.5%	3.2%	3.7%
Hampton County	21,386	21,153	21,268	0.5%	3.2%	3.8%
Horry County	196,629	227,520	238,493	4.8%	3.2%	8.0%
Jasper County	20,678	21,409	21,809	1.9%	3.2%	5.1%
Kershaw County	52,647	56,341	57,490	2.0%	3.2%	5.3%
Lancaster County	61,351	63,060	63,628	0.9%	3.2%	4.1%
Laurens County	69,567	70,247	70,374	0.2%	3.2%	3.4%
Lee County	20,119	20,589	20,559	-0.1%	3.2%	3.1%
Lexington County	216,014	234,934	240,160	2.2%	3.2%	5.5%
McCormick County	9,958	10,129	10,226	1.0%	3.2%	4.2%
Marion County	35,466	34,798	34,684	-0.3%	3.2%	2.9%
Marlboro County	28,818	27,722	29,152	5.2%	3.2%	8.4%
Newberry County	36,108	37,315	37,762	1.2%	3.2%	4.4%
Oconee County	66,215	69,676	70,567	1.3%	3.2%	4.5%
Orangeburg County	91,582	90,916	90,845	-0.1%	3.2%	3.1%
Pickens County	110,757	113,221	114,446	1.1%	3.2%	4.3%
Richland County	320,677	341,813	348,226	1.9%	3.2%	5.1%
Saluda County	19,181	18,968	19,059	0.5%	3.2%	3.7%
Spartanburg County	253,791	266,764	271,087	1.6%	3.2%	4.8%
Sumter County	104,646	104,909	104,430	-0.5%	3.2%	2.8%
Union County	29,881	28,511	28,306	-0.7%	3.2%	2.5%
Williamsburg County	37,217	35,272	36,105	2.4%	3.2%	5.6%
York County	164,614	190,111	199,035	4.7%	3.2%	7.9%
South Carolina	4,012,012	4,246,933	4,321,249	1.7%	3.2%	5.0%

Source: U.S. Bureau of
the Census, Population
Division

6 NOTICES

Table 2 Municipal Millage Caps

Municipality	April 1 2000 Census	July 1 2005 Estimates	July 1 2006 Estimates	Population Factor	CPI	Millage Cap
Abbeville city	5,840	5,719	5,683	-0.6%	3.2%	2.6%
Aiken city	25,337	28,262	28,829	2.0%	3.2%	5.2%
Allendale town	4,052	3,865	3,814	-1.3%	3.2%	1.9%
Anderson city	25,514	25,869	26,242	1.4%	3.2%	4.7%
Andrews town	3,068	3,070	3,023	-1.5%	3.2%	1.7%
Arcadia Lakes town	882	831	828	-0.4%	3.2%	2.9%
Atlantic Beach town	351	374	381	1.9%	3.2%	5.1%
Awendaw town	1,195	1,187	1,172	-1.3%	3.2%	2.0%
Aynor town	587	588	581	-1.2%	3.2%	2.0%
Bamberg town	3,733	3,532	3,509	-0.7%	3.2%	2.6%
Barnwell city	5,035	4,863	4,858	-0.1%	3.2%	3.1%
Batesburg-Leesville town	5,517	5,568	5,610	0.8%	3.2%	4.0%
Beaufort city	12,950	12,156	12,029	-1.0%	3.2%	2.2%
Belton city	4,461	4,560	4,591	0.7%	3.2%	3.9%
Bennettsville city	9,425	9,115	10,692	17.3%	3.2%	20.5%
Bethune town	352	361	365	1.1%	3.2%	4.3%
Bishopville city	3,670	3,809	3,912	2.7%	3.2%	5.9%
Blacksburg town	1,880	1,890	1,897	0.4%	3.2%	3.6%
Blackville town	2,973	2,912	2,898	-0.5%	3.2%	2.7%
Blenheim town	137	133	132	-0.8%	3.2%	2.5%
Bluffton town	1,275	3,048	3,505	15.0%	3.2%	18.2%
Blythewood town	170	1,097	1,208	10.1%	3.2%	13.3%
Bonneau town	354	345	340	-1.4%	3.2%	1.8%
Bowman town	1,198	1,174	1,169	-0.4%	3.2%	2.8%
Branchville town	1,083	1,047	1,043	-0.4%	3.2%	2.8%
Briarcliffe Acres town	470	508	520	2.4%	3.2%	5.6%
Brunson town	589	576	578	0.3%	3.2%	3.6%
Burnettown town	2,720	2,658	2,665	0.3%	3.2%	3.5%
Calhoun Falls town	2,303	2,256	2,240	-0.7%	3.2%	2.5%
Camden city	6,682	6,990	7,022	0.5%	3.2%	3.7%
Cameron town	449	425	420	-1.2%	3.2%	2.0%
Campobello town	449	570	581	1.9%	3.2%	5.2%
Carlisle town	496	474	468	-1.3%	3.2%	2.0%
Cayce city	12,150	12,414	12,597	1.5%	3.2%	4.7%
Central town	3,522	4,077	4,085	0.2%	3.2%	3.4%
Central Pacolet town	267	272	274	0.7%	3.2%	4.0%
Chapin town	628	675	689	2.1%	3.2%	5.3%
Charleston city	96,650	106,366	107,845	1.4%	3.2%	4.6%
Cheraw town	5,524	5,441	5,431	-0.2%	3.2%	3.0%
Chesnee city	1,003	1,043	1,053	1.0%	3.2%	4.2%
Chester city	6,476	6,174	6,123	-0.8%	3.2%	2.4%
Chesterfield town	1,318	1,330	1,327	-0.2%	3.2%	3.0%
Clemson city	11,939	12,338	12,444	0.9%	3.2%	4.1%
Clinton city	8,091	9,064	9,034	-0.3%	3.2%	2.9%
Clio town	774	751	744	-0.9%	3.2%	2.3%
Clover town	4,014	4,255	4,427	4.0%	3.2%	7.3%
Columbia city	116,278	119,614	119,961	0.3%	3.2%	3.5%
Conway city	11,788	13,656	14,056	2.9%	3.2%	6.2%
Cope town	107	103	103	0.0%	3.2%	3.2%
Cordova town	157	146	145	-0.7%	3.2%	2.5%
Cottageville town	707	705	700	-0.7%	3.2%	2.5%
Coward town	650	667	671	0.6%	3.2%	3.8%

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Cowpens town	2,279	2,329	2,354	1.1%	3.2%	4.3%
Cross Hill town	601	594	593	-0.2%	3.2%	3.1%
Darlington city	6,720	6,523	6,548	0.4%	3.2%	3.6%
Denmark city	3,328	3,110	3,084	-0.8%	3.2%	2.4%
Dillon city	6,316	6,341	6,382	0.6%	3.2%	3.9%
Donalds town	354	345	343	-0.6%	3.2%	2.6%
Due West town	1,209	1,280	1,276	-0.3%	3.2%	2.9%
Duncan town	2,870	2,968	3,004	1.2%	3.2%	4.4%
Easley city	17,754	18,827	19,194	1.9%	3.2%	5.2%
Eastover town	830	777	774	-0.4%	3.2%	2.8%
Edgefield town	4,449	4,532	4,533	0.0%	3.2%	3.2%
Edisto Beach town	641	702	714	1.7%	3.2%	4.9%
Ehrhardt town	614	571	567	-0.7%	3.2%	2.5%
Elgin town	806	952	1,042	9.5%	3.2%	12.7%
Elko town	212	210	210	0.0%	3.2%	3.2%
Elloree town	742	705	703	-0.3%	3.2%	2.9%
Estill town	2,425	2,375	2,386	0.5%	3.2%	3.7%
Eutawville town	344	332	331	-0.3%	3.2%	2.9%
Fairfax town	3,206	3,200	3,170	-0.9%	3.2%	2.3%
Florence city	30,248	31,180	31,284	0.3%	3.2%	3.6%
Folly Beach city	2,116	2,258	2,312	2.4%	3.2%	5.6%
Forest Acres city	10,558	9,975	9,906	-0.7%	3.2%	2.5%
Fort Lawn town	864	830	822	-1.0%	3.2%	2.3%
Fort Mill town	7,587	8,264	8,560	3.6%	3.2%	6.8%
Fountain Inn city	6,017	6,728	7,097	5.5%	3.2%	8.7%
Furman town	286	281	282	0.4%	3.2%	3.6%
Gaffney city	12,968	12,918	12,949	0.2%	3.2%	3.5%
Gaston town	1,304	1,387	1,393	0.4%	3.2%	3.7%
Georgetown city	8,950	8,831	8,706	-1.4%	3.2%	1.8%
Gifford town	370	364	365	0.3%	3.2%	3.5%
Gilbert town	500	557	571	2.5%	3.2%	5.7%
Goose Creek city	29,208	31,149	31,914	2.5%	3.2%	5.7%
Govan town	67	64	63	-1.6%	3.2%	1.7%
Gray Court town	1,021	1,004	1,002	-0.2%	3.2%	3.0%
Great Falls town	2,194	2,087	2,069	-0.9%	3.2%	2.4%
Greeleyville town	452	419	415	-1.0%	3.2%	2.3%
Greenville city	56,002	56,793	57,428	1.1%	3.2%	4.3%
Greenwood city	22,071	22,366	22,407	0.2%	3.2%	3.4%
Greer city	16,843	21,459	22,451	4.6%	3.2%	7.8%
Hampton town	2,837	2,773	2,786	0.5%	3.2%	3.7%
Hanahan city	12,937	13,440	13,846	3.0%	3.2%	6.2%
Hardeeville city	1,793	1,842	1,850	0.4%	3.2%	3.7%
Harleyville town	594	689	692	0.4%	3.2%	3.7%
Hartsville city	7,556	7,452	7,473	0.3%	3.2%	3.5%
Heath Springs town	864	859	862	0.3%	3.2%	3.6%
Hemingway town	573	524	520	-0.8%	3.2%	2.5%
Hickory Grove town	337	374	392	4.8%	3.2%	8.0%
Hilda town	436	430	429	-0.2%	3.2%	3.0%
Hilton Head Island town	33,862	34,536	33,838	-2.0%	3.2%	1.2%
Hodges town	158	166	166	0.0%	3.2%	3.2%
Holly Hill town	1,281	1,358	1,355	-0.2%	3.2%	3.0%
Hollywood town	3,946	4,299	4,298	-0.0%	3.2%	3.2%
Honea Path town	3,504	3,591	3,615	0.7%	3.2%	3.9%
Inman city	1,884	1,917	1,935	0.9%	3.2%	4.2%
Irmo town	11,039	11,240	11,338	0.9%	3.2%	4.1%
Isle of Palms city	4,583	4,570	4,643	1.6%	3.2%	4.8%
Iva town	1,156	1,178	1,184	0.5%	3.2%	3.7%
Jackson town	1,625	1,642	1,647	0.3%	3.2%	3.5%

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Jamestown town	97	96	96	0.0%	3.2%	3.2%
Jefferson town	704	699	698	-0.1%	3.2%	3.1%
Johnsonville city	1,418	1,450	1,455	0.3%	3.2%	3.6%
Johnston town	2,336	2,345	2,346	0.0%	3.2%	3.3%
Jonesville town	982	926	922	-0.4%	3.2%	2.8%
Kershaw town	1,645	1,629	1,637	0.5%	3.2%	3.7%
Kiawah Island town	1,163	1,126	1,108	-1.6%	3.2%	1.6%
Kingstree town	3,496	3,363	3,352	-0.3%	3.2%	2.9%
Kline town	238	236	235	-0.4%	3.2%	2.8%
Lake City city	6,478	6,646	6,666	0.3%	3.2%	3.5%
Lake View town	789	789	789	0.0%	3.2%	3.2%
Lamar town	1,015	1,003	1,003	0.0%	3.2%	3.2%
Lancaster city	8,177	8,399	8,374	-0.3%	3.2%	2.9%
Landrum city	2,472	2,517	2,544	1.1%	3.2%	4.3%
Lane town	585	544	539	-0.9%	3.2%	2.3%
Latta town	1,410	1,465	1,490	1.7%	3.2%	4.9%
Laurens city	9,916	9,821	9,849	0.3%	3.2%	3.5%
Lexington town	9,793	13,585	14,110	3.9%	3.2%	7.1%
Liberty city	3,009	2,998	3,031	1.1%	3.2%	4.3%
Lincolnton town	904	874	850	-2.7%	3.2%	0.5%
Little Mountain town	255	259	262	1.2%	3.2%	4.4%
Livingston town	148	144	143	-0.7%	3.2%	2.5%
Lockhart town	39	506	502	-0.8%	3.2%	2.4%
Lodge town	114	114	114	0.0%	3.2%	3.2%
Loris city	2,079	2,309	2,290	-0.8%	3.2%	2.4%
Lowndesville town	166	165	163	-1.2%	3.2%	2.0%
Lowrys town	207	200	199	-0.5%	3.2%	2.7%
Luray town	115	113	113	0.0%	3.2%	3.2%
Lyman town	2,659	2,764	2,798	1.2%	3.2%	4.5%
Lynchburg town	588	586	580	-1.0%	3.2%	2.2%
McBee town	714	715	714	-0.1%	3.2%	3.1%
McClellanville town	459	476	471	-1.1%	3.2%	2.2%
McColl town	2,498	2,405	2,384	-0.9%	3.2%	2.4%
McConnells town	287	300	324	8.0%	3.2%	11.2%
McCormick town	1,489	2,695	2,705	0.4%	3.2%	3.6%
Manning city	4,025	4,008	4,017	0.2%	3.2%	3.5%
Marion city	7,042	6,982	6,959	-0.3%	3.2%	2.9%
Mauldin city	15,224	19,329	19,806	2.5%	3.2%	5.7%
Mayesville town	1,001	1,037	1,025	-1.2%	3.2%	2.1%
Meggett town	1,230	1,334	1,325	-0.7%	3.2%	2.6%
Moncks Corner town	5,952	6,506	6,572	1.0%	3.2%	4.2%
Monetta town	220	220	220	0.0%	3.2%	3.2%
Mount Croghan town	155	153	153	0.0%	3.2%	3.2%
Mount Pleasant town	47,609	57,914	59,113	2.1%	3.2%	5.3%
Mullins city	5,029	4,840	4,844	0.1%	3.2%	3.3%
Myrtle Beach city	22,759	26,931	28,597	6.2%	3.2%	9.4%
Neeses town	413	400	399	-0.3%	3.2%	3.0%
Newberry city	10,580	10,761	10,874	1.1%	3.2%	4.3%
New Ellenton town	2,250	2,265	2,252	-0.6%	3.2%	2.7%
Nichols town	408	403	404	0.2%	3.2%	3.5%
Ninety Six town	1,936	1,918	1,922	0.2%	3.2%	3.4%
Norris town	847	839	844	0.6%	3.2%	3.8%
North town	813	785	782	-0.4%	3.2%	2.8%
North Augusta city	17,574	19,463	19,926	2.4%	3.2%	5.6%
North Charleston city	79,641	85,944	87,482	1.8%	3.2%	5.0%
North Myrtle Beach city	10,974	14,383	14,972	4.1%	3.2%	7.3%
Norway town	389	368	365	-0.8%	3.2%	2.4%
Olanta town	613	624	626	0.3%	3.2%	3.5%

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Olar town	237	220	218	-0.9%	3.2%	2.3%
Orangeburg city	12,765	13,560	13,563	0.0%	3.2%	3.2%
Pacolet town	2,690	2,726	2,755	1.1%	3.2%	4.3%
Pageland town	2,521	2,530	2,538	0.3%	3.2%	3.5%
Pamplico town	1,139	1,151	1,150	-0.1%	3.2%	3.1%
Parksville town	120	117	118	0.9%	3.2%	4.1%
Patrick town	354	351	350	-0.3%	3.2%	2.9%
Pawleys Island town	138	142	142	0.0%	3.2%	3.2%
Paxville town	248	248	249	0.4%	3.2%	3.6%
Peak town	61	62	62	0.0%	3.2%	3.2%
Pelion town	553	586	594	1.4%	3.2%	4.6%
Pelzer town	97	100	101	1.0%	3.2%	4.2%
Pendleton town	2,966	3,045	3,067	0.7%	3.2%	3.9%
Perry town	237	239	239	0.0%	3.2%	3.2%
Pickens city	3,012	2,977	2,996	0.6%	3.2%	3.9%
Pine Ridge town	1,593	1,705	1,739	2.0%	3.2%	5.2%
Pinewood town	459	499	494	-1.0%	3.2%	2.2%
Plum Branch town	98	96	96	0.0%	3.2%	3.2%
Pomaria town	177	180	182	1.1%	3.2%	4.3%
Port Royal town	3,950	9,618	9,848	2.4%	3.2%	5.6%
Prosperity town	1,047	1,053	1,063	0.9%	3.2%	4.2%
Quinby town	842	861	865	0.5%	3.2%	3.7%
Ravenel town	2,214	2,303	2,268	-1.5%	3.2%	1.7%
Reevesville town	207	210	211	0.5%	3.2%	3.7%
Reidville town	478	502	509	1.4%	3.2%	4.6%
Richburg town	332	320	317	-0.9%	3.2%	2.3%
Ridgeland town	2,518	2,621	2,637	0.6%	3.2%	3.8%
Ridge Spring town	823	800	802	0.3%	3.2%	3.5%
Ridgeville town	1,690	2,024	2,026	0.1%	3.2%	3.3%
Ridgeway town	328	323	321	-0.6%	3.2%	2.6%
Rock Hill city	49,765	59,467	61,620	3.6%	3.2%	6.8%
Rockville town	137	132	130	-1.5%	3.2%	1.7%
Rowesville town	378	364	363	-0.3%	3.2%	3.0%
Ruby town	348	345	344	-0.3%	3.2%	2.9%
St. George town	2,092	2,117	2,120	0.1%	3.2%	3.4%
St. Matthews town	2,107	2,017	2,009	-0.4%	3.2%	2.8%
St. Stephen town	1,776	1,733	1,711	-1.3%	3.2%	2.0%
Salem town	126	130	131	0.8%	3.2%	4.0%
Salley town	410	413	414	0.2%	3.2%	3.5%
Saluda town	3,066	2,980	2,989	0.3%	3.2%	3.5%
Santee town	740	718	717	-0.1%	3.2%	3.1%
Scotia town	227	224	225	0.4%	3.2%	3.7%
Scranton town	942	994	995	0.1%	3.2%	3.3%
Seabrook Island town	1,250	1,211	1,192	-1.6%	3.2%	1.7%
Sellers town	277	267	267	0.0%	3.2%	3.2%
Seneca city	7,652	7,991	8,030	0.5%	3.2%	3.7%
Sharon town	421	451	471	4.4%	3.2%	7.7%
Silverstreet town	216	223	225	0.9%	3.2%	4.1%
Simpsonville city	14,352	15,526	16,017	3.2%	3.2%	6.4%
Six Mile town	553	569	574	0.9%	3.2%	4.1%
Smoaks town	140	125	124	-0.8%	3.2%	2.4%
Smyrna town	59	66	72	9.1%	3.2%	12.3%
Snelling town	246	245	245	0.0%	3.2%	3.2%
Society Hill town	700	697	697	0.0%	3.2%	3.2%
South Congaree town	2,266	2,346	2,397	2.2%	3.2%	5.4%
Spartanburg city	39,673	38,399	38,561	0.4%	3.2%	3.6%
Springdale town	2,877	2,914	2,946	1.1%	3.2%	4.3%
Springfield town	504	487	486	-0.2%	3.2%	3.0%

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Starr town	173	188	192	2.1%	3.2%	5.4%
Stuckey town	263	245	243	-0.8%	3.2%	2.4%
Sullivan's Island town	1,911	1,893	1,873	-1.1%	3.2%	2.2%
Summerton town	1,061	1,048	1,049	0.1%	3.2%	3.3%
Summerville town	27,752	37,667	41,575	10.4%	3.2%	13.6%
Summit town	219	245	251	2.4%	3.2%	5.7%
Sumter city	39,643	39,511	39,159	-0.9%	3.2%	2.3%
Surfside Beach town	4,425	4,781	4,793	0.3%	3.2%	3.5%
Swansea town	533	764	779	2.0%	3.2%	5.2%
Sycamore town	185	178	177	-0.6%	3.2%	2.7%
Tatum town	69	65	64	-1.5%	3.2%	1.7%
Tega Cay city	4,044	4,375	4,547	3.9%	3.2%	7.2%
Timmonsville town	2,315	2,369	2,375	0.3%	3.2%	3.5%
Travelers Rest city	4,099	4,238	4,356	2.8%	3.2%	6.0%
Trenton town	226	274	275	0.4%	3.2%	3.6%
Troy town	105	107	107	0.0%	3.2%	3.2%
Turbeville town	602	720	721	0.1%	3.2%	3.4%
Ulmer town	102	98	97	-1.0%	3.2%	2.2%
Union city	8,793	8,314	8,241	-0.9%	3.2%	2.3%
Vance town	208	201	200	-0.5%	3.2%	2.7%
Varnville town	2,074	2,030	2,039	0.4%	3.2%	3.7%
Wagener town	863	876	877	0.1%	3.2%	3.3%
Walhalla city	3,801	3,730	3,704	-0.7%	3.2%	2.5%
Walterboro city	5,153	5,513	5,545	0.6%	3.2%	3.8%
Ward town	110	107	107	0.0%	3.2%	3.2%
Ware Shoals town	2,363	2,358	2,360	0.1%	3.2%	3.3%
Waterloo town	203	204	204	0.0%	3.2%	3.2%
Wellford city	2,030	2,281	2,305	1.1%	3.2%	4.3%
West Columbia city	13,064	13,446	13,670	1.7%	3.2%	4.9%
Westminster city	2,743	2,671	2,684	0.5%	3.2%	3.7%
West Pelzer town	879	897	902	0.6%	3.2%	3.8%
West Union town	297	301	303	0.7%	3.2%	3.9%
Whitmire town	1,512	1,525	1,539	0.9%	3.2%	4.1%
Williams town	116	119	119	0.0%	3.2%	3.2%
Williamston town	3,791	3,872	3,899	0.7%	3.2%	3.9%
Williston town	3,307	3,253	3,247	-0.2%	3.2%	3.0%
Windsor town	127	130	131	0.8%	3.2%	4.0%
Winnsboro town	3,599	3,667	3,647	-0.5%	3.2%	2.7%
Woodford town	196	189	189	0.0%	3.2%	3.2%
Woodruff city	4,229	4,103	4,096	-0.2%	3.2%	3.1%
Yemassee town	807	836	851	1.8%	3.2%	5.0%
York city	6,985	7,209	7,465	3.6%	3.2%	6.8%

Source: U.S. Bureau of
the Census, Population
Division

Table 3 School District Millage Caps

School District	1990 Census	2000 Census	Number	Percent Change	Projected School District Population July 2005	Projected Increase from July 2005 to July 2006 School Districts	Population Factor	CPI	Millage Cap
ABBEVILLE COUNTY SCHOOL DISTRICT	22,675	24,985	2,310	10.2%	24,869	-116	-0.5%	3.2%	2.8%
AIKEN COUNTY SCHOOL DISTRICT	120,994	142,552	21,558	17.8%	150,053	1,747	1.2%	3.2%	4.4%
AIKEN COUNTY SCHOOL DISTRICT PART IN SALUDA COUNTY	2,639	2,932	293	11.1%	2,910	9	0.3%	3.2%	3.5%
AIKEN COUNTY SCHOOL DISTRICT TOTAL	123,633	145,484	21,851	17.7%	152,963	1,756	1.1%	3.2%	4.4%
ALLENDALE COUNTY SCHOOL DISTRICT	11,722	11,211	-511	-4.4%	10,873	-125	-1.1%	3.2%	2.1%
ANDERSON SCHOOL DISTRICT 01	32,770	40,595	7,825	23.9%	44,220	1,030	2.3%	3.2%	5.6%
ANDERSON SCHOOL DISTRICT 02	19,690	21,395	1,705	8.7%	22,185	224	1.0%	3.2%	4.2%
ANDERSON SCHOOL DISTRICT 02 PART IN GREENVILLE COUNTY	176	250	74	42.0%	284	12	4.4%	3.2%	7.6%
TOTAL ANDERSON SCHOOL DISTRICT 02	19,866	21,645	1,779	9.0%	22,469	237	1.1%	3.2%	4.3%
ANDERSON SCHOOL DISTRICT 03	12,585	14,860	2,275	18.1%	15,914	300	1.9%	3.2%	5.1%
ANDERSON SCHOOL DISTRICT 04	15,995	19,135	3,140	19.6%	20,590	413	2.0%	3.2%	5.2%
ANDERSON SCHOOL DISTRICT 05	64,156	69,755	5,599	8.7%	72,349	737	1.0%	3.2%	4.2%
BAMBERG SCHOOL DISTRICT 01	8,852	9,077	225	2.5%	9,880	101	1.0%	3.2%	4.2%
BAMBERG SCHOOL DISTRICT 02	8,050	7,581	-469	-5.8%	5,907	-210	-3.5%	3.2%	-0.3%
BARNWELL SCHOOL DISTRICT 19	5,225	5,836	611	11.7%	5,800	-5	-0.1%	3.2%	3.1%
BARNWELL SCHOOL DISTRICT 29	4,758	5,291	533	11.2%	5,259	-4	-0.1%	3.2%	3.1%
BARNWELL SCHOOL DISTRICT 45	10,310	12,351	2,041	19.8%	12,230	-15	-0.1%	3.2%	3.1%

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BEAUFORT COUNTY SCHOOL DISTRICT	86,425	120,937	34,512	39.9%	138,037	4,008	2.9%	3.2%	6.1%
BERKELEY COUNTY SCHOOL DISTRICT	128,776	142,651	13,875	10.8%	149,526	2,756	1.8%	3.2%	5.1%
CALHOUN COUNTY SCHOOL DISTRICT	12,753	15,185	2,432	19.1%	15,059	-33	-0.2%	3.2%	3.0%
CHARLESTON COUNTY SCHOOL DISTRICT	295,039	309,969	14,930	5.1%	329,482	2,435	0.7%	3.2%	4.0%
CHEROKEE COUNTY SCHOOL DISTRICT	43,279	50,750	7,471	17.3%	51,771	251	0.5%	3.2%	3.7%
CHESTER COUNTY SCHOOL DISTRICT	32,170	34,068	1,898	5.9%	33,093	-218	-0.7%	3.2%	2.6%
CHESTERFIELD COUNTY SCHOOL DISTRICT	38,577	42,768	4,191	10.9%	43,191	0	0.0%	3.2%	3.2%
CLARENDON SCHOOL DISTRICT 01	7,969	8,891	922	11.6%	9,033	48	0.5%	3.2%	3.8%
CLARENDON SCHOOL DISTRICT 02	15,481	17,381	1,900	12.3%	17,674	99	0.6%	3.2%	3.8%
CLARENDON SCHOOL DISTRICT 03	5,000	6,230	1,230	24.6%	6,420	64	1.0%	3.2%	4.2%
COLLETON COUNTY SCHOOL DISTRICT	34,377	38,264	3,887	11.3%	39,430	37	0.1%	3.2%	3.3%
DARLINGTON COUNTY SCHOOL DISTRICT	61,851	67,394	5,543	9.0%	67,369	182	0.3%	3.2%	3.5%
DILLON SCHOOL DISTRICT 01	4,829	5,465	636	13.2%	5,516	53	1.0%	3.2%	4.2%
DILLON SCHOOL DISTRICT 02	17,583	18,236	653	3.7%	18,288	54	0.3%	3.2%	3.5%
DILLON SCHOOL DISTRICT 03	6,702	7,021	319	4.8%	7,047	26	0.4%	3.2%	3.6%
DORCHESTER SCHOOL DISTRICT 02	67,291	79,783	12,492	18.6%	95,098	5,796	6.1%	3.2%	9.3%
DORCHESTER SCHOOL DISTRICT 04	15,769	16,630	861	5.5%	17,686	399	2.3%	3.2%	5.5%

EDGEFIELD COUNTY SCHOOL DISTRICT	18,375	24,595	6,220	33.9%	25,343	-82	-0.3%	3.2%	2.9%
FAIRFIELD COUNTY SCHOOL DISTRICT	22,295	23,454	1,159	5.2%	23,844	-34	-0.1%	3.2%	3.1%
FLORENCE SCHOOL DISTRICT 01	75,084	85,871	10,787	14.4%	90,121	981	1.1%	3.2%	4.3%
FLORENCE SCHOOL DISTRICT 02	6,366	6,700	334	5.2%	6,832	30	0.4%	3.2%	3.7%
FLORENCE SCHOOL DISTRICT 03	19,980	20,439	459	2.3%	20,620	42	0.2%	3.2%	3.4%
FLORENCE SCHOOL DISTRICT 04	7,184	6,945	-239	-3.3%	6,851	-22	-0.3%	3.2%	2.9%
FLORENCE SCHOOL DISTRICT 05	5,730	5,805	75	1.3%	5,835	7	0.1%	3.2%	3.3%
GEORGETOWN COUNTY SCHOOL DISTRICT	46,302	55,797	9,495	20.5%	60,215	645	1.1%	3.2%	4.3%
GREENVILLE COUNTY SCHOOL DISTRICT	318,188	377,358	59,170	18.6%	404,717	9,947	2.5%	3.2%	5.7%
GREENVILLE COUNTY SCHOOL DISTRICT PART IN SPARTANBURG COUNTY	8,807	10,126	1,319	15.0%	10,760	211	2.0%	3.2%	5.2%
GREENVILLE COUNTY SCHOOL DISTRICT PART IN LAURENS COUNTY	3,225	5,765	2,540	78.8%	5,916	28	0.5%	3.2%	3.7%
GREENVILLE COUNTY SCHOOL DISTRICT TOTAL	330,220	393,249	63,029	19.1%	421,392	10,186	2.4%	3.2%	5.6%
GREENWOOD SCHOOL DISTRICT 50	49,497	56,100	6,603	13.3%	57,665	348	0.6%	3.2%	3.8%
GREENWOOD SCHOOL DISTRICT 51	3,429	3,436	7	0.2%	3,438	0	0.0%	3.2%	3.2%
PART IN ABBEVILLE COUNTY	1,187	1,182	-5	-0.4%	1,182	0	0.0%	3.2%	3.2%
PART IN LAURENS COUNTY	2,142	2,522	380	17.7%	2,545	4	0.2%	3.2%	3.4%
GREENWOOD SCHOOL DISTRICT 51 TOTAL	6,758	7,140	382	5.7%	7,164	5	0.1%	3.2%	3.3%
GREENWOOD SCHOOL DISTRICT 52	6,641	6,735	94	1.4%	6,757	5	0.1%	3.2%	3.3%
HAMPTON SCHOOL DISTRICT 01	11,866	13,046	1,180	9.9%	12,960	42	0.3%	3.2%	3.6%
HAMPTON SCHOOL DISTRICT 02	6,325	8,340	2,015	31.9%	8,193	73	0.9%	3.2%	4.1%
HORRY COUNTY SCHOOL DISTRICT	144,053	196,629	52,576	36.5%	227,520	10,973	4.8%	3.2%	8.0%

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JASPER COUNTY SCHOOL DISTRICT	15,487	20,678	5,191	33.5%	21,409	400	1.9%	3.2%	5.1%
KERSHAW COUNTY SCHOOL DISTRICT	43,599	52,647	9,048	20.8%	56,341	1,149	2.0%	3.2%	5.3%
LANCASTER COUNTY SCHOOL DISTRICT	54,516	61,351	6,835	12.5%	63,060	568	0.9%	3.2%	4.1%
LAURENS SCHOOL DISTRICT 55	31,073	38,455	7,382	23.8%	38,892	82	0.2%	3.2%	3.4%
LAURENS SCHOOL DISTRICT 56	21,652	22,825	1,173	5.4%	22,895	13	0.1%	3.2%	3.3%
LEE COUNTY SCHOOL DISTRICT	18,437	20,119	1,682	9.1%	20,589	-30	-0.1%	3.2%	3.1%
LEXINGTON SCHOOL DISTRICT 01	53,840	85,104	31,264	58.1%	97,324	3,375	3.5%	3.2%	6.7%
LEXINGTON SCHOOL DISTRICT 02	55,928	59,960	4,032	7.2%	61,536	435	0.7%	3.2%	3.9%
LEXINGTON SCHOOL DISTRICT 03	10,699	10,805	106	1.0%	10,846	11	0.1%	3.2%	3.3%
PART IN SALUDA COUNTY	1,504	2,080	576	38.3%	2,037	18	0.9%	3.2%	4.1%
LEXINGTON SCHOOL DISTRICT 03 TOTAL	12,203	12,885	682	5.6%	12,884	30	0.2%	3.2%	3.5%
LEXINGTON SCHOOL DISTRICT 04	8,601	15,405	6,804	79.1%	18,065	735	4.1%	3.2%	7.3%
LEXINGTON SCHOOL DISTRICT 05	38,543	44,741	6,198	16.1%	47,164	669	1.4%	3.2%	4.6%
PART IN RICHLAND COUNTY	18,931	30,764	11,833	62.5%	37,919	2,171	5.7%	3.2%	9.0%
LEXINGTON SCHOOL DISTRICT 05 TOTAL	57,474	75,505	18,031	31.4%	85,082	2,840	3.3%	3.2%	6.6%
MARION SCHOOL DISTRICT 01	14,905	16,372	1,467	9.8%	15,747	-107	-0.7%	3.2%	2.5%
MARION SCHOOL DISTRICT 02	13,078	12,492	-586	-4.5%	12,742	43	0.3%	3.2%	3.6%
MARION SCHOOL DISTRICT 07	5,916	6,602	686	11.6%	6,310	-50	-0.8%	3.2%	2.4%

MARLBORO COUNTY SCHOOL DISTRICT	29,361	28,818	-543	-1.8%	27,722	1,430	5.2%	3.2%	8.4%
MCCORMICK COUNTY SCHOOL DISTRICT	8,868	9,958	1,090	12.3%	10,129	97	1.0%	3.2%	4.2%
NEWBERRY COUNTY SCHOOL DISTRICT	33,172	36,108	2,936	8.9%	37,315	447	1.2%	3.2%	4.4%
OCONEE COUNTY SCHOOL DISTRICT	57,494	66,215	8,721	15.2%	69,676	891	1.3%	3.2%	4.5%
ORANGEBURG SCHOOL DISTRICT 03	18,795	19,840	1,045	5.6%	19,737	-11	-0.1%	3.2%	3.2%
ORANGEBURG SCHOOL DISTRICT 04	16,776	20,430	3,654	21.8%	20,071	-38	-0.2%	3.2%	3.0%
ORANGEBURG SCHOOL DISTRICT 05	49,232	51,312	2,080	4.2%	51,108	-22	-0.0%	3.2%	3.2%
PICKENS COUNTY SCHOOL DISTRICT	93,894	110,757	16,863	18.0%	113,221	1,225	1.1%	3.2%	4.3%
RICHLAND SCHOOL DISTRICT 01	197,131	194,428	-2,703	-1.4%	192,794	-496	-0.3%	3.2%	3.0%
RICHLAND SCHOOL DISTRICT 02	69,658	95,485	25,827	37.1%	111,101	4,738	4.3%	3.2%	7.5%
SALUDA COUNTY SCHOOL DISTRICT	12,160	14,169	2,009	16.5%	14,020	64	0.5%	3.2%	3.7%
SPARTANBURG SCHOOL DISTRICT 01	20,772	25,362	4,590	22.1%	27,568	735	2.7%	3.2%	5.9%
PART IN GREENVILLE COUNTY	1,694	2,008	314	18.5%	2,153	53	2.5%	3.2%	5.7%
SPARTANBURG SCHOOL DISTRICT 01 TOTAL	22,466	27,370	4,904	21.8%	29,721	788	2.7%	3.2%	5.9%
SPARTANBURG SCHOOL DISTRICT 02	34,117	42,718	8,601	25.2%	46,852	1,378	2.9%	3.2%	6.2%
PART IN CHEROKEE COUNTY	1,336	1,787	451	33.8%	1,849	15	0.8%	3.2%	4.0%
SPARTANBURG SCHOOL DISTRICT 02 TOTAL	35,453	44,505	9,052	25.5%	48,701	1,393	2.9%	3.2%	6.1%
SPARTANBURG SCHOOL DISTRICT 03	16,848	17,195	347	2.1%	17,362	56	0.3%	3.2%	3.5%
SPARTANBURG SCHOOL DISTRICT 04	14,814	17,490	2,676	18.1%	18,776	429	2.3%	3.2%	5.5%
SPARTANBURG SCHOOL DISTRICT 05	26,138	32,085	5,947	22.8%	34,943	952	2.7%	3.2%	6.0%
SPARTANBURG SCHOOL DISTRICT 06	44,875	53,745	8,870	19.8%	58,008	1,421	2.4%	3.2%	5.7%

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SPARTANBURG SCHOOL DISTRICT 07	60,429	55,070	-5,359	-8.9%	52,494	-858	-1.6%	3.2%	1.6%
SUMTER SCHOOL DISTRICT 02	47,489	54,728	7,239	15.2%	55,675	-1,725	-3.1%	3.2%	0.1%
SUMTER SCHOOL DISTRICT 17	55,148	49,919	-5,229	-9.5%	49,235	1,246	2.5%	3.2%	5.8%
UNION COUNTY SCHOOL DISTRICT	30,337	29,881	-456	-1.5%	28,511	-205	-0.7%	3.2%	2.5%
WILLIAMSBURG COUNTY SCHOOL DISTRICT	36,815	37,217	402	1.1%	35,272	833	2.4%	3.2%	5.6%
YORK SCHOOL DISTRICT 01	21,011	26,980	5,969	28.4%	31,576	1,608	5.1%	3.2%	8.3%
YORK SCHOOL DISTRICT 02	18,845	24,625	5,780	30.7%	29,075	1,558	5.4%	3.2%	8.6%
YORK SCHOOL DISTRICT 03	74,298	87,649	13,351	18.0%	97,928	3,598	3.7%	3.2%	6.9%
YORK SCHOOL DISTRICT 04	17,343	25,360	8,017	46.2%	31,532	2,160	6.9%	3.2%	10.1%
TOTAL SOUTH CAROLINA SCHOOL DISTRICTS	3,486,703	4,012,012	525,309	15.1%	4,246,933	74,316	1.7%	3.2%	5.0%

Source: Office of Research and Statistics

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
PUBLIC NOTICE
NOTICE TO AMEND AIR QUALITY STATE IMPLEMENTATION PLAN

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

The Department is proposing to amend the State Implementation Plan (SIP) to meet obligations of the United States Environmental Protection Agency (EPA) related to the proposed 8-hour ozone NAAQS attainment demonstration SIP for the South Carolina RFATS MPO moderate nonattainment area. Interested persons are invited to present their views in writing to Stacey R. Gardner, Regulation Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by 5:00 p.m. on June 25, 2007, the close of the drafting comment period. The Department is also conducting a public hearing on this issue. The hearing will be held on June 25, 2007, at 10:00 am in room 2380 of the Aycock Building, 2600 Bull Street, Columbia, South Carolina. The public is invited to attend. Copies of the proposed amendment to the SIP may be obtained by contacting Ms. Gardner and will also be available for viewing on the Department's Bureau of Air Quality website at: <http://www.scdhec.net/environment/baq/>.

Synopsis:

In a *Federal Register* (FR) notice published on July 18, 1997 (62 FR 38856), the United States Environmental Protection Agency (EPA) promulgated amendments to the National Ambient Air Quality Standards (NAAQS) for ozone. Based on its review of available scientific evidence linking exposures to ambient ozone to adverse health and welfare effects at levels allowed by the 1-hour ozone standards, the EPA replaced the 1-hour primary standard with an 8-hour standard at a level of 0.08 ppm based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. The 1-hour secondary standard was also replaced by an 8-hour secondary standard identical to the new primary standard.

On April 30, 2004 (69 FR 23858), the EPA designated and classified that portion of York County, South Carolina within the Rock Hill Fort Mill Area Transportation Study (RFATS) Metropolitan Planning Organization (MPO) as a moderate nonattainment area for the 8-hour ozone NAAQS as part of the Charlotte-Gastonia-Rock Hill nonattainment area. As a result of this designation, the South Carolina Department of Health and Environmental Control (Department) is required to amend the *South Carolina Air Quality Implementation Plan*, also known as the State Implementation Plan, or SIP, in accordance with the requirements of Title I, Part D - Plan Requirements for Nonattainment Areas, Subpart 1, Section 172, and Subpart 2, Section 182 of the *Clean Air Act* (CAA), as amended (42 U.S.C. 7401, *et seq.*). States involved in a multi-State ozone nonattainment area must work together to perform the appropriate modeling analyses to identify control measures that will enable the area to achieve attainment as expeditiously as practicable. Each State is responsible for its portion of the control program and will be held accountable for controls identified for implementation within its State boundaries.

The Department proposes to amend the SIP to address the requirements of Title I, Part D - Plan Requirements for Nonattainment Areas, Subpart 1, Section 172, and Subpart 2, Section 182 of the *Clean Air Act* (CAA), as amended (42 U.S.C. 7401, *et seq.*) as stated above.

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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 May 25, 2007, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Charleston County

Renovation of existing space, purchase of a second mammography unit and purchase of a Magnetic Resonance Imaging (MRI) unit optimized for breast imaging
Charleston Breast Center, Inc.
Charleston, South Carolina
Project Cost: \$3,099,094

Affecting Florence County

Renovation of the surgery department to include the addition of angiographic equipment, which will result in a change from 3 to 2 cystoscopy rooms.
Carolinas Hospital System
Florence, South Carolina
Project Cost: \$3,905,673

Affecting Greenville County

Purchase and installation of an extremity 1.0T Magnetic Resonance Imaging (MRI) unit to be located in the Patewood Medical Office Building C of the Steadman Hawkins Clinic of the Carolinas
Greenville Hospital System
Greenville, South Carolina
Project Cost: \$636,082

Purchase of a linear accelerator by Greenville Hospital System (GHS) to be leased to US Oncology and subleased by Cancer Centers of the Carolinas and located on the Greer Medical Campus
Greer Medical Campus Cancer Center
Greer, South Carolina
Project Cost: \$5,681,898

Affecting Horry County

Replacement of the annex building to include the emergency department, ICU and pharmacy
Loris Community Hospital
Loris, South Carolina
Project Cost: \$18,084,160

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 May 25, 2007. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Chesterfield County

Construction of a replacement facility for the existing 100 bed nursing home, with the addition of seventeen (17) nursing homes beds resulting in a total of 117 nursing home beds, of which seventeen (17) will not participate in the Medicaid (Title XIX) Program

Cheraw Healthcare, Inc
Cheraw, South Carolina
Project Cost: \$7,222,505

Affecting Florence County

Replacement of a single-slice Computed Tomography (CT) scanner with a sixty-four (64) slice CT scanner
Carolinas Hospital System

Florence, South Carolina
Project Cost: \$1,241,841

Affecting Spartanburg County

Addition of two (2) operating rooms (ORs) and one (1) endoscopy procedure room restricted to gastroenterology procedures only for a total of nine (9) ORs and three (3) endoscopy procedure rooms restricted to gastroenterology procedures only

The Ambulatory Surgery Center of Spartanburg, LLC
Spartanburg, South Carolina
Project Cost: \$2,999,879

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

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

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

Pursuant to Section IV.B.1. the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than June 25, 2007 to:

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

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Columbia, SC 29201

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

Class I

Resolve Environmental Services, LLC

Attn: Terry D. Kennedy
410 East Franklin St.
Monroe, NC 28112

Class II.

Summit ECS, Inc.

Attn: Michael Zavislak
3575 Centre Circle
Fort Mill, SC 29715

DEPARTMENT OF LABOR, LICENSING AND REGULATION

NOTICE OF PUBLIC HEARING OCCUPATIONAL SAFETY AND HEALTH STANDARDS

The South Carolina Department of Labor, Licensing, and Regulation (LLR) does hereby give notice under Section 41-15-220, S.C. Code of Laws, 1976, as amended, that a public hearing will be held on June 7, 2007 at 10:00 a.m. at the S.C. Department of LLR, 3rd floor, room 306-30, 110 Centerview Drive, Columbia, S.C., at which time interested persons will be given the opportunity to appear and present views on the occupational safety and health standards being considered for adoption, which are as follows:

In Subarticle 6 (General Industry):

Revisions to §§ 1910.302, 1910.303, 1910.304, 1910.305, 1910.306, 1910.307, 1910.308, and 1910.399

Any omissions or corrections to the occupational safety and health standards being considered for adoption published in the FEDERAL REGISTER prior to this hearing may be presented at this hearing. These revisions are necessary to comply with federal law and copies of them can be obtained or reviewed at the S.C. Department of LLR during normal business hours by contacting the Occupational Safety and Health Administration office at (803) 896-7682.

Persons desiring to speak at the hearing shall file with the Director of LLR a notice of intention to appear and the approximate amount of time required for her/his presentation on the particular matter no later than May 25, 2007. Any person who wishes to express her/his views, but is unable or does not desire to appear and testify at the hearing, should submit those views to the undersigned in writing on or before May 25, 2007.

Adrienne Riggins Youmans
Director
SC Department of LLR
Post Office Box 11329
Columbia, SC 29211-1329

STATE BOARD OF EDUCATION
CHAPTER 43
 Statutory Authority S. C. Code Ann. § 59-5-60 (2004)

Notice of Drafting:

The State Board of Education proposes to repeal State Board of Education Regulation 43-258.1, Advanced Placement. Interested persons may submit comments to Dr. Helena Tillar, Director of the Office of Curriculum and Standards, Division of Curriculum Services and Assessment, State Department of Education, 1429 Senate Street, Rutledge Building, Room 505, Columbia, South Carolina 29201 or by e-mail to htillar@ed.sc.gov. To be considered, comments must be received no later than 5:00 p.m., June 25, 2007, the close of the drafting period.

Synopsis:

The Advanced Placement regulation was last adopted in June 1997. The change in regulation will allow teachers to earn endorsement by successfully completing professional development provided by the College Board, including online course work.

In order to allow teachers a greater level of flexibility and increase the professional development opportunities for teachers of Advanced Placement courses, it is recommended that the regulations be modified. The change will allow teachers to have AP endorsement added to their certificates by successfully completing forty-five hours of training provided by College Board-endorsed event(s). Currently, the regulation states that “each teacher of an Advanced Placement course shall have completed the appropriate Advanced Placement three graduate hour training program.”

The Office of Curriculum and Standards has worked jointly with the directors of the Office of Educator Preparation and the Office of Educator Certification in writing the recommended revision.

Legislative review of this proposal will be required.

STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S. C. Code Ann. § 59-5-60(1) (2004), § 59-26-10, *et seq.* (2004), and 20 U.S.C. § 6301 *et seq.* (2002)

Notice of Drafting:

The State Department of Education proposes to repeal and amend regulations governing Educator Quality and School Leadership. Interested persons may submit their comments in writing to Mr. Mark Bounds, Deputy Superintendent, Division of Educator Quality and School Leadership, 3700 Forest Drive, Suite 500, Columbia, South Carolina 29204 or by e-mail to mbounds@leaders.ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on June 25, 2007.

Synopsis:

The enactment of the No Child Left Behind Act (NCLB), the South Carolina Education Accountability Act (EAA), and other state and federal legislation creates the need for restructuring the state system for training, certifying and evaluating teachers.

Legislative review of this proposal will be required.

22 DRAFTING

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: S. C. Code Ann. § 59-5-60 (2004) & 59-31-360 (2004)

Notice of Drafting:

The State Board of Education proposes to amend regulation 43-71, Free Textbooks, to address the implementation of the state textbook manager. Interested persons may submit comments to Dr. J. White, Office of Finance, Division of Finance and Operations, State Department Education, 301 Greystone Blvd. Suite 150, Columbia, South Carolina 29210. To be considered, comments must be received no later than 5:00 p.m., June 25, 2007, the close of the drafting period.

Synopsis:

The purpose of this amendment is to modify how state owned materials are stamped and distributed to pupils.

Legislative review of this regulation will be required.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority S. C. Code Ann. § 59-5-60 (2004)

Notice of Drafting:

The State Board of Education proposes to repeal State Board of Education Regulation 43-225, School-to-Work. Interested persons may submit comments to Dr. Bob Couch, Director of the Office of Career and Technology Education, Division of District and Community Services, State Department of Education, 1429 Senate Street, Rutledge Building, Room 912, Columbia, South Carolina 29201 or by e-mail to rcouch@ed.sc.gov. To be considered, comments must be received no later than 5:00 P.M., June 25, 2007, the close of the drafting period.

Synopsis:

The School-to-Work Act of 1994 was repealed by the General Assembly upon passage of the Education and Economic Development Act of 2005.

Legislative review of this proposal will be required.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority S. C. Code Ann. § 59-5-60 (2004); 59-53-1810 (Supp. 2006)

Notice of Drafting:

The State Board of Education proposes to amend State Board of Education Regulation 43-233, State Plan for Career and Technology Education. Interested persons may submit comments to Dr. Bob Couch, Director of the Office of Career and Technology Education, Division of District and Community Services, State Department Education, 1429 Senate Street, Rutledge Building, Room 912, Columbia, South Carolina 29201 or by e-mail to rcouch@ed.sc.gov. To be considered, comments must be received no later than 5:00 p.m., June 25, 2007, the close of the drafting period.

Synopsis:

The Four-Year State Plan for Career and Technology Education, FY 2001–2004, and the subsequent updates and extensions authorized by the U.S. Department of Education under the Carl D. Perkins Vocational and Technical Education Act of 1998 will expire June 30, 2007. The newly authorized Carl D. Perkins Career and Technical Education Act of 2006 creates the need for a one-year transition plan, a subsequent five-year plan, and an appropriate State Board of Education Regulation to address the process for developing and submitting the required state plans for approval to receive the federal funds from the U.S. Department of Education.

Legislative review of this proposal will not be required.

STATE BOARD OF EDUCATION

CHAPTER 43

Statute Authority: S.C. Code Ann. Section 59-5-60(1) (2004), 59-33-10 et seq., 59-21-510 et seq. (2004)

Notice of Drafting:

The South Carolina State Board of Education proposes to draft substantial revisions and additional regulations governing the education of students with disabilities. Interested persons may submit their comments in writing to Dr. Theresa Siskind, Deputy Superintendent, Division of Curriculum Services and Assessment, 805 Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201 or by e-mail to tsiskind@eed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on June 25, 2007, 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 will not be required on all proposals.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Section 44-1-140, 48-1-30, and 44-87-10 *et seq.*

Notice of Drafting:

The Department is proposing to amend Regulation 61-86.1, *Standards of Performance for Asbestos Projects*. The purpose of this notice is to extend the drafting period previously established by the June 23, 2006 drafting notice published in Volume 30, Issue No. 6 of the *South Carolina State Register*. All previous comments, as well as any additional comments received after this publishing, will be considered. Interested persons are invited to present their views in writing to Anthony T. Lofton; Division of Air Planning, Development and Outreach; Bureau of Air Quality; 2600 Bull Street; Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on June 25, 2007, the close of the drafting period.

24 DRAFTING

Synopsis:

The Department proposes to amend Regulation 61-86.1, *Standards of Performance for Asbestos Projects*, as necessary, to update and clarify certain sections of the regulation to provide consistency with Federal Regulations (where applicable), to clarify certain sections of the regulation to improve compliance rates, and to reorganize parts of the regulation to be more user friendly. Language in the regulation will be updated to correlate with changes in the administrative appeals process pursuant to South Carolina Act 387 (2006).

The proposed amendments to Regulation 61-86.1, *Standards of Performance for Asbestos Projects*, will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Ann. Sections 44-44-10 *et seq.*

Notice of Drafting:

The Department of Health and Environmental Control proposes to promulgate permanent regulations for the South Carolina Birth Defects Program (SCBDP) pursuant to S.C. Code Ann. Sections 44-44-10 through 44-44-160. Interested persons may submit their views by writing to Ms. Lyn Phillips, LISW, Program Coordinator, S.C. Birth Defects Program at the S.C. Department of Health and Environmental Control, 1751 Calhoun Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on June 25, 2007, the close of the drafting period.

Synopsis:

The Department proposes to create regulations to implement provisions of the S.C. Birth Defects Act at S.C. Code Ann. Sections 44-44-10 through -360, regarding the public health surveillance (monitoring) of birth defects identified in children up to two years of age in South Carolina. This legislative mandate authorizes the Department to promulgate regulations for public health surveillance of birth defects and to ensure compliance with the public health monitoring of every child born in South Carolina. Specific areas which the Department seeks to address in the regulations include: Definitions of key terms; establishment of the SCBDP; purpose of the program and type of case ascertainment utilized; utilization of data; methods of referral and intervention; establishment and composition of the Birth Defects Advisory Council; maintenance of central database; access to health and medical records; confidentiality; public reports of de-identified, aggregate data; use and disclosure of birth defects data; and agreements with other agencies.

The proposed regulations will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority:

Section 13-7-10 *et seq.*, Atomic Energy and Radiation Control Act; Section 26-6-10 *et seq.*, Uniform Electronic Transactions Act; Section 44-1-10 *et seq.*, DHEC Enabling Act; Section 44-2-10 *et seq.*, State Underground Petroleum Environmental Response Bank Act; Section 44-55-10 *et seq.*, Safe Drinking Water Act; Section 44-55-50 *et seq.*, State Recreational Waters Act; Section 44-56-10 *et seq.*, Hazardous Waste Management Act; Section 44-93-10 *et seq.*, Infectious Waste Management Act; Section 44-96-10 *et seq.*, Solid Waste Policy and Management Act; Section 48-1-10 *et seq.*, Pollution Control Act, Section

8-2-10 *et seq.*, Environmental Protection Fund Act, Section 48-3-10 *et seq.*, Pollution Control Facilities; Section 48-5-10 *et seq.*, Water Quality Revolving Fund Authority Act, Section 48-14-10 *et seq.*, Stormwater Management and Sediment Reduction Act; Section 48-18-10, *et seq.*, Erosion and Sediment Reduction Act; Section 48-20-10 *et seq.*, S.C. Mining Act; Section 48-39-10, *et seq.*, Coastal Zone Management Act.

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend the S.C. Code of Regulations by adding a new Chapter 61 regulation. This Notice of Drafting supersedes a previous Notice of Drafting that was published in the State Register on October 27, 2006. No comments were received from the October 2006 drafting notice. The purpose of this second notice is to extend the one-year statutory timeframe for promulgation of this regulation. Interested persons may submit their views by writing to Mr. Henry Phillips at 2600 Bull Street, Columbia, South Carolina, 29201. To be considered, written comments must be received no later than 5:00 p.m. on June 25, 2007, the close of the drafting comment period.

Synopsis:

The purpose of the proposed regulation is to implement the United States Environmental Protection Agency's (EPA) new Cross Media Electronic Reporting Rule (CROMERR) as published in the October 13, 2005, issue of the *Federal Register* (70 FR 59848 – 59889), which became effective January 11, 2006. EPA finalized CROMERR to establish the framework for federal acceptability of electronic reports from regulated entities in order to satisfy specific document submission requirements from EPA regulations. Since states are delegated or authorized to implement certain federal programs, states must seek EPA approval to accept electronic documents for environmental programs that EPA has delegated, authorized, or approved states to administer in accordance with CROMERR. CROMERR **does not require that any document or report be submitted electronically and it does not require that states receive electronic documents or reports.** CROMERR establishes electronic reporting as an acceptable regulatory alternative, and establishes requirements to assure that electronic documents are as legally enforceable as their paper counterparts. Where states intend to receive documents or reports electronically, CROMERR specifies criteria for their acceptable submission, in order to ensure federal enforceability. The new regulation will implement CROMERR for all the Department's authorized programs and will minimize the need to revise specific program regulations.

This regulation will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Section 44-56-30 *et seq.*
Act 387 (2006)

R.61-79 HAZARDOUS WASTE MANAGEMENT REGULATIONS

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-79, *Hazardous Waste Management Regulations*. Interested persons are invited to present their views in writing to Richard Haynes, Director of the Division of Waste Management, Bureau of Land and Waste Management, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on Friday, June 29, 2007, the close of the drafting comment period.

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Synopsis:

The United States Environmental Protection Agency (USEPA) promulgates amendments to 40 CFR 124, 260 through 266, 268, 270, and 273 throughout each calendar year. Recent federal amendments affect the Wastewater Treatment Exemptions for Hazardous Waste Mixtures (Headworks Rule), the National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (NESHAP), and the Burden Reduction Rule. These rules have been published in the Federal Register between July 1, 2005, and June 30, 2006, at 70 FR 57769 on October 4, 2005, 70 FR 59401 on October 12, 2005, and 71 FR 16861 on April 4, 2006. These federal regulations relax current standards and adoption of them is optional to states. The Department intends to amend R.61-79 to maintain conformity with federal regulations.

Additionally, language in the regulation will be updated to correlate with changes in the administrative appeals process pursuant to Act 387 (2006).

Legislative review of these amendments will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Chapter 61

Statutory Authority: S.C. Code Section 44-1-140

Notice of Drafting:

The Department of Health and Environmental Control proposes to substantially amend R.61-54, Ice. Interested persons should submit comments to Mr. Chris Saul, Division of Food Protection, Dairy Foods and Soft Drink/Bottle Water Protection Program, Bureau of Environmental Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201-1708. All comments must be received by 5:00 p.m. on June 26, 2007, the close of the drafting comment period.

Synopsis:

R.61-54 ensures that consumers are receiving safe, unadulterated frozen packaged/unpackaged(block) ice. The Regulation was amended last in 1972; there have been significant changes in technology and manufacturing practices since the last amendment. The proposed amendments will bring the Regulation in compliance with current industry and Good Manufacturing Practices (GMP's) set forth by the Food and Drug Administration, and assure consumers that the latest sanitation requirements are being met by the wholesale ice industry. Language in the regulation will also be updated to correlate with changes in the administrative appeals process pursuant to Act 387 (2006).

This amendment will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-47, *Shellfish*. Interested persons may submit comments to Mr. Charles Gorman, Bureau of Water, Water Monitoring, Protection, and Assessment Division, S.C. Department of Health and Environmental Control, 2600 Bull

Street, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on June 25, 2007, the close of the drafting comment period.

Synopsis:

The purpose and scope of R.61-47, *Shellfish*, outlines requirements for all producers, processors, and transporters of shellfish and is intended to protect the health of consumers of shellfish. For South Carolina shellfish to be accepted in interstate commerce, the regulation must meet minimum requirements of the National Shellfish Sanitation Program (NSSP). The Department is considering revisions that will address changes that have been implemented by the NSSP, including incorporation of the NSSP Guide for the Control of Molluscan Shellfish, 2005 Revision. The Department is also considering revisions due to recent amendment of the South Carolina Administrative Procedures Act. These revisions include, but are not limited to, the following subjects:

- Shellfish growing area survey and classification
- Certified shipper facility operating requirements
- Compliance and inspection procedures
- Shellfish Aquaculture
- Harvesting, handling, and transportation requirements
- Definitions amendment
- Certification and permitting procedures
- Administrative appeals process updates pursuant to Act 387 (2006)

Legislative review will be required.

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

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

Notice of Drafting:

The South Carolina Department of Health and Environmental Control (Department) proposes to amend specific sections of R.61-68, Water Classifications and Standards, and sections of R. 61-69, Classified Waters. The purpose of this notice is to extend the drafting period previously established by the January 26, 2007, drafting notice published in Volume 31, Issue No. 1 of the *South Carolina State Register*. All previous comments, as well as any additional comments received after this publishing, will be considered. Interested persons are invited to submit their views and recommendations in writing to Amy M. Bennett, Standards Coordinator, Bureau of Water, 2600 Bull Street, Columbia, South Carolina 29201, or by email at bennetam@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on June 25, 2007.

Synopsis:

Section 303(c)(2)(B) of the Federal Clean Water Act (CWA) requires that South Carolina's water quality standards be reviewed and revised, where necessary, at least every three years for the purposes of

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considering the Environmental Protection Agency's (EPA) most recent numeric and narrative criteria and to comply with recent Federal regulatory revisions and recommendations. This process is generally referred to as the triennial review. The Department is currently reviewing the water quality standards as part of this triennial review process. Some of the topics that the Department had previously identified for consideration in the above-referenced notice included the following:

- Review and, where appropriate, adoption of revised Federal water quality criteria to reflect the most current final published criteria according to Sections 304(a) and 307(a) of the CWA.
- Review and, where appropriate, revise the assessment of the bacteriological indicator for protection of recreational uses.
- Addition or revision of definitions.
- Review and, where appropriate, adopt a site-specific dissolved oxygen standard for portions of the Savannah River.
- Review the underlying scientific basis for human health protection related to the arsenic criteria and, if appropriate, revise the arsenic criteria.
- Stylistic changes which may include corrections for: readability, grammar, punctuation, typography, codification, references, and language style.

In addition to these topics, the Department will review and, where appropriate, make changes to clarify and revise the regulatory language regarding NPDES permitting and protection of surface waters for drinking water purposes. Revisions will address issues regarding the implementation of human health standards and mixing zone restrictions.

Legislative review will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control proposes to revise Regulation 61-9, Water Pollution Control Permits. Interested persons may submit their comments in writing to Mr. Andrew Yasinsac, Jr., Senior Technical Advisor, Water Facilities Permitting Division, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. For questions, call 803/898-4237 or E-mail yasinsaa@dhec.sc.gov. To be considered, all comments must be received in writing no later than July 26, 2007, the close of the drafting period.

Synopsis:

Language in the regulation will be updated to correlate with changes in the administrative appeals process pursuant to South Carolina Act 387 (2006).

Proposed revisions will require legislative review.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110, 1-23-10, 38-72-10 et seq.

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-44 relating to long-term care insurance to incorporate changes adopted by the National Association of Insurance Commissioners. Please submit comment in writing to: Gwendolyn Fuller McGriff, Deputy Director and General Counsel, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105.

Synopsis:

Regulation 69-44 was promulgated pursuant to South Carolina Code of Laws Section 38-72-70 to implement the provisions of Act 466 of 1988 (The Long-Term Care Insurance Act of 1988). The Long-Term Care Insurance Act of 1988 and Regulation 69-44 were based upon a model act and regulation developed by the National Association of Insurance Commissioners (NAIC). The long-term care market has evolved since 1988 and the NAIC has revised the model regulation to address the changing marketplace. Revisions include but are not limited to: recognition of Qualified Long-Term Care Insurance Policies as defined Health Insurance Portability and Accountability Act of 1996 (HIPAA); rating practices amendments; and enhanced consumer protections. The Department proposes to amend regulation 69-44 to comport with the most recent version of the NAIC model regulation.

Legislative review of this proposal will be required.

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Document No. 3128
PUBLIC SERVICE COMMISSION
CHAPTER 103

Statutory Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2006)

26 S.C. Code Ann. Regs. 103-300, *et. seq.*, Electric Systems and 26 S.C. Code Ann. Regs. 103-400, *et. seq.*
Gas Systems

Preamble:

In 2004, the General Assembly passed Act No. 175 which restructured the Public Service Commission. This Act modified the structure of the Agency and its functions and created the Office of Regulatory Staff. Several duties of the Public Service Commission were transferred to the Office of Regulatory Staff on January 1, 2005. The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-300, *et. seq.* (1976 & Supp. 2006) and 26 S.C. Code Ann. Regs. 103-400, *et. seq.* (1976 & Supp. 2006) of the Public Service Commission's regulations is to amend these regulations to conform to the new standards set out by Act 175 of 2004 and to make other changes consistent with federal law and current standards.

Section-by-Section Discussion

- 103-300 This Section is amended to conform to Act 175 of 2004.
- 103-301 This Section is modified to allow for a waiver of Commission regulations when the waiver is not contrary to the public interest and to correct an incorrect reference to a regulation number.
- 103-302 This Section is amended to alphabetize definitions and is amended to add terms found in Article 3.
- 103-303 This Section is amended to conform to Act 175 of 2004.
- 103-304 This Section is amended to conform to Act 175 of 2004.
- 103-305 This Section is amended to conform to Act 175 of 2004.
- 103-310 This Section is amended to conform to Act 175 of 2004.
- 103-311 This Section is amended to conform to Act 175 of 2004 and to clarify the length of time for the retention of records.
- 103-312 This Section is amended to conform to Act 175 of 2004.
- 103-313 This Section is amended to conform to Act 175 of 2004.
- 103-314 This Section is amended to conform to Act 175 of 2004.
- 103-315 This Section is amended to make provisions for the procedure with regard to accidents resulting in property damage and is amended to conform to Act 175 of 2004.
- 103-316 This Section is being deleted because its provisions can be found in regulation 103-345.
- 103-317 This Section is amended to conform to Act 175 of 2004; to add the word electrical; and to designate that records shall be kept at least twelve months.
- 103-318 This Section is amended to delete an obsolete standard and to add additional information to be included in test records.
- 103-320 This Section is amended to conform to Act 175 of 2004 and to correct an incorrect reference to a regulation number.
- 103-321 This Section is amended to make certain stylistic changes.
- 103-322 This Section is amended to delete an obsolete standard.
- 103-323 This Section is amended to conform to Act 175 of 2004 and to eliminate reference to an obsolete standard.
- 103-324 This Section is amended to add reference to locking devices.
- 103-327 This Section is amended to conform to Act 175 of 2004.
- 103-330 This Section is amended to conform to Act 175 of 2004 and to correct an incorrect reference to a regulation number.
- 103-331 This Section is amended to make certain stylistic changes and to indicate that cosigners are to guarantee payment up to the amount of the maximum deposit.
- 103-332 This Section is amended to make certain stylistic changes and to conform to Act 175 of 2004.

- 103-333 This Section is amended to make certain stylistic changes and to allow deposits to be returned at least every two years or less.
- 103-336 This Section is amended to make certain stylistic changes.
- 103-337 This Section is amended to conform to current state law regarding unclaimed deposits.
- 103-338 This Sections is amended to make certain stylistic changes and to correct an incorrect reference to a regulation number.
- 103-339 This Section is amended to make certain stylistic changes; to add a definition for “good cause”; to allow for payment by debit card, credit card, or other electronic payment; to require bills to either state the number of days included for the billing period or the beginning and ending dates for the billing period.
- 103-340 This Section is amended to conform to Act 175 of 2004 and to make certain stylistic changes.
- 103-341 This Section is amended to make certain stylistic changes and to conform to Act 175 of 2004.
- 103-342 This Section is amended to conform to Act 175 of 2004 and to make certain stylistic changes.
- 103-344 This Section is amended to modify the right of access for additional purposes and to require an agent to produce proper identification, upon the request of customer.
- 103-345 This Section is amended to conform to Act 175 of 2004; to add language from regulation 103-316; and to require a customer to file a complaint with the Commission within fifteen days of the ORS mailing the results of its investigation to the customer.
- 103-346 This Section is amended to conform to Act 175 of 2004.
- 103-347 This Section is amended to conform to Act 175 of 2004.
- 103-348 This Section is amended to conform to Act 175 of 2004 and to make certain stylistic changes.
- 103-349 This Section is amended to make certain stylistic changes.
- 103-350 This Section is amended to require the payment for service entrance changes prior to the relocation.
- 103-352 This Section is amended to conform to Act 313 of 2006; to conform to Act 175 of 2004; and to make certain stylistic changes.
- 103-361 This Section is amended to conform to Act 175 of 2004.
- 103-362 This Section is amended to conform to Act 175 of 2004.
- 103-363 This Section is amended to eliminate reference to an archaic standard; to make certain stylistic changes; and to allow service drops for residential or small non-residential customers.
- 103-370 This Section is amended to conform to Act 175 of 2004 and to update reference to newer standards.
- 103-371 This Section is amended to conform to Act 175 of 2004 and to eliminate reference to an outdated standard.
- 103-372 This Section is amended to conform to Act 175 of 2004 and to include reference to orders of the Commission or requests of the ORS.
- 103-373 This Section is amended to delete obsolete standards and to add reference to “contract vendor” for meter tests.
- 103-382 This Section is amended to conform to Act 175 of 2004.
- 103-390 This Section is amended to make certain stylistic changes.
- 103-391 This Section is amended to conform to Act 175 of 2004.
- 103-400 This Section is amended to conform to Act 175 of 2004 and to eliminate reference to a statute that no longer applies to the Commission.
- 103-401 This Section is modified to allow for a waiver of Commission regulations when the waiver is not contrary to the public interest.
- 103-402 This Section is amended to alphabetize definitions and is amended to add terms found in Article 4.
- 103-403 This Section is amended to conform to Act 175 of 2004.
- 103-404 This Section is amended to conform to Act 175 of 2004.
- 103-405 This Section is amended to conform to Act 175 of 2004.
- 103-410 This Section is amended to conform to Act 175 of 2004.
- 103-411 This Section is amended to conform to Act 175 of 2004.
- 103-412 This Section is amended to conform to Act 175 of 2004; to delete duplicative language; to modify the reporting of construction costs; and to include a reference to federal safety standards.
- 103-413 This Section is amended to conform to Act 175 of 2004.
- 103-414 This Section is amended to conform to Act 175 of 2004.

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- 103-415 This Section is amended to make provisions for the procedure with regard to accidents resulting in property damage and is amended to conform to Act 175 of 2004.
- 103-416 This Section is being deleted because its provisions can be found in regulation 103-445.
- 103-417 This Section is amended to require the utility to maintain records for at least twelve months.
- 103-418 This Section is amended to reflect the capacity available for meter testing equipment.
- 103-420 This Section is amended to delete obsolete standards and to conform to Act 175 of 2004.
- 103-421 This Section is amended to make certain stylistic changes.
- 103-422 This Section is amended to delete an obsolete standard.
- 103-423 This Section is amended to make certain stylistic changes.
- 103-424 This Section is amended to add reference to locking devices.
- 103-425 This Section is amended to make provisions for proper placement of meters.
- 103-430 This Section is amended to conform to Act 175 of 2004; to provide clarification and to correct an incorrect regulation reference.
- 103-431 This Section is amended to make certain stylistic changes and to indicate that cosigners are to guarantee payment up to the amount of the maximum deposit.
- 103-432 This Section is amended to conform to Act 175 of 2004 and to make certain stylistic changes.
- 103-433 This Section is amended to make certain stylistic changes.
- 103-436 This Section is amended to make certain stylistic changes.
- 103-437 This Section is amended to conform to existing state law.
- 103-438 This Section is amended to make certain stylistic changes.
- 103-439 This Section is amended to make certain stylistic changes; to add a definition for “good cause”; to allow for payment by debit card, credit card, or other electronic payment; to require bills to either state the number of days included for the billing period or the beginning and ending dates for the billing period.
- 103-440 This Section is amended to make certain stylistic changes.
- 103-441 This Section is amended to make certain stylistic changes and to conform to Act 175 of 2004.
- 103-442 This Section is amended to conform to Act 175 of 2004 and to make certain stylistic changes.
- 103-444 This Section is amended to modify the right of access for additional purposes and to require an agent to produce proper identification, upon the request of customer.
- 103-445 This Section is amended to conform to Act 175 of 2004; to add language from regulation 103-416; and to require a customer to file a complaint with the Commission within fifteen days of the ORS mailing the results of its investigation to the customer.
- 103-446 This Section is amended to conform to Act 175 of 2004.
- 103-447 This Section is amended to conform to Act 175 of 2004.
- 103-448 This Section is amended to conform to Act 175 of 2004.
- 103-449 This Section is amended to make certain stylistic changes.
- 103-450 This Section is amended to require the payment for service entrance changes prior to the relocation.
- 103-452 This Section is amended to conform to Act 313 of 2006; to conform to Act 175 of 2004; and to make certain stylistic changes.
- 103-460 This Section is amended to make certain stylistic changes.
- 103-461 This Section is amended to include reference to federal pipeline safety regulations and to make certain stylistic changes.
- 103-462 This Section is amended to conform to Act 175 of 2004.
- 103-463 This Section is amended to conform to Act 175 of 2004.
- 103-464 This Section is amended to make certain stylistic changes.
- 103-465 This Section is amended to make certain stylistic changes and to update the standard for conducting studies under this regulation.
- 103-470 This Section is amended to conform to Act 175 of 2004 and to make certain stylistic changes.
- 103-471 This Section is amended to delete obsolete language.
- 103-472 This Section is amended to conform to Act 175 of 2004.
- 103-473 This Section is amended to conform to Act 175 of 2004 and to include reference to orders of the Commission or requests of the ORS.
- 103-474 This Section is amended to conform to Act 175 of 2004.

- 103-475 This Section is amended to delete obsolete standards and to impose current standards and to conform to Act 175 of 2004.
- 103-482 This Section is amended to conform to Act 175 of 2004.
- 103-484 This Section is amended to delete an obsolete standard.
- 103-485 This Section is amended to conform to Act 175 of 2004; to make certain stylistic changes; to allow for electronic records and to allow for electronic and/or remote device.
- 103-490 This Section is amended to update reference to the Federal Minimum Safety Standards.
- 103-491 This Section is amended to conform to Act 175 of 2004.
- 103-492 This Section is amended to update reference to the Federal Minimum Safety Standards.
- 103-493 This Section is amended to make a stylistic change.
- 103-494 This Section is amended to conform to Act 175 of 2004.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2007-19-EG. To be considered, comments must be received no later than 4:45 p.m. on July 2, 2007. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on **July 24, 2007, at 2:00 p.m.** in the Commission’s Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: 26 S.C. Code Ann. Regs. 103-300, *et. seq.* and 26 S.C. Code Ann. Regs. 103-400, *et. seq.*

Purpose: 2004 S.C. Acts 175 modified the structure of the Public Service Commission and its functions and created the Office of Regulatory Staff. Several duties of the Commission Staff were transferred to the Office of Regulatory Staff on January 1, 2005. The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-300, *et. seq.* and 26 S.C. Code Ann. Regs. 103-400, *et. seq.* is to revise the Commission’s electric and gas regulations to conform to Act No. 175 of 2004 and to make other changes consistent with federal law and current standards.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2006)

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

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

Due to the major restructuring of the Public Service Commission and its governing statutes, the Commission’s regulations should be consistent with the recent revisions in Title 58 of the South Carolina Code. The proposed changes are to conform the Commission’s regulations governing electric and gas utilities to the current law in the South Carolina Code.

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DETERMINATION OF COSTS AND BENEFITS:

Although costs related to amending 26 S.C. Code Ann. Regs. 103-300, *et. seq.* and 26 S.C. Code Ann. Regs. 103-400, *et. seq.* are minimal, the benefits include regulations that conform with Title 58 of the South Carolina Code.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

The amended regulations will have no detrimental effect on the environment and public health if the regulations are not implemented.

Statement of Rationale:

The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-300, *et. seq.* and 26 S.C. Code Ann. Regs. 103-400, *et. seq.* is to conform the Public Service Commission's electric and gas regulations with Act No. 175 of 2004. There was no scientific or technical basis relied upon in the development of these regulations.

Text:

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

Resubmitted April 11, 2007

Document No. 3073
DEPARTMENT OF AGRICULTURE
 CHAPTER 5

Statutory Authority: 1976 Code Section 46-15-20(12).

R 5-190 et seq. Farmers Market Regulations

Synopsis:

These new regulations clarify and improve the procedures used by the South Carolina Department of Agriculture to operate and maintain the State Farmers Markets, which were created to facilitate the buying and selling of South Carolina fresh produce. These regulations are authorized by S.C. Code, Title 46, Chapter 15 and will help to ensure more uniform administration of the market rules, and also provide greater clarity regarding the activities regulated, prohibited and otherwise required on the Market premises. The amendments will also clarify procedures related to alcohol consumption, security, waste removal and traffic flow on the Market during football tailgating days and special events.

Instructions: Amend R.5-190 thru 5-193, Farmers Market Regulations, to Chapter 5 regulations to reflect the following changes:

1. For R-190, Leave Section A as is; no amendments.
2. Replace R-190 Section B with the language below.
3. Replace R-190 Section C with the language below.
4. Replace R-190 Section D with the language below
5. Delete R -191.
6. Delete R-192.
7. Add R-193

Text:

R. 5-190 et seq. Farmers Market Regulations

Section B--AUTHORITY, DUTIES AND RESPONSIBILITIES OF MARKET MANAGER

Supervision: The manager shall have the authority to employ and supervise such personnel as may be needed to properly conduct the general operations of the market, including but not limited to secretarial assistance, persons referred to as "gate attendants" to collect gate fees from vehicles entering the gate, collect fees from persons operating under retail and wholesale sheds, keep watch of gates during hours when the market is closed to business operations, and perform other related duties as may be requested by the manager; employ personnel designated as "market attendants" to maintain the upkeep of market buildings and grounds, and employ, contract for hire or otherwise charge for services related to repairing damage to the market and operating the market in a sanitary manner. Collections: The manager shall assess and collect the necessary fees, charges and rentals to cover the costs of market operation.

Enforcement of Rules: The manager shall enforce rules, regulations, and policies promulgated by the South Carolina Department of Agriculture.

Control: The manager shall have the general control and supervision of the market, its buildings, streets, and alleyways and the adjoining areas, and shall collect all fees and rentals from all renters and users of the market.

Section C--FEES, RENTALS, REGISTRATION AND SPACE ASSIGNMENTS

Farmers, producers, merchants and others selling produce or occupying space on the Market must contact the Market Manager or his representative before engaging in business or deliveries. The Market Manager or his representative will assign space and collect fees according to a published schedule.

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1. Registration: Farmers, producers, sellers, buyers and resellers of produce must register with the Market prior to conducting business on the market. The Market shall assign an appropriate designation to the applicant based upon his or her status as a producer, seller or reseller. All space assignments and market access will correspond with this business designation.

2. Market Entrance Fees: Vehicles not subject to the schedule of fees are:

(1) those properly identified vehicles owned or operated by market lessees which are delivering produce to their own businesses.

Other loaded vehicles will be required to pay a fee at the gate prior to entering the market.

Fees for open spaces will be collected on a Daily space basis.

Assignment procedure is first-come, first-served, consistent with areas that may be designated by the Market Manager for specific types of produce.

3. Space Assignment: Space on the Market is to be used only as assigned or authorized by the Market Manager.

- a. Daily Space Rental Fee. Gate fees entitle an individual to occupy one space for 24 hours or until the load is sold, whichever is shorter. When a load is sold, the space immediately reverts to the Market for reassignment. Daily hours of operation and daily rental periods shall be determined by the Market Manager. Vehicles remaining in the daily space after the daily rental period has expired shall be charged for the next day as well.
- b. All rents are due and payable in advance.
- c. Sub-letting of stalls or space is prohibited and will result in the forfeiture of rents and reversion of such space to the Market for reassignment.
- d. Extenuating circumstances, safety and sanitation requirements, extremely crowded market conditions including but not limited to special promotional and seasonal events, which may require and authorize the relocation of Market tenants by the Market Manager.
- e. Limitation of space assignments to tenants or their vehicles may be imposed at the discretion of the Market Manager when conditions of overcrowding or extensive waiting lists exist.

Section D--OPERATIONAL RULES AND REGULATIONS

1. Abandonment

Abandonment will be in effect when articles remain on the premises 24 hours after the expiration of rental. No buyer, vendor, renter or user or other person shall abandon produce, vehicles, or other articles on the market. Abandoned produce that is edible will be donated to a charitable institution if possible. Abandoned vehicles will be turned over to proper authorities to be impounded at owner's expense. All other items will be subject to market manager's discretion and will be removed at the owner's expense

2. Additions or Construction

No person shall add to, modify, or construct a building upon the Market without prior written approval of the market manager and compliance with all applicable building codes.

3. Advertising

No person may erect, maintain, or display any signs or displays at their market space, except for product pricing, without prior written approval of the market manager. No person shall place any advertising matter, displays or other literature not directly pertaining to their stand or specific to their items. This includes, but is not limited to, any political, religious, real estate or other merchandise signage.

4. Alcoholic beverages may not be sold on the farmer's market property without prior permission of the market manager. Notwithstanding the provisions of Regulation 5-90(D)(20), permission by the market manager authorizes the vendor and a purchaser to possess the unopened alcoholic beverages the vendor is selling while on market grounds.

5. Animals

Tenants and their employees are not permitted to keep animals on the market.

6. Charitable Organizations

Churches or other charitable organizations must have the prior permission of the market manager to sell or solicit funds or support on the market.

7. Children

Children under fourteen (14) years of age shall not roam or wander around the market unless accompanied by an adult who shall be responsible for the conduct of said minor. 7. 8. Containers

All produce entering the Farmers' Markets shall be in proper containers as prescribed by the South Carolina Weights and Measures Law, if sold by weight or volume.

9. Customer Complaints

It is the responsibility of all lessees and renters on the market to satisfy customer complaints. Upon receipt of repeated complaints concerning the same lessees or renters, the market manager may take action in compliance with Rule D(43) herein.

10. Damage to Market Property

Persons causing damage to market property shall be financially responsible for the cost of repairs or replacements. Such damage shall include, but not limited to, buildings, grounds, fences, gates, vehicles, and any other property owned and/or operated by the market.

11. Deceptive Practices

Fraudulent, dishonest, or deceptive practices carried on at the market may be punishable as provided by Rule D(43) herein.

12. Disposal

The manager may require that all produce considered of no commercial value shall be placed in appropriate containers and destroyed or removed from the market premises. The disposition of such product(s) shall be the responsibility of the person(s) or firm in whose possession the product may be. Failure to comply with this section will result in fees and/or cost of disposal charged back to tenant. Repeated failure to comply with this provision may result in denial of market services.

13. Electricity

Only those usages of electricity approved by the market will be permitted, including use of any extension cords. Market manager also reserves the authority to charge vendors for the actual cost of electricity usage of the market outlets.

14. Employees

All market lessees, renters, or users shall be responsible for the conduct of their employees at all times. Lessees, renters and users must agree to advise their agents, employees, and assigns of the requirement of the State Farmers Market Rules, Regulations & Policies, and agree to ensure compliance with same, by said agents, employees and assigns.

15. Equipment

All market lessees, renters or users are required to use all possible care in the operation of mechanical equipment used on the market property, including operation by certified operators when applicable, meeting all safety standards and registering all mechanical equipment with the Market Manager.

16. False Pack

No person shall top or face his containers or displays with the best produce to conceal poor products underneath or to mislead customers or buyers in any way.

17. Financial Interest of Market Staff

The market manager and all other employees of the said market shall not be interested either directly or indirectly in the commercial purchasing, buying, or selling of any products sold on said market.

18. Fire Hazards

The use of any spark, flame or other fire producing device is prohibited without prior permission of the Market Manager. Any heater or heating elements to be used shall comply with all safety regulations promulgated by the Fire Marshall's Office, and shall be subject to inspection by the Fire Marshall. Storage of combustible materials, including but not limited to pallets, wood, plastics, paper, cardboard and other flammable, volatile or hazardous substances is prohibited.

19. Firearms or Fireworks

Possession of firearms or fireworks is strictly prohibited on market properties, unless permitted in accordance with State law.

20. Gambling, Use of Intoxicants, Disorderly Conduct, Persons Under the Influence of Intoxicants

Gambling, possession or use of intoxicants, and disorderly conduct are prohibited on market properties. No person shall come upon the market while under the influence of intoxicants.

21. Holding Space

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Holding space by use of parked vehicles, small quantities of produce, etc., will not be permitted. The market manager or his duly authorized agent may remove such obstacles so as to render the space useable by another tenant.

22. Homesteading

Housekeeping or homesteading in the market is prohibited.

23. Hours

The manager shall have the authority to set opening and closing hours which are deemed to be in the best interest of market operations and the general public. Changes in hours currently in effect shall be posted in one or more conspicuous places and publicly announced.

24. Inspections

The market manager may make or cause to be made any inspection or inspections of produce which may be necessary and may prohibit the sale of any produce which does not conform with legal and stated market standards.

25. Labor

Persons employed on the South Carolina State Farmers' Markets may be required to possess and openly display his Identification Badge. Badge applications may be filed with the Market Manager together with applicable fee payments.

26. Local Regulations. Vendors must comply with all local ordinance, rules and regulations, as well as all state and federal laws pertaining to the conduct of their business.

27. Parking

The parking of automobiles and other vehicles of market renters and lessees and their employees shall be confined to spaces designated by the manager. Such automobiles shall not be parked on the market pavement where they will obstruct traffic or take up space necessary for the orderly operation of the market business. Vehicles shall not be parked in areas that would be detrimental to grass or landscape. Violators shall be towed at the owner's expense.

28. Piling, Displaying, Processing & Repackaging

Market vendors shall confine the piling, processing, and displaying of produce to the space leased by them. Repackaging will only be allowed in areas designated by the Market Manager.

29. Public Outcry

No person shall make any public outcry, engage in "hawking" or give any musical or other entertainment for the purpose of drawing customers or attracting attention.

30. Public Property

No person shall deface or damage the buildings, loading platforms, packing sheds, streets, or any other physical equipment of said Market.

31. Quality

No person shall sell produce which is unsound or unwholesome or which fails to meet the standards or requirements of Federal, State or local laws and regulations. All South Carolina regulatory laws applying to weights, measures, marking of containers, sanitation or other legal requirements will be obeyed by all market tenants. In no case will produce be offered for sale that contains a total of more than ten percent (10%) decay, shriveling and/or other blemishes.

32. Removal of Property

All lessees, renters and users of the market shall remove for cause and at their own expense, any vehicle or item of property upon direction of the market manager.

33. Sanitation

a. Responsibilities of the Market:

(1) The Market will recoup costs for providing, locating and dumping garbage containers on a regularly scheduled basis.

(2) Under no circumstances will garbage containers be moved from their designated locations without approval of the market manager.

(3) The Market will be responsible for sanitation in all areas of the market not described below.

b. Responsibilities of the tenants:

(1) Tenants of the market will keep their immediate premises reasonably clean, sanitary and orderly. Persistent failure to adhere to Market policy in this respect will constitute just and sufficient cause for revocation of

tenant's or user's privileges. Area included in this responsibility extends ten (10) feet adjacent to rented spaces and around all vehicles parked at their rented space. Refuse in this area must be swept, collected, and deposited in garbage containers as provided by the Market.

(2) Discards from grading and preparing products for sale will not be thrown on the pavement but will be placed in garbage containers on the Market yard for proper disposal.

(3) All space for which the tenant is responsible (as described above) must be left free of cartons, produce, trash or other debris.

(4) Littering on market property is prohibited.

(5) Compliance with provisions of the South Carolina Food and Cosmetic Act.

34. Selling Areas

The market manager shall have the authority to establish selling areas for South Carolina farmers and specific products at such times as may be necessary for orderly use of the market, arrangement of parking and traffic control. In order for a farmer to be eligible to use said space for selling, he may be required, under oath, to specify that all the produce was grown on his farm and that it is being sold by himself, a member of his immediate family, or a person who has had a working part in its production on the farm. No person shall use or occupy any space other than that designated by the market manager

35. Speed

Every person operating a vehicle on the property of the market shall drive said vehicle in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or do physical harm to any person. All parking signs, speed limit signs and other posted signs shall be observed. In no case shall any vehicle exceed the posted speed limits.

36. Stationary Buildings

Stationary buildings designated for storage and/or refrigeration will be permitted only upon written approval of the market manager.

37. Theft, Personal Injury, Property Damage

Neither the South Carolina Department of Agriculture, the market, nor any of its employees shall be responsible for any loss through theft, or otherwise, of products or any private property on the market. The market will not be responsible for personal injuries or damage to private property.

38. Tips, Loans, or Gratuities

The market manager and all other employees of the market are prohibited from receiving any tips, loans, or gratuities from any buyer or seller on the market.

39. Unacceptable Behavior

No lessee, renter or his employees shall do any act or use any language which appears to be intended to insult another lessee, shopper, market staff person or to intimidate a shopper or buyer into purchasing a product. The use of any profane, discourteous, harassing, or abusive language on the market is prohibited and is punishable as provided by Rule D(43) herein.

40. Unfair Practices

Vendors on the market shall not approach a buyer for the purpose of making a sale while said buyer is in conversation with another vendor. Buyers or vendors may not approach any buyer, vendor, or member of the public until such person has parked his vehicle in an authorized sales area.

41. Vacating Space

Tenants or truckers, when leaving an assigned space shall leave the space clean for the next incoming user.

42. Vehicles

All vehicles must enter and leave the market area through properly designated entrances and exits. While on the market they are the responsibility of the registered owner. The market manager shall have the authority to direct the arrangement and movement of all vehicles on the market. (Also, see "SPEED".)

43. Violations

The market manager shall have the right to revoke any privilege issued to any person under the terms of these rules and regulations in case of violations of any of such rules and regulations, and such revocation is for immediate effect. Any person who has had such privilege revoked shall be barred from the market until he shall be reinstated. The revocation process shall be as follows:

a. In case of serious violations any person found to be in such violation may be immediately expelled and barred from the market by the market manager for a period not to exceed thirty (30) days. In appropriate

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circumstances, a violator may be permanently barred or barred for a longer period by the Commissioner of Agriculture.

A serious violation is defined as any act which poses an immediate hazard to the health or safety of market staff, vendors, or the public. Nothing herein shall be construed to restrict the ability of the market manager to consult with or request the assistance of law enforcement officials in the enforcement of these rules and regulations and state and local laws.

b. In case of other violations, the market manager shall:

(1) For a first offense, serve a written warning upon such violator or violators outlining the infractions and indicating steps necessary to bring such violator or violators into compliance with these rules and regulations.

(2) In case of a second offense or failure to comply with a written warning after a first offense, the market manager may suspend the violator or violators for a period not to exceed thirty (30) days. The privilege of market use may be reinstated upon application to the market manager stating the reason or justification for terminating the expulsion. The violator must indicate future agreement to comply with all provisions of the rules and regulations. Future failure to fully comply will result in additional expulsion for a minimum period of time at least double that of the original expulsion time. Subsequent reinstatement procedures will be accomplished in accordance with the original format.

(3) In case of a third or subsequent violation, the market manager may bar such violator or violators from the market indefinitely, subject to the reinstatement procedure of Rule D(43)(b)(4) below.

(4) Any person whose privilege has been revoked by the market manager may appeal to the Commissioner of Agriculture. All appeals under this Sub-Section must be made in writing within seventy-two (72) hours after written notice of revocation, and such appeal shall set forth in a concise manner the cause of the revocation and the reason for appealing. During the pendency of such appeal, the person whose privilege is revoked shall be barred from the market. Upon receipt of the appeal, a time shall be set for a hearing not less than one day nor more than thirty (30) days after the appeal has been filed. After hearing such an appeal, the Commissioner or his designee may affirm the revocation or reinstate the applicant, and action of the Commissioner or his designee shall be conclusive and final.

R-191. FEE SCHEDULE FOR THE COLUMBIA STATE FARMERS MARKET.

[Delete]

R-192. FEE SCHEDULE FOR THE GREENVILLE STATE FARMERS MARKET. [Delete].

R-193. REGULATIONS FOR FOOTBALL TAILGATING EVENTS AND OTHER SPECIAL EVENTS HELD ON THE MARKET.

This regulation applies to special events, including football tailgating, held on the market grounds as publicly stated by the market manager.

1. The market manager must publicly state that a particular event is a special event governed by the provisions of this regulation and must designate the time and place of the special event to be held on the market.

2. Concerning a special event, the market manager may:

a. permit the possession, use, and consumption of alcoholic beverages within designated places and during designated times corresponding with a special event.

b. alter the usual traffic patterns at the market to accommodate traffic flow and vehicle parking associated with the special event. The changes must be conspicuously marked in the market by signs or individuals directing traffic;

c. contract with a private service to provide adequate security for the increased number of people on the premises due to the special event; and

d. contract with a waste management company to provide waste disposal services, including additional waste receptacles. The market manager may permit the additional receptacles be used by the general public or may limit the use of any or all of the receptacles to the participants or attendees of the special event.

Fiscal Impact Statement:

The South Carolina Department of Agriculture estimates that there will be no anticipated additional costs to the State or its political subdivisions regarding the continued operation and improvement to this program and its operating procedures. The Department anticipates that all increases in security and trash removal on the Market during special events will be covered by the purchase price of an admission ticket and/or by the contract or lease agreements with the host of the special event, resulting in not additional cost to the State.

Statement of Rationale:

The purpose of this proposal is to improve and update Regulation 5-190 et seq., concerning the administration and operation of the State Farmers Markets. These amendments and deletion of old language are being promulgated to reflect the most current practices and activities generally conducted on the market premises. These amendments are intended to provide greater ease in administering the everyday operations of the markets and to help avoid potential ambiguities regarding certain terms and responsibilities as stated in the statutory language of Code Section 46-15-10 et al. This proposal is reasonable in that it is the Department's responsibility and duty to implement regulations that are required by law, and to update them so that they remain consistent with the law.

Document No. 3091

BUDGET AND CONTROL BOARD

CHAPTER 19

Statutory Authority: 1976 Code Section 11-35-10 et seq.

19-445. South Carolina Procurement Regulations

Synopsis:

The Consolidated Procurement Code, which was amended in 2006, authorizes the State Budget and Control Board to promulgate regulations governing the procurement, management, control, and disposal of any and all supplies, services, information technology, and construction to be procured by the State and any other regulations relating to implementation of Title 11, Chapter 35. (Sections 11-36-60 & -540(1)) These regulations are proposed to clarify and improve the procedures used in procurement. The proposed changes adapt the regulations to recent legislative changes (S. 572 of 2006), add some needed flexibility, and provide some safeguards regarding the integrity of the procurement process. If enacted, the proposed changes to the regulations would: Allow agency certification to be tied to having a trained and adequately staffed procurement office. Allow CPOs to temporarily suspend an agency's certification if significant problems exist. Limit communication with bidders to clarifications on a bid that is obviously responsive. Implement the statute on opening of RFPs and limit the release of offeror's names pre-award. Add flexibility regarding communications in an RFP. Provide some flexibility in RFPs to reduce number of proposals rejected as nonresponsive. Revise existing rules regarding ratification of unauthorized procurements. Confirm ITMO's authority to enter software licensing agreements for all agencies. Implement code requirements for submission of cost or pricing data and limit its application. Adds limits to the use of pre-qualification process - Not construction related. State a general policy regarding the need to avoid gifts that influence procurement decisions. Clarify existing approaches to school district codes and allow a model school code. In protests, give a protestant access to procurement file in ten days. For integrity, add significant limits on public access to procurement information prior to award. Authorize contract clauses regarding confidentiality that are consistent with FOIA. The proposed regulations were published in the State Register on October 27, 2006.

Instructions: Amend Regulation 19-445 pursuant to each instruction included with the text as follows:

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Text:

The following items or sections are added, deleted, or modified as provided below. All other items and sections remain unchanged.

Replace Section 2000 with the following text:

19-445.2000. State Procurement Regulations.

A. General.

These Regulations issued by the South Carolina Budget and Control Board, hereafter referred to as the Board, establish policies, procedures, and guidelines relating to the procurement, management, control, and disposal of supplies, services, information technology, and construction, as applicable, under the authority of the South Carolina Consolidated Procurement Code, as amended. These Regulations are designed to achieve maximum practicable uniformity in purchasing throughout state government. Hence, implementation of the Procurement Code by and within governmental bodies, as defined in Section 11-35-310(18) of the Procurement Code, shall be consistent with these Regulations. Nothing contained in these Rules and Regulations shall be construed to waive any rights, remedies or defenses the State might have under any laws of the State of South Carolina.

B. Organizational Authority.

(1) The Chief Procurement Officers acting on behalf of the Board shall have the responsibility to audit and monitor the implementation of these Regulations and requirements of the South Carolina Consolidated Procurement Code. In accordance with Section 11-35-510 of the Code, all rights, powers, duties and authority relating to the procurement of supplies, services, and information technology and to the management, control, warehousing, sale and disposal of supplies, construction, information technology, and services now vested in or exercised by any governmental body under the provisions of law relating thereto, and regardless of source funding, are hereby vested in the appropriate chief procurement officers. The chief procurement officers shall be responsible for developing such organizational structure as necessary to implement the provisions of the Procurement Code and these Regulations.

(2) Materials Management Office: The Materials Management Officer is specifically responsible for:

(a) developing a system of training and certification for procurement officers of governmental bodies in accordance with Section 11-35-1030;

(b) recommending differential dollar limits for direct procurements on the basis of but not limited to the following:

- (1) procurement expertise,
- (2) commodity,
- (3) service,
- (4) dollar;

(c) performing procurement audits of governmental bodies in accordance with Sections 11-35-70 and 11-35-1230 of the Procurement Code.

(d) overseeing acquisitions for the State by the State Procurement Office.

(e) coordinating with the Information Technology Management Office in accordance with Section 11-35-820;

(f) overseeing the acquisition of procurements by the State Engineer in accordance with Section 11-35-830.

(3) Office of Information Technology Management: The Office of Information Technology Management shall be responsible for all procurements involving information technology pursuant to Section 11-35-820 of the Procurement Code.

(4) Office of State Engineer: The Office of State Engineer under the direction and oversight of the Materials Management Officer shall be responsible for all procurements involving construction, architectural and engineering, construction management, and land surveying services pursuant to Section 11-35-830 of the Procurement Code.

C. Definitions

(1) "Head of purchasing agency" means the agency head, that is, the individual charged with ultimate responsibility for the administration and operations of the governmental body. Whenever the South Carolina Consolidated Procurement Code or these Regulations authorize either the chief procurement officer or the head of the purchasing agency to act, the head of the purchasing agency is authorized to act only within the limits of the governmental body's authority under Section 11-35-1550(1) or its certification as granted by Board under Section 11-35-1210(1), except with regard to acts taken pursuant to Section 11-35-1560 and 11-35-1570.

(2) "Procuring Agency" means "purchasing agency" as defined in Section 11-35-310.

D. Duty to Report Violations

All governmental bodies shall comply in good faith with all applicable requirements of the consolidated procurement code and these procurement regulations. When any information or allegations concerning improper or illegal conduct regarding a procurement governed by the consolidated procurement code comes to the attention of any employee of the State, immediate notice of the relevant facts shall be transmitted to the appropriate chief procurement officer.

E. Effective Date.

Except as otherwise provided herein, these regulations are effective upon publication in the State Register. The following additions or revisions to this regulation 19-445 apply only to solicitations issued after the first Monday in September following the legislative session during which they are approved: Sections 2010, -.2015, -.2050, -.2095, -.2097, -.2105, -.2120, -.2180.

Replace Section 2005 with the following text:

19-445.2005. Internal Procurement Procedures; Procurement Records.

A. Procedures Manual.

All governmental bodies shall develop and maintain an internal procurement procedures manual and forward a copy, and any revisions, of such to the Materials Management Officer. Upon receipt of the respective governmental body's internal procurement procedures manual, the Materials Management Office shall be responsible for the following review:

(1) Determine that written internal operations procedures as submitted (a) are consistent with the South Carolina Consolidated Procurement Code and Regulations, (b) are consistent with any policies or procedures published by the chief procurement officers for their respective areas of responsibility, and (c) establish a clear

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means by which vendors can identify the governmental body's procurement officers and the limits of their authority.

(2) Notify the governmental body of its findings in writing.

B. Procurement Records.

Each governmental body must maintain procurement files sufficient to satisfy the requirements of external audit.

Add Section 2010 as follows:

19-445.2010. Disclosure of Procurement Information.

A. If requested in writing by an actual offeror prior to final award, the responsible procurement officer shall, within ten days of the receipt of any such request, make documents directly related to the procurement activity not otherwise exempt from disclosure available for inspection at an office of the responsible procurement officer.

B. Prior to the issuance of an award or notification of intent to award, whichever is earlier, state personnel involved in an acquisition shall forward or refer all requests for information regarding the procurement to the responsible procurement officer. The procurement officer will respond to the request.

C. Prior to the issuance of an award or notification of intent to award, whichever is earlier, state personnel involved in an acquisition shall not engage in conduct that knowingly furnishes source selection information to anyone other than the responsible procurement officer, unless otherwise authorized in writing by the responsible procurement officer. "Source selection information" means any of the following information that is related to or involved in the evaluation of an offer (e.g., bid or proposal) to enter into a procurement contract, if that information has not been previously made available to the public or disclosed publicly: (1) Proposed costs or prices submitted in response to an agency solicitation, or lists of those proposed costs or prices, (2) source selection plans, (3) technical evaluation plans, (4) technical evaluations of proposals, (5) cost or price evaluations of proposals, (6) information regarding which proposals are determined to be reasonably susceptible of being selected for award, (7) rankings of responses, proposals, or competitors, (8) reports, evaluations of source selection committees or evaluations panels, (9) other information based on a case-by-case determination by the procurement officer that its disclosure would jeopardize the integrity or successful completion of the procurement to which the information relates.

D. Throughout the competitive sealed proposal process, state and non-state personnel with access to proposal information shall not disclose either the number of offerors or their identity, except as otherwise required by law.

E. Prior to the issuance of an award or notification of intent to award, whichever is earlier, the procurement officer shall not release a proposal to a person without first obtaining from that person a written agreement, in a form approved by the responsible chief procurement officer, regarding restrictions on the use and disclosure of proposals. Such agreements are binding and enforceable.

F. The release of a proposal to non-state personnel for evaluation does not constitute public disclosure or a release of information for purposes of the Freedom of Information Act.

G. Except as prohibited by law, and subject to section 2200, state contracts may include clauses restricting the state's release of documents and information received from a contractor if those documents are exempt from disclosure under applicable law.

Replace Section 2015 with the following text:

19-445.2015. Ratification.

A. Upon finding after award that a State employee has made an unauthorized award of a contract or that a contract award is otherwise in violation of law, the appropriate official may ratify or affirm the contract or terminate it in accordance with this section. The contract may be terminated and reasonable termination costs, if any, may be awarded as provided in this section. The contract may be ratified and affirmed only if it is in the best interests of the State. The decision required by this subsection A may be made by the chief procurement officer, the head of a purchasing agency, or a designee of either officer, above the level of the person responsible for the person committing the act. If the value of the contract exceeds one hundred thousand dollars, the chief procurement officer must concur in the written determination before any action is taken on the decision.

B. All decisions to ratify or terminate a contract shall be supported by a written determination of appropriateness. In addition, the appropriate official shall prepare a written determination as to the facts and circumstances surrounding the act, what corrective action is being taken to prevent recurrence, and the action taken against the individual committing the act. Any governmental body shall submit quarterly a record listing all decisions required by subsection A to the chief procurement officers. A copy of the record shall be submitted to the board on an annual basis and shall be available for public inspection.

C. Except as provided in subsection D, if a contract is terminated pursuant to subsection A, the State shall, where possible and by agreement with the supplier, return the supplies delivered for a refund at no cost to the State or at a minimal restocking charge. If a termination claim is made, settlement shall be made in accordance with the contract. If there are no applicable termination provisions in the contract, settlement shall be made on the basis of actual costs directly or indirectly allocable to the contract through the time of termination. Such costs shall be established in accordance with generally accepted accounting principles. Profit shall be proportionate only to the performance completed up to the time of termination and shall be based on projected gain or loss on the contract as though performance were completed. Anticipated profits are not allowed.

D. Upon finding after award that an award is in violation of law and that the recipient of the contract acted fraudulently or in bad faith, the appropriate chief procurement officer shall declare the contract null and void unless it is determined in writing that there is a continuing need for the supplies, services, information technology, or construction under the contract and either (i) there is no time to re-award the contract under emergency procedures or otherwise; or (ii) the contract is being performed for less than it could be otherwise performed. If a contract is voided, the State shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract and the State is entitled to recover the greater of (i) the difference between payments made under the contract and the contractor's actual costs up until the contract was voided, or (ii) the difference between payments under the contract and the value to the State of the supplies, services, information technology, or construction it obtained under the contract. The State may in addition claim damages under any applicable legal theory.

E. Regardless of its ratification and affirmation of a contract, the State shall be entitled to any damages it can prove under any theory including but not limited to contract and tort.

Replace Section 2020 with the following text:

19-445.2020. Certification.

A. Review Procedures.

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(1) Unless otherwise authorized by statute, any governmental body that desires to make direct agency procurements in excess of \$50,000.00, shall contact the Materials Management Officer in writing to request certification in any area of procurement, including the following four areas:

- (a) Supplies and services;
- (b) Consultant services;
- (c) Construction and related professional services;
- (d) Information technology.

(2) The Materials Management Officer shall review and report on the particular governmental body's entire internal procurement operation to include, but not be limited to the following:

- (a) Adherence to provisions of the South Carolina Consolidated Procurement Code and these Regulations;
- (b) Procurement staff and training;
- (c) Adequate audit trails and purchase order register;
- (d) Evidences of competition;
- (e) Small purchase provisions and purchase order confirmation;
- (f) Emergency and sole source procurements;
- (g) Source selections;
- (h) File documentation of procurements.
- (i) Decisions and determinations made pursuant to section 2015;
- (j) Adherence to any mandatory policies, procedures, or guidelines established by the appropriate chief procurement officers;
- (k) Adequacy of written determinations required by the South Carolina Consolidated Procurement Code and these Regulations;
- (l) Contract administration.
- (m) Adequacy of the governmental body's system of internal controls in order to ensure compliance with applicable requirements.

(3) The report required by item (2) shall be submitted to the Board, along with the recommendation of the Materials Management Officer. Upon favorable review by the Materials Management Officer and approval by the Board, the particular governmental body may be certified and assigned a dollar limit below which the certified governmental body may make direct agency procurements. Such certification shall be in writing and specify:

- (a) The name of the governmental body;
- (b) Any conditions, limits or restrictions on the exercise of the certification;
- (c) The duration of the certification; and
- (d) The procurement areas in which the governmental body is certified.

(4) Using the criteria listed in item A(2) above, the office of each chief procurement officer shall be reviewed at least ever five years by the audit team of the Materials Management Office. The results of the audit shall be provided to the appropriate chief procurement officer and the designated board officer.

B. Limitations.

(1) Such certification as prescribed in subsection A shall be subject to any term contracts established by the chief procurement officers which requires mandatory procurement by all governmental bodies.

(2) Such certification as prescribed in subsection A may be subject to maintaining an adequate staff of qualified or certified procurement officers.

Add Section 2022 as follows:

19-445.2022. Temporary Suspension of Authority; Audit.

A. Suspension of Authority.

Within his area of authority, the appropriate chief procurement officer may temporarily suspend a governmental body's power to conduct all, any type of, or any value of procurements if the chief procurement officer concludes that the governmental body either (1) lacks adequate internal controls to ensure compliance with the procurement laws, (2) lacks qualified or adequate staff, or (3) has otherwise acted in a manner that, in the opinion of the chief procurement officer, warrants a temporary loss of authority. The chief procurement officer may make continued suspension contingent upon corrective action, e.g., retain additional staff, training, revised internal controls. The suspension is effective upon delivery of written notice to the head of the purchasing agency. The written notice shall state the duration of the temporary suspension, which may not extend beyond the next regularly scheduled audit to be conducted pursuant to Section 11-35-1320. A chief procurement officer may not limit direct agency procurements below \$25,000.00. Before issuing a suspension pursuant to this paragraph, a chief procurement officer shall consult with the other chief procurement officers.

B. Audit.

In order to monitor the implementation of the procurement process, the appropriate chief procurement officer has the authority to audit any governmental body regarding one or more procurement activities.

Replace Section 2025 with the following text:

19-445.2025. Authority to Contract for Certain Services; Definitions.

A. Consultant Services.

(1) For the purposes of these Regulations, consultant services shall be defined as follows: An individual, partnership, corporation or any other legally established organization performing consulting services for or providing consulting advice to the State of South Carolina, or any governmental body thereof, over whom the State or governmental body has the right of control as to the result to be accomplished but not as to the details and means by which that result is to be accomplished.

(2) Services which fall within this definition shall be procured in accordance with the Code and these Regulations.

B. Employee Services.

(1) For the purposes of these Regulations, employee services shall be defined as follows: An individual performing services directly for the State of South Carolina, or any governmental body thereof, over whom the State or governmental body has the right of control not only as to the result to be accomplished by the work but also as to the details and means by which that work is to be accomplished.

(2) Services which fall within this definition shall be procured in accordance with State personnel policies and procedures.

C. Employment Services.

(1) For the purposes of these Regulations, employment services shall be defined as follows: An individual performing services indirectly for the State of South Carolina, or any governmental body thereof, whose services are obtained through a private employment agency. The employee employer relationship exists

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between the private employment agency and its employee. The State, or any governmental body, will contract with the private employment agency for the services of its employees.

(2) Services which fall within this definition shall be procured in accordance with the Code and these Regulations.

D. Legal Services.

Prior to the award of any state contract for the services of attorneys, approval for such services shall be obtained by the governmental body from the State Attorney General.

E. Auditing Services.

Prior to the award of any state contract for auditing or accounting services, approval for such services shall be obtained by the governmental body from the State Auditor.

Replace Section 2030 with the following text:

19-445.2030. Competitive Sealed Bidding The Invitation for Bids.

The invitation for bids shall be used to initiate a competitive sealed bid procurement and shall include the following, as applicable:

(1) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the individual to whom the bid is to be submitted, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the State, and any other special information;

(2) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description;

(3) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable; and

(4) Instructions to bidders on how to visibly mark information which they consider to be exempt from public disclosure.

(5) Bidding time will be set to provide bidders a reasonable time to prepare their bids. The date of opening may not be less than seven (7) days after notice of the solicitation is provided as required by Section 11-35-1520(3), unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Chief Procurement Officer or the head of the purchasing agency or his designee.

Replace Section 2040 with the following text:

19-445.2040. The Official State Government Publication.

A. Specifications of Publication.

The name of the official state government publication shall be known as the "South Carolina Business Opportunities." It shall be published by the Materials Management Office at least weekly. The purpose is to provide a listing of proposed procurements of construction, information technology, supplies, services and other procurement information of interest to the business community. Except as otherwise provided by law, the publication will be available to all interested parties by subscription and distributed by mail or electronic

media. Contents shall be limited to inclusion of proposed procurements required by regulations and such other business information as approved by the Materials Management Officer. Publication of proposed procurements of a classified nature or emergencies may be excluded from publication.

B. Availability in Public Libraries.

Each publication of the "South Carolina Business Opportunities" shall be distributed to public libraries within the State.

Add Section 2042 as follows:

19-445.2042. Pre-Bid Conferences.

Pre-bid conferences may be conducted. The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written amendment.

Replace Section 2045 with the following text:

19-445.2045. Receipt and Safeguarding of Bids.

A. Procedures Prior to Bid Opening.

All bids (including modifications) received prior to the time of opening shall be kept secure and, except as provided in subsection B below, unopened. Necessary precautions shall be taken to insure the security of the bid. Prior to bid opening, information concerning the identity and number of bids received shall be made available only to the state employees, and then only on a "need to know" basis. When bid samples are submitted, they shall be handled with sufficient care to prevent disclosure of characteristics before bid opening.

B. Unidentified Bids.

Unidentified bids may be opened solely for the purpose of identification, and then only by an official specifically designated for this purpose by the Chief Procurement Officer, the procurement officer of the governmental body, or a designee of either officer. If a sealed bid is opened by mistake, the person who opens the bid will immediately write his signature and position on the envelope and deliver it to the aforesaid official. This official shall immediately write on the envelope an explanation of the opening, the date and time opened, the invitation for bids' number, and his signature, and then shall immediately reseal the envelope.

Replace Section 2050 with the following text:

19-445.2050. Bid Opening.

A. Procedures.

The procurement officer of the governmental body or his designee shall decide when the time set for bid opening has arrived, and shall so declare to those present. In the presence of one or more state witnesses, he shall then personally and publicly open all bids received prior to that time, and read aloud so much thereof as is practicable, including prices, to those persons present and have the bids recorded. The amount of each bid and such other relevant information, together with the name of each bidder, shall be tabulated and certified in writing as true and accurate by both the person opening the bids and the witness. The tabulation shall be open to public inspection.

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B. If it becomes necessary to postpone a bid opening, the procurement officer shall issue the appropriate amendments to the solicitation postponing or rescheduling the bid opening. When the purchasing agency is closed due to force majeure, bid opening will be postponed to the same time on the next official business day.

C. Disclosure of Bid Information.

Only the information disclosed by the procurement officer of the governmental body or his designee at bid opening is considered to be public information under the Freedom of Information Act, Chapter 4 of Title 30, until after the issuance of an award or notification of intent to award, whichever is earlier.

Replace Section 2060 with the following text:

19-445.2060. Telegraphic Bids.

The Invitation for Bids may state that electronic, telegraphic, and mailgram bids will be considered whenever they are received in hand at the designated office by the time and date set for receipt of bids. Such electronic, telegraphic, or mailgram bids shall contain specific reference to the Invitation for Bids; the items, quantities, and prices for which the bid is submitted; the time and place of delivery; and a statement that the bidder agrees to all the terms; conditions, and provisions of the Invitation for Bids.

Replace Items B., C., and D of Section 2065 with the following text:

B. Cancellation of Bids Prior to Award.

(1) When it is determined prior to the issuance of an award or notification of intent to award, whichever is earlier, but after opening, that the requirements relating to the availability and identification of specifications have not been met, the invitation for bids shall be cancelled. Invitations for bids may be cancelled after opening, but prior to award, when such action is consistent with subsection A above and the procurement officer determines in writing that:

- (a) inadequate or ambiguous specifications were cited in the invitation;
- (b) specifications have been revised;
- (c) the supplies, services, information technology, or construction being procured are no longer required;
- (d) the invitation did not provide for consideration of all factors of cost to the State, such as cost of transporting state furnished property to bidders' plants;
- (e) bids received indicate that the needs of the State can be satisfied by a less expensive article differing from that on which the bids were invited;
- (f) all otherwise acceptable bids received are at unreasonable prices;
- (g) the bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith; or
- (h) for other reasons, cancellation is clearly in the best interest of the State.

(2) Determinations to cancel invitations for bids shall state the reasons therefor.

C. Extension of Bid Acceptance Period.

Should administrative difficulties be encountered after bid opening which may delay award beyond bidders' acceptance periods, the several lowest bidders should be requested, before expiration of their bids, to extend the bid acceptance period (with consent of sureties, if any) in order to avoid the need for re-advertisement.

D. Return of Bids

If an invitation for bids is canceled, bids shall be returned to the bidders.

Replace Items D and F of Section 2070 with the following text:

D. Modification of Requirements by Bidder.

(1) Ordinarily a bid should be rejected when the bidder attempts to impose conditions which would modify requirements of the invitation for bids or limit his liability to the State, since to allow the bidder to impose such conditions would be prejudicial to other bidders. For example, bids should be rejected in which the bidder:

(a) attempts to protect himself against future changes in conditions, such as increased costs, if total possible cost to the State cannot be determined;

(b) fails to state a price and in lieu thereof states that price shall be “price in effect at time of delivery;”

(c) states a price but qualified such price as being subject to “price in effect at time of delivery;”

(d) when not authorized by the invitation, conditions or qualifies his bid by stipulating that his bid is to be considered only if, prior to date of award, bidder receives (or does not receive) award under a separate procurement;

(e) requires the State to determine that the bidder’s product meets state specifications; or

(f) limits the rights of the State under any contract clause.

(2) Bidders may be requested to delete objectionable conditions from their bid provided that these conditions do not go to the substance, as distinguished from the form, of the bid or work an injustice on other bidders. Bidder should be permitted the opportunity to furnish other information called for by the Invitation for Bids and not supplied due to oversight, so long as it does not affect responsiveness.

F. Bid Security Requirement.

When a bid security is required and a bidder fails to furnish it in accordance with the requirements of the invitation for bids, the bid shall be rejected.

Delete Item G (Unsigned Bids) of Section 2070. Redesignate former Item H (Exceptions to Rejection Procedures) of Section 2070 as new Item G (Exceptions to Rejection Procedures) of Section 2070 and replace the text as follows:

G. Exceptions to Rejection Procedures.

Any bid received after the procurement officer of the governmental body or his designee has declared that the time set for bid opening has arrived, shall be rejected unless the bid had been delivered to the location specified in the solicitation or the governmental bodies’ mail room which services that location prior to the bid opening.

Add Section 2077 as follows:

19-445.2077. Bid Samples and Descriptive Literature.

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A. "Descriptive literature" means information available in the ordinary course of business which shows the characteristics, construction, or operation of an item which enables the State to consider whether the item meets its needs.

B. "Bid sample" means a sample to be furnished by a bidder to show the characteristics of the item offered in the bid.

C. Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

D. The Invitation for Bids shall state that bid samples or descriptive literature should not be submitted unless expressly requested and that, regardless of any attempt by a bidder to condition the bid, unsolicited bid samples or descriptive literature which are submitted at the bidder's risk will not be examined or tested, and will not be deemed to vary any of the provisions of the Invitation for Bids.

Add Section 2080 as follows:

19-445.2080. Clarifications with Bidders.

Apparent responsive bidder, as used in the source selection process, means a person who has submitted a bid or offer which obviously conforms in all material aspects to the solicitation. A procurement officer's decision regarding whether a bid is apparently responsive is final unless protested.

Replace Section 2085 with the following text:

19-445.2085. Correction or Withdrawal of Bids; Cancellation of Awards.

A. General Procedure.

A bidder or offeror must submit in writing a request to either correct or withdraw a bid to the procurement officer. Each written request must document the fact that the bidder's or offeror's mistake is clearly an error that will cause him substantial loss. All decisions to permit the correction or withdrawal of bids shall be supported by a written determination of appropriateness made by the chief procurement officers or head of a purchasing agency, or the designee of either.

B. Correction Creates Low Bid.

To maintain the integrity of the competitive sealed bidding system, a bidder shall not be permitted to correct a bid mistake after bid opening that would cause such bidder to have the low bid unless the mistake is clearly evident from examining the bid document; for example, extension of unit prices or errors in addition.

C. Cancellation Of Award Prior To Performance.

After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, if the Chief Procurement Officer determines in writing that:

- (1) Inadequate or ambiguous specifications were cited in the invitation;
- (2) Specifications have been revised;
- (3) The supplies, services, information technology, or construction being procured are no longer required;
- (4) The invitation did not provide for consideration of all factors of cost to the State, such as cost of transporting state furnished property to bidders' plants;

(5) Bids received indicate that the needs of the State can be satisfied by a less expensive article differing from that on which the bids were invited;

(6) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith;

(7) Administrative error of the purchasing agency discovered prior to performance, or

(8) For other reasons, cancellation is clearly in the best interest of the State.

Delete Item C of Section 2090:

Replace Item B of Section 2090 with the following text:

B. The procurement officer shall issue the notice of intent to award or award on the date specified in the solicitation, unless the procurement officer determines, and gives notice, that a longer review time is necessary. The procurement officer shall give notice of a time extension to each bidder by posting it at the location identified in the solicitation.

Replace Item C of Section 2095 with the following text:

The text of Item D of Section 2095 is deleted and shown as repealed.

Replace Item E of Section 2095 with the following text:

Redesignate former Item F(1) of Section 2095 as new Item F of Section 2095 and replace the text as follows:

Redesignate former Item F(2) of Section 2095 as new Item G of Section 2095 and replace the text as follows:

Redesignate former Item G of Section 2095 as new Item H of Section 2095 and replace the text as follows:

Add Items I and J of Section 2095 as follows:

C. Receipt of Proposals.

The provisions of Regulation 19-445.2050(B) shall apply to the receipt and safeguarding of proposals. For the purposes of implementing Section 11-35-1530 (3), Receipt of Proposals, the following requirements shall be followed:

(1) Proposals shall be opened publicly by the procurement officer or his designee in the presence of one or more witnesses at the time and place designated in the request for proposals. Proposals and modifications shall be time-stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of proposals, a Register of Proposals shall be prepared which shall include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The Register of Proposals shall be certified in writing as true and accurate by both the person opening the proposals and the witness. The Register of Proposals shall be open to public inspection only after the issuance of an award or notification of intent to award, whichever is earlier. Proposals and modifications shall be shown only to State personnel having a legitimate interest in them and then only on a "need to know" basis. Contents and the identity of competing offers shall not be disclosed during the process of opening by state personnel.

(2) As provided by the solicitation, offerors must visibly mark all information in their proposals that they consider to be exempt from public disclosure.

D. [repealed]

E. Clarifications and Minor Informalities in Proposals.

The provisions of Sections 11-35-1520(8) and 11-35-1520(13) shall apply to competitive sealed proposals.

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F. Specified Types of Construction.

Pursuant to Section 11-35-3020(1), and subject to the approval requirements of Section 11-35-3010, construction may be procured by competitive sealed proposals as follows:

(1) Architect/Engineer services and construction services to be awarded in the same contract for an indefinite delivery of a specialized service (e.g. Hazardous waste remedial action).

(2) Design/Build or Lease Purchase contracts where there must be selection criteria in addition to price.

(3) Energy conservation or other projects to be financed by vendors who will be paid from the State's savings.

(4) Construction, where consideration of alternative methods or systems would be advantageous to the State.

G. Procedures for Competitive Sealed Proposals.

The appropriate Chief Procurement Officer may develop and issue procedures which shall be followed by all agencies using the competitive sealed proposal method of acquisition. Unless excused by the State Engineer, the Office of State Engineer shall oversee (1) the evaluation process for any procurement of construction if factors other than price are considered in the evaluation of a proposal, and (2) any discussions with offerors conducted pursuant to Section 11-35-1530(6) or subsection I below.

H. Other Applicable Provisions.

The provisions of the following Regulations shall apply to competitive sealed proposals:

(1) Regulation 19-445.2042, Pre-Bid Conferences,

(2) Regulation 19-445.2060, Telegraphic and Electronic Bids,

(3) Regulation 19-445.2075, All or None Qualifications,

(4) Regulation 19-445.2085, Correction or Withdrawal of Bids; Cancellation of Awards, and Cancellation of Awards Prior to Performance.

(5) Regulation 19-445.2137, Food Service Contracts.

I. Discussions with Offerors

(1) Classifying Proposals.

For the purpose of conducting discussions under Section 11-35-1530(6) and item (2) below, proposals shall be initially classified in writing as:

(a) acceptable (i.e., reasonably susceptible of being selected for award);

(b) potentially acceptable (i.e., reasonably susceptible of being made acceptable through discussions); or

(c) unacceptable.

(2) Conduct of Discussions.

If discussions are conducted, the procurement officer shall exchange information with all offerors who submit proposals classified as acceptable or potentially acceptable. The content and extent of each exchange is a matter of the procurement officer's judgment, based on the particular facts of each acquisition. In conducting discussions, the procurement officer shall:

- (a) Control all exchanges;
 - (b) Advise in writing every offeror of all deficiencies in its proposal, if any, that will result in rejection as non-responsive;
 - (c) Attempt in writing to resolve uncertainties concerning the cost or price, technical proposal, and other terms and conditions of the proposal, if any;
 - (d) Resolve in writing suspected mistakes, if any, by calling them to the offeror's attention.
 - (e) Provide the offeror a reasonable opportunity to submit any cost or price, technical, or other revisions to its proposal, but only to the extent such revisions are necessary to resolve any matter raised by the procurement officer during discussions under items (2)(b) through (2)(d) above.
- (3) Limitations. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. Ordinarily, discussions are conducted prior to final ranking. Discussions may not be conducted unless the solicitation alerts offerors to the possibility of such an exchange, including the possibility of limited proposal revisions for those proposals reasonably susceptible of being selected for award.
- (4) Communications authorized by Section 11-35-1530(6) and items (1) through (3) above may be conducted only by procurement officers authorized by the appropriate chief procurement officer.

J. Rejection of Individual Proposals.

- (1) Proposals need not be unconditionally accepted without alteration or correction, and to the extent otherwise allowed by law, the State's stated requirements may be clarified after proposals are submitted. This flexibility must be considered in determining whether reasons exist for rejecting all or any part of a proposal. Reasons for rejecting proposals include but are not limited to:
- (a) the business that submitted the proposal is nonresponsible as determined under Section 11-35-1810;
 - (b) the proposal ultimately (that is, after an opportunity, if any is offered, has passed for altering or clarifying the proposal) fails to meet the announced requirements of the State in some material respect; or
 - (c) the proposed price is clearly unreasonable.
- (2) The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

Add Section 2097 as follows:

19-445.2097. Rejection of Proposals.

A. Unless there is a compelling reason to reject one or more proposals, award will be made to the highest ranked responsible offeror or otherwise as allowed by Section 11-35-1530. Every effort shall be made to anticipate changes in a requirement prior to the date of opening and to notify all prospective offerors of any resulting modification or cancellation.

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B. Cancellation of Solicitation Prior to Award.

(1) When it is determined prior to the issuance of an award or notification of intent to award, whichever is earlier, but after opening, that the requirements relating to the availability and identification of specifications have not been met, the request for proposals shall be cancelled. A request for proposals may be cancelled after opening, but prior the issuance of an award or notification of intent to award, whichever is earlier, when such action is consistent with subsection A above and the procurement officer determines in writing that:

- (a) inadequate or ambiguous specifications were cited in the solicitation;
- (b) specifications have been revised;
- (c) the supplies, services, information technology, or construction being procured are no longer required;
- (d) the solicitation did not provide for consideration of all factors of cost to the State, such as cost of transporting state furnished property to bidders' plants;
- (e) proposals received indicate that the needs of the State can be satisfied by a less expensive article differing from that on which the proposals were requested;
- (f) all otherwise acceptable proposals received are at unreasonable prices;
- (g) the proposals were not independently arrived at in open competition, were collusive, or were submitted in bad faith; or
- (h) for other reasons, cancellation is clearly in the best interest of the State.

(2) Determinations to cancel a request for proposals shall state the reasons therefor.

C. Extension of Bid Acceptance Period.

Should administrative difficulties be encountered after opening which may delay award beyond offeror's acceptance periods, the relevant offerors should be requested, before expiration of their offers, to extend the acceptance period (with consent of sureties, if any).

D. Return of Proposals

If a request for proposals is canceled, proposals shall be returned to the offerors.

Replace Section 2100 with the following text:

19-445.2100. Small Purchases and Other Simplified Purchasing Procedures.

A. Authority.

Small purchases (under \$50,000) shall be made as provided in Section 11-35-1550. For small purchases over ten thousand dollars, bidders must be provided reasonable time to prepare their bids, no less than seven (7) days after notice is provided as required by Section 11-35-1550(2)(c), unless a shorter time is deemed necessary for a particular procurement as determined in writing by the head of the purchasing agency or his designee. In accordance with Section 11-35-1550(2)(c), an agency may:

- (1) solicit written quotes, as further specified in Section 11-35-1550(2)(c);
- (2) solicit bids in accordance with Section 11-35-1520, Competitive Sealed Bidding, Section 11-35-1525, Competitive Fixed Price Bidding, or Section 11-35-1528, Competitive Best Value Bidding; or
- (3) solicit proposals in accordance with Section 11-35-1530, Competitive Sealed Proposals.

B. Establishment of Blanket Purchase Agreements.

(1) General. A blanket purchase agreement is a simplified method of filling repetitive needs for small quantities of miscellaneous supplies, services, or information technology by establishing “charge accounts” with qualified sources of supply. Blanket purchase agreements are designed to reduce administrative costs in accomplishing small purchases by eliminating the need for issuing individual purchase documents.

(2) Alternate Sources. To the extent practicable, blanket purchase agreements for items of the same type should be placed concurrently with more than one supplier. All competitive sources shall be given an equal opportunity to furnish supplies, services, or information technology under such agreements.

(3) Terms and Conditions. Blanket purchase agreements shall contain the following provisions:

(a) Description of agreement. A statement that the supplier shall furnish supplies, services, or information technology, described therein in general terms, if and when requested by the Procurement Officer, or his authorized representative, during a specified period and within a stipulated aggregate amount, if any. Blanket purchase agreements may encompass all items that the supplier is in a position to furnish.

(b) Extent of obligation. A statement that the State is obligated only to the extent of authorized calls actually placed against the blanket purchase agreement.

(c) Notice of individuals authorized to place calls and dollar limitations. A provision that a list of names of individuals authorized to place calls under the agreement, identified by organizational component, and the dollar limitation per call for each individual shall be furnished to the supplier by the Procurement Officer.

(d) Delivery tickets. A requirement that all shipments under the agreement, except subscriptions and other charges for newspapers, magazines, or other periodicals, shall be accompanied by delivery tickets or sales slips which shall contain the following minimum information:

(1) name of supplier;

(2) blanket purchase agreement number;

(3) date of call;

(4) call number;

(5) itemized list of supplies, services, or information technology furnished;

(6) quantity, unit price, and extension of each item less applicable discounts (unit price and extensions need not be shown when incompatible with the use of automated systems, provided that the invoice is itemized to show this information); and

(7) date of delivery or shipment.

(e) Invoices one of the following statements:

(1) A summary invoice shall be submitted at least monthly or upon expiration of the blanket purchase agreement, whichever occurs first, for all deliveries made during a billing period, identifying the delivery tickets covered therein, stating their total dollar value, and supported by receipted copies of the delivery tickets; or

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(2) An itemized invoice shall be submitted at least monthly or upon expiration of the blanket purchase agreement, whichever occurs first, for all deliveries made during a billing period and for which payment has not been received. Such invoices need not be supported by copies of delivery tickets;

(3) When billing procedures provide for an individual invoice for each delivery, these invoices shall be accumulated provided that a consolidated payment will be made for each specified period; and the period of any discounts will commence on final date of billing period or on the date of receipt of invoices for all deliveries accepted during the billing period, whichever is later. This procedure should not be used if the accumulation of the individual invoices materially increases the administrative costs of this purchase method.

C. Competition Under Blanket Purchase Agreement.

Calls against blanket purchase agreements shall be placed after prices are obtained. When concurrent agreements for similar items are in effect, calls shall be equitably distributed. In those instances where there is an insufficient number of BPAs for any given class of supplies, services, or information technology to assure adequate competition, the individual placing the order shall solicit quotations from other sources.

D. Calls Against Blanket Purchase Agreement.

Calls against blanket purchase agreements generally will be made orally, except that informal correspondence may be used when ordering against agreements outside the local trade area. Written calls may be executed. Documentation of calls shall be limited to essential information. Forms may be developed for this purpose locally and be compatible with the Comptroller General's Office STARS system.

E. Receipt and Acceptance of Supplies or Services.

Acceptance of supplies, services, or information technology shall be indicated by signature and date on the appropriate form by the authorized State representative after verification and notation of any exceptions.

F. Review Procedures.

The governmental body shall review blanket purchase agreement files at least semiannually to assure that authorized procedures are being followed. Blanket purchase agreements shall be issued for a period of no longer than 12 months.

Replace Item B of Section 2105 with the following text:

Add Item C of Section 2105 as follows:

B. Exceptions.

Sole source procurement is not permissible unless there is only a single supplier. The following are examples of circumstances which could necessitate sole source procurement:

- (1) where the compatibility of equipment, accessories, or replacement parts is the paramount consideration;
- (2) where a sole supplier's item is needed for trial use or testing;
- (3) [Repealed]
- (4) [Repealed]
- (5) where the item is one of a kind; and

(6) [Repealed]

C. Written Determination.

The determination as to whether a procurement shall be made as a sole source shall be made by either the Chief Procurement Officer, the head of a purchasing agency, or designee of either office above the level of the procurement officer. Any delegation of authority by either the Chief Procurement Officer or the head of a purchasing agency with respect to sole source determinations shall be submitted in writing to the Materials Management Officer. Such determination and the basis therefor shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness. In cases of reasonable doubt, competition should be solicited. Any request by a governmental body that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need. The determination must contain sufficient factual grounds and reasoning to provide an informed, objective explanation for the decision. The determination must be authorized prior to contract execution.

Replace Items B, C, D, and E of Section 2110 with the following text:

Delete Item F (General Procedures) of Section 2110. Redesignate former Item G (Written Determination) of Section 2110 as new Item F (Written Determination) of Section 2070 and replace the text as follows:

B. Definition.

An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, fire loss, or such other reason as may be proclaimed by either the Chief Procurement Officer or the head of a purchasing agency or a designee of either office. The existence of such conditions must create an immediate and serious need for supplies, services, information technology, or construction that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- (1) the functioning of State government;
- (2) the preservation or protection of property; or
- (3) the health or safety of any person.

C. Limitations.

Emergency procurement shall be limited to those supplies, services, information technology, or construction items necessary to meet the emergency.

D. Conditions.

Any governmental body may make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods, provided that whenever practical, approval by either the head of a purchasing agency or his designee or the Chief Procurement Officer shall be obtained prior to the procurement.

E. Selection of Method of Procurement.

The procedure used shall be selected to assure that the required supplies, services, information technology, or construction items are procured in time to meet the emergency. Given this constraint, such competition as is practicable shall be obtained.

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F. Written Determination.

The Chief Procurement Officer or the head of the purchasing agency or a designee of either office shall make a written determination stating the basis for an emergency procurement and for the selection of the particular contractor. The determination must contain sufficient factual grounds and reasoning to provide an informed, objective explanation for the decision.

**Replace Item B of Section 2115 with the following text:
Add Item C of Section 2115 as follows:**

B. Organization.

Every governmental body shall develop in coordination with the designated board officer master plan for Information Technology procurements as defined in Section 11-35-310 of the Procurement Code. Subject to the approval of the master plan by the designated board office, acquisition of Information Technology by governmental bodies shall be through the Information Technology Management Office.

C. Software Licensing

Pursuant to Section 11-35-510 and 11-35-1580, the Information Technology Management Officer may execute an agreement with a business on behalf of, and which binds all, governmental bodies in order to establish the terms and conditions upon which computer software may be licensed, directly or indirectly, from that business by a governmental body. Such an agreement may provide for the voluntary participation of any other South Carolina public procurement unit. Such agreements do not excuse any governmental body from complying with any applicable requirements of the Procurement Code and these Regulations, including the requirements of Section 11-35-1510.

Add Section 2120 as follows:

19-445.2120. Cost or Pricing Data.

A. Definitions

(1) Adequate Price Competition. Price competition exists if competitive sealed proposals are solicited, at least two responsive and responsible offerors independently compete for a contract, and price is a substantial factor in the evaluation. If the foregoing conditions are met, price competition shall be presumed to be "adequate" unless the procurement officer determines in writing that such competition is not adequate.

(2) Established catalog price has the meaning stated in Section 11-35-1410.

(3) Established Market Price means a current price, established in the usual and ordinary course of trade between buyers and sellers, which can be substantiated from sources which are independent of the manufacturer or supplier and may be an indication of the reasonableness of price.

(4) Prices Set by Law or Regulation. The price of a supply or service is set by law or regulation if some governmental body establishes the price that the offeror or contractor may charge the State and other customers.

B. Thresholds

(1) Section 11-35-1830(1)(a) applies where the total contract price exceeds five hundred thousand dollars.

(2) Section 11-35-1830(1)(b) applies where the pricing of any change order, contract modification, or termination settlement exceeds five hundred thousand dollars, unless the procurement officer determines in writing that such information is necessary to determine that the pricing is reasonable. Price adjustment amounts shall consider both increases and decreases (e.g., a \$150,000 modification resulting from a reduction of \$350,000 and an increase of \$200,000 is a pricing adjustment exceeding \$500,000.). This requirement does not apply when unrelated and separately priced changes for which cost or pricing data would not otherwise be required are included for administrative convenience in the same modification.

C. Conditions of Waiver

The requirements of Section 11-35-1830 may be waived if the head of the using agency determines in writing that the price can be determined to be fair and reasonable without submission of cost or pricing data.

D. Refusal to Submit Data

A refusal by the offeror to supply the requested information may be grounds to disqualify the offeror or to defer award pending further review and analysis.

**Replace Items B, D, and E of Section 2125 with the following text:
Add Items F and G of Section 2125 as follows:**

B. Obtaining Information; Duty of Contractor to Supply Information.

At any time prior to award, the prospective contractor shall supply information requested by the procurement officer concerning the responsibility of such contractor. If such contractor fails to supply the requested information, the procurement officer shall base the determination of responsibility upon any available information or may find the prospective contractor non responsible if such failure is unreasonable. In determining responsibility, the procurement officer may obtain and rely on any sources of information, including but not limited to the prospective contractor; knowledge of personnel within the using or purchasing agency; commercial sources of supplier information; suppliers, subcontractors, and customers of the prospective contractor; financial institutions; government agencies; and business and trade associations.

D. Duty Concerning Responsibility.

Before awarding a contract or issuing a notification of intent to award, whichever is earlier, the procurement officer must be satisfied that the prospective contractor is responsible. The determination is not limited to circumstances existing at the time of opening.

E. Written Determination of Nonresponsibility.

If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the procurement officer. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the procurement file.

F. Special Standards of Responsibility

When it is necessary for a particular acquisition or class of acquisitions, the procurement officer may develop, with the assistance of appropriate specialists, special standards of responsibility. Special standards may be particularly desirable when experience has demonstrated that unusual expertise or specialized facilities are needed for adequate contract performance. The special standards shall be set forth in the solicitation (and so identified) and shall apply to all offerors. A valid special standard of responsibility must be specific, objective and mandatory.

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G. Subcontractor responsibility.

(1) Generally, prospective prime contractors are responsible for determining the responsibility of their prospective subcontractors. Determinations of prospective subcontractor responsibility may affect the procurement officer's determination of the prospective prime contractor's responsibility. A prospective contractor may be required to provide written evidence of a proposed subcontractor's responsibility.

(2) When it is in the state's interest to do so, the procurement officer may directly determine a prospective subcontractor's responsibility (e.g., when the prospective contract involves medical supplies, urgent requirements, or substantial subcontracting). In this case, the same standards used to determine a prime contractor's responsibility shall be used by the procurement officer to determine subcontractor responsibility.

Add Section 2132 as follows:

19-445.2132. Prequalification for a Single Solicitation.

A. Application.

The pre-qualification process shall not be used to unduly limit competition. Any mandatory minimum requirements shall comply with Section 11-35-2730. In a competitive bid, the pre-qualification process is not intended to eliminate bidders capable of completing the work being procured. Before a request for qualifications may be issued pursuant to Section 11-35-1520(11) or 11-35-1530(4), the chief procurement officer or the head of a purchasing agency or either officer's designee shall prepare a written justification stating the necessity for pre-qualifying offerors. Prior to issuance of the solicitation, each potential offeror seeking qualification must be promptly informed as to whether qualification is attained and, in the event qualification is not attained, is promptly furnished specific information why qualification was not attained.

B. Receipt and Safeguarding of Responses

The provisions of Regulation 19-445.2045 shall apply to the receipt and safeguarding of submittals received in response to a request for qualifications conducted pursuant to Sections 11-35-1520 or 11-35-1530.

Replace Items A, C, D, E of Section 2135 with the following text:

Redesignate former Item G of Section 2135 as new Section 2137 and replace the text as follows. Add new Item G of Section 2135 as follows:

A. General.

A multi-term contract is a contract for the acquisition of supplies, services, or information technology for more than one year. A contract is not a multi-term contract if no single term exceeds one year and each term beyond the first requires the governmental body to exercise an option to extend or renew. A multi-term contract is appropriate when it is in the best interest of the State to obtain uninterrupted services for a period in excess of one year, where the performance of such services involves high start up costs, or when a changeover of service contracts involves high phase in/phase out costs during a transition period. The multi-term method of contracting is also appropriate when special production of definite quantities of supplies for more than one year is necessary to best meet state needs but funds are available only for the initial fiscal period. Special production refers to production for contract performance when it requires alteration in the contractor's facilities or operations involving high start up costs.

C. Exceptions.

This Regulation 19-445.2135 applies only to contracts for supplies, services, or information technology and does not apply to contracts for construction.

D. Conditions for Use.

(1) A multi-term contract may be used if , prior to issuance of the solicitation, the Procurement Officer determines in writing that:

(a) Special production of definite quantities or the furnishing of long term services are required to meet state needs; or

(b) a multi-term contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement.

(2) The following factors are among those relevant to such a determination:

(a) firms which are not willing or able to compete because of high start up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;

(b) lower production cost because of larger quantity or service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;

(c) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality;

(d) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

(3) The determination must contain sufficient factual grounds and reasoning to provide an informed, objective explanation for the decision.

E. Solicitation.

The solicitation shall state:

(1) the estimated amount of supplies or services required for the proposed contract period;

(2) that a unit price shall be given for each supply or service, and that such unit prices shall be the same throughout the contract (except to the extent price adjustments may be provided in the solicitation and resulting contract);

(3) that the multi-term contract will be cancelled only if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal period succeeding the first; however, this does not affect either the state's rights or the contractor's rights under any termination clause in the contract;

(4) that the procurement officer of the governmental body must notify the contractor on a timely basis that the funds are, or are not, available for the continuation of the contract for each succeeding fiscal period;

(5) whether bidders or offerors may submit prices for:

(a) the first fiscal period only;

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(b) the entire time of performance only; or

(c) both the first fiscal period and the entire time of performance;

(6) that a multi-term contract may be awarded and how award will be determined including, if prices for the first fiscal period and entire time of performance are submitted, how such prices will be compared; and,

(7) that, in the event of cancellation as provided in (E) (3) of this subsection, the contractor will be reimbursed the unamortized, reasonably incurred, nonrecurring costs.

G. Maximum Contract Periods

Prior to opening, a contract with a total potential duration in excess of five years must be approved as required by Section 11-35-2030(4).

19-445.2137. Food Service Contracts.

Any food service contracts entered into by any governmental body shall be solicited by the Materials Management Office under Code Section 11-35-1530, Competitive Sealed Proposals, and Regulation 19-445.2095. A review panel composed of one representative each from the governmental body, the Materials Management Office, and the Commission on Higher Education shall review such proposals and approve it prior to the issuance of an award or notification of intent to award, whichever is earlier.

Replace Items A, B, and C of Section 2140 with the following text:

19-445.2140. Specifications.

A. Definitions.

(1) "Brand Name Specification" means a specification limited to one or more items by manufacturers' names or catalogue number.

(2) "Brand Name or Equal Specification" means a specification which uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet state requirements, and which provides for the submission of equivalent products.

(3) "Qualified Products List" means an approved list of supplies, services, information technology, or construction items described by model or catalogue number, which, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

(4) "Specification" means any description of the physical, functional, or performance characteristics, or of the nature of a supply, service, information technology, or construction item. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service or construction item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout the Regulations.

(5) "Specification for a Common or General Use Item" means a specification which has been developed and approved for repeated use in procurements.

B. Issuance of Specifications.

The purpose of a specification is to serve as a basis for obtaining a supply, service, information technology, or construction item adequate and suitable for the State's needs in a cost effective manner, taking into account, to

the extent practicable, the cost of ownership and operation as well as initial acquisition costs. It is the policy of the State that specifications permit maximum practicable competition consistent with this purpose. Specification shall be drafted with the objective of clearly describing the State's requirements. All specifications shall be written in a non restrictive manner as to describe the requirements to be met.

C. Use of Functional or Performance Descriptions.

Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the State. To facilitate the use of such criteria, using agencies shall endeavor to include as a part of their purchase requisitions the principal functional or performance needs to be met. It is recognized, however, that the preference for use of functional or performance specifications is primarily applicable to the procurement of supplies, services, and information technology. Such preference is often not practicable in construction, apart from the procurement of supply type items for a construction project.

Replace Section 2145 with the following text:

19-445.2145. Construction, Architect Engineer, Construction Management, and Land Surveying Services.

A. Method of Construction Contract Administration.

This Subsection contains provisions applicable to the selection of the appropriate method of administration for construction contracts, that is, the contracting method and configuration which is most advantageous to the State and will result in the most timely, economical, and otherwise successful completion of the construction project.

(1) Selecting the Method of Construction Contracting.

In selecting the construction contracting method, the governmental body should consider the results achieved on similar projects in the past and the methods used. Consideration should be given to all appropriate and effective methods and their comparative advantages and disadvantages and how they might be adapted or combined to fulfill state requirements.

(2) Flexibility.

The governmental body, shall have sufficient flexibility in formulating the project delivery approach on a particular project to fulfill the State's needs. In each instance, consideration should be given to all the appropriate and effective means of obtaining both the design and construction of the project.

(3) Criteria for Selection.

(a) Before choosing the construction contracting method, a careful assessment must be made by the purchasing agency of requirements the project must satisfy and those other characteristics that would be in the best interest of the State.

(b) The amount and type of financing available for the project is relevant to the selection of the appropriate construction contracting method including what sources of funding are available.

(c) The governmental body should consider whether a price can be obtained that is fair and reasonable when considered together with the benefit to the State potentially obtainable from such a contract.

(4) Governmental Body Determination.

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The head of the purchasing agency shall make a written determination that must be reviewed by the Chief Procurement Officer. The determination shall describe the construction contracting method chosen and set forth the facts and considerations which led to the selection of that method. This determination shall demonstrate that the requirements and financing of the project were all considered in making the selection. No written determination is required for projects with a total potential value of less than ten million dollars if (i) the project delivery method is design-bid-build, and (ii) the source selection method is competitive sealed bidding, and (iii) the contract amount is a fixed price.

B. Construction Procurement The Invitation for Bids.

The provisions of Regulation 19-445.2040 shall apply to implement the requirements of Section 11-35-3020(2)(a), Invitation for Bids.

C. Bonds and Security.

(1) Bid Security. Bid Security shall be a certified cashier's check or a bond provided by a surety company licensed in South Carolina with an "A" minimum rating of performance as stated in the most current publication of "Best Key Rating Guide, Property Liability", which company shows a financial strength rating of at least five (5) times the contract price. In the case of a construction contract under \$100,000, the agency may, upon written justification and with the approval of the Office of the State Engineer, allow the use of a "B+" rated bond when bid security is required. Each bond shall be accompanied by a "Power of Attorney" authorizing the attorney in fact to bind the surety.

(2) Contract Performance and Payment Bonds. The contractor shall provide a certified cashier's check in the full amount of the Performance and Payment Bonds or may provide, and pay for the cost of, Performance and Payment Bonds in the form of AIA Document A311 "PERFORMANCE BOND AND LABOR AND MATERIAL BOND". Each bond shall be in the full amount of the Contract Sum, issued by a Surety Company licensed in South Carolina with an "A" minimum rating of performance as stated in the most current publication of "Best Key Rating Guide, Property Liability", which company shows a financial strength rating of at least five (5) times the contract price. In the case of construction under \$50,000, the agency may, upon written justification and with the approval of the Office of the State Engineer, allow the use of a "B+" rated bond when bid security is required. Each bond shall be accompanied by a "Power of Attorney" authorizing the attorney in fact to bind the surety.

D. Architect Engineer, Construction Management and Land Surveying Services Procurement.

(1) The Advertisement of Project Description

The provisions of Regulation 19-445.2040 shall apply to implement the requirements of Code Section 11-35-3220(2), Advertisement of Project Description.

(2) State Engineer's Office Review.

The Office of State Engineer will provide forms in the Manual for Planning and Execution of State Permanent Improvements Projects-Part II for use by governmental bodies in submitting a contract for approval pursuant to Section 11-35-3220(8) of the Code.

E. Contract Forms.

Pursuant to Code Section 11-35-2010(2), the following Contract Forms, whose AIA Edition, if any, is designated in the Manual for Planning and Execution of State Permanent Improvement – Part II, shall be used, as applicable.

(1) Contracts for Services may be as follows:

(a) Land surveyor: The agency may use a letter contract written for each individual project. The format and description of services shall be approved by the State Engineer.

(b) Architect Engineer: The agency may use AIA Document B141, with Article 12, Other Conditions or Services as prepared by the State Engineer and Article 13 prepared by the agency or Architect Engineer.

(c) Architect Engineer/Construction Management: For the Architect Engineer, the agency may use B141/CM, with Article 15 prepared by the State Engineer and Article 16 prepared by the agency or Architect Engineer. For the managers, it may use AIA Document B801, with Article 16 prepared by the State Engineer and Article 17 prepared by the agency or construction manager.

(d) Construction: the agency may use AIA Document A101, 1987 Edition or AIA Document A101/CM. Other contract forms may be used as are approved by the State Engineer.

(e) For Contracts under Procurement Code Section 11-35-3230, the agency may use a letter contract written for each individual project. The format and description of services shall be as approved by the State Engineer.

(f) For Construction under Procurement Code Section 11-35-1550, the agency may use a letter contract written for each individual project. The format and description of services shall be as approved by the State Engineer.

(2) Bidding Documents may be as follows:

(a) Instruction to bidders may be AIA Document A701, with Article 9 prepared by the State Engineer and Article 10 prepared by the agency or Architect Engineer.

(b) General Conditions of the Contract for Construction may be AIA Document A201, with Supplementary Conditions Part 2 prepared by the agency or Architect Engineer; or AIA A201/CM, with Supplementary Conditions Part 1 prepared by the state Engineer and Supplementary Conditions Part 2 prepared by the agency or Architect Engineer/Construction Manager.

(c) Bid Form and Change Order prepared by the State Engineer may be used.

(d) [None]

(e) Construction under Procurement Code Section 11-35-1550 and 11-35-1530 may be in a format and description of services approved by the State Engineer.

F. Manual for Planning and Execution of State Permanent Improvements Projects-Part II.

For the purpose of these Regulations and Code Section 11-35-3240, a manual of procedures to be followed by governmental bodies for planning and execution of state permanent improvement projects is prepared and furnished by the designated board office, and included in this regulation. Part II of this manual, covering the procurement of construction for the projects, will be the responsibility of the Office of the State Engineer.

G. Prequalifying Construction Bidders. In accordance with Section 11-35-1825, the State Engineer's Office shall develop a procedure and a list of criteria for prequalifying construction bidders and sub-bidders, and shall include it in the Manual for Planning and Execution of State Permanent Improvements-Part II.

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H. With regard to Section 11-35-3310, the State Engineer's Office will establish working procedures for indefinite delivery construction contracts, and shall include them in the Manual for Planning and Execution of State Permanent Improvements-Part II.

Replace Items D(3) and I(2) of Section 2150 with the following text:

D. Public Sale of Surplus Property.
(3) Other Means of Disposal.

Some types and classes of items can be sold or disposed of more economically by some other means of disposal including barter. In such cases, and also where the nature of the supply or unusual circumstances necessitate its sale to be restricted or controlled, the Materials Management Officer may employ such other means, including but not limited to appraisal, provided the Materials Management Officer or Information Technology Management Officer makes a written determination that such procedure is advantageous to the State.

I. Unauthorized Disposal.
(2) Corrective Action and Liability.

In all cases, the head of the purchasing agency shall prepare a written determination describing the facts and circumstances surrounding the act, corrective action being taken to prevent recurrence, and action taken against the individual committing the act and shall report the matter in writing to the Surplus Property Management within ten (10) days after the determination.

Replace Items B(1) and B(2) of Section 2152 with the following text:

(1) The State of South Carolina Standard Equipment Agreement will be used in all cases unless modifications are approved by the designated board officer or his designee. A purchasing agency may enter into an agreement for the rental of equipment without using the Standard Equipment Agreement when the agreement has a total potential value of fifteen thousand dollars or less or the agreement does not exceed ninety days in duration.

(2) Installment purchases will require the governmental body to submit both a justification and purchase requisition to the appropriate chief procurement officer or his designee for processing.

Replace Section 2155 with the following text:

A. Selective Mandatory Opting.

As provided in the solicitation, local political subdivisions such as counties, municipalities, school districts, public service or special purpose districts and the Federal Government may purchase from or through the State at any time. When the appropriate chief procurement officer determines prior to establishment of a contract that localities must mandatorily opt in or out of the contract, the following procedures shall be followed:

(1) Sixty (60) days prior to establishment of a particular contract, the appropriate chief procurement officer shall publicly notify local political subdivision of the mandatory opting requirement; and

(2) Require local political subdivisions to advise the appropriate chief procurement officer within 30 days of its desire to participate in the contract.

Replace Item A(4)(a), of Section 2160 with the following text:

(a) At a minimum is fifty one (51) percent owned by one or more citizens of the United States who are determined to be socially and economically disadvantaged and who also exercise control over the business per 49 CFR Part 26, Subpart D (2006), as amended.

Replace Item A(5), of Section 2160 with the following text:

(5) "Small Business" means a for-profit concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on government contracts, and qualified as a small business under the criteria and size standards in 13 C.F.R. Section 121 (1996), as amended. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

Replace Item B of Section 2160 with the following text:

B. Certification as a Minority Business Enterprise (MBE)

(1) A South Carolina business seeking certification as a Minority Business Enterprise must submit to OSMBA an application and any supporting documentation as may be required.

(2) Certification Process. The Certification Board within OSMBA will determine if the business is controlled and operated by socially and economically disadvantaged individuals. Upon recommendation of the Certification Board, OSMBA will certify the business as a socially and economically disadvantaged small business and issue a Certification as authorized by Section 11-35-5270 of the Procurement Code. Firms may re-apply to OSMBA one year after denied certification. Certifications are valid for five years. Firms may apply for re-certification by submitting an application and required supporting documents of eligibility.

Replace Item C(2) of Section 2160 with the following text:

C.(2) The certification board shall include three (3) members of the Office in which the OSMBA is located and is chaired by a member selected by the Director. The board will meet at the request of the Director.

Replace the first un-codified paragraph of Item D of Section 2160 with the following text:

In order for a firm to be certified, the business must have an office in South Carolina, duly registered and licensed as a South Carolina business, it must be found to be a small independent business owned and controlled by a person or persons who are socially and economically disadvantaged. The following factors will be considered in determining whether the applicant is eligible for certification:

Add Section 2165 as follows:

19-445.2165. Gifts

A. Policy

It is the policy of the State that a governmental body should not accept or solicit a gift, directly or indirectly, from a donor if the governmental body has reason to believe the donor has or is seeking to obtain contractual or other business or financial relationships with the governmental body.

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B. Future Contracts with Donors

Prior to accepting a gift, care should be taken to determine whether acceptance of the gift will provide the donor, directly or indirectly, an undue competitive advantage in subsequent procurements.

C. Definition

For purposes of this Regulation 19-445.2165, the term "donor" means the business donating the gift and all divisions or other organizational elements of the business and any principals and affiliates of the business. For purposes of this Regulation, business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other, or a third party controls or has the power to control both. Indications of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity organized subsequent to the gift which has the same or similar management, ownership, or principal employees as the business that made the gift. For purposes of this section, the term 'principals' means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity including, but not limited to, a general manager, plant manager, head of a subsidiary, division, or business segment, and similar positions.

Add Section 2180 as follows:

19-445.2180 Assignment, Novation, and Change of Name.

A. No Assignment.

No State contract is transferable, or otherwise assignable, without the written consent of the Chief Procurement Officer, the head of a purchasing agency, or the designee of either; provided, however, that a contractor may assign monies receivable under a contract after due notice from the contractor to the State.

B. Recognition of a Successor in Interest; Novation.

When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee shall agree that:

(1) the transferee assumes all of the transferor's obligations;

(2) the transferor waives all rights under the contract as against the State; and

(3) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required, furnish a satisfactory performance bond.

C. Change of Name.

When a contractor requests to change the name in which it holds a contract with the State, the procurement officer responsible for the contract may, upon receipt of a document indicating such change of name (for example, an amendment to the articles of incorporation of the corporation), enter into an agreement with the requesting contractor to effect such a change of name. The agreement changing the name shall specifically indicate that no other terms and conditions of the contract are thereby changed.

Add Section 2200 as follows:

19-445.2200. Administrative Review Protective Orders.

A. At the request of any party or on its own initiative, the appropriate chief procurement officer or the Procurement Review Panel may issue a protective order controlling the treatment of protected information for purposes of a protest or other proceeding currently pending before it. Such information may include any information exempt from public disclosure by law, such as information exempt from disclosure under Sections 11-35-410 and 30-4-40. The protective order shall establish procedures for application for access to protected information and for identification and safeguarding of that information. Because a protective order serves to facilitate the pursuit of a protest or other administrative proceeding by a protester through counsel, it is the responsibility of protester's counsel to request that a protective order be issued and to submit timely applications for admission under that order. Protected information received by a person pursuant to a protective order issued under this regulation shall be released only pursuant to and in compliance with the protective order.

B. A protective order may not prohibit a public body from releasing information which the public body must release under applicable law. A protective order may not require the release of any public record that a public body is prohibited from releasing by law. Issuance of a protective order does not preclude a party from asserting any legally cognizable privilege to withhold any document or information.

C. Before being permitted to view any protected information, counsel and any consultants retained by counsel who will review or utilize any protected information must file an application for access in accordance with the conditions of the protective order. To be entitled to access, an applicant must establish that the applicant is not involved in competitive decision-making for any firm that could gain a competitive advantage from access to the protected information and that there will be no significant risk of inadvertent disclosure of protected information. A consultant will not be permitted access to protected information if he or she is employed by a party to the action or is working under a contract to a party. Objections to granting an applicant access to protected information must be in writing and filed within two business days after the person receives a copy of the application for access.

D. Any violation of the terms of a protective order may result in the imposition of such sanctions as the CPO or Procurement Review Panel, as applicable, deems appropriate, including referral to appropriate bar associations or other disciplinary bodies and restricting the individual's practice before the CPO or Panel. A business aggrieved by violation of a protective order may seek enforcement of such order in any available judicial or administrative forum.

Add Section 3000 as follows:

19-445.3000 School District Procurement Codes; Model.

A. Application.

Under Section 11-35-70, a school district is exempt from the South Carolina Consolidated Procurement Code (except for a procurement audit) if the district has its own procurement code which is, in the written opinion of the Office of General Services of the State Budget and Control Board, substantially similar to the provisions of the Consolidated Procurement Code and regulations in effect at the time the opinion is issued.

B. Delegation.

The authority and responsibilities under Section 11-35-70 are hereby delegated to the Materials Management Officer.

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C. Substantially Similar.

To qualify for approval, a district code should largely mirror, but need not be identical to, the Consolidated Procurement Code. Because a district code needs only to be substantially similar to the consolidated procurement code and regulations, a district code may accommodate the differing context of school districts (e.g., differences between state government and local school district operations, including size, purchasing staff resources, volume and type of procurements, and structure of its governing body and executive hierarchy) as long as it preserves the sound procurement policies and practices underlying the rules found in the consolidated procurement code and regulations.

D. Definitions.

Covered District means a school district subject to the requirements of Section 11-35-70. Model code means a model school district procurement code and any subsequent modifications to the model code, including instructions regarding how each district may customize the model code to an individual district's organizational structure.

E. Guidelines; Model Code.

By requiring a written opinion, Section 11-35-70 provides for an exercise of judgment. The best interest of the state is served by exercising this judgment in a consistent manner. Accordingly, the Materials Management Office may publish guidance regarding its exercise of this judgment, including publication of a model code. In developing a model code, the Materials Management Officer should consult with all covered districts and the State Department of Education. Any model should be designed to serve and comply with the purposes and policies enumerated in Section 11-35-20 in the specific context of local school district operations, with due regard for minimizing administrative costs of compliance with the model code. Prior to publishing a model code, the Materials Management Officer must determine in writing that the model code is substantially similar to the provisions of the South Carolina Consolidated Procurement Code and these procurement regulations. Any school district may adopt the model code.

F. Duration of Written Opinion.

A written opinion issued pursuant to Section 11-35-70 remains valid for a covered district's procurement code until the covered district seeks and receives a written opinion for modifications to its procurement code.

G. Effect of Adoption.

A procurement code adopted by a school district in accordance with all applicable law shall have the full force and effect of law.

Fiscal Impact Statement:

No additional state funding is requested. There will be no increased cost to the State or its political subdivisions, nor will the proposed amendments result in any increased cost to the business community.

Statement of Rationale:

As originally enacted in 1981, the Consolidated Procurement Code was largely adapted from the American Bar Associations Model Procurement Code for State and Local Governments and the accompanying model regulations. In 2000, the ABA adopted a revised model, the 2000 Model Procurement Code. In 2002, the ABA adopted updates to the accompanying model regulations. In 2006, the General Assembly amended the Consolidated Procurement Code with 2006 Act No. 376. Since the regulations were last amended, the Board has undergone internal organizational changes. Lastly, the Consolidated Procurement Code expressly

contemplates the continued development of explicit and thoroughly considered procurement policies and practices. The proposed changes are needed to accommodate these developments, to address this goal, and to further consolidate, clarify, and modernize the law governing procurement in this State. S.C. Code Section 11-35-20(d).

Document No. 3087
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: S.C. Code Ann. § 59-5-60 (2004), 20 U.S.C. § 6301 *et seq.* (2002) [No Child Left Behind Act of 2001], and S.C. Code Ann. § 59-59-10 *et seq.* (Supp. 2005)

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

Synopsis:

The State Department of Education recommends that the State Board of Education promulgate amendments to Regulation 43-205, Administrative and Professional Personnel Qualifications, Duties, and Workloads. The amendments include provisions of the Education and Economic Development Act of 2005 (EEDA), S.C. Code Ann. § 59-59-10 *et seq.* (Supp. 2005).

The notice of drafting was published in the *State Register* on June 23, 2006.

Section-by-Section Discussion

Section II(A)(3)	Reference to the 2006 deadline for teachers of core academic subjects to <i>become</i> “highly qualified” eliminated (all teachers must now meet the “highly qualified” requirements).
Section II(B)(1)	Nomenclature updated.
Section II(B)(4)	Disability nomenclature updated.
Section II(B)(4)(b)	Section added. Cross-categorical self-contained classes meeting the specified ratios now allowed without special application and approval.
Section II(B)(4)(e)	Reworded for clarification.
Section III(A)(3)	Reference to the 2006 deadline for teachers of core academic subjects to <i>become</i> “highly qualified” eliminated (all teachers must now meet the “highly qualified” requirements).
Section III(A)(5)	Section added. Qualifications for career specialists included for grades six through eight as a result of the EEDA.
Section III(B)(1)(c)	Section added. Services that a career specialist may provide for grades six through eight as a result of the EEDA specified.
Section III(B)(1)(d)	Section added. Impact of EEDA-projected funding for guidance services.
Section III(B)(4)	Disability nomenclature updated.
Section III(B)(4)(b)	Section added. Cross-categorical self-contained classes meeting the specified ratios now allowed without special application and approval.
Section III(B)(4)(e)	Reworded for clarification.
Section IV(A)(3)	Reference to the 2006 deadline for teachers of core academic subjects to <i>become</i> “highly qualified” eliminated (all teachers must now meet the “highly qualified” requirements).

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Section IV(A)(6)	Qualifications for a career specialist updated as specified in the EEDA.
Section IV(B)(1)(c)	Section added. Services that a career specialist may provide for grades nine through twelve as a result of the EEDA specified.
Section IV(B)(1)(d)	Section added. Impact of EEDA-projected funding for guidance services.
Section IV(B)(4)	Disability nomenclature updated.
Section IV(B)(4)(b)	Section added. Cross-categorical self-contained classes meeting the specified ratios now allowed without special application and approval.
Section IV(B)(4)(e)	Reworded for clarification.

Instructions: Amend in its entirety R 43-205, Administrative and Professional Personnel Qualifications, Duties, and Workloads to Chapter 43 regulations.

State Board Regulation: R 43-205

Administrative and Professional Personnel Qualifications, Duties, and Workloads

I. District-Level Administrative Personnel

Personnel employed as administrative assistants, supervisors, and consultants having responsibilities for supervising instructional programs and student services must hold a master's degree and be certified in their area of primary responsibility or must earn a minimum of 6 semester hours annually toward appropriate certification. The district superintendent must request from the Office of Educator Certification an out-of-field permit for members of the central staff who are not properly certified.

II. Prekindergarten through Grade Five

A. Professional Personnel Qualifications and Duties

1. Principals

Each school with an enrollment of more than 375 students must be staffed with a full-time properly certified principal. Each school with an enrollment of fewer than 375 students must be staffed with at least a part-time properly certified principal. A principal's duties and responsibilities are to be prescribed by the district superintendent. The district superintendent must request an out-of-field permit from the Office of Educator Certification for each principal who is not properly certified.

2. Assistant Principals or Curriculum Coordinators

Each school with an enrollment of 600 or more students must be staffed with at least one full-time properly certified assistant principal or curriculum coordinator.

3. Teachers, Guidance Counselors, and Library Media Specialists

Each teacher, guidance counselor, and library media specialist must be properly certified by the State Board of Education. Additionally, teachers of core academic subjects must meet the "highly qualified" teacher requirements specified in the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002). The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. The duties and responsibilities of teachers, guidance counselors, and library media specialists are to be prescribed by the school principal. The

district superintendent must request an out-of-field permit from the Office of Educator Certification for each eligible teacher, guidance counselor, and library media specialist who is not properly certified.

4. School Nurses

Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervision of a professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. If a school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulations governing nursing in South Carolina.

B. Professional Personnel Workload

1. Regular Education Teachers

(a) The average student-teacher ratio in any school must not exceed 28:1 based on the average daily enrollment. The total number of teachers must include all regular, special-area, and resource teachers whose students are counted in the regular enrollment.

(b) Each district must maintain an average student-teacher ratio of 21:1 based on the average daily enrollment in reading and mathematics classes in grades one through three.

(c) Class sizes must not exceed the following student-teacher ratios:

Grade Level	Maximum Student-Teacher Ratio
Prekindergarten	20:1
Grades K–3	30:1
Grades 4–5, English language arts and mathematics	30:1
Grades 4–5, all other subjects	35:1

(d) Paraprofessionals may be counted in computing the student-teacher ratio at the rate of .5 per paraprofessional if they work under the supervision of a teacher and make up no more than 10 percent of the total staff. Excluded from the computation are the following:

(1) teachers of self-contained special education classes, prekindergarten and kindergarten classes, principals, assistant principals, library media specialists, and guidance counselors; and

(2) students in self-contained special education classes, prekindergarten classes, or kindergarten classes.

2. Guidance Counselors and Specialists in Art, Music, and Physical Education

(a) Schools having any combination of grades one through five must employ the full-time equivalent (FTE) of a school guidance counselor and specialists in art, music, and physical education (PE) in the following ratios for each area:

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Average Daily Enrollment	FTE	Minimum Allotted Time Daily
800 or more	1.0	300 minutes
640–799	.8	240 minutes
480–639	.6	180 minutes
320–479	.4	120 minutes
Less than 320	.2	60 minutes

(b) Music teachers may teach a maximum of 40 students per class period. The total teaching load must not exceed 240 students per day. Exceptions: When band, chorus, and orchestra require rehearsals of their entire enrollment, any number is acceptable if adequate space is available.

(c) PE teachers may teach a maximum of 40 students per class period. The total teaching load must not exceed 240 students per day. If PE and health are taught on alternate days by the same teacher to the same class, the 40-student maximum and 240-student total are also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per period and a total of 150 students per day.

3. Library Media Specialists

Schools with fewer than 375 students must provide at least half-time services of a certified library media specialist. Schools with 375 or more students must provide the services of a full-time certified library media specialist.

4. Special Education Teachers

(a) The teaching load for teachers of self-contained special education classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild)	15:1
Emotional Disabilities	12:1
Learning Disabilities	15:1
Mental Disabilities (moderate and severe) and Orthopedically Impaired	12:1
Visually Impaired	10:1
Deaf and Hard of Hearing	10:1

(b) Cross-categorical self-contained classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild) and Learning Disabilities	15:1
Mental Disabilities (mild), Learning Disabilities, and Emotional Disabilities	12:1
Mental Disabilities (mild), Learning Disabilities, Emotional Disabilities, and Orthopedically Impaired	12:1

When four or more students identified as emotionally disabled or orthopedically impaired are enrolled in a cross-categorical class, a full-time teaching assistant must be employed.

(c) The maximum teaching load required for resource teachers and itinerant teachers for students with disabilities based on the average daily enrollment is as follows:

Area	Maximum Teaching Load
Mental Disabilities (mild)	33 students
Emotional Disabilities	33 students
Learning Disabilities	33 students
Mental Disabilities (moderate and severe) and Orthopedically Impaired	20 students
Visually Impaired	15 students
Deaf and Hard of Hearing	15 students

(d) When resource teachers and/or itinerant teachers serve students with differing disabilities, the maximum teaching load must be determined by the majority of the students in enrollment in an area of disability.

(e) The maximum caseload for speech language therapists must not exceed 60 students.

III. Grades Six through Eight

A. Professional Personnel Qualifications and Duties

1. Principals

(a) Each school with an enrollment of 250 students or more must employ a full-time properly certified principal. Schools with fewer than 250 students in enrollment must be staffed with at least a half-time properly certified principal. A principal's duties and responsibilities are to be prescribed by the district superintendent. The district superintendent must request an out-of-field permit from the Office of Educator Certification for each principal who is not properly certified.

(b) Each campus principal of a multicampus school with an enrollment of 250 students or more must comply with certification regulations prescribed for a principal of a single campus school.

2. Assistant Principals/Assistant Directors or Curriculum Coordinators

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In addition to employing a full-time principal, each school with an enrollment of 500 or more students must be staffed with one full-time properly certified assistant principal or curriculum coordinator. An additional properly certified assistant principal or curriculum coordinator must be employed for a school with an enrollment of 1,000 or more.

3. Teachers, Guidance Counselors, and Library Media Specialists

Each teacher, guidance counselor, and library media specialist must be properly certified by the State Board of Education. Additionally, teachers of core academic subjects must meet the “highly qualified” teacher requirements specified in the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002). The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. The duties and responsibilities of teachers, guidance counselors, and library media specialists are to be prescribed by the school principal. The district superintendent must request an out-of-field permit from the Office of Educator Certification for each eligible teacher, guidance counselor, and library media specialist who is not properly certified.

4. School Nurses

Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervision of a professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. If a school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulations governing nursing in South Carolina.

5. Career Specialists

Each career specialist must work under the supervision of a certified guidance counselor. The career specialist must hold a bachelor’s degree and must have earned either Global Career and Development Facilitator (GCDF) certification or Career Development Facilitator (CDF) certification. The guidance counselor may serve as the career specialist if he or she holds the GCDF or the CDF credential.

B. Professional Personnel Workload

1. Guidance Counselors

(a) Schools with fewer than 600 students must provide the services of a guidance counselor in the following ratios:

Minimum Allotted Time Enrollment	Daily
Up to 200	100 minutes
201 to 300	150 minutes
301 to 400	200 minutes
401 to 500	250 minutes
501 to 600	300 minutes

(b) Schools with an enrollment of 501 or more students must employ one full-time certified counselor. Schools with more than 600 students must provide guidance services at the ratio of one 50-minute period for every 100 students or major portion thereof.

(c) A career specialist may be employed to provide career guidance services.

(d) By the 2011–12 school year, the student-to-guidance personnel ratio will be reduced to 300 to 1 as funds become available.

2. Library Media Specialists

(a) Schools with fewer than 400 students must employ a library media specialist who devotes not less than 200 minutes daily to library media services.

(b) Schools with an enrollment of 400 or more students must employ a certified library media specialist devoting full time to library media services.

(c) Schools having an enrollment of 750 or more must employ an additional full-time person (paraprofessional or certified library media specialist) in the library media center.

3. Classroom Teachers

(a) The teaching load must not exceed 150 students daily. No class may exceed 35 students in enrollment.

Grade Level	Maximum Student-Teacher Ratio
Grade 6, English language arts and mathematics	30:1
Grade 6, all other subjects	35:1
Grades 7–8	35:1

(b) A maximum of 40 students per class with a total teaching load of 240 students per day is permitted for music and PE teachers. If PE and health are taught on alternate days by the same teacher to the same class, the 40-student maximum and 240-student total are also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per class and a total of 150 students per day. Exceptions: When band, chorus, and orchestra require rehearsals of the entire enrollment, any number is acceptable if adequate space is available.

(c) When a teacher’s daily schedule includes a combination of academic subjects and nonacademic subjects, the maximum daily teaching load must be calculated on the basis of 30 students per academic class and 40 students for each music or PE class. (Example: 3 classes of math with 30 students each = 90 + 2 classes of PE with 40 students each = 80. The teaching load totals 170 students. The teacher is not overloaded but does teach the maximum allowable.)

(d) Maximum teacher load requirements and individual class size limits are the same for minicourses as any other classes.

4. Special Education Teachers

(a) The teaching load for teachers of self-contained classes must not exceed the following student-teacher ratios:

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Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild)	18:1
Emotional Disabilities	15:1
Learning Disabilities	18:1
Mental Disabilities (moderate and severe) and Orthopedically Impaired	15:1
Visually Impaired	12:1
Deaf and Hard of Hearing	12:1

(b) Cross-categorical self-contained classes must not exceed the following student-teacher ratios:

Areas	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild) and Learning Disabilities	18:1
Mental Disabilities (mild), Learning Disabilities, and Emotional Disabilities	15:1
Mental Disabilities (mild), Learning Disabilities, Emotional Disabilities, and Orthopedically Impaired	15:1

When four or more students identified as emotionally disabled or orthopedically impaired are enrolled in a cross-categorical class, a full-time teaching assistant must be employed.

(c) The maximum teaching load for resource teachers and itinerant teachers for students with disabilities based on the average daily enrollment is as follows:

Area	Maximum Teaching Load
Mental Disabilities (mild)	33 students
Emotional Disabilities	33 students
Learning Disabilities	33 students
Mental Disabilities (moderate and severe) and Orthopedically Impaired	20 students
Visually Impaired	15 students
Deaf and Hard of Hearing	15 students

(d) When resource teachers and/or itinerant teachers serve students with differing disabilities, the maximum caseload must be determined by the majority of the students in enrollment in an area of disability.

(e) The maximum caseload for speech-language therapists must not exceed 60 students.

IV. Grades Nine through Twelve

A. Professional Personnel Qualifications and Duties

1. Principals/Directors

(a) Each school must be staffed with a full-time properly certified principal/director whose duties and responsibilities must be prescribed by the district superintendent. The district superintendent must request an out-of-field permit from the Office of Educator Certification for each principal/director who is not properly certified.

(b) Each campus principal of a multicampus school with an enrollment of 250 students or more must comply with certification regulations prescribed for a principal of a single-campus school.

2. Assistant Principals/Assistant Directors or Curriculum Coordinators

(a) In addition to being staffed with a full-time principal/director, each school with an enrollment of 400 to 499 students must be staffed with at least one half-time properly certified assistant principal or the equivalent.

(b) In addition to being staffed with a full-time principal/director, each school with an enrollment of 500 or more students must be staffed with at least one full-time properly certified assistant principal/assistant director and a properly certified assistant principal or the equivalent for each additional 500 students.

3. Teachers, Guidance Counselors, and Library Media Specialists

Each teacher, guidance counselor, and library media specialist must be properly certified by the State Board of Education. Additionally, teachers of core academic subjects must meet the “highly qualified” teacher requirements specified in the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002). The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. Their duties and responsibilities are to be prescribed by the principal. The district superintendent must request an out-of-field permit from the Office of Educator Certification for each eligible teacher, guidance counselor, and library media specialist who is not properly certified.

4. School Nurses

Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervision of a professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. If a school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulations governing nursing in South Carolina.

5. School Transition Coordinators

When a school-to-work transition coordinator is employed, the coordinator must be certified in one or more occupational subjects, have at least a bachelor’s degree, and have two years’ work experience. In lieu of these requirements, a qualified person with an employment background in business or industry may be employed as a school-to-work transition coordinator if the person possesses at least a bachelor’s degree and five years of business/industry work experience in the fields of personnel or administration.

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6. Career Specialists

Each career specialist must hold a bachelor's degree and must have earned either Global Career and Development Facilitator (GCDF) certification or Career Development Facilitator (CDF) certification. The guidance counselor may serve as the career specialist if he or she holds GCDF or CDF certification. If this person is to provide classroom instruction, he or she must be certified.

B. Professional Personnel Workload

1. Guidance Counselors

(a) Schools with fewer than 600 students must provide the services of a guidance counselor in the following ratios:

Enrollment	Minimum Allotted Time Daily
Up to 200	100 minutes
201 to 300	150 minutes
301 to 400	300 minutes
401 to 500	250 minutes
501 to 600	300 minutes

(b) Schools with enrollments of 501 or more must employ one full-time certified counselor. Schools with more than 600 students must provide guidance services at the ratio of 50 minutes for each additional 51 to 100 students to the extent that the total school enrollment reflects a minimum of 50 minutes of guidance services for every 100 students.

(c) A career specialist may be employed to provide career guidance services.

(d) By the 2011–12 school year, the student-to-guidance personnel ratio will be reduced to 300 to 1 as funds become available.

2. Library Media Specialists

(a) Schools having an enrollment of fewer than 400 students must employ a library media specialist who must devote not less than 200 minutes daily to library media services.

(b) Schools with an enrollment of 400 or more students must employ a certified library media specialist devoting full time to library media services.

(c) Schools having an enrollment of 750 or more students must employ an additional full-time person (paraprofessional or certified library media specialist) in the library media center.

3. Classroom Teachers

(a) The maximum daily teaching load for teachers of academic classes is 150 students. No class may exceed 35 students in enrollment.

(b) A teacher must not be permitted to teach more than 1,500 minutes per week.

(c) A teacher must not be assigned classes requiring more than four preparations per day.

(d) A maximum of 40 students per class with a total teaching load of 240 students per day is permitted for music and PE teachers. If PE and health are taught on alternate days by the same teacher to the same class, the 40-student maximum and 240-student total are also permitted for health. When health is taught as a separate subject, the maximum teaching load is 35 students per class and a total of 150 students per day. Exception: When band, chorus, and orchestra require rehearsals of the entire enrollment, any number is acceptable if adequate space is available.

(e) When a teacher’s daily schedule includes a combination of academic and nonacademic subjects, the maximum daily teaching load must be calculated on the basis of 30 students per academic class and 40 students per music or PE class. (Example: 3 classes of math with 30 students each = 90 + 2 classes of PE with 40 students each = 80. The teaching load totals 170 students. The teacher is not overloaded but does teach the maximum allowable.)

(f) In calculating teaching load, the number of students supervised in study hall by a regular teacher must be divided by 4 (example: 60 divided by 4 = 15). Study hall students must not be placed in an instructional class.

4. Special Education Teachers

(a) The teaching load for teachers of self-contained classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild)	18:1
Emotional Disabilities	15:1
Learning Disabilities	18:1
Mental Disabilities (moderate and severe) and Orthopedically Impaired	15:1
Visually Impaired	12:1
Deaf and Hard of Hearing	12:1

(b) Cross-categorical classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild) and Learning Disabilities	18:1
\Mental Disabilities (mild), Learning Disabilities, and Emotional Disabilities	17:1
Mental Disabilities (mild), Learning Disabilities, Emotional Disabilities, and Orthopedically Impaired	16:1

When four or more students identified as emotionally disabled or orthopedically impaired are enrolled in a cross-categorical class, a full-time teaching assistant must be employed.

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(c) The maximum teaching load for resource teachers and itinerant teachers for students with disabilities based on average daily enrollment is as follows:

Area	Maximum Teaching Load
Mental Disabilities (mild)	33 students
Emotional Disabilities	33 students
Learning Disabilities	33 students
Mental Disabilities (moderate and severe) and Orthopedically Impaired	20 students
Visually Impaired	15 students
Deaf and Hard of Hearing	15 students

(d) When resource room and/or itinerant teachers serve students with differing disabilities, the maximum caseload must be determined by the majority of the students in enrollment in an area of disability.

(e) The maximum caseload for speech-language therapists must not exceed 60 students.

Statement of Rationale:

The amendments to R 43-205 are a result of the Education and Economic Development Act of 2005 (EEDA), S.C. Code Ann. § 59-59-10 *et seq.* (Supp. 2005) and a professional review of the provision of services for students with disabilities.

Fiscal Impact Statement: There will be no cost to the state or its political subdivisions.

Document No. 3089
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. §§ 59-5-60 (2004), 59-5-65 (2004 and Supp. 2005), and 59-59-10, *et seq.* (Supp. 2005)

43-274.1. At-Risk Students

Synopsis: This regulation addresses the requirement of the Education and Economic Development Act of 2005 that a separate regulation be written for at-risk students. The regulation defines at-risk students and outlines specific objective criteria for districts to use in the identification of students at-risk for being poorly prepared for the next level of study or for dropping out of school. The criterion includes diagnostic assessments to identify strengths and weaknesses in the core academic areas. The State Department of Education in collaboration with school districts will ensure that students are being properly identified and provided timely, appropriate guidance and assistance and to ensure that no group is disproportionately represented. The regulation includes evidence-based model programs for at-risk students designed to ensure that students have an opportunity to graduate with a state high school diploma. It will include an evaluation of model programs in place in each high school to ensure the programs are providing students an opportunity to graduate with a state high school diploma.

The Notice of Drafting was printed in the *State Register* on August 25, 2006.

Section-by-Section Discussion

- I. This section provides a definition of at-risk students.
- II. This section provides districts examples of at-risk student indicators, predictors, and barriers.
- III. Section III gives districts information about selecting evidence-based models, initiatives, and programs that address at-risk students.
- IV. This section provides parameters for identifying appropriate evidence-based models, initiatives, and programs that address at-risk students.
- V. The EEDA requires that each school district evaluate its selection of at-risk models, initiatives, and programs. This section provides evaluation criteria to aid the district in developing its evaluation process.
- VI. This section provides school districts with information regarding the annual reporting of the effectiveness of models, initiatives, and programs addressing the needs of at-risk students.

Instructions: Add new R 43-274.1, At-Risk Students, to Chapter 43 regulations.

Text:

I. At-Risk Student Definition

A. A student at risk of dropping out of school is any student who, because of his or her individual needs, requires temporary or ongoing intervention in order to achieve in school and to graduate with meaningful options for his or her future.

B. Students—depending on their degree of resiliency and connectedness to caring adults in the home, in the community, and/or at school—may respond differently to those things frequently cited as barriers, predictors, or indicators of being “at risk.” Therefore, educators and other responsible adults working with students should consider the whole child, who might have both short-term and long-term needs requiring intervention.

II. At-Risk Student Indicators, Predictors, and Barriers

The South Carolina Education and Economic Development Act mandates the promulgation of State Board of Education regulations outlining specific objective criteria for districts to use in identifying students who may be poorly prepared for the next level of study or who are at risk of dropping out of school. The Act calls for these criteria to include diagnostic assessments for districts to use in order to identify the strengths and weaknesses of individual students in the core academic areas.

A. Poor academic performance—generally, a grade point average of 2.0 or lower on a 4.0 scale—in the core content areas is a significant predictor that districts must consider in identifying at-risk students. Careful consideration should be given to students demonstrating declining academic performance. School districts are encouraged to carefully review a variety of assessments, including the following, in diagnosing students’ academic difficulties and selecting appropriate short-term and long-term interventions:

1. Palmetto Achievement Challenge Tests (PACT) test results,
2. High School Assessment Program (HSAP) test results,
3. Preliminary Scholastic Assessment Test (PSAT) or PLAN test results,
4. district- or school-adopted CAI (computer-aided instruction) assessments,
5. end-of-course examination results,
6. classroom-level assessments related to the state’s academic standards, and
7. other district-approved diagnostic assessments.

B. The following are among the specific behaviors and characteristics that school districts must consider as indicators, predictors, and barriers in identifying at-risk students:

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1. being overage for their grade level due to retention attributable to risk factors such as a high rate of absences and truancy;
2. showing a lack of effort or interest in their academic work;
3. working an excessive number of hours per day or week;
4. having a history of discipline problems leading to suspension, expulsion, and/or probation;
5. showing or expressing feelings of being disconnected from the school environment;
6. showing evidence of physical and/or emotional abuse;
7. coming from and/or living in a disadvantaged socioeconomic environment;
8. living in a home situation that does not include at least one parent;
9. being a single parent; and
10. having limited proficiency in the English language.

III. At-Risk Student Model, Initiative, and Program Selection

By the 2007–08 school year each high school of the state must implement one or more model programs approved by the State Department of Education (SDE).

Schools must select at-risk student models, initiatives, and programs that meet the needs of the at-risk populations to be served and must ensure that models, initiatives, and programs selected provide students with the opportunity to graduate with a high school diploma. The SDE will provide an implementation document that will include a tiered matrix of approved evidence-based models, initiatives, and programs to facilitate the selection process in accordance with the Education and Economic Development Act requirements for implementing evidence-based models, initiatives, and programs. The document will also contain a more extensive list of indicators, predictors, and barriers as well as one-page descriptions for each evidence-based model, initiative, and program included in the matrix.

IV. Population and Model, Initiative, and Program Identification Parameters

Each high school either must implement a model, initiative, or program that is chosen from a list provided by the SDE or must submit to the SDE for approval a specific dropout prevention model, comprehensive initiative, or multifaceted program that it wants to use. High schools may explore and implement newly developed models with approval from the SDE. One criterion for SDE approval of any newly developed model will be evidence presented by the district and/or school that the model is centered in research-based dropout-prevention strategies.

A. Implementation efforts related to any model, initiative, or program (or combination of models, initiatives, and programs) must ensure that students are properly identified and provided timely, appropriate guidance and assistance and must ensure that no group is disproportionately represented.

B. When subpopulations are identified, high schools must ensure that these groups reflect the demographics of populations identified as at risk of dropping out of school.

C. When no subpopulations are identified, high schools implementing comprehensive initiatives will not have to address the disproportionate representation of any one group of students. In such cases, methods of determining the effectiveness of the at-risk initiative must be given careful consideration with regard to collecting data and preparing necessary reports.

D. Parental involvement must be part of final placement decisions in any model, initiative, or program where small groups of students are identified for services in a particular school or district.

E. The target population must reflect the demographics of the population identified in Section II, above, as being at risk of dropping out of school.

F. High schools must provide relevant data related to identifying the at-risk student population and to addressing the needs of these at-risk students as required for SDE reports.

V. Building-Level Program Evaluation

A. Evaluation Criteria

All high schools must annually evaluate their dropout-prevention models, initiatives, and/or programs using, at a minimum, the following criteria:

1. an identification process, including (where appropriate and based on the particular model, initiative, or program) the number of at-risk students identified and the specific risk factors identified;
2. the extent of parental involvement in the school's dropout-prevention efforts;
3. the number of students served;
4. a formative assessment of strengths and weaknesses of the model, initiative, and/or program; and
5. a qualitative assessment of desired outcomes (see item B, immediately below).

B. Desired Outcomes

Schools should establish desired outcomes or performance criteria based on the specific needs of the at-risk population identified and on the nature and structure of the particular model, initiative, and/or program they are implementing. Examples of desired outcomes among the target population include, but are not limited to, the following:

1. decreased percentages of truancy, absenteeism, discipline problems, and retentions;
2. increases in students' grade point averages; and
3. increased percentages of students who are on grade level and students who graduate on time.

Model-, initiative-, and/or program-specific data and SASI™ data elements should be used to assess desired outcomes on the basis of specific evaluation criteria. The state's SASI data management system can be used to collect, sort, and report data related to each student's attendance record; age and grade level; gender; ethnicity; grade point average; and retention, truancy, and dropout status.

C. Teacher and/or counselor assessments may be used to provide supplemental anecdotal documentation and insights related to the effectiveness of the model, initiative, and/or program implemented. A district or school checklist may be beneficial in the evaluation process.

VI. Model, Initiative, and/or Program Evaluation and Assessment Reporting

All high schools must annually provide reports requested by the SDE that relate to the implementation and effectiveness of models, initiatives, and/or programs addressing the needs of students at risk of dropping out of school. District and school report card contents must contain information on the disciplinary climate, promotion and retention ratios, dropout ratios, dropout reduction data, and attendance data. Districts and schools must be prepared to provide accurate and relevant data to the SDE.

Fiscal Impact Statement: The initial funding request from the Legislature is \$4.5 million. Additional funding requests will follow during the implementation process in order to meet the needs of the South Carolina high schools.

Statement of Rationale:

S.C. Code Ann. § 59-59-150 (Supp. 2005), Regulations for identifying at-risk students; model programs, requires the State Board of Education to promulgate regulations outlining specific objective criteria for

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districts to use in the identification of students at-risk for being poorly prepared for the next level of study or for dropping out of school.

In February 2006 the Education and Economic Development Act Coordinating Council (EEDCC) appointed the At-Risk Student Committee to define at-risk students and develop parameters for determining the at-risk student population in local districts. Between February and March 2006 the committee researched and developed a definition for at-risk students and the barriers, predictors, and indicators for at-risk students. From March through June 2006 the committee heard reports on evidenced-based models and initiated collaboration with the National Dropout Prevention Center to help create a two-tiered matrix of models. In August 2006, the EEDCC adopted the following deliverables recommended by the committee: definition of at-risk students; at-risk student indicators; population identification parameters; at-risk models, initiatives, and programs; and building-level model evaluation criteria. The regulation for at-risk students was developed from the deliverables adopted by the EEDCC. The regulation was sent to committee members and other stakeholders for input.

A complete copy of the Statement of Rationale is available in the Office of Career and Technology, 1429 Senate Street, Rutledge Building, Room 607, Columbia, South Carolina 29201.

Document No. 3090
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. §§ 59-5-60 (2004) and 59-40-10, *et seq.* (2004),
2006 S.C. Acts 274 (to be codified at S.C. Code Ann. § 59-40-10 *et seq.* (Supp. 2006))

43-600. Charter School Appeals

Synopsis:

This regulation needs to be amended to provide a procedure for the State Board of Education to hear appeals from the decisions of the newly created South Carolina Public Charter School District by charter applicants and local school districts. The notice of drafting was published in the *State Register* on June 23, 2006.

Section-by-Section Discussion

Throughout the regulation, the word “local” was removed from the statement “local school board of trustees” so that the statement would include the South Carolina Public Charter School District.

Section I(G) The timeline for hearing appeals by the State Board was changed from “thirty days” to “forty-five” days, in compliance with the changes in the law.

Section IV This section is new. The law provides that a local school district can appeal the decision of the South Carolina Public Charter School District under certain circumstances. The process for that appeal needs to be addressed in this regulation. This section will allow the State Board of Education to hear those cases on a de novo basis.

Instructions: Amend in its entirety R-3-600, Charter School Appeals, to Chapter 43 regulations.

Text:

43-600. Charter School Appeals

I. APPEALS FROM A DECISION OF SCHOOL BOARD OF TRUSTEES.

A. Right to Appeal:

A charter school applicant may appeal an adverse decision of the school board of trustees to the State Board of Education.

B. Notice of Appeal:

The charter school applicant must provide the State Board of Education and the school board of trustees with a written notice of appeal within ten (10) days after receiving the written explanation of the school board of trustees. The notice of appeal is to be filed with the Chair of the State Board of Education at the Office of the State Superintendent of Education and with the Chair of the school board of trustees. The notice of appeal must clearly identify the issue(s) on appeal.

C. Record on Appeal:

The Record on Appeal must include the written explanation of the decision of the school board of trustees and evidence, submitted by either party that was considered by the school board of trustees and that is relevant to the issue(s) on appeal. Matters not relevant or not previously presented to the school board of trustees may not be included in the record and will not be considered by the State Board of Education. A party that submits materials to be included in the record on appeal must file twenty (20) copies of the materials with the Chair of the State Board of Education at the Office of the State Superintendent of Education and one copy with the Chair of the school board of trustees within fifteen (15) days after the notice of appeal is filed.

D. Scope of Review:

The State Board of Education's review will be limited to the record on appeal. The State Board of Education will not consider any fact that does not appear in the Record on Appeal.

E. Standard of Review:

The State Board of Education may affirm or reverse the decision of the school board of trustees if it determines that the school board of trustees' decision

1. violated constitutional or statutory provisions,
2. exceeded the authority of the school board of trustees,
3. was based upon an error of law,
4. is clearly erroneous in view of the substantial evidence on the record, or
5. was arbitrary or capricious.

F. Written Memorandum:

Each party may submit a written memorandum explaining its position with respect to the issue(s) on appeal within fifteen (15) days after the notice of appeal is filed. If a party submits a memorandum, twenty (20) copies must be provided to the Chair of the State Board of Education at the Office of the State Superintendent of Education and one (1) copy to the opposing party.

G. Hearing of Appeals:

The State Board of Education, within forty-five (45) days after receipt of the notice of appeal and after reasonable public notice will conduct a public hearing to consider the appeal.

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Each party will be allowed to make an oral argument addressing the issue(s) on appeal. The length of time allotted for oral argument will be determined by the State Board of Education. The State Board of Education, at its discretion, may allow public comments addressing the issues on appeal at the public hearing. The Chair of the State Board of Education will notify the parties of the time allotted for oral argument.

The State Board of Education will issue a final written order within twenty (20) days of the public hearing.

II. APPEALS FROM THE CHARTER SCHOOL ADVISORY COMMITTEE

A. Right to Appeal:

A charter school applicant may appeal a determination of noncompliance by the Charter School Advisory Committee to the State Board of Education.

B. Notice of Appeal:

The charter school applicant must provide the State Board of Education, the Charter School Advisory Committee, and the school board of trustees with a written notice of appeal within ten (10) days after receiving the determination from the Charter School Advisory Committee. The notice of appeal is to be filed with the Chair of the State Board of Education at the Office of the State Superintendent of Education, the Chair of the Charter School Advisory Committee, and the Chair of the school board of trustees. The notice of appeal must clearly identify the issue(s) on appeal.

C. Record on Appeal:

The Record on Appeal must include the written determination by the Charter School Advisory Committee and the charter school application.

D. Scope of Review:

The State Board of Education's review will be limited to the consideration of the Charter School Advisory Committee's application of the Charter School Standards in making its recommendation.

E. Standard of Review:

The State Board of Education may affirm or reverse the recommendation of the Charter School Advisory Committee if it determines that the Charter School Standards were not applied in the decision making or if the State Board determines that the Charter School Advisory Committee's decision

1. violated constitutional or statutory provisions,
2. exceeded its authority,
3. was based upon an error of law,
4. is clearly erroneous in view of the substantial evidence on the record, or
5. was arbitrary or capricious.

F. Written Memorandum:

The charter school applicant may submit a written memorandum explaining its position with respect to the issue(s) on appeal within ten (10) days after the notice of appeal is filed. If the charter school applicant submits a memorandum, twenty (20) copies must be provided to the Chair of the State Board of Education at the Office of the State Superintendent of Education and one (1) copy to the Advisory Committee and one (1) copy to the Chair of the school board of trustees.

G. Hearing of Appeals:

The State Board of Education will consider the written record and memorandum only. Oral arguments and testimony will not be permitted.

The State Board of Education shall issue a final written order within forty-five (45) days of receiving the notice of appeal.

H. Final Decision:

The decision of the State Board will be final. There is no further appeal of its decision.

III. STATE BOARD OF EDUCATION MOTION TO REVIEW A DECISION OF A SCHOOL BOARD OF TRUSTEES CONCERNING A CHARTER SCHOOL APPLICATION

A. Right to Move:

The State Board of Education may, on its own motion, review a decision of any school board of trustees concerning charter schools.

B. Notice of Motion:

The Chair of the State Board of Education will notify, by certified mail, the Chair of the school board of trustees and the charter school applicant of its motion to review the decision of the school board of trustees and the reasons for the motion.

C. Written Documents and Memorandums:

Each party may submit a written memorandum and supporting documents addressing the reasons of the State Board of Education for the motion to review the decision of the school board of trustees within twenty (20) days after the party receives notice of the motion to review.

D. Hearing:

Within forty-five (45) days of the motion to review by the State Board of Education and after reasonable notice, the State Board of Education will conduct a public hearing to consider its motion to review.

Each party will be allowed to make an oral argument addressing the issue(s) on review. The length of time allotted for oral argument will be determined by the State Board of Education. The State Board of Education, at its discretion, may allow public comment(s) addressing the issue(s) on review at the public hearing. The Chair of the State Board of Education will notify the parties of the time allotted for oral argument.

The school board of trustees and the charter school applicant must provide all information relevant to the motion to review requested by the State Board of Education within five (5) days of the request. If either party refuses to provide the information, the State Board will issue a subpoena on its behalf. The State Board of Education will have the power to administer oaths and to examine witnesses and such documents and records as relate to the issue or issues on review.

The State Board of Education shall issue a final written order within twenty (20) days of the public hearing.

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IV. APPEALS BY A LOCAL SCHOOL BOARD OF TRUSTEES OF A CHARTER ISSUED BY THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT (CHARTER SCHOOL DISTRICT)

A. A local school district board of trustees may file an appeal to the State Board of Education if it has information that an application approved by the Charter School District

1. adversely affects the other students in its school district, as defined in State Board of Education regulation, or

2. fails to meet the spirit and intent of the charter school law.

B. Notice of Appeal:

The local school board of trustees must provide the State Board of Education, Charter School District, and the applicant with a written notice of appeal within ten (10) days after receiving written notice of the approval of the charter by the Charter School District. The notice of appeal is to be filed with the Chair of the State Board of Education at the Office of the State Superintendent of Education, the Chair of the Charter School Board of Trustees, and the charter applicant. The notice of appeal must clearly identify the issue(s) on appeal.

C. Written Memorandum:

Each party may submit a written memorandum explaining its position with respect to the issue(s) on appeal within fifteen (15) days after the notice of appeal is filed. If a party submits a memorandum, twenty (20) copies must be provided to the Chair of the State Board of Education at the Office of the Superintendent of Education and one (1) copy to the opposing party.

D. De Novo Hearing:

Within forty-five (45) days from the date notice is received by the State Board of Education, the State Board of Education will conduct a de novo hearing to consider the issues raised by the local school board of trustees. The local school board of trustees, the Charter School District, and the charter applicant may call witnesses and present evidence at the hearing. The State Board of Education may, at its discretion, appoint a hearing officer to hear the evidence.

The State Board of Education will make a ruling at the time of the hearing and issue a final written order within twenty (20) days of the public hearing.

Preliminary Fiscal Impact Statement: None

Statement of Rationale:

2006 S.C. Acts 274 created the South Carolina Public Charter School District. This regulation addresses the procedures for appeals under the Charter School Act. The amendments are necessary to address the process that one goes through in appealing the decision of the Public Charter School District and also adds a process for a local school district to appeal a decision of the Public Charter School District.

A copy of the statement of rationale may be obtained by contacting Shelly Bezanson Kelly, Esquire, Deputy General Counsel, Office of General Counsel, 1429 Senate Street, Room 1015, Rutledge Building, Columbia, South Carolina 29201 or e-mail skelly@ed.sc.gov.

Document No. 3088
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60 (2004), 59-5-65 (2004), 59-29-10 *et seq.* (2004)(Supp. 2005), 59-39-10 *et seq.* (2004)(Supp. 2005), 59-53-1810 (2004), 59-59-10 *et seq.* (Supp. 2005), and No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002)

43-234. Defined Program, Grades 9–12

Synopsis:

The State Department of Education recommends that the State Board of Education promulgate amendments to Regulation 43-234, Defined Program, Grades 9–12. The amendments include provisions of the Education and Economic Development Act of 2005 (EEDA) and the recommendations of the High School Redesign Commission (HSRC).

The notice of drafting was published in the *State Register* on June 23, 2006.

Section-by-Section Discussion

Title	Defined Program, Grades 9–12. Narrative reworded in alignment with the EEDA.
Section I	Content reorganization moved all of Section III, “Graduation Requirements,” to Section I, “Requirements for Earning a South Carolina High School Diploma.”
Section I(A)	Content reorganization moved Section III(A)(1) to Section I(A). (No changes were made in the 24-unit requirement for a diploma.) Statutory requirement for computer literacy, formerly in Section III(A)(2), was eliminated as a result of the repeal of the School-to-Work Transition Act. Reference to the one-half-unit Keyboarding course, also formerly in Section III(A)(2), was moved to Section II(J). Foreign language requirements for entry into a postsecondary institution, formerly Section III(A)(3), was moved to Section V(C)(7).
Section I(B)	Content reorganization moved Section III(A)(4) to Section I(B). The required examination in American history is clarified as being a classroom test and not the end-of-course exam in social studies.
Section I(C)	Content reorganization moved Section I(A)(5) to Section I(C), with these additions: the date for the phase-in of a science course in which an end-of-course examination is administered is specified; the subject area is specified for the end-of-course examination; an alternative course sequence for accelerated students is specified for an end-of-courses test in physical science; and, the direction for removal of the asterisk for Applied Biology 2 is given.
Section I(D)	Content reorganization moved Section III(A)(5) to Section I(D). Reworded.
Section I(E)	Content reorganization moved Section III(A)(6) to Section I(E). Reworded. Section III(B), “Special Education Minimum Curriculum Requirements,” eliminated in its entirety (those requirements are now antiquated or have been superseded).
Section II	Content reorganization moved Section I(F) to Section II, “Provisions for Schools in the Awarding of High School Credit.”
Section II(A)	Content reorganization moved Section I(F)(1) to Section II(A). Reworded.
Section II(B)	Content reorganization moved Section I(F)(2) to Section II(B). Reworded.

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- Section II(C) Section added to specify that the awarding of credit for courses in a proficiency-based system approved by the SDE is now allowed (a proficiency-based system would not require 120 hours of instruction).
- Section II(D) Section added to specify that the awarding of credit for gateway courses is contingent upon the student's taking the course approved by the school.
- Section II(E) Section added to specify that the districtwide and schoolwide administration of summer programs for credit courses is now allowed.
- Section II(F) Content reorganization combined Section I(F)(3) and Section I(H) as Section II(F). Reworded to specify requirement for prior course approval (new wording eliminates the need to address online courses and correspondence courses separately).
- Section II(G) Content reorganization moved Section I(F)(4) to Section II(G). Reworded.
- Section II(H) Content reorganization moved portions of Section I(E) to Section II(H). (Commingleing students with disabilities is no longer considered an innovative approach.) Language added limiting the units that may be awarded for released-time religious instruction.
- Section II(I) Section added. Course components required for the PE diploma-credit unit are specified.
- Section II(J) Content reorganization moved the Keyboarding reference in Section III(A)(2) to Section II(J). Reworded.
- Section II(K) Section added. (The American Sign Language course is allowed to satisfy the foreign language unit requirement for a diploma, beginning in 2008.)
- Section II(L) Section added to specify that schools may award credit for dual credit courses under the district's dual credit arrangement.
- Section III Content reorganization moved Section I(F)(5) to Section IV, "Transfer Students." Content reorganization moved all of Section I(G) to Section III, "Dual Credit Arrangement," which was edited in its entirety. Section III(B) was changed to allow a three-semester-hour college course to transfer as one unit of credit (rather than one-half unit).
- Section IV Content reorganization moved Section I(F)(5) to Section IV, which defines a transfer student and allows transfer credit to be applied toward a diploma. (SBE Regulation 43-273 addresses the transfer process.)
- Section V Content reorganization moved Section I, "Curriculum, Grades 9–12," to Section V, "Instructional Program." New introduction adds EEDA direction for the instructional program.
- Section V(A) Content reorganization moved Section I(A)(1) to Section V(A), which specifies required and recommended courses under specific subject areas. (The courses Communication for the Workplace 3 and 4 were eliminated from the list. The course Earth Science is no longer required but recommended.)
- Section V(B) New section on career clusters.
- Section V(C) Content reorganization merged Section I(A)(2)–(8) and Section I(B) into Section V(C)(1)–(10). (The subsections were reworded and are alphabetized by subject.)
- Section VI Content reorganization added Section VI, "Other Program Requirements," which now includes three subsections formerly in Section I ("Guidance Program," "Library/Media Program," and "Length of School Day") as well as the entirety of Section II, "Class Size, Grades 9–12."
- Section VI(A) Content reorganization moved Section I(C)(1) to Section VI(A), "Guidance Program." (The comprehensive guidance program remains a requirement. Identifying grade-specific standards and referencing individual graduation plans are necessitated by the EEDA.)
- Section VI(B) Section I(C)(2)–(3), which related to the School-to-Work Act, was deleted. Content reorganization moved Section I(D) to Section VI(B). Reworded.

	Content reorganization moved portions of Section I(E), “Innovative Approaches,” to Section II(H)(1)–(3).
Section VI(C)	Content reorganization moved Section I(I) to Section VI(C). Subsections 2 and 3 in Section I(I) were deleted. Remaining sections were reworded.
Section VI(D)	Reworded.
Section VI(E)	Content reorganization moved Section VI to Section VI(E)(2) and Section VI(E)(1) was added. Section VI(E)(1) specifies the NCLBA end-of-course science requirement for all students. (Students who earn a diploma [in Section I(A)(C)] must also <i>pass</i> that science course.) In Section VI(E)(2) the list of specific regulations was eliminated in favor of identifying the location of all SBE regulations.
Section VII	Section added so that all reporting requirements are stated in a single place.
Section VII(A)	Content reorganization moved Section IV to Section VII(A). Section retitled “High School Completers.” Reworded.
Section VII(B)	Content reorganization moved Section V to Section VII(B). Reworded. Subsection originally titled “Additional State Board of Education Regulations” moved to Section VI(E), “Additional Regulatory Requirements.”
Section VII(C)	Content reorganization moved Section VII to Section VII(C). Reworded. New student demographic categories were added.
Section VII(D)	Section added to enable the SDE to carry out data collection mandates.
Section VIII	Reworded. Statutory requirements for makeup days added.

Instructions: Amend in its entirety R 43-234, Defined Program, Grades 9–12.

Text:

Defined Program, Grades 9–12

Each school district board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students.

Each school district must offer a standards-based academic curriculum organized around a career cluster system that provides students with individualized education choices.

I. Requirements for Earning a South Carolina High School Diploma

A. The student must earn a total of twenty-four units of credit as follows:

Unit Requirements

English language arts	4.0
mathematics	4.0
science	3.0
U.S. History and Constitution	1.0
economics	0.5
U.S. Government	0.5
other social studies	1.0
physical education or Junior ROTC	1.0
computer science (including keyboarding)	1.0
foreign language or career and technology education	1.0
electives	<u>7.0</u>
	24.0 total

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B. The student must pass a classroom examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the Federalist papers, and American institutions and ideals. This instruction must be given for a period of at least one year or its equivalent, either within the required course U.S. History and Constitution or within another course. (For specific regulations regarding the end-of-course test for U.S. History and Constitution, see R 43-262.4, End-of-Course Tests.)

C. The student must pass a high school credit course in science (beginning with the graduating class of 2010) in which an end-of-course examination is administered. The proposed required course will be biology. Physical Science will remain the required and tested course until the biology assessment is approved by the US Department of Education. When the biology assessment is approved, the asterisk will be removed from Applied Biology 2 in Section V, Instructional Program. If that course is physical science, students who are accelerated in science may meet this requirement by taking an alternate course sequence—one unit of high school chemistry and one unit of high school physics—by the end of the tenth grade. Students who opt for the chemistry-physics sequence must pass both courses by the end of the tenth grade.

D. The student must be enrolled for a minimum of one semester immediately preceding his or her graduation, except in case of a bona fide change of residence. Units earned in a summer school program do not satisfy this requirement.

E. The student must pass both parts of the South Carolina high school exit examination in addition to earning the required number of prescribed units. (For specific regulations regarding the exit examination, see R 43-262, Assessment Program.)

II. Provisions for Schools in the Awarding of High School Credit

A. A school may award and accept credit in units of one-fourth, one-half, and a whole.

B. A school may award one unit of credit for an academic standards-based course that requires a minimum of 120 hours of instruction. A school may award one-half unit of credit for an academic standards-based course requiring a minimum of 60 hours of instruction and one-fourth unit of credit for an academic standards-based course requiring a minimum of 30 hours of instruction.

C. A school may award one unit of credit for a course that has been approved by the State Department of Education in a proficiency-based system. A proficiency-based course may also be offered for one-fourth and one-half unit if the system specifies these units.

D. A school may award credit for those gateway courses that are a part of the End-of-Course Examination Program only if a student takes the course approved by the school in which he or she is enrolled and meets all the stipulated requirements of the End-of-Course Examination Program. (For specific regulations regarding end-of-course tests, see R 43-262.4, End-of-Course Tests.)

E. A school may award credit only for courses in summer programs—either districtwide or school-site programs—that meet all the regulatory requirements for courses offered for students in grades nine through twelve. A districtwide summer school program may meet the administrative certification requirement by employing a district supervisor as well as a lead teacher for each school site.

F. A school may award credit for a course that is approved by the district—whether that school offers the particular course or not—if the student receives prior approval.

G. A school may award credit toward the high school diploma for a course that the student takes in an approved adult education program if the course is granted approval by the local superintendent or his or her designee.

H. A school may award credit for locally designed courses under the following conditions:

1. Locally designed subject-area courses must be aligned with the state academic standards for the particular subject area and must be approved by the local board of trustees and the State Superintendent of Education.

2. Locally designed elective courses must be approved by the local board of trustees. No more than two units may be awarded to a student for released-time classes in religious instruction.

3. Locally designed CATE courses funded with state or federal CATE monies must be approved by the State Department of Education's Office of Career and Technology Education.

I. A school may award the PE credit for a diploma if the PE course meets all statutory requirements including the personal fitness and wellness component and the lifetime fitness component.

J. A school may award the one-half unit of credit carried by the course Keyboarding for half of the required computer science unit.

K. A school may award credit (beginning in the 2008–09 school year) for the American Sign Language course as the required unit in a foreign language.

L. A school may award credit for a college course that students in grades nine through twelve take under the district's dual credit arrangement.

III. Dual Credit Arrangement

A. District boards of trustees may establish a policy allowing students to take college courses for units of credit toward the high school diploma. The district policy may allow for courses to be offered by an institution of higher education through a cooperative agreement.

B. A three-semester-hour college course transfers as one unit of credit.

C. Tuition costs and any other fees are the responsibility of the individual student or his or her parent(s) or legal guardian unless otherwise specified in local school district policy.

D. Students enrolled in a South Carolina public school may take only courses that are applicable to baccalaureate degrees or to associate degrees offered by institutions accredited by the New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

IV. Transfer Students

A transfer student is one who enrolls in a South Carolina public school after having been enrolled in another school in this state or in a school in another state. Credits that he or she earned at the former school may be accepted and applied toward the South Carolina high school diploma. (For specific regulations see R 43-273, Transfers and Withdrawals.)

V. Instructional Program

School districts must organize high school curricula around a minimum of three clusters of study and cluster majors. Such curricula must be designed to provide a well-rounded education that fosters artistic creativity,

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critical thinking, and self-discipline through the teaching of academic content and skills that students will use in postsecondary study and in the workplace. Students must declare an area of academic focus, also known as a career major, within a cluster of study before the end of the second semester of their tenth-grade year.

A. Schools must offer specific courses in the subject areas listed below. Courses designated with an asterisk are recommended, not required.

English language arts:

English 1, 2, 3, 4

Mathematics:

Algebra 1, Mathematics for the Technologies 1, 2, 3, 4*

Algebra 2, Geometry

Precalculus, Calculus

Discrete Mathematics*, Probability and Statistics

Science:

Physical Science

Earth Science*

Biology 1, Biology 2*, Applied Biology 1, 2*

Chemistry 1, Chemistry 2*, Chemistry for the Technologies

Physics, Physics for the Technologies 1, 2*

Social Studies:

U.S. History and Constitution

U.S. Government

Economics

Global Studies—World History, Global Studies—World Geography

B. Career Clusters

School districts must use the sixteen clusters for reporting purposes but may modify these clusters (for example, Arts and Humanities in place of Arts, Audio-Video Technology, and Communications). The sixteen state clusters are the same as the sixteen federal clusters:

Agriculture, Food, and Natural Resources

Architecture and Construction

Arts, Audio-Video Technology, and Communications

Business, Management, and Administration

Education and Training

Finance

Government and Public Administration

Health Science

Hospitality and Tourism

Human Services/Family and Consumer Sciences

Information Technology

Law, Public Safety, and Security

Manufacturing

Marketing, Sales, and Service

Science, Technology, Engineering, and Mathematics

Transportation, Distribution, and Logistics

C. Schools must also offer instruction in each of the following areas:

1. Advanced Placement: Schools whose organizational structure includes grades eleven and twelve must offer Advanced Placement courses. (For specific regulations regarding the Advanced Placement program, see R 43-258.1, Advanced Placement.)
2. Alcohol, tobacco, and other drugs: Schools must provide age-appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction must emphasize the negative effects that the use of such substances can have on the total community.
3. Career and technology education: Schools must offer CATE courses. Students who plan to complete a CATE program must earn at least four units in an approved sequence of CATE courses leading to a career goal.
4. Driver education: Schools must provide a complete program of driver education, including classroom and behind-the-wheel phases, each semester on an elective basis for eligible students. (For specific regulations regarding driver education, see R 43-242, Driver Training.)
5. Environmental studies: Schools must include environmental studies as a part of their instructional program.
6. Financial literacy: Schools must include financial literacy as a part of the instructional program.
7. Foreign language (modern and classical languages): Schools must offer levels 1 and 2 of at least one modern or classical language. Most state four-year colleges/universities require at least two units of the same modern or classical language for admission.
8. Health education: Schools must have a program of instruction in comprehensive health education. (For specific requirements regarding health education, see R 43-238, Health Education Requirement.)
9. Physical education: Schools must offer a physical education course that meets statutory requirements.
10. Visual and performing arts: Schools must offer courses in the visual and performing arts.

VI. Other Program Requirements

A. Guidance Program

All schools encompassing any combination of grades nine through twelve are required to provide a comprehensive guidance program that is based on grade-specific standards. The standards must address the academic, personal and social, and the career domains. Specifically, students must be provided guidance and career awareness programs and activities that assist them in developing and fulfilling their individual graduation plans and prepare them for a seamless transition to relevant employment, further training, or postsecondary study.

B. Library Media Program

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Library media programs and technology resources must be available and accessible to all students and staff and must be appropriate for the accomplishment of the strategies and goals in each school renewal or district strategic plan.

C. Length of School Day

1. The instructional day for secondary students must be at least 6 hours, excluding lunch, or the equivalent weekly.

2. Homeroom will not count as part of the instructional day. When no homeroom period is utilized, the administrative time that is used to determine attendance, make announcements, or complete other tasks normally accomplished during homeroom period will not be considered as part of the instructional day.

3. Schools may exercise options and vary the number of minutes in the instructional week, provided that such variation meets statutory requirements and is approved by the local board of trustees.

D. Class Size

1. The teacher load must not exceed the maximum of 150 students daily. Class size must not exceed the maximum of 35 students.

2. The above-stated maximums do not apply in the following circumstances:

a. A maximum of 40 students per period with a total teaching load of 240 students daily is permitted for physical education teachers. If physical education and health are taught on alternate days to the same class, the 40-student maximum and 240-student totals are also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per period and a total of 150 students per day.

b. Music teachers may teach a maximum of 240 pupils daily. No class may exceed 40 students in membership. However, when band, chorus, or orchestra require rehearsals of the entire membership, any number of students is acceptable if adequate space is available.

c. When a teacher's daily schedule includes a combination of subjects, the maximum daily teaching load will be calculated on the basis of 30 students per academic class and 40 students for each music or physical education class. (Example, 3 classes of math of 30 each = 90 + 2 classes of physical education of 40 each = 80. In this example, the teacher is not overloaded but teaches maximum allowable.)

d. Maximum teacher load requirements and individual class size limits are the same for mini-courses as for any other classes.

E. Additional Regulatory Requirements

1. Under the requirements specified in the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq. (2002), all students must take a science course for which there is an end-of-course assessment.

2. State Board regulations that contain instructional program requirements are accessible on the State Department of Education Web site on the "State Board of Education Regulations Table of Contents" page.

VII. Reporting Requirements

A. High School Completers

1. Each school issuing the state high school diploma must submit to the State Superintendent of Education on or before May 1 the following data on its previous year's completers:

(a) the number of the school's completers who entered the freshman class of a postsecondary institution—either in South Carolina or out of state—and on whom such an institution has sent the school a first-term transcript or summary grade report,

(b) a breakdown of all postsecondary courses that this group of completers passed during their term,

(c) a breakdown of all postsecondary courses that this group failed during their first term,

(d) a breakdown of all postsecondary courses for which this group received a grade of “no credit” during their first term, and

(e) the number of the school's completers who did not enter a postsecondary institution but who instead chose a postsecondary alternative such as employment or military service or for whom no information is available.

2. Each school must use the official form to submit the required data on its previous year's completers.

B. Career and Technology Education Completers

Each district must survey all its high school graduates who are identified as career and technology education completers to determine their placement status with regard to employment, postsecondary education, and military service. A career and technology education completer is a student with an assigned Classification of Instructional Programs (CIP) code who has earned at least four units of credit in CATE courses leading to a career goal.

The district must conduct the survey ten months after graduation each year and must submit the results annually to the State Department of Education for the purpose of federal and state accountability requirements.

C. Student Records

1. Each school must have an appropriate means of reporting academic achievement to parents.

2. Each school district must maintain accurate student data according to the pupil accounting system prescribed by the State Department of Education.

3. Each school district must file a record of all dropouts that specifies for every student the name of the school in which he or she was enrolled and gives the following information on the student: his or her name, grade, race, sex, date of birth, free/reduced meals status, English proficiency status, and migrant status.

4. Each district superintendent must verify the accuracy of the student enrollment, attendance, membership by category, and dropout reports submitted to the State Department of Education's Office of Finance.

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5. Each school must comply with the Family Educational Rights and Privacy Act regarding student records (20 U.S.C. § 1232(g)).

D. Course Records for Students

1. Each district superintendent must verify the accuracy of course records for students.
2. The name and code number of every course that each student takes must be entered into the student data collection system (SASI™) active master scheduler at the time the student takes the course. Courses may not be added to the student's course history (transcript) without first being entered into the scheduler.
3. Courses offered in nontraditional settings such as online courses, courses offered in conjunction with a college or technical college (i.e., dual credit), and courses offered by the school through the district, state, or another type of provider must be included in the active master scheduler.

VIII. Emergency Closings

Full school days missed because of weather or other unforeseen circumstances must be made up. Three days within a school calendar must be designated as makeup days. A plan to make up days by lengthening the school day by more than one hour must be approved by the State Department of Education. Early dismissal days must be reported to and approved by the director of the Office of School Quality.

Fiscal Impact Statement: There will be no cost to the state or its political subdivisions.

Statement of Rationale:

The amendments to R 43-234 are being promulgated as a result of the provisions of the Education and Economic Development Act of 2005, the recommendations of the High School Redesign Commission, and the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002). The reorganization of the regulation and the inclusion of other statutory requirements were the result of professional staff reviews and recommendations from field reviews.

Document No. 3072

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. Section 59-30-10, *et seq.* (2004)

43-262.3 Reading, Writing and Mathematics Objectives for Grades 9–12

Synopsis:

This regulation is no longer needed because the High School Assessment Program (HSAP) has replaced the Basic Skills Assessment Program (BSAP) exit examination. The HSAP assesses the current content standards that students in South Carolina are expected to know and be able to do. All other regulations relating to the BSAP have been repealed previously. The notice of drafting was published in the *State Register* on June 23, 2006.

Section-by-Section Discussion

This regulation is being repealed because the Basic Skills Assessment Program (BSAP) exit examination has been replaced by the High School Assessment Program (HSAP).

Instructions: Repeal in its entirety R 43-262.3, Reading, Writing and Mathematics Objectives for Grades 9-12, to Chapter 43 regulations.

Text:

43-262.3 Reading, Writing and Mathematics Objectives for Grades 9–12.

Pursuant to legislative requirements, it is the expressed policy of the Board that the BSAP Exit Examination shall be based on the objectives for grades 9–12.

The expressed policy of the State Board of Education is that the grade 9-12 objectives should be considered in providing instruction in the basic skill areas of reading, writing and mathematics. Additionally, pursuant to Sections 1(d)(2) and 2(e) of Act 631 of 1978, it is the expressed policy of the Board that the objectives, in conjunction with the information derived from criterion-referenced tests or other assessment procedures, be used in providing basic instruction to aid students who exhibit deficiencies in bringing their performance up to such statewide minimum standards as may be set for the BSAP Exit Examination.

These objectives should also be considered in the development of educational programs for disabled students. However, the appropriateness of measurement strategies and instructional activities must be determined by each child's Individualized Education Program as set forth by the Individuals and Disabilities Education Act.

The State Superintendent of Education is authorized to take such administrative action as he/she may deem necessary and appropriate for the purposes of fulfilling the intent of these policies.

READING: GRADES NINE-TWELVE

DECODING AND WORD MEANING

Objective: The student can use word recognition skills and can determine the meanings of words.

Suggested Measurement Strategy: Identifying the meaning of given words or terms. These may be words selected from a content field such as social studies or the sciences; terminology associated with product labels, application forms, consumer and governmental publications, and legal documents; words with one or more affixes; compound words; words with a synonym, antonym, homonym, or multiple meaning; words used connotatively; words used figuratively; or words defined by their context or origin.

DETAILS

Objective: The student can accurately comprehend the details in a reading selection.

Suggested Measurement Strategy: Answering questions that ask "who," "what," "where," "when," "why," "how," "how many," or "in what sequence" about information that has been directly stated in reading selections. These selections may be sets of directions; product labels; consumer, governmental, or legal documents; editorials, feature articles, or news stories; business letters; stories; poems; or excerpts from books or plays.

MAIN IDEA

Objective: The student can determine the main idea of a reading selection.

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Suggested Measurement Strategy: Identifying or generating statements that most accurately and comprehensively summarize the contents of reading selections. These selections may be paragraphs; editorials, feature articles, or news stories; business letters; essays; stories; or excerpts from books.

REFERENCE USAGE

Objective: The student can locate and utilize desired information in reference sources.

Suggested Measurement Strategy: Locating and utilizing requested information in reference sources such as books' tables of contents, indexes, glossaries, appendixes, and bibliographies; dictionaries; thesauruses; encyclopedias; the library card catalog; the Reader's Guide; graphs, tables; charts; maps; atlases; telephone directories; and newspapers.

INFERENCE

Objective: The student can make valid inferences about a reading selection.

Suggested Measurement Strategy: Identifying or generating reasonable answers to questions about information not directly stated in reading selections. The questions asked may require determining themes or authors' purposes, making comparisons, deducing causes and effects, drawing conclusions, predicting outcomes, or applying information presented in selections to different situations. The selections may be paragraphs, essays, editorials, feature articles, news stories, letters, stories, poems, or excerpts from books or plays.

ANALYSIS OF LITERATURE

Objective: The student can critically analyze a reading selection.

Suggested Measurement Strategy: Making critical judgments or answering questions that ask for analyses of the structure or content of reading selections. The questions may require identifying a selection's genre (e.g., editorial, essay, etc.); identifying structural elements (e.g., plot, point of view, etc.); identifying rhetorical devices (e.g., poetic language, propaganda techniques, etc.); or identifying the nature of the information presented (e.g., fact, opinion, etc.). The selections to be analyzed may be paragraphs, essays, editorials, feature articles, news stories, letters, advertisements, stories, poems, or excerpts from books or plays.

WRITING: GRADES NINE-TWELVE

HANDWRITING

Objective: The student can write legibly.

Suggested Measurement Strategy: Writing legible routine special assignments.

MECHANICS

Objective: The student can spell, capitalize, and punctuate correctly.

Suggested Measurement Strategy: Correctly spelling, capitalizing, and punctuating written communications. These communications may be sentences, paragraphs, stories, outlines, and letters. The words involved may be words selected from a vocabulary list, words selected to exemplify phonetic or structural rules, words with irregular spellings, and abbreviations. These words may require capital letters, apostrophes, or hyphens. The communications may require the use of periods, commas, quotation marks, colons, semi-colons, dashes, underlining, parentheses, question marks, and exclamation points.

WORD USAGE

Objective: The student can use words appropriately.

Suggested Measurement Strategy: Selecting words which are appropriate in meaning and grammatical form for a given context. These words may include nouns, verbs, pronouns, prepositions, conjunctions, adjectives, adverbs, and interjections.

SENTENCE FORMATION

Objective: The student can compose sentences.

Suggested Measurement Strategy: Composing or selecting correctly coordinated and modified simple, compound, or complex sentences. These sentences may be constructed so that they represent specified sentence patterns.

COMPOSITION

Objective: The student can communicate ideas in writing.

Suggested Measurement Strategy: Writing paragraphs, essays, outlines, reports, sets of directions, or letters, or supplying the information needed on application forms. These communications may be evaluated on their organization, content, and correctness of expression, mechanics, and legibility.

MATHEMATICS: GRADES NINE-TWELVE**CONCEPTS**

Objective: The student can apply numerical concepts.

Suggested Measurement Strategy: Answering questions about numerical quantities and representations. These questions may require comprehending mathematical symbols and terminology, identifying equivalent ways of expressing the same numerical quantity, establishing relationships between numerical quantities, estimating, determining place value, creating or comparing sets, using formulas, developing or interpreting graphs, using tables, or establishing ratios or proportions.

OPERATIONS

Objective: The student can compute accurately.

Suggested Measurement Strategy: Determining the answers to exercises requiring a mathematical operation. The exercises to be solved may require adding, subtracting, multiplying, or dividing whole numbers, signed numbers, fractions, mixed numbers, decimals, or percents, or extracting square roots.

MEASUREMENT

Objective: The student can apply measurement concepts.

Suggested Measurement Strategy: Answering questions about measurement. These questions may require selecting an appropriate measurement unit or measuring device; estimating or measuring length, weight, volume, or temperature in metric or customary units; converting units within a measurement system; performing calculations with measured quantities; or interpreting scale drawings.

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GEOMETRY

Objective: The student can apply geometric concepts.

Suggested Measurement Strategy: Answering questions about geometric representations. These questions may require identifying, comparing, or constructing geometric figures; identifying properties of geometric figures; using the Pythagorean relationship; or determining the perimeters, areas, or volumes of geometric figures.

PROBLEM SOLVING

Objective: The student can solve problems requiring the use of mathematics.

Suggested Measurement Strategy: Determining the solutions to verbal and nonverbal problems. These problems may require performing one or more mathematical operations with whole numbers, fractions, mixed numbers, decimals, percents, or measurement units. The problems may also require applying a formula and/or using information presented graphically. Problems will focus on situations, which may be encountered by students now, or in adult life, including those situations requiring consumer and producer skills.

Preliminary Fiscal Impact Statement: There will be no cost to the state on its political subdivision.

Statement of Rationale:

This regulation is no longer needed because the Basic Skills Assessment Program (BSAP) exit examination has been replaced by the High School Assessment Program (HSAP). A copy of the Statement of Rationale is available in the Office of Assessment, 1429 Senate Street, Rutledge Building, Room 607, Columbia, South Carolina 29201.

Document No. 3069

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

S.C. Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (SIP)

Synopsis:

Pursuant to S.C. Code Section 48-1-10 *et seq.*, the South Carolina Department of Health and Environmental Control (Department) has amended *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the *South Carolina Air Quality Implementation Plan*, also known as the State Implementation Plan, or SIP, to incorporate revisions in the Federally approved State minor source permitting program that would support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner.

Among the revisions being promulgated are amendments to *S.C. Regulation 61-62.1, Definitions and General Requirements*, Section II - Permit Requirements, to clarify and streamline the Federally approved permitting program, which requires stationary sources planning to construct, alter or add to a source of air pollutants to first obtain a construction permit from the Department and to request an operating permit prior to placing the new or altered source into operation. The Department is also amending *S.C. Regulation 61-62.5*,

Standard No. 5.2, Control of Oxides of Nitrogen (NOx), to make corrections and clarifications as needed to ensure consistency with the amendments to Regulation 61-62.1. In addition, the Department is amending *S.C. Regulation 61-62.5, Standard No. 4, Emissions From Process Industries*, to remove the requirements of Section IV - Portland Cement Manufacturing.

Discussion of Revisions

1. Regulation 61-62.1, Definitions and General Requirements

SECTION CITATION:	EXPLANATION OF CHANGE:
R. 61-62.1, Section II - Permit Requirements	Reorganized the entire Section II for clarification and to streamline the processes involved in applying for a construction permit and in requesting an operating permit.
R. 61-62.1, Section II (A)(1)(d)	A list of allowable preconstruction on-site activities that may be undertaken prior to obtaining a construction permit has been incorporated in the regulation.
R. 61-62.1, Section II (A)(3)	The timeframes for submitting written notifications for commencement of construction and for initial start-up of each new or altered source are being incorporated in the regulation to ensure consistency with other applicable requirements.
R. 61-62.1, Section II (A)(5)	Added an 18-month construction permit expiration period in the regulation to be incorporated as a “Standard Permit Condition.”
R. 61-62.1, Section II (B) - Exemptions	Section II (F) redesignated as Section II (B) - Exemptions. Allowances for construction permit exemptions have been expanded by including more small sources and by applying the “less than 1 pound per hour” emission thresholds to other criteria pollutants (i.e., sulfur dioxide, nitrogen oxides, and carbon monoxide).
R. 61-62.1, Section II (B)(3)	Establishes a list of sources that are exempt without further review from the requirement to obtain a construction permit.
R. 61-62.1, Section II (B)(5)	Incorporated procedures for requesting exemptions for new sources similar to sources already on the Department maintained list.
R. 61-62.1, Section II (C)(3)	Clarified the information that needs to be provided in a construction permit application to help ensure submittal of complete applications and to decrease delays in permit activity associated with requests for more information.
R. 61-62.1, Section II (D)	New provisions added for the development of general construction permits which will facilitate the permitting

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process for similar sources certifying qualification for and agreeing to the conditions and terms of the general construction permit.

- R. 61-62.1, Section II (E) Amended the section pertaining to “synthetic minor permits” to clarify that this section addresses only construction permits, and not operating permits, for sources requesting federally enforceable limits for any purpose.
- R. 61-62.1, Section II (E)(3) Synthetic minor construction permit conditions have been added for clarification.
- R. 61-62.1, Section II (E)(5) Synthetic minor construction permit application requirements have been added.
- R. 61-62.1, Section II (F) Reorganized and clarified the sections pertaining to minor source operating permits.
- R. 61-62.1, Section II (F)(2) Added new provisions requiring certification of construction when requesting an operating permit.
- R. 61-62.1, Section II (G) Revised the “conditional major” section to address federally enforceable operating permits. Anyone with federally enforceable construction permits must have a conditional major (or a Title V) operating permit. The Department will issue a conditional major operating permit to those sources that received a synthetic minor construction permit. Existing sources may also apply for a conditional major operating permit to implement federally enforceable limits.
- R. 61-62.1, Section II (H) Added a new Section II (H) for clarification of operating permit renewal request requirements.
- R. 61-62.1, Section II (I) Added new Section II (I) to develop and implement registration permits for various types of true minor sources applicable to the construction or operation of that specific category of stationary sources, thus eliminating the requirement for submittal of typical construction permit applications.
- R. 61-62.1, Section II (J) "Standard Permit Conditions" and "Special Permit Conditions" have been consolidated.
- R. 61-62.1, Section II (K) "Exceptions" have been moved and amended to create a stand alone section applicable to any permit.
- R. 61-62.1, Section II (L) "Emergency Provisions" have been moved and amended to create a stand alone section applicable to any permit.
- R. 61-62.1, Section II (M) Minor changes were made to the "Transfer of Ownership/Operation" language.

R. 61-62.1, Section II (N)

Moved the "Public Participation Procedures" (except "PSD" requirements) to a separate Section II (N) and included Department prerogative to require notice even where not required by regulation and to allow alternative methods or procedures for posting public notices.

2. Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4 - Emissions From Process Industries

SECTION CITATION:

EXPLANATION OF CHANGE:

Standard No. 4, Section IV

Deleted the requirements of and reserved Section IV because all existing Portland Cement Manufacturing sources subject to Section IV are currently subject to, and will continue to be subject to, more stringent Federal rules.

3. Regulation 61-62.5, Air Pollution Control Standards, Standard No. 5.2 - Control of Oxides of Nitrogen (NOx)

SECTION CITATION:

EXPLANATION OF CHANGE:

Standard No. 5.2, Section I (a)(1)

Clarified applicability to sources constructed after June 25, 2004, the date this regulation was published as final in the *South Carolina State Register*.

Standard No. 5.2, Section I (b)(2)

Proposed amendments to ensure that exemptions are consistent with proposed amendments to Regulation 61-62.1, Section II - Permit Requirements.

Standard No. 5.2, Section I (b)(4)

Included exception for waste heat recovery from combustion control devices for exclusion from exemption.

Standard No. 5.2, Section III, Table 1

"Fuel Combustion Sources not Otherwise Specified" - Clarified the example source type concerning process heaters.

Instructions: Amend *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, pursuant to each individual instruction provided with the text below:

1. Amend R. 61-62.1, Definitions and General Requirements, pursuant to each individual instruction provided with the text of each amendment below:

Replace the text of "Section II - Permit Requirements," in its entirety as follows:

SECTION II - PERMIT REQUIREMENTS

A. Construction Permits

1. Applicability

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a. This regulation will not supersede any State or Federal requirements nor special permit conditions, unless this regulation would impose a more restrictive emission limit.

b. Except as allowed under paragraphs (c) and (d) below, any person who plans to construct, alter or add to a source of air contaminants, including installation of any device for the control of air contaminant discharges, shall first obtain a construction permit from the Department prior to commencement of construction.

c. The Department may grant permission to proceed with minor alterations or additions without issuance of a construction permit when the Department determines that the alteration or addition will not increase the quantity and will not alter the character of the source's emissions.

d. The owners or operators of sources not requesting to use Federally enforceable construction permit conditions to limit potential to emit, sources not subject to regulations with more stringent start of construction limitations, or sources not otherwise exempt from permit requirements, may undertake the following on-site activities prior to obtaining a construction permit:

- i. Planning;
- ii. Engineering and design;
- iii. Geotechnical investigation;
- iv. Site land clearing and grading;
- v. Setting up temporary trailers to house construction staff and contractor personnel;
- vi. Ordering of equipment and materials;
- vii. Receipt and storing of equipment;
- viii. Pouring of the foundation up to and including the mounting pads and slab on grade;
- ix. Relocation of utilities; and,
- x. For existing sources, relocation/installation of piping, electrical service, and instrumentation.

In the event that the source does not qualify for issuance of a construction permit, the owners or operators accept the financial risk of commencing these activities.

2. No permit to construct or modify a source will be issued if emissions interfere with attainment or maintenance of any State or Federal standard.

3. The owner or operator shall submit written notification to the Department of the date construction is commenced, postmarked no later than 30 days after such date, and written notification of the actual date of initial startup of each new or altered source, postmarked within 15 days after such date.

4. The owner or operator shall comply with all terms, conditions, and limitations of any Department-issued construction permit for sources or activities at its facility.

5. Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

B. Exemptions From the Requirement to Obtain a Construction Permit

1. No construction permits shall be required for the sources listed in Section II (B)(1)(a) through (c) which burn virgin fuel and which were constructed prior to February 11, 1971 and which are not located at a facility that meets the definition of a major source as defined in S.C. Regulation 61-62.70.2(r); however, modifications at these facilities may trigger the requirement to obtain a construction permit.

- a. Natural gas boilers.
- b. Oil-fired boilers of 50×10^6 BTU/HR rated input capacity or smaller.
- c. Coal-fired boilers of 20×10^6 BTU/HR rated input capacity or smaller.

2. No construction permits shall be required for the sources listed in Section II (B)(2)(a) through (h), unless otherwise specified by S.C. Regulation 61-62.70 or any other State or Federal requirement. A source's exemption status may change upon the promulgation of new regulatory requirements applicable to any of the sources listed in Section II (B)(2)(a) through (g), or to any other sources that have been determined to have total uncontrolled emissions less than the thresholds in Section II (B)(2)(h), or to any similar sources that have been granted an exemption by the Department.

a. Boilers and space heaters of less than 1.5×10^6 BTU/HR rated input capacity which burn only virgin liquid fuels or virgin solid fuels.

b. Boilers and space heaters of less than 10×10^6 BTU/HR rated input capacity which burn only virgin gas fuels.

c. Comfort air-conditioning or ventilation systems.

d. Motor vehicles.

e. Laboratory hoods.

f. Emergency power generators as described below:

i. Generators of less than or equal to 150 KW rated capacity.

ii. Generators of greater than 150 KW rated capacity designated for emergency use only and are operated a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of use such as an hour meter.

g. Sources emitting only steam, air, nitrogen, oxygen, carbon dioxide, or any physical combination of these.

h. Sources with a total uncontrolled emission rate of less than 1 lb/hr each of particulates, sulfur dioxide, nitrogen oxides, and carbon monoxide; and a total uncontrolled emission rate of less than 1000 lbs/month of VOC will not require construction permits. However, these sources may be required to be included in any subsequent construction or operating permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit. For toxic air pollutant exemptions, refer to S.C. Regulation 61-62.5, Standard No. 8.

3. The Department will place the exempt sources listed in Section II (B)(2)(a) through (g), and other sources that have been determined to have total uncontrolled emissions less than the thresholds in Section II (B)(2)(h), on a list of sources to be exempted without further review. The list of sources that are

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exempt without further review from the requirement to obtain a construction permit will be maintained by the Department and periodically published in the *South Carolina State Register* for use by the public and the regulated community.

4. Sources whose only emissions are fugitive must submit source information, and the need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not be limited to the nature and amount of the pollutants, location, proximity to residences and commercial establishments, etc.

5. Requests for exemption from the requirement to obtain a construction permit, for new sources similar to sources already on the Department maintained list established in Section II (B)(3), or for modifications to existing equipment, including the reconstruction, relocation, and replacement of existing equipment, which may qualify for exemption as per Section II (B)(2)(h) and Section II (B)(4), shall include the following information:

- a. A complete description of the existing equipment and proposed modification;
- b. The pollutant(s) being emitted and any deviation from the parameters provided in earlier permit applications, permit exemptions, and issued permits;
- c. Any ambient air quality demonstrations needed for S.C. Regulation 61-62.5, Standards No. 2, No. 7, and No. 8; and,
- d. A regulatory review to demonstrate the project is not a CAA Title I modification, nor subject to S.C. Regulation 61-62.5, Standards No. 7 and 7.1.

6. The construction permitting exemptions in Section II (B) do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements.

C. Construction Permit Applications

1. Construction permit applications shall be reviewed and signed by a professional engineer registered to practice in the State of South Carolina (except professional engineers employed by the Federal government preparing applications for the Federal government or other professional engineers exempted from the State registration requirements.)

2. The following are exempt from the requirement that the construction permit applications be reviewed and signed by a registered professional engineer provided the proposed unit is identical to a prototype model which has been previously designed or otherwise certified by a professional engineer:

- a. Package-type incinerators of 750 pounds/hr rated capacity or smaller which burn types 0 and 1 wastes as defined by the Incinerator Institute of America;
- b. Package-type incinerators of 500 pounds/hr rated capacity or smaller which burn animal remains excluding those remains that are considered infectious waste; and,
- c. Package-type boilers of 100×10^6 BTU/hr input capacity or smaller which burn natural gas or virgin oil as fuel.

3. Construction permit applications shall provide the information described in Section II (C)(3)(a) through (p). This information should be submitted on Department forms, but project specific information may need to be provided in addition to that requested in applicable forms.

- a. The company name and mailing address; the facility name and mailing address (if different from that of the company); and the name, mailing address, and telephone number of the owner or agent for the company;
- b. The location of the facility including its street address and the name, mailing address, and telephone number of the facility's contact person;
- c. The facility's Federal Identification Number;
- d. A description and the U. S. Standard Industrial Classification (SIC) Code or North American Industry Classification System (NAICS) Code of the products or product lines to be produced by the proposed sources covered by this application;
- e. The facility's planned operating schedules;
- f. A description of the facility's proposed new or altered processes, including the physical and chemical properties and feed rate of the materials used and produced (in pounds per hour), from which the facility determined potential emissions;
- g. A process flow diagram/production process layout of all new or altered sources showing the flow of materials and intermediate and final products. The process flow diagram/production process layout must identify all equipment, machines, and process steps or product lines within the production process, all product streams, all exhaust streams (emission points) including fugitive within the production process, all waste streams, and all control devices including inherent process control devices used within the production process;
- h. A detailed description of each proposed or existing source that is being altered, including the size and type along with the make and model of the source and any associated air pollution control equipment;
- i. A description, including physical and chemical properties and the Chemical Abstract Service (CAS) number (if applicable), of all emissions from each proposed source or existing source that is being altered. Mass emission data and emission calculations, including the potential uncontrolled and controlled mass emission rate of each criteria pollutant and other air contaminants such as volatile organic compounds (VOC), toxic air pollutants (TAP), and hazardous air pollutants (HAP), that will be emitted from each source covered by the application. Emission calculations must be based on proper documentation that supports the basis of the emission rates such as stack test data, AP-42 emission factors, material balance, and/or engineering estimates. All assumptions used in the emission calculations must be provided. Fugitive emissions (i.e. emissions from filling operations, pumps, valves, flanges, etc.) must be included in the emission calculations;
- j. A description of all air pollution control devices or systems on the new or altered sources, whether inherent or add-on. The description shall include, but not be limited to, the manufacturer specifications and ratings, the engineering design and operating characteristics, the projected capture, and destruction, control, or removal efficiencies at expected contaminant loading levels, and the monitoring data collection and recordkeeping necessary to ensure proper operation of the air pollution control devices;
- k. Source information and calculations to demonstrate compliance with "Good Engineering Practice Stack Height" rules.
- l. A description of each stack or vent related to the proposed and/or existing source(s), including the minimum anticipated height above ground, maximum anticipated internal dimensions, discharge orientation, exhaust volume flow rate, exhaust gas temperature, and rain protection device, if any;

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m. Scale drawings showing a plan view of the property lines, the location of the source, all stacks and other emission points related to the source;

n. An air dispersion modeling analysis or other information demonstrating that emissions from the facility, including those in the application, will not interfere with the attainment or maintenance of any ambient air quality standard;

o. A summary of facility-wide potential uncontrolled and controlled emissions with a regulatory applicability determination; and,

p. Other information as may be necessary for proper evaluation of the source as determined by the Department.

D. General Construction Permits

1. The Department may develop and issue general construction permits applicable to similar sources for new construction projects or minor modifications to existing sources. General construction permits developed shall incorporate all requirements applicable to the construction of similar sources and shall identify criteria by which sources may qualify for coverage under the general construction permit.

2. Sources may submit a construction permit application to the Department with a request for coverage under the conditions and terms of a general construction permit for similar sources. The Department shall grant the general construction permit to sources certifying qualification for and agreeing to the conditions and terms of the general construction permit for similar sources. The source shall be subject to enforcement action for operation without a valid permit if the source is later determined not to qualify for coverage under the general construction permit.

3. The Department may grant a source's request for authorization to operate under a general construction permit, but such a grant shall be a final permit action for purposes of judicial review.

4. The permit application for general construction permits may deviate from the requirements of Section II (C) provided that such application includes all information necessary to determine qualification for, and to assure compliance with, the general permit.

5. A source that qualifies for coverage under a Department issued general construction permit may submit a construction permit application to the Department and request an individual construction permit in lieu of coverage under a general construction permit.

E. Synthetic Minor Construction Permits

1. General Provisions

a. Any stationary source may request to use Federally enforceable permit conditions to limit the source's potential to emit and become a synthetic minor source.

b. Stationary sources requesting a synthetic minor construction permit shall submit a complete permit application package to the Department as prescribed by S.C. Regulation 61-62.1, Section II (E)(5).

c. Stationary sources requesting a synthetic minor construction permit shall undergo the public participation procedures of S.C. Regulation 61-62.1, Section II (N).

d. The Department shall act, within a reasonable time, on an application for a synthetic minor construction permit and shall notify the applicant in writing of its approval, conditional approval, or denial.

e. In the event of a denial of a synthetic minor construction permit application, the Department shall notify the applicant in writing of the reasons for the denial. The Department shall not accept a subsequent synthetic minor construction permit application until the applicant has addressed the concerns specified by the Department which caused the denial. The source shall correct all deficiencies noted by the Department within 60 calendar days of receiving notice of the denial, or submit a complete major source construction permit application as prescribed by S.C. Regulation 61-62.1, Section II (C) if the source desires to proceed with the project.

2. New Sources and Modifications

a. Stationary sources desiring to restrict its potential to emit shall submit a written request to the Department for a Federally enforceable construction permit conditioned to constrain the operation of the source, along with a completed construction permit application package as prescribed by S.C. Regulation 61-62.1, Section II (E)(5). The construction of the new or modified source shall not commence until the source has received an effective permit to construct.

b. The owner or operator shall submit written notification to the Department of the date construction is commenced, postmarked no later than 30 days after such date, and written notification of the actual date of initial startup of each new or altered source, postmarked within 15 days after such date. A written request to obtain an operating permit shall be submitted to the Department no later than fifteen (15) days after the actual date of initial startup of each new or altered source in accordance with S.C. Regulation 61-62.1, Section II (F). A satisfactory compliance inspection by a Department representative may precede the issuance of an operating permit for any newly constructed or modified source.

3. Synthetic Minor Construction Permit Conditions

a. Synthetic minor construction permits shall contain the standard permit conditions listed in Section II (J)(1) and any special permit conditions required to verify a source's compliance with the emissions limitations and operational requirements.

b. The limitations and requirements listed as permit conditions shall be permanent, quantifiable, or otherwise enforceable as a practical matter.

c. All synthetic minor construction permit conditions that constrain the operation of a source in an effort to limit potential to emit below major source threshold levels shall be Federally enforceable. Unless otherwise agreed by the Department and EPA, the Department shall provide to EPA on a timely basis a copy of each proposed (or draft) and final permit intended to be Federally enforceable.

4. General Synthetic Minor Construction Permits

a. The Department may, after notice and opportunity for public participation provided under S.C. Regulation 61-62.1, Section II (N), issue a general synthetic minor construction permit applicable to similar sources. Any general synthetic minor construction permit shall incorporate all requirements applicable to the construction of similar synthetic minor sources and shall identify criteria by which sources may qualify for the general permit. Sources may submit a permit application to the Department with a request for coverage under the conditions and terms of a general synthetic minor construction permit for similar sources. The Department shall grant the general synthetic minor construction permit to sources certifying qualification for and agreeing to the conditions and terms of the general synthetic minor construction permit for similar sources. The source shall be subject to enforcement action for operation without a valid permit if

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the source is later determined not to qualify for the conditions and terms of the general synthetic minor construction permit.

b. The Department may grant a source's request for authorization to operate under a general permit without further public notice, but such a grant shall be a final permit action for purposes of judicial review.

c. The Department shall provide timely notice to the public of any authorization given to a facility to operate under the terms of a general permit. Such notice may be made on a periodic, summarized basis covering all facilities receiving authorization since the last notice.

5. Requirements for Synthetic Minor Construction Permit Applications

a. In addition to the minimum information required by S.C. Regulation 61-62.1, Section II (C)(3), any facility applying for a synthetic minor construction permit must also provide the following:

i. Potential emission calculations and proposed Federally enforceable emission limitations for each emission unit at the facility verifying that the total emissions at the facility will be below the major source (or facility) thresholds;

ii. All proposed production and/or operational limitations that will constrain the operation of each emission unit that are to be identified as Federally enforceable; and,

iii. All proposed monitoring parameters, recordkeeping and reporting requirements the applicant will use to determine and verify compliance with the requested Federally enforceable limitations on a continuous basis. The applicant shall also provide the compliance status of these proposed parameters and requirements at the time of the application submittal.

b. The permit application for general synthetic minor construction permits may deviate from the requirements of Section II (E)(5)(a) provided that such application includes all information necessary to determine qualification for, and to assure compliance with, the general permit.

F. Operating Permits

1. The owner or operator shall submit written notification to the Department of the actual date of initial startup of each new or altered source, postmarked within 15 days after such date. Any source that is required to obtain an air quality construction permit issued by the Department must obtain an operating permit when the new or altered source is placed into operation and shall comply with the requirements of this section.

2. The owner/operator or professional engineer in charge of the project shall certify that, to the best of his/her knowledge and belief and as a result of periodic observation during construction, the construction under application has been completed in accordance with the specifications agreed upon in the construction permit issued by the Department. If construction is certified as provided above the permittee may operate the source in compliance with the terms and conditions of the construction permit until the operating permit is issued by the Department. If construction is not built as specified in the permit application and associated construction permit(s), the owner/operator must submit to the Department a complete description of modifications that are at variance with the documentation of the construction permitting determination prior to commencing operation. Construction variances that would trigger additional requirements that have not been addressed prior to start of operation shall be considered construction without a permit.

3. Request for a New or Revised Operating Permit

a. For sources covered by an effective Title V operating permit, the modification request required by S.C. Regulation 61-62.70 shall serve as the request to operate for the purposes of this regulation.

b. For sources not subject to S.C. Regulation 61-62.70, or not yet covered by an effective Title V operating permit, the permittee shall submit a written request for a new or revised operating permit to cover any new, or altered source, postmarked no later than fifteen (15) days after the actual date of initial startup of each new or altered source.

c. The written request for a new or revised operating permit must include, as a minimum, the following information:

- i. A list of sources that were placed into operation.
- ii. The actual date of initial startup of each new or altered source.

G. Conditional Major Operating Permits

1. The requirements of Section II (G) shall apply to those sources that request a Federally enforceable permit to limit their potential to emit to less than major source thresholds.

2. General Provisions

a. Any stationary source that satisfies the definition of a major source may request a Federally enforceable conditional major operating permit to limit the source's potential to emit and become a conditional major source. Any stationary source that has received a synthetic minor construction permit to limit the source's potential to emit below major source threshold levels, that is not required to obtain a Title V operating permit, shall be issued a conditional major operating permit to consolidate the source's limitations on potential to emit, and shall be considered a conditional major source.

b. Stationary sources requesting a conditional major operating permit shall submit a complete request for a new or revised operating permit to the Department as required by S.C. Regulation 61-62.1, Section II (G)(6).

c. Stationary sources requesting an original or renewed conditional major operating permit shall undergo the public participation procedures of S.C. Regulation 61-62.1, Section II (N). Submission of a request for renewal meeting the requirements in S.C. Regulation 61-62.1, Section II (H) shall allow the permittee to continue operating pursuant to the most recent conditional major operating permit, until such time as the Department has taken final action on the request for renewal.

d. The Department shall act on a request for a conditional major operating permit and shall notify the source in writing of its approval, conditional approval, or denial.

e. In the event of a denial of a conditional major operating permit request, the Department shall notify the source in writing of the reasons for the denial. The Department shall not accept a subsequent conditional major operating permit request until the source has addressed the concerns specified by the Department which caused the original denial. The source shall correct all deficiencies noted by the Department or submit a complete permit application in accordance with S.C. Regulation 61-62.70 in order to receive a Title V operating permit.

3. Existing Sources

a. Any owner or operator desiring to be permitted as a conditional major source shall submit an operating permit request containing the information identified in S.C. Regulation 61-62.1, Section II

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(G)(6). A Federally enforceable conditional major operating permit shall constrain the operations of the source such that potential emissions fall below applicable regulatory levels and therefore exclude the source from the requirements to have a Title V operating permit.

b. A request for a conditional major operating permit shall not relieve a source from the requirement to meet the deadline for submittal of a Title V operating permit application.

4. New sources

a. Any owner or operator who plans to construct, alter, or add to a source of air contaminants, including the installation of any device for the control of air contaminant discharges, and desires a conditional major operating permit shall provide a written request to the Department for a Federally enforceable synthetic minor construction permit conditioned to constrain the operation of the source, along with a complete construction permit application package containing the information identified in S.C. Regulation 61-62.1, Section II (G)(6). The construction of the new or modified source shall not commence until the source has received an effective permit to construct from the Department.

b. A written request to obtain a conditional major operating permit shall be submitted to the Department postmarked no later than fifteen (15) days after the actual date of initial startup of each new or altered source. This request shall include any additional information required in S.C. Regulation 61-62.1, Section II (G)(6). These facilities will be issued conditional major operating permits without further public notice if no substantive changes to limitations are required. A satisfactory compliance inspection by a Department representative may precede the issuance of an operating permit for any newly constructed or modified source.

5. Conditional Major Operating Permit Conditions

a. Conditional major operating permits shall contain the standard permit conditions listed in Section II (J)(1) and any special permit conditions required to verify a source's compliance with the emissions limitations and operational requirements.

b. The limitations and requirements listed as permit conditions shall be permanent, quantifiable, or otherwise enforceable as a practical matter.

c. All conditional major operating permit conditions that constrain the operation of a source in an effort to limit potential to emit below major source threshold levels as defined in S.C. Regulation 61-62.70 shall be Federally enforceable. Unless otherwise agreed by the Department and EPA, the Department shall provide to EPA on a timely basis a copy of each proposed (or draft) and final permit intended to be Federally enforceable.

6. Additional Requirements for Conditional Major Operating Permit Requests

a. In addition to the minimum information required by S.C. Regulation 61-62.1, Section II (C)(3), any facility requesting a conditional major operating permit must also provide the following:

i. Potential emission calculations and proposed Federally enforceable emission limitations for each emission unit at the facility verifying that the total emissions at the facility will be below the major source (or facility) thresholds.

ii. All proposed production and/or operational limitations that will constrain the operation of each emission unit that are to be identified as Federally enforceable.

iii. All proposed monitoring parameters, recordkeeping and reporting requirements the source will use to determine and verify compliance with the requested Federally enforceable limitations on a continuous basis. The source shall also provide the compliance status of these proposed parameters and requirements at the time of the request submittal.

b. The request for general conditional major operating permits may deviate from the requirements of Section II (G)(6) provided that such request includes all information necessary to determine qualification for, and to assure compliance with, the general permit.

7. General Conditional Major Operating Permits

a. The Department may, after notice and opportunity for public participation provided under S.C. Regulation 61-62.1, Section II (N), issue a general conditional major operating permit applicable to similar sources. Any general conditional major operating permit shall incorporate all requirements applicable to the operation of similar conditional major sources and shall identify criteria by which sources may qualify for the general permit. Sources may submit a permit application to the Department with a request for coverage under the conditions and terms of a general conditional major operating permit for similar sources. The Department shall grant the general conditional major operating permit to sources certifying qualification for and agreeing to the conditions and terms of the general conditional major operating permit for similar sources. The source shall be subject to enforcement action for operation without a valid permit if the source is later determined not to qualify for the conditions and terms of the general conditional major operating permit.

b. The Department may grant a source's request for authorization to operate under a general permit without further public notice, but such a grant shall be a final permit action for purposes of judicial review.

c. The Department shall provide timely notice to the public of any authorization given to a facility to operate under the terms of a general permit. Such notice may be made on a periodic, summarized basis covering all facilities receiving authorization since the last notice.

H. Operating Permit Renewal Requests

1. Any source that wishes to have its operating permit renewed must submit a written request to the Department.

2. The provisions of S.C. Regulation 61-62.1, Section II (H), shall apply only to those sources not subject to S.C. Regulation 61-62.70. For sources covered by an effective Title V operating permit, the operating permit renewal request required by S.C. Regulation 61-62.70 shall serve as the request to operate for the purposes of this regulation.

3. For sources not subject to S.C. Regulation 61-62.70, the permittee shall submit an operating permit renewal request to the Department no later than 90 days prior to the operating permit expiration date. The source may be inspected by the Department in order to decide whether to renew the permit. Past records of compliance and future probability of compliance will be considered in making the decision regarding renewal.

4. Operating permit renewal requests shall include a description of any changes at the facility that have occurred since issuance of the last operating permit that may effect the operating permit or operating permit review. In general, the description shall include any addition, alteration or removal of sources, including sources exempt from construction permit requirements; addition, alteration or removal of emission limitations; any changes to monitoring, recordkeeping, or reporting requirements; and any changes or additions to special permit conditions. The following items should be addressed as part of the operating permit renewal request:

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a. The company name and mailing address; the facility name and mailing address (if different from that of the company); and the name, mailing address, and telephone number of the owner or agent for the company;

b. The location of the facility including its street address and the name, mailing address, and telephone number of the facility's contact person;

c. The facility's Federal Identification Number;

d. Any change to the U. S. Standard Industrial Classification (SIC) Code or North American Industry Classification System (NAICS) Codes of the products or product lines;

e. Any construction permits to be incorporated into the operating permit, either whole or in part, and any listed information descriptions that have been removed or decommissioned. Any changes to exempted sources listed in current operating permit;

f. Any change to the facility's planned operating schedules or description of the facility's current and/or proposed processes, including the physical and chemical properties and feed rate of the materials used and produced (in pounds per hour), from which the facility determined actual and potential emissions;

g. Any changes to current process flow diagram or production process layout shall be addressed, showing the flow of materials and intermediate and final products. Updated process flow diagram or production process layout must identify major equipment, machines, and process steps or product lines within the production process, all product streams, all exhaust streams (emission points) including fugitive within the production process, all waste streams, and all control devices including inherent process control devices used within the production process;

h. A description, including the Chemical Abstract Service (CAS) number (if applicable), of all emissions from each source. Mass emission data and emission calculations, including the potential uncontrolled and controlled mass emission rate of each criteria pollutant and other air contaminants such as volatile organic compounds (VOC), toxic air pollutants (TAP), and hazardous air pollutants (HAP), emitted from each source. Emission calculations must be based on proper documentation that supports the basis of the emission rates such as stack test data, AP-42 emission factors, material balance, and/or engineering estimates. All assumptions used in the emission calculations must be provided. Fugitive emissions (i.e. emissions from filling operations, pumps, valves, flanges, etc.) must be included in the emission calculations. A summary of facility-wide potential uncontrolled and controlled emissions with a regulatory applicability determination. If existing data supplied to the Bureau remains correct, identify documents referenced to comply with this requirement;

i. If no longer accurate, a revised air dispersion modeling analysis or other information demonstrating that emissions from the facility will not interfere with the attainment or maintenance of any ambient air quality standard. As needed, include a description of each stack or vent related to the proposed and/or existing source(s), minimum anticipated height(s) above ground, maximum anticipated internal dimensions, discharge orientation(s), exhaust volume flow rate(s), exhaust gas temperature(s), and rain protection devices, if any. If existing data supplied to the Bureau remains correct, identify document referenced to comply with this requirement; and,

j. Other information as may be necessary for proper evaluation of the operating permit request.

I. Registration Permits

1. Development of Registration Permits

a. The Department may, after notice and opportunity for public participation provided under S.C. Regulation 61-62.1, Section II (N), develop registration permits applicable to similar sources. Any registration permit developed shall specify compliance with all requirements applicable to the construction or operation of that specific category of stationary sources and shall identify criteria by which sources may qualify for the registration permit.

b. Registration permits will be developed only for specific stationary source groups with uncontrolled potential to emit less than the threshold for major source groups, in accordance with S.C. Regulation 61-62.70, Title V Operating Permit Program; S.C. Regulation 61-62.5, Standard No. 7; Prevention of Significant Deterioration; S.C. Regulation 61-62.5, and Standard No. 7.1, Nonattainment New Source Review, and where equipment similarities and simplicity remove the need for in depth site-specific review.

2. Application for Coverage Under a Registration Permit

a. A source that qualifies may elect to apply to the Department for coverage under a registration permit in lieu of a construction and operating permit as provided in Regulation 61-62.1, Section II (A) and (F). The Department shall grant the registration permit to sources certifying qualification for and agreeing to the conditions and terms of the registration permit applicable to similar sources. The source shall be subject to enforcement action for operation without a valid permit if the source is later determined not to qualify for the conditions and terms of the registration permit.

b. The Department may grant a source's request for authorization to operate under a registration permit without further public notice, but such a grant shall be a final permit action for purposes of judicial review.

3. Registration Permit Conditions

a. Registration Permits shall contain the standard permit conditions listed in Section II (J)(1).

b. Registration Permits shall contain any applicable special permit conditions required to verify a source's compliance with any emissions limitations and operational requirements.

J. Permit Conditions

1. Standard Permit Conditions

All permits shall contain the following standard permit conditions.

a. No applicable law, regulation or standard will be contravened.

b. All official correspondence, plans, permit applications and written statements are an integral part of the permit.

c. For sources not required to have continuous emission monitors, any malfunction of air pollution control equipment or system, process upset or other equipment failure which results in discharges of air contaminants lasting for one hour or more and which are greater than those discharges described for normal operation in the permit application shall be reported to the Department within twenty-four hours after the

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beginning of the occurrence and a written report shall be submitted to the Department within thirty (30) days. The written report shall include as a minimum, the following:

- i. The identity of the stack and/or emission point where the excess emissions occurred;
- ii. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the excess emissions;
- iii. The time and duration of the excess emissions;
- iv. The identity of the equipment causing the excess emissions;
- v. The nature and cause of such excess emissions;
- vi. The steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunction;
- vii. The steps taken to limit the excess emissions; and,
- viii. Documentation that the air pollution control equipment, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions.

d. Sources required to have continuous emission monitors shall submit reports as specified in applicable parts of the permit, law, regulations, or standards.

e. Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this regulation or with the terms of any approval to construct, or who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to enforcement action.

f. Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

2. Special Permit Conditions

As the Department finds appropriate, permits shall include special permit conditions such as, but not limited to, production limits, operational limits, source performance testing, operation and maintenance requirements, notification requirements, recordkeeping requirements, reporting requirements, and other monitoring as required.

a. When special permit conditions contain production or operational limits, the permit shall have monitoring and/or recordkeeping requirements to verify a source's compliance with the limitations.

b. When special permit conditions require an add-on air pollution control device to be operated at a specified destruction and removal efficiency level, the permit shall have monitoring and

recordkeeping requirements to determine the add-on air pollution control device's performance on a short term basis.

c. The time period over which a permit limitation on production or operation extends will be as short as possible. For the purpose of determining compliance, permit limitations will in general not exceed one month and shall not exceed an annual limit with a rolling monthly average or sum.

d. An owner or operator of stationary sources that desire or are required to conduct performance tests to verify emissions limitations shall ensure that source tests are conducted in accordance with the provisions of S.C. Regulation 61-62.1, Section IV, Source Tests.

e. An hourly emission limit shall be sufficient only if the permit condition(s) require the installation, calibration, maintenance, and operation of a continuous emission monitor (CEM) system, or any other monitoring approved by the Department. All monitoring data shall be defined and recorded for showing compliance with the emission limit(s).

f. The limitations and requirements listed in the permit conditions shall be permanent, quantifiable, or otherwise enforceable as a practical matter.

K. Exceptions

1. Upon request, the Department may alter operating permits, compliance schedules, or other restrictions on operation of a source provided that resulting ambient air concentration levels will not exceed any national or State ambient air quality standard. Factors to be considered by the Department may include, but are not limited to, technology, economics, national energy policy, and existing air quality. The request by the source must also show the following:

a. Good faith efforts have been made to comply with the State requirements;

b. The source is unable to comply with the State requirements because the necessary technology or other alternative methods of control are not reasonably available, or have not been available for a sufficient period of time;

c. Any available operating procedures, or control measures, reducing the impact of the source on ambient air concentrations, have been implemented; and,

d. The request is submitted in a timely manner.

2. The provisions of this paragraph shall not apply to mass emission limits which are imposed upon any source by the following requirements:

a. Federal New Source Performance Standards;

b. National Emission Standards for Hazardous Air Pollutants;

c. Federal or State Prevention of Significant Deterioration Regulations; or,

d. Non-attainment requirements.

3. Where a permanent increase in the visible emission limitation for a source is requested, the source must demonstrate that it will remain in compliance with the applicable particulate emission standard.

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4. Any alternative compliance schedule shall provide for compliance with the applicable regulations as expeditiously as practicable, based on a plan submitted with the request for the alternative compliance schedule.

5. Any request under this section will be subjected to public notice and opportunity for a public hearing. Upon approval by the Board, the recommendations of this Department shall be sent to the Administrator of the Environmental Protection Agency, or his designated representative, for approval or disapproval.

6. Where alternative compliance schedule provisions are contained elsewhere in the air pollution control regulations, those provisions shall supersede the requirements in this section.

L. Emergency Provisions

1. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, in which a situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

2. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions in S.C. Regulation 61-62.1, Section II (L)(3) are met.

3. The affirmative defense of an emergency shall be demonstrated through properly signed, contemporaneous operating logs, and other relevant evidence that verify:

- a. An emergency occurred, and the permittee can identify the cause(s) of the emergency;
- b. The permitted source was at the time the emergency occurred being properly operated;
- c. During the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and
- d. The permittee gave a verbal notification of the emergency to the Department within 24 hours of the time when emission limitations were exceeded, followed by a written report within thirty (30) days. The written report shall include as a minimum, the information required by S.C. Regulation 61-62.1, Section II (J)(1)(c)(i) through (viii). The written report shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

4. In any enforcement action, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

5. This provision is in addition to any emergency, or upset provision contained in any applicable requirement.

M. Transfer of Ownership/Operation

Within thirty (30) days of the transfer of ownership/operation of a facility, the current permit holder and prospective new owner/operator shall submit to the Department a written request for transfer of the source operating or construction permits. The written request for transfer of the source operating or construction

permit shall include any changes pertaining to the company name and mailing address; the facility name and mailing address (if different from that of the company); the name, mailing address, and telephone number of the owner or agent for the company; and any proposed changes to the permitted activities of the source. Transfer of the operating or construction permits will be effective upon written approval by the Department.

N. Public Participation Procedures

1. When determined to be appropriate by the Department (or specified by regulation) notice of permitting activity shall be provided to the public and other entities for their review and comment. Public notice shall be given by publication in a newspaper of general circulation in the area where the source is located, or by publication in the *South Carolina State Register*, and to persons on a mailing list developed by the Department, including those who request in writing to be on the list. The Department may use other means of public notice in addition to the above.

2. The notice shall identify the affected source; the name and address of the permittee; the name and address of the Department; the activities involved in the permit action; the emission change involved in any permit modification; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, and all other materials available to the Department that are relevant to the permit decision, except for information entitled to confidential treatment (the contents of any proposed or draft permit shall not be treated as confidential information); a brief description of the comment procedures; and the time and place of any public hearing that may be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled).

3. The Department shall provide at least 30 days for public and EPA comment and shall give notice of any public hearing at least 30 days in advance of the hearing. The Department shall keep a record of the commenters and also of the issues raised during the public participation process. The Department shall consider, and provide a written response to all written comments received by mail and at the public hearing, within the time specified for the public notice, in making a final decision on the application.

4. A newly constructed or modified source issued a Federally enforceable final construction permit will not require an additional public comment period and/or hearing to obtain an operating permit, unless the source proposes a change in the original construction and/or operational plan, prior to commencing construction, which the Department determines would require an additional public comment period and/or hearing.

5. Any proposed new or modified stationary source required to undergo a public comment period shall not commence any construction until all public participation procedures of this section are completed, and the source has received an effective construction or operating permit from the Department.

6. Maintenance activities, repairs, and replacements which the Department determines to be routine for that source category shall not, by themselves, be required to undergo the public participation procedures of S.C. Regulation 61-62.1, Section II (N).

2. Amend R. 61-62.5 - Air Pollution Control Standards, Standard No. 4 - Emissions From Process Industries, pursuant to each individual instruction provided with the text of each amendment below:

Delete the requirements of Regulation 61-62.5, Standard No. 4, Section IV - Portland Cement Manufacturing, and replace the text of Section IV with "Reserved" as follows:

SECTION IV - Reserved

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3. Amend R. 61-62.5 - Air Pollution Control Standards, Standard No. 5.2 - Control of Oxides of Nitrogen (NOx), pursuant to each individual instruction provided with the text of each amendment below:

Replace the text of Regulation 61-62.5, Standard No. 5.2, Section I (a)(1) as follows:

SECTION I - APPLICABILITY

(a) ...

- (1) Any new source that is constructed after June 25, 2004;

Replace the text of Regulation 61-62.5, Standard No. 5.2, Section I (b)(2) as follows:

SECTION I - APPLICABILITY

(b) ...

- (2) Emergency power generators as described below:

- a. Generators of less than or equal to 150 KW rated capacity.

- b. Generators of greater than 150 KW rated capacity designated for emergency use only and are operated a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of use such as an hour meter.

Replace the text of Regulation 61-62.5, Standard No. 5.2, Section I (b)(4) as follows:

SECTION I - APPLICABILITY

(b) ...

- (4) Any device functioning solely as a combustion control device. Waste heat recovery from these combustion control devices shall not be considered primary grounds for exclusion from this exemption.

Replace the text of Regulation 61-62.5, Standard No. 5.2, Section III - the last line of Table 1- NOx Control Standards, regarding "Fuel Combustion Sources not Otherwise Specified," as follows:

SECTION III - Standard Requirements for New Sources

Table 1 - NOx Control Standards

Source Type	Control Technology and/or Emission Limit
...	...
Fuel Combustion Sources Not Otherwise Specified: (Examples include but are not limited to process heaters not meeting the definition of "boiler" in Regulation 61-62.1 Section I, dryers, furnaces, ovens, duct burners, incinerators, and smelters)	Low NOx burners or equivalent technology capable of achieving 30% reduction from uncontrolled levels.

Fiscal Impact Statement:

The Department estimates no additional cost will be incurred by the State or its political subdivisions as a result of these amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*. Existing staff and resources will be utilized to implement these amendments. The amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, will benefit the Department by conserving resources associated with the review of construction permit applications and operating permit requests, and by facilitating compliance inspections conducted by regional staff.

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: Amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*.

Purpose of Regulation: These amendments will incorporate revisions in the Federally approved State minor source permitting program that would support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. The Department's amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP, will streamline the process for obtaining a construction permit and for requesting an operating permit. These amendments will clarify the permitting process, provide more permitting options, and reduce the overall burden on the State permitting program and the regulated community.

Legal Authority: The legal authority for *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, is S.C. Code Section 48-1-10 *et seq.*

Plan for Implementation: These amendments will take effect upon ratification by the General Assembly, and publication in the *South Carolina State Register*. Copies of the final regulation will be distributed to all stakeholders and the regulated community through electronic mail and by way of the postal service to a mailing list of interested parties, and via the internet on the Department web site.

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

The Department has conducted an analysis of the State air permitting program to ensure that we are meeting our goals of promoting and protecting the public health and the environment and doing so in the most efficient and effective manner. The Department will implement amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP, that would streamline the process for obtaining a construction permit and for requesting an operating permit. This Federally approved permitting program is generally referred to as the minor source permitting program to distinguish it from additional permitting requirements for major sources of air pollutants.

The amendments to *S.C. Regulation 61-62.1, Definitions and General Requirements*, will clarify the prerequisites and streamline the processes prescribed by Section II - Permit Requirements, which requires stationary sources planning to construct, alter or add to a source of air pollutants to first obtain a construction permit from the Department and to request an operating permit prior to placing the new or altered source into operation. The Department is also amending *S.C. Regulation 61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NOx)*, to make corrections and clarifications as needed to ensure consistency with the proposed amendments to Regulation 61-62.1, Section II - Permit Requirements. In addition, the Department is amending *S.C. Regulation 61-62.5, Standard No. 4, Emissions From Process Industries*, to remove the requirements of Section IV - Portland Cement Manufacturing.

The amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, will incorporate revisions to the Federally approved State minor source permitting program that would support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner and will require legislative review.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions, nor will these amendments result in any increased cost to the regulated community. The amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, will benefit the Department by conserving resources associated with the review of construction permit applications and operating permit requests, and by facilitating compliance inspections conducted by regional staff. The Department believes that these amendments will benefit the regulated community by clarifying the requirements for obtaining a permit, by ensuring consistency in permit conditions for construction and operating permits issued to similar sources, and by increasing the permit options available to a source.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions. These revisions will clarify the permitting process, provide more permitting options, and reduce the overall burden on the State permitting program and the regulated community.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP, will provide continued protection of the environment and public health.

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

There would be no detrimental effect on the environment and public health if these amendments to the Federally approved State minor source permitting program are not adopted. The intent of these amendments is

to streamline the permitting process in support of the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner.

STATEMENT OF RATIONALE:

In December of 2002, the South Carolina Chamber of Commerce Environmental/Technical Committee (Chamber Technical Committee) submitted a White Paper for consideration by the Department to address streamlining of the air construction permitting process. The Chamber Technical Committee's proposal was intended to be developed into guidance which would be available for use by permit engineers and the regulated community in order to reduce the time and resources needed for minor new construction projects or modifications to existing sources. The intent of the Chamber Technical Committee's proposal, and resulting guidance document, was to ensure that all administrative and substantive requirements are satisfied and at the same time allow for operational flexibility for facilities subject to *S. C. Regulation 61-62, Air Pollution Control Regulations and Standards*.

The Department created an internal Streamlining Workgroup to study ways to provide permitting staff and the regulated community with terminology, tools, and workshops to make the environmental permitting process more efficient. The Department's Streamlining Workgroup targeted several problem areas believed to be significant obstacles to timely issuance of permits. Incomplete and inaccurate applications were determined to create a major backlog in the permitting process, thus hampering South Carolina industry's ability to respond to changing markets. The Department has promulgated amendments to the regulations that are more prescriptive with reference to information required to be submitted with construction permit applications and has created new permit application forms to help ensure more complete and accurate submittals.

The Department organized a Permit Streamlining Stakeholders Workgroup consisting of Department staff and representatives from environmental groups and the regulated community to draft these regulatory amendments to address problems identified in the Chamber Technical Committee's White Paper. After several stakeholder meetings, these amendments to S. C. Regulation 61-62 were developed by consensus. The Department has agreed to expand the list of sources exempt from the requirement to obtain a construction permit and has developed several guidance documents to facilitate the permitting process. The Department is also providing advanced technical workshops to the regulated community to prepare facilities for new or modified regulatory requirements, including training for future emissions inventory submittals, training for dry cleaners and other small businesses, and training for sources subject to new Maximum Achievable Control Technology (MACT) requirements. These activities and regulatory amendments will provide additional clarity and specificity to the existing regulations.

Document No. 3055

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 44-55-2310 *et seq.*

R.61-51, Public Swimming Pools

Synopsis:

This amendment of R.61-51 will clarify certain portions of the regulation, provide for enhanced flexibility and safety and to modify requirements for barriers on adjacent elevated structures. See Statements of Need and Reasonableness and Rationale herein and the Discussion below.

Section-by-Section Discussion

Section A.5

Delete definition of Certified Pool Operator. Replace with "Reserved."

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Section A. 13.

Modify the definition of “Elevated Structure” to provide clarity.

Section B. 11

Add a definition of “Permit Terms” to provide for permit extensions.

Section C. 4

This change allows for a more limited use of the “five-foot barrier” for adjacent “elevated structures” and other clarifications.

Section C. 6 (a)(iv)

This change requires that large “spas” meet the decking requirements similar to conventional pools.

Section C. 6 (g)

This section limits the number of rinse showers needed at a pool and requires that the location of such showers be near the entrances to the pool area.

Section C. 7

This section allows for flexibility in use of depth markers – allowing the tile background to be something other than white (as long as there continues to be adequate contrast with the lettering).

Section C. 8(a) and (b)

This section specifies a minimum height of the latch to make the requirement meaningful and safer.

Section C.19

Allows for the use of solar heaters.

Section C.23.

Provides for alternative control devices.

Section C.28.

Delete terms “Certified” and replace “certification” with “license.”

Section D. 2(d)

Clarifies that ground fault protection devices should be used for all relevant pool areas.

Section J.17(b)

Delete term “certified.”

Section J.18.

Delete terms “Certified” and “CPO” from title.

Section J.18 (b)

Delete term “certified” and replace “CPO” with “pool operator.”

Section K.1(a) (xiii)

Delete term “Certified.”

Section K.1(a) (xv)

Replace term “certified” with “properly licensed.”

Instructions: Amend R.61-51, *Public Swimming Pools*, pursuant to each individual instruction provided with the text of the amendments below.

Text of Amendments:

R.61-61.A.5 is deleted and reserved to read:

Section A.5. "Reserved"

R.61-51.A.13 is revised to read:

Section A. 13. "Elevated Structure" means any structure located within a ten (10) foot horizontal distance from the pool edge, which is intended for patron access, and may unintentionally serve as a raised platform for diving or jumping into a pool. This includes, but is not limited to elevated walkways, stairs and landings, balconies, or any construction which is interpreted by the Department as a structure intended for use by patrons that could be used for diving or jumping into a pool. This does not include pool equipment designed for, and approved by the department to be used for diving or jumping into a pool.

R.61-51.B.11 is added to read:

Section B. 11. Permit Terms. A permit is valid for one (1) year from the date of issue unless an alternate date is established by the Department. This one (1) year period includes the time it takes to obtain a Final Approval. A permit extension may be granted for up to one year from the date of the request. Extension requests must be submitted on a Change Order Request form and will not be granted if the request is received more than one year from the expiration date of the permit. Up to three permit extensions can be granted. Unless an extension can be granted as provided above, a new application, with the appropriate fee and permit package must be submitted for expired permits.

R.61.51.C.4 is revised to read:

Section C. 4. Location. The location of the pool will in no way hinder the operation for which it is designed nor adversely affect bather's safety or water quality. Outdoor pools must not be located where they will be exposed to excessive pollution by dust, smoke, soot, or other undesirable substances. If pool waterline is located within ten (10) feet horizontally of any second story balcony or any other elevated structure of which the floor elevation is between two (2) and thirty (30) feet above the pool deck, a protective barrier must be provided on said balcony or elevated structure. This barrier must be a minimum of five (5) feet in height and have no openings within this barrier greater than 4 inches in width. Buildings or structures at the pool deck level only within ten (10) feet of the pool waterline that have glazing must utilize tempered safety glass or other shatter resistant safety glazing for any doors and windows. All indoor pools must be located in adequately ventilated areas.

R.61-51.C.6(a)(iv) is revised to read:

Section C. 6 (a)(iv) Type "D" (less than 700 sq .ft.) at least two (2) feet around 100% or four (4) feet around at least 50% of the facility. Type "D" (700 sq. ft to 1600 sq ft.) at least four (4) feet. Type "D" (greater than 1600 sq. ft.) at least six (6) feet.

R.61-51.C.6(g) is revised to read:

Section C. 6 (g) All outdoor pools shall be provided with a foot rinse shower at major entrance points, up to a maximum of three (3). The foot rinse shower must be located within twenty (20) feet of the corresponding entrance point.

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R.61-51.C.7 is revised to read:

Section C. 7. Depth Markers. Permanent depth markers must be plainly marked at or above the water surface on the vertical pool wall and on the edge of the coping or deck next to the pool, at a maximum and minimum point and at not more than two (2) foot intermediate increments of depth. Depth markers must be spaced at not more than fifteen (15) foot intervals on center, as measured around the perimeter of the pool. Depth markers must be in numerals and letters of four (4) inch minimum height and of a light-colored background (i.e., having a reflectance of 55% or greater) with dark, contrasting lettering. Alternative designs, having sufficient contrast, will be considered on case-by-case basis. Depth markers must be on both of the sides and ends of the pool. Depths must be indicated in feet to the nearest one-half (1/2) foot. The abbreviation "ft." or word "feet" must be included. A total of twelve (12) inches of white background tile must be included as part of each depth marker(s). Depth markers are required for all pools, kiddie pools, spas, hot tubs, special water park pools, etc. Depth markers on deck must be non-slip. In pools requiring "No Diving" signs, a single six inch by six inch universal no diving tile must be co-located with each set of deck depth marker tiles. Metric depth markers may be installed at any facility in addition to the standard markers required above. Depth markers for pools with multiple slopes (bowl shaped) must accurately reflect the minimum depth at the edge of the pool and the maximum depth at the center of the pool and separated by a hyphen. For example, a pool sloping from all sides to the center would require the installation of the following depth markers, "3 FT – 5 FT". Alternative types of depth markers will be considered on a case by case basis for pools using stainless steel gutters or fiberglass shells.

R.61-51.C.8(a) and (b) are revised to read:

Section C. 8. Fences.

(a) All outdoor Type "A" and "E" public swimming pools (including the deck area) must be enclosed by a chain link fence or equal barrier of minimum six (6) foot height to prevent trespassing and to provide safety and cleanliness of the water. All openings in the barrier must be equipped with gates or doors, with latches, that close automatically and can be locked. All latch activation points must be a minimum of 54 inches high above the walk or deck.

(b) All outdoor Type "B", "C", "D" and "F" public swimming pools (including the deck area) shall be enclosed by a minimum four foot fence or equivalent, impenetrable landscape or structural barrier (e.g., a hedge a minimum of 2 feet thick of densely planted growth). All openings in the barrier must be equipped with gates or doors, with latches, that close automatically and can be locked. All latch activation points must be a minimum of 54 inches high above the walk or deck. Courtyard fencing may not be adequate to constitute fencing of the pool area.

R.61-51.C.19 is revised to read:

Section C.19. Heater. Heaters, where used, shall be installed and operated in accordance with manufacturer's recommendations and local building codes to include proper ventilation. The heater design must be such that it will not affect the minimum required design flowrate. A thermostat control must be provided with an automatic cut-off for an upper limit of 104 degrees Fahrenheit and above. Solar panels may be used as a pool heater provided that the materials used in the solar panels must be non-toxic and acceptable for use with potable water. Data verifying the material is non-toxic must be submitted to the department for review and approval at the time the application is made. Pools equipped with solar panel heaters shall have a fixed thermometer mounted in the pool recirculation line downstream from the heater outlet. All equipment and appurtenance used to operate a solar panel heater must meet the applicable portions of R.61-51.

R.61-51.C.23 is revised to read:

Section C.23. Automatic Controller. If an automatic controller is to be used, the device must be installed in accordance with the approved manufacturer's instructions. The chemical feed pump(s) must also be directly

wired to the recirculation pump and a flow switch such that when the recirculation flow stops, the chemical feed pumps are switched off. Other alternatives that provide redundancy will be considered by the Department on a case-by-case basis.

R.61-51.C.28 is revised to read:

Section C.28. (e) Pool Operator Sign. A sign must be posted or language must be added to the "Pool Rules" sign which reads, "The Pool Operator at this facility is _____ State license number _____."

R.61-51.C.31(d) is revised to read:

Section C.31 (d) Wiring and grounding for lights and all electrical power for swimming pool equipment must conform to the codes of the current edition of the National Fire Protection Association (NFPA) National Electric Code. All electrical circuits within the pool area including all accessory equipment, electric drinking water fountains, and bathhouse/minimum toilet facility receptacles are required to meet the current edition of the NFPA National Electric Code; provided, however, all such circuits shall have ground fault protection regardless of their proximity to the pool. Exceptions may be granted for lighting and fixtures that are twenty-five (25) feet or more above the pool deck and would not pose a risk of electrocution. Junction boxes must be above the pool water level and must not be a trip hazard.

R.61-51.D.2(d) is revised to read:

Section D. 2(d) Zero-Depth Entry Pools. Zero-Depth entry pools are allowed in Type "A" and "B" pools only when a lifeline is placed at the two (2) to three (3) foot depth and a breakline tile stripe meeting the requirements of Section D Paragraph 2(c) is collocated with the lifeline.

R.61-51.J.17(b) is revised to read:

Section J.17 (b) Results must be annotated on a bound log with numbered pages that is acceptable to the Department. The date, time and actual numerical reading must be listed on the report. Instrument monitoring shall not be used in lieu of water sampling. The report must be initialed at each reading and signed by the pool operator or his/her designated agent.

R.61-51.J.18 title is revised to read:

Section J.18. Pool Operator

R.61-51.J.18(b) is revised to read:

Section J.18 (b) The pool operator of record must inspect each public swimming pool a minimum of three (3) times per week during operation. Results of this inspection shall be annotated on the facility's daily operation report and initialed by the pool operator.

R.61-51.K.1(a)(xiii) is revised to read:

Section K.1(a) (xiii) When "Pool Rules", "No Diving", spa "Caution", "No Lifeguard on Duty", or "Pool Operator" signs are not posted in accordance with Section C, Paragraph 28 (a-e).

R.61-51.K.1(a)(xv) is revised to read:

Section K.1(a) (xv) When the facility fails to retain or produce proof of the services of a properly licensed pool operator.

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Fiscal Impact Statement:

These changes are not anticipated to change costs to the Department.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: R.61-51, *Public Swimming Pools*

Purpose: This amendment will provide needed clarification to the regulation and will improve safety requirements contained in the regulation.

Legal Authority: S.C. Code Ann. Section 44-55-2310

Plan for Implementation: Upon approval by the General Assembly and publication in the *State Register*, the Department will implement the regulation changes as with other regulations.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT: These changes will help expedite permitting of new pools by providing greater flexibility for use of new equipment and design approaches. A provision is added to allow for permit extensions. As well, changes will enhance safety at public swimming pool. Regarding the design of barriers at adjacent elevated structures, the change will decrease the need for five-foot barriers for tall buildings. This set of changes will reduce the number of rinse showers needed for larger pools, while specifying that the location of the needed rinse showers be near the entry points to a pool area.

DETERMINATION OF COSTS AND BENEFITS: These changes are the most efficient means for allocating public and private resources because clarification is needed to insure a streamlined permitting process and to avoid wasteful construction activities (i.e., activities that occur, but don't comply with the regulation). As well, added flexibility will allow for the use of newer technologies and equipment. One change will allow for a permit to be extended (in lieu of a new application if the construction of a project is delayed).

UNCERTAINTIES OF ESTIMATES: While a specific monetary benefit cannot be estimated, a reduction in the burden for obtaining permits and approvals to operate will be of value to the "pool" industry.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: Public health will be enhanced by improved safety requirements detailed in these changes.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: If the regulation is not revised, construction of adjacent elevated structures will be unnecessarily more expensive. Clarity of the regulation, which is provided in several areas, will help insure pools are built properly, thereby enhancing public health and safety around public swimming pools. Clarity of the regulation will assist small businesses obtain permits in a more efficient process. Public health (safety) will be enhanced by the changes that improve safety at pools.

STATEMENT OF RATIONALE (in accordance with S.C. Code Section 1-23-120: The basis for these minor changes to the pool regulation is to provide clarity and flexibility in the design of public pools.

Document No. 3115
DEPARTMENT OF INSURANCE
 CHAPTER 69

Statutory Authority: 1976 Code Sections 38-9-180 and 1-23-10 *et seq.*

69-57.2. Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities

Synopsis:

This regulation recognizes, permits and prescribes the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities, in accordance with applicable provisions of South Carolina Code of Laws Section 38-9-180, the Standard Valuation Law, and Regulation 69-57, Valuation of Life Insurance Policies. This regulation requires insurers electing to use the preferred class structure mortality table to report certain information, including mortality experience, unless exempted from this requirement by the Director.

Section 1: This Section sets forth the authority for the promulgation of the regulation.

Section 2: This Section sets for the purpose of the regulation.

Section 3: This Section sets forth the definitions used in the regulation.

Section 4: This Section allows a company to substitute the 2001 preferred class mortality table in place of the 2001 CSO smoker or nonsmoker mortality table as the minimum valuation standard for policies issues on or after January 1, 2007 under certain conditions and adopts the 2001 preferred class structure mortality table by reference.

Section 5: This Section sets forth the conditions that must be met before an insurer may elect to use the preferred class structure mortality table in place of the 2001 CSO smoker or nonsmoker mortality table; and annually thereafter requires each insurer that opts to use the preferred mortality tables to file statistical reports showing experience; which can be used in future updates to the preferred mortality tables and to administer the requirements of the regulation.

Section 6: This Section allows a provision of the regulation to be deleted from the regulation if it is declared null or void for some reason without affecting the validity of the remaining provisions of the regulation.

Section 7: This Section sets forth the date the regulation is considered effective.

Instructions: Add new R.69-57.2, Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities to Chapter 69

Text:

69-57.2, Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities

Section 1.	Authority
Section 2.	Purpose
Section 3.	Definitions
Section 4.	2001 CSO Preferred Class Structure Table
Section 5.	Conditions
Section 6.	Separability

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Section 7. Effective Date

Section 1. Authority

This regulation is promulgated by the Director of Insurance pursuant to South Carolina Code of Laws Section 38-90-180, the Standard Valuation Law, and Sections 5A and 5B of South Carolina Regulation 69-57, Valuation of Life Insurance Policies.

Section 2. Purpose

The purpose of this regulation is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between preferred and standard lives in determining minimum reserve liabilities in accordance with South Carolina Code of Laws Section 38-90-180, the Standard Valuation Law, and Sections 5A and 5B of South Carolina Regulation 69-57, Valuation of Life Insurance Policies.

Section 3. Definitions

A. "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)* and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below in Subsection B. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following:

(1) "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

(2) "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

(3) "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

(4) "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

B. "2001 CSO Preferred Class Structure Mortality Table" means mortality tables with separate rates of mortality for super preferred nonsmokers, preferred nonsmokers, residual standard nonsmokers, preferred smokers, and residual standard smoker splits of the 2001 CSO Nonsmoker and Smoker Tables, as adopted by the NAIC at the September, 2006 national meeting and published in the *NAIC Proceedings {3rd Quarter 2006}*. Unless the context indicates otherwise, the "2001 CSO Preferred Class Structure Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

C. "Statistical agent" means an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

Section 4. 2001 CSO Preferred Class Structure Table

At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this regulation, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after April 1, 2007. No such election shall be made until the company demonstrates at least 20% of the business to be valued on this table is in one or more

of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of the NAIC model regulation, "Recognition of the 2001 CSO Mortality Table For Use In Determining Minimum Reserve Liabilities And Nonforfeiture Benefits Model Regulation."

Section 5. Conditions

A. For each plan of insurance with separate rates for preferred and standard nonsmoker lives, an insurer may use the super preferred nonsmoker, preferred nonsmoker, and residual standard nonsmoker tables to substitute for the nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the residual standard nonsmoker table, the appointed actuary shall certify that:

(1) The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(2) The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

B. For each plan of insurance with separate rates for preferred and standard smoker lives, an insurer may use the preferred smoker and residual standard smoker tables to substitute for the smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the preferred smoker table, the appointed actuary shall certify that:

(1) The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table corresponding to the valuation table being used for that class.

(2) The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table.

C. Unless exempted by the Director, every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the Director, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the Director, statistical reports showing mortality and such other information as the Director may deem necessary or expedient for the administration of the provisions of this regulation. The form of the reports shall be established by the Director or the Director may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the Director.

Section 6. Separability

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of the provision to other persons or circumstances shall not be affected.

Section 7. Effective Date

The effective date of this regulation is January 1, 2007.

Fiscal Impact Statement:

Staff anticipate no increased costs to the State or its political subdivisions.

Document No. 3092
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF ACCOUNTANCY
CHAPTER 1

Statutory Authority: 1976 Code Sections 40-1-70 and 40-2-70

Synopsis:

The Board of Accountancy is repealing existing Regulations 1-01 through 1-21 and adding new Regulations 1-01 through 1-12 to incorporate changes made by 2004 Act 289 in the requirements for licensure of Certified Public Accountants and Accounting Practitioners and in the requirements for registration of Accounting Firms.

Instructions

Repeal current regulations 1-01 through 1-21. Replace with 1-01 through 1-12 as indicated below.

Text:

1-01. General requirements for licensure as a CPA

(A) Completed application for licensure shall be submitted on forms provided by the Board. All fees must accompany the application.

(B) In order for an application to be considered, it must be complete, and all questions must be answered.

(C) The Board shall accept any college or university accredited by the Southern Association of Colleges and Schools and any other accrediting association having the equivalent standards or any independent senior college in South Carolina certified by the State Department of Education for teaching training.

(D) Until the licensee candidate has completed twenty four (24) semester hours of acceptable accounting education as described in 40-2-35(D)(3)(a), the candidate cannot earn qualifying experience for licensure.

1-02. Examinations

(A) An applicant for examination may apply to the Board for accommodation(s) to complete the Uniform CPA Examination. The applicant bears the burden of proving that the accommodation is required as a result of a verifiable hardship, which prevents compliance with the conditions of the administration of the examination. The applicant will be expected to provide documentary evidence of verifiable hardship, which prevents compliance with the conditions of the administration of the examination.

(B) An acceptable ethics exam will be designated by the Board and identified on the Board's Web site (www.llr.state.sc.us/pol/accountancy).

1-03. Practice Privileges

An individual or firm licensed or registered in another jurisdiction whose principal place of business is outside this State but who engages in the practice of accounting by providing professional services to the public of South Carolina must apply for Practice Privileges using a form provided by the Board. These services may be provided by electronic means, including Internet based practice.

1-04. Reciprocity.

The holder of a certificate, license, or permit issued under the laws of any state or territory of the US or any authority of the US may demonstrate substantially equivalent education and experience by:

(A) Documenting four (4) years of professional practices outside of South Carolina within ten (10) years immediately preceding the application; or

(B) Documenting the current education and experience requirements in effect in this State as set forth in 40-2-35; or

(C) Documenting that the education requirements for the certificate, license, or permit from another jurisdiction were the same as the requirements in South Carolina on the date of original licensure.

1-05. Firm registration.

- (A) A licensee who offers to engage in the practice of accounting for compensation must apply for registration as a firm or be employed or associated with a registered firm.
- (B) There must be a designated resident manager in charge of each firm office in this State. The designated resident manager must be licensed by this Board and is responsible for office compliance with established professional standards including standards set by federal or state law or regulation.

1-06. Reinstatement.

- (A) In order to qualify for reinstatement, an applicant whose license has been inactive or lapsed for three (3) years or more must demonstrate at least six months of additional experience, which must be completed within the previous twelve (12) months of the reinstatement application.
- (B) Additional experience may be earned as allowed by 40-2-35(A)(4) and must follow the same requirements as required for original licensing experience.

1-07. Return of Certificate.

Any licensee whose license is not active for any reason must return his or her certificate to the Board.

1-08. Continuing Professional Education.

(A) General Standards for Continuing Professional Education (CPE)

- (1) Continuing Professional Education requirements apply to all licensees. Each licensee shall complete CPE, which contributes directly to his or her professional competence.
- (2) Each person to whom the CPE requirement applies shall complete forty (40) hours of acceptable CPE each calendar year as a condition of obtaining a renewal license for the licensing period beginning January 1 of the following year. Not more than twenty (20%) percent (8 hours) of the required hours may be in personal development subjects. Personal development subjects that exceed twenty (20%) percent of the required hours shall not be available for carry-over credit.
- (3) A person who obtains a certificate of registration or license for the first time shall complete at least forty (40) hours of acceptable CPE during the calendar year following the year in which the original certificate or license was obtained. There is no provision for carry-over from a year in which CPE was not required.
- (4) The Board may accept a compliance report from another jurisdiction if the requirement is substantially equivalent to SC requirements.

(B) Mechanics

- (1) Licensees are responsible for compliance with all applicable CPE requirements and should claim CPE hours only for CPE programs when the CPE program sponsors have complied with the requirements set out in these regulations.
- (2) Licensees are responsible for accurate reporting of the appropriate number of CPE hours earned and should retain appropriate documentation in their files for five (5) years.
- (3) One (1) hour of credit shall be granted for each fifty (50) minutes of actual instructional contact time. One-half CPE credit increments (equal to 25 minutes) are permitted after the first one (1) hour credit has been earned in a given learning activity. Partial hours will be rounded down to the nearest half (½) hour. Only class hours, actual hours of attendance and not hours devoted to preparation, shall be counted.
- (4) In order for self-study hours to qualify, a licensee must submit a certificate of completion supplied by the program sponsor after completion of an examination. Only self-study courses registered under Quality Assurance Service (QAS) of NASBA will qualify. All of the required CPE may be obtained using self-study courses. The certificate of completion must include the following:
 - (a) name and address of sponsor,
 - (b) participant's name,
 - (c) course title,
 - (d) course field of study,
 - (e) date of completion,
 - (f) amount of CPE hours recommended, and
 - (g) show the registration QAS sponsor number.
- (5) Teaching graduate level accounting courses in an accredited Accounting program qualifies for and is limited to eight (8) hours per calendar year.

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(6) For university or college courses that have been successfully completed for credit, a copy of the grade report is to be submitted. Each semester hour credit shall equal fifteen (15) hours. In the case of universities or colleges on the quarter system, each quarter hour credit shall equal ten (10) hours. For non-credit courses, a certificate of attendance issued by the university or college is to be submitted. Each classroom hour attended shall equal one (1) 50 minute CPE hour.

(7) For published articles or books that contribute to the professional competence of the licensee, a copy of the publication that names the writer as author or contributor is to be submitted. For CPE programs developed, an outline of the course is to be submitted. Credit for preparation of such publications may be given on a self-declaration basis up to twenty-five (25%) percent of the renewal period requirement. The Board has the final determination of the amount of credit so awarded. Hours in excess of the limitation contained in this subparagraph shall not be available for carry-over of credit.

(8) Participation in positive enforcement reviews assigned by the Board and service on a peer review acceptance body qualifying under Regulation 1-09 qualifies for and is limited to sixteen (16) hours credit per year for time actually spent on duties.

(9) Instructors or discussion leaders of qualified CPE programs will be granted credit equal to twice the number of hours participation in the course. For repeat presentations, CPE can be claimed only if it can be demonstrated that the learning activity content was substantially changed and such change required additional study or research.

(10) Only the portions of committee or staff meetings that are designed as programs of learning and comply with these regulations qualify for CPE.

(11) Evidence to support fulfillment of the requirements must be retained by the licensee for at least five (5) years from the due date of the CPE report or the date filed, whichever is later. The Board, in its discretion, may verify the information submitted by licensees.

(12) When a licensee completes more than the required number of hours of CPE in any calendar year, the extra hours, not in excess of twenty (20) hours, may be carried forward and treated as hours earned in the following year. No carry over credit is allowed for Personal Development.

(13) While CPE sponsors determine the number of hours, licensees who participate in only part of a program should claim CPE credit only for the portion they attended or completed.

(C) Sponsors

(1) CPE sponsors are expected to present learning activities that comply with course descriptions and objectives.

(2) CPE sponsors must employ an effective means for evaluating learning activity quality with respect to content and presentation, as well as provide a mechanism for participants to assess whether learning objectives were met.

(3) At the beginning of the CPE course, the sponsor should read the following statement or a statement very similar, "It is the responsibility of the licensee to be accountable for the hours earned during the CPE course. The licensee should not engage in any other activities that would denigrate the learning objective of the course to the licensee or others. If the other activity is unavoidable, then that time should be subtracted from the overall CPE credit."

(D) For Sponsors of Self-study Courses:

(1) CPE self-study programs shall qualify, provided the course has been approved by QAS.

(2) The sponsor of self-study courses must provide the licensee with a certificate of completion containing the information as stated in Reg 1-08 (B)(4).

(E) For Courses Attended:

(1) CPE course must contribute directly to the professional competence of a licensee, and the sponsor must provide the participant with a certificate of attendance at the end of the session with the information as stated in Reg 1-08 (B)(2).

(2) The program will qualify if:

(a) the program is conducted by persons whose background training, education and experience qualify them as appropriate instructors, discussion leaders or lecturers in the subject matter of the particular program.

(b) an outline of the program presented is prepared in advance and shall be maintained by the sponsor.

(c) the program is at least one (1) hour (fifty-minutes) in length. One-half CPE increments (equal to 25 minutes) are permitted after the first credit has been earned in a given program. Sponsors are to calculate credit hours.

(d) A certificate of attendance described in the previous paragraph is given to each participant at the end of the session.

(e) Records showing compliance with this section are preserved and maintained by the sponsor for a period of at least five (5) years from the date of presentation of the program.

(F) Other qualifying programs

(1) The following programs may qualify, provided all other requirements of this regulation are met:

(a) professional development programs of recognized national and state accounting organizations;

(b) technical sessions at meetings of recognized national and state accounting organizations and their chapters;

(c) accredited university or college credit courses;

(d) accredited university or college non-credit courses;

(e) formal organized in-firm and inter-firm education programs, although portions of the programs devoted to administrative matters shall not be included; and

(f) programs offered by other recognized professional organizations, industrial or commercial firms, proprietary schools, or governmental entities.

(2) The Board shall not accept any program of learning that does not offer written documentation showing that the work has actually been accomplished.

1-09. Peer Review.

(A) As a condition of firm registration and/or renewal (including those firms registered in other jurisdictions operating in this state under practice privilege), a licensed firm providing any of the following services to the public shall enroll in a qualified peer review program.

(1) Audits;

(2) Reviews of financial statements;

(3) Compilations of financial statements;

(4) Examinations of prospective financial statements;

(5) Compilations of prospective financial statements;

(6) Agreed-upon procedures of prospective financial statements;

(7) Examination of written assertions; and

(8) Agreed-upon procedures of written assertions.

(B) A licensed firm not providing any of the services listed in Paragraph (A) of this regulation is exempt from peer review. Upon the issuance of the first report provided to a client, the firm must enroll in a qualified peer review program. As long as these services are provided, continued participation in a qualified peer review program is required.

(C) Acceptable peer review programs are:

(1) AICPA Peer Review Program;

(2) Any other peer review program found to be substantially equivalent to the "Standards for Performing and Reporting on Peer Reviews" promulgated by the American Institute of Certified Public Accountants(AICPA) and published on that organization's Web site (www.aicpa.org).

(D) An authorized peer review program may charge a fee to firms required to participate in the peer review program in order to cover costs of program administration.

(E) Firms shall not rearrange their structure or act in any manner with the intent to avoid participation in peer review.

(F) Compliance

(1) A registered firm enrolled for peer review shall provide to the Board upon request the following:

(a) Peer review due date;

(b) Peer review year end date;

(c) Final Letter of Acceptance (FLOA) from peer review program; and

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(d) A package to include the Peer Review Report, Letter of Comments (LOC), Letter of Response (LOR), and FLOA for all adverse and second consecutive modified reports issued by a peer review program;

(2) A peer review is not complete until the FLOA is issued by the peer review program.

(3) If a firm fails to complete peer review in a timely fashion, the Board may refuse to renew the firm registration and/or take other disciplinary action as appropriate.

(G) Reporting to the Board

(1) If a firm participating in a system review receives a modified or adverse peer review report, within thirty (30) days of receipt, a firm shall submit to the Board a copy of the report, LOC, LOR, the conditional letter of acceptance (CLOA), and FLOA;

(2) If a firm participating in an engagement or report review receives a CLOA including any significant action, within thirty (30) days of receipt, a firm shall submit to the Board its acceptance of the finding and the implementation plan for follow-up action.

(H) Ethical duties of reviewer

(1) A reviewer shall be independent with respect to the reviewed registered firm and comply with the AICPA Standards for Performing and Reporting on Peer Reviews.

(2) Information concerning the participating CPA firm or its clients or personnel that is obtained as a consequence of the review is confidential and shall not be disclosed to anyone not involved in the peer review process.

1-10. Professional Standards.

In addition to the requirements and prohibitions found in S.C. Code 40-2-5 et seq.,

(A) Licensees shall comply with all federal or state laws governing their business and personal affairs and shall not engage in any acts discreditable to the profession as defined by the Ethical Standards of the American Institute of Certified Public Accountants. A licensee may rely upon the interpretations of those standards published by the Professional Ethics Executive Committee of the AICPA.

(B) Complying with professional standards includes timely filing all applicable tax/information and all other regulatory returns for himself/herself or any entity for which the licensee is responsible.

(C) Client records include all information provided by the client and all documents provided to the client (or on behalf of the client) including the materials necessary (including electronic files) to support the final work performed (financial statements, tax returns, etc.). Client records do not constitute other work files or documents, which the licensee may use to audit, test or verify the accuracy of a client's account balances and/or transaction classes (revenues, expenses).

1-11. Application for licensure as an accounting practitioner.

(A) To meet the educational qualifications for licensure as an accounting practitioner,

(1) the applicant shall submit an official transcript signed by the college or university registrar and bearing the college or university seal to prove education and degree requirements; photocopies of transcripts will not be accepted; and

(2) a major in accounting shall include at least twenty-four (24) semester hours, or equivalent in quarter hours, of credit in accounting courses. No more than three (3) semester hours in business law courses and three (3) semester hours in taxation courses may be counted as accounting courses; and

(3) the Board shall accept any college or university accredited by the Southern Association of Colleges and Schools and any other accrediting association having the equivalent standards or any independent senior college in South Carolina certified by the State Department of Education for teaching training.

(B) To meet the examination requirement for licensure as an accounting practitioner, the applicant shall take sections of the Uniform Certified Public Accountant Examination prepared by the American Institute of Certified Public Accountants and receive a passing grade on the following subjects:

(1) Financial Accounting and Reporting (FAR);

(2) Regulations (REG).

1-12. Safeguarding client files when a licensee is incapacitated, disappears, or dies.

(A) Each licensee shall designate a partner, personal representative, or other responsible party to assume responsibility for client files in the case of incapacity or death of the licensee.

(B) Where the licensee is incapacitated, disappears, or dies, and no responsible party is known to exist, the Administrator of the Board may petition the Board for an order appointing another licensee or licensees to inventory the files and to take actions as appropriate to protect the interests of the clients. The order of appointment shall be public.

(C) The appointed licensee shall:

- (1) Take custody of the licensee's files and trust or escrow accounts.
- (2) Notify each client in a pending matter and, in the discretion of the appointed licensee, in any other matter, at the client's address shown in the file, by first class mail, of the client's right to obtain any papers, money or other property to which the client is entitled and the time and place at which the papers, money or other property may be obtained, calling attention to any urgency in obtaining the papers, money or other property;
- (3) Publish, in a newspaper of general circulation in the county or counties in which the licensee resided or engaged in any substantial practice of accounting, once a week for three consecutive weeks, notice of the discontinuance or interruption of the accountant's practice. The notice shall include the name and address of the licensee whose practice has been discontinued or interrupted; the time, date and location where clients may pick up their files; and the name, address and telephone number of the appointed licensee. The notice shall also be mailed, by first class mail, to any errors and omissions insurer or other entity having reason to be informed of the discontinuance or interruption of the accounting practice;
- (4) Release to each client the papers, money or other property to which the client is entitled. Before releasing the property, the appointed licensee shall obtain a receipt from the client for the property;
- (5) With the consent of the client, file notices or petitions on behalf of the client in tax or probate matters where jurisdictional time limits are involved and other representation has not yet been obtained; and
- (6) Perform any other acts directed in the order of appointment.

Fiscal Impact Statement:

There will be no additional cost incurred by the State or any political subdivision from implementation of these regulations.

Statement of Rationale:

The state regulations for accountancy are amended to incorporate changes made by 2004 Act 289 in the requirements for licensure of Certified Public Accountants and Accounting Practitioners and in the requirements for registration of Accounting Firms. All existing Regulations 1-01 to 1-21 are repealed and the following regulations are promulgated to take their place.

Document No. 3080
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF NURSING
 CHAPTER 91
 Statutory Authority: 1976 Code Sections 40-1-70, 40-33-10(E) and 40-33-10(I)

Synopsis:

To conform to 2004 Act 225, the State Board of Nursing is updating Regulations 91-23. through 91-30., and renumbering as new Regulations 91-3 through 91-13 regarding nursing programs.

Instructions:

Delete current Regulations 91-23 through 91-30 Replace with renumbered sections 91-3. through 91-13. with text listed below.

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Text:

91-3. Definition of Terms Applying to Nursing Programs.

- A. Initial approval: means the official status granted to a newly established nursing program that shows evidence of meeting the Board's legal and educational requirements, and continues in effect until the results of the National Council Licensure Examination (NCLEX) for the first graduating class are published and a survey has been completed.
- B. Full approval: means the official status granted to a nursing program that demonstrates continued compliance with the Board's legal and educational requirements.
- C. Conditional approval: means an official status granted to a nursing program that fails to meet and/or maintain the Board's legal and educational requirements.
- D. Deficiency: means written notification that an approved nursing program has failed to meet one or more of the Board's Nursing Education Standards.
- E. Survey: means the process of evaluation of a nursing program that includes a written self evaluation report submitted by the nursing program to the Board and a site visit by the Board representative(s) to the nursing program.
- F. Parent Institution: means the sponsoring institution authorized by the State of South Carolina to confer educational credentials in nursing.
- G. Survey Report: means the documentation of findings from the self-evaluation study and site visit by the Board representative(s).
- H. Progress Report: means documentation requested by the Board showing action taken toward addressing a deficiency or recommendation, following a survey or annual report.
- I. Biennial Report: means documentation of continued compliance with the Nursing Program Standards in a format as prescribed by the Board.
- J. Preceptor: means a registered nurse employed by the clinical agency who meets the requirements as set forth in R.91-11.C.(5).
- K. Deficient NCLEX pass rate: means an annual pass rate of first-time takers on the NCLEX that is more than 5 percent below the annual national pass rate.
- L. State of Origin means the state or jurisdiction in this country or territory or dependency of the United States in which the nursing program is located.

91-4. Mandatory approval of nursing programs.

All nursing programs located in South Carolina preparing students for initial practical and registered nursing licensure shall be Board approved.

91-5. Procedure for Survey and Initial Approval of Nursing Programs.

A. A parent institution seeking to establish a nursing program in South Carolina preparing students for initial licensure shall:

1. Request consultation from the Board regarding the Nursing Education Standards required by state law to establish and maintain a nursing program.
2. Submit to the Board for approval a current feasibility study. This study shall be signed by the responsible administrative officers of the parent institution and submitted to the Board at least eighteen months in advance of the proposed opening date. The feasibility study shall include the following:
 - (a) Purpose for establishing the program.
 - (b) Type of educational program to be established.
 - (c) Relationship to the parent institution, including an organizational chart.
 - (d) Written evidence of support by the governing body of the parent institution for the program.
 - (e) Projected number of students for enrollment.
 - (f) Proposed timeline for program implementation.
 - (g) Information regarding proposed clinical facilities for student experiences, including letters of support from all major facilities expected to be used for full program implementation.
 - (h) Availability of the general education component of the curriculum or letter of agreement from another institution.

- (i) A plan with a specified time frame for attainment of:
 - (1) qualified faculty as specified in the regulations;
 - (2) adequate financial resources;
 - (3) adequate physical resources to house the program; and
 - (4) support services available from the institution.

3. If the Board determines that a program is approved for development, the parent institution shall employ a nurse administrator and nurse faculty member(s) who meet the qualifications as established by the Board. The administrator and faculty member(s) will develop and submit a self evaluation report documenting evidence of compliance with the Nursing Education Standards set forth in R.91-11 or R.91-12 as applicable to the Board at least nine months in advance of the proposed opening date, to also include:

- (a) mission statement;
- (b) a projected five year budget which gives evidence of sufficient financial resources to permit the planning, implementation and continuation of the program, including faculty positions;
- (c) curriculum vitae for the nurse administrator and the nurse faculty member(s) and consultants assisting with program development;
- (d) evidence of a qualified faculty pool, recruitment plan, projected dates of appointment and a timeline for increases in faculty commensurate with student enrollment;
- (e) evidence of availability of academic facilities to meet the purpose of the program as outlined in 91-11 E. or 91-12 E. as applicable;
- (f) supplemental information as requested by the Board needed for clarification.

B. A survey team shall be appointed to review the submitted documentation as outlined in A3 above and conduct a site visit of the proposed nursing education program. The survey team shall prepare a written report with recommendations to the Board.

C. Following Board review of the self-evaluation and the recommendations of the site team, the Board may grant initial approval, deny initial approval or defer action for a maximum of six months.

D. When Board action is deferred, the institution will be notified of the reason(s) for deferral. The institution must submit to the Board documented evidence of compliance with the standards cited. If the institution does not comply within six months, the Board shall deny the initial approval.

E. When initial approval is denied, the institution will be notified of the reason(s) for denial. The institution may request a hearing before the Board and the provisions of the Administrative Procedures Act shall apply.

F. Following initial approval, biennial reports shall be submitted by the nursing program to the Board.

G. A nursing program must make application for full approval within six months following the taking of the NCLEX by the first graduating class. A survey shall be conducted and a written report prepared for the Board to determine the approval status of the program.

91-6. Out-of-State Nursing Programs Conducting Clinical Experiences in South Carolina.

A. A nursing program whose parent institution is located in another state and which conducts clinical experiences preparing students for initial licensure in South Carolina shall obtain South Carolina Board approval prior to conducting clinical experiences in South Carolina. Clinical experiences must be conducted within the scope of practice for the licensed practical nurse or the registered nurse as defined in the South Carolina Nurse Practice Act.

B. To obtain South Carolina Board approval, the program shall submit a letter of request to the Board including evidence that the following requirements have been met:

- 1. The program must be on full approval status in the state of origin.
- 2. Supervision of students in the clinical area is required.

(a) The program ensures that there will be on site, on shift direct supervision of students in the clinical area by a nursing faculty member licensed in South Carolina or another Compact state according to South Carolina regulations and policies;

(b) If precepted clinical experiences are requested, the program ensures that they will be conducted in accordance with South Carolina regulations and policies.

- 3. A written clinical affiliation agreement with the clinical facility is in place.

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C. To maintain South Carolina Board approval, the program must remain on full approval status in the state of origin and must continue to comply with the requirements of this section. The program must notify the South Carolina Board in writing within fifteen days of any change in compliance.

91-7. Review of Accredited and Board Approved Nursing Programs.

A. Nursing programs that are currently accredited by a Board approved accrediting body will submit a copy to the Board of the accreditor's final report and letter confirming accreditation in lieu of the Board self study and survey. Should a nursing program voluntarily or involuntarily lose accreditation status by the Board approved accrediting body the program shall immediately notify the Board and follow the process as outlined in B. below.

B. Nursing programs not accredited by a Board approved accrediting body shall be surveyed by the Board for continued approval at least every 8 years.

1. Notification of a survey will be provided to the program at least six months in advance.

2. Two months prior to the site visit, the program will submit a self evaluation report which provides evidence of compliance with the Nursing Education Standards set forth in R.91-11. or R.91-12. as applicable.

3. The date and agenda for the site visit will be mutually agreed upon by the representative(s) of the Board and the Chief Executive Officer, or designee, of the parent institution.

4. A draft of the written survey report will be submitted to the program for review and correction of factual data at least thirty days prior to the Board meeting during which the Board will take action on the report.

5. Written notification of Board action, including any recommendations, will be sent to the administrator of the parent institution and the administrator of the nursing program.

6. Following a review of the survey report, the Board may grant full approval, conditional approval, deny approval or defer action for a period not to exceed six months.

a. Full approval may be granted for a period not to exceed eight years.

b. When conditional approval is granted, the administrator of the parent institution and the administrator of the nursing program will be notified of the reason(s) and conditions approved by the Board. The nursing program must submit documented evidence of compliance with the standards cited. Conditional approval may be granted for a period not to exceed two years.

c. When Board action is deferred, the institution will be notified of the reason(s) for deferral. The nursing program must submit to the Board documented evidence of compliance with the standards cited. If the institution does not comply within six months, the program approval shall be deemed denied.

C. If at any time the Board is advised in writing that a nursing program may not be meeting the Nursing Education Standards set forth in R.91-11. or R.91-12., an interim visit may be conducted.

1. Based on the findings of the interim visit, the Board representative may decide that no further action is required.

2. Based on the findings of the interim visit, the Board may schedule a site visit in conjunction with the administrators of the nursing education program within 30 days. Based on the results of the site visit, the Board may continue full approval or change approval status to conditional approval, or defer action for a period not to exceed 6 months.

D. Progress reports must be submitted to the Board as requested.

E. A written biennial report shall be submitted to the Board.

F. The Board may deny approval when it determines that a nursing education program fails to meet the Nursing Education Standards set forth in R.91-11. or R.91-12.

G. When full approval is denied, the institution will be notified of the reason(s) for denial. The institution may request a hearing before the Board and the provisions of the Administrative Procedures Act shall apply.

H. The Board may cite a nursing program for a deficiency based on review of a survey report, biennial report, progress report, or a deficient NCLEX pass rate.

91-8. Closing an Approved Nursing Program.

A. Voluntary Closing

When a decision is made by the parent institution to close a nursing program, a report that fully describes the plan for closing is to be submitted to the Board. The report shall include:

1. the rationale for closing;

2. plans for an orderly phase out including a timetable and official closing date;
3. provisions for meeting the educational standards until the last student has graduated or been transferred;
4. provisions for safe storage, location and methods of access of permanent student records.

B. Involuntary Closing

When a program is denied approval by the Board the following procedures shall be followed:

1. no additional students shall be admitted;
2. the program shall assist in the transfer of students, if applicable, to other approved nursing programs within the time frame established by the Board;
3. a list of the names of all students who transferred to approved nursing programs and the date the last student transferred shall be submitted to the Board;
4. the date the last student was transferred shall become the official closing date;
5. the Board shall be notified in writing as to the custody of records to include provisions for safe storage, location and method of access of all permanent records and disposition of all other records.

91-9. Program Changes Requiring Board Approval.

A. Change of parent institution

When the administrative control of a nursing program is to be transferred to another institution, the receiving institution shall comply with the Procedure for Survey and Initial Approval of Nursing Programs as set forth in R.91-7. and the following:

1. submit a letter of intent describing the proposed change;
2. anticipated effects on students, faculty and resources;
3. plans for the orderly transition of the program;
4. the institution relinquishing the program shall submit to the Board the information required of programs undergoing voluntary closure as set forth in Regulation 91-8.A.

B. Experimental Projects

A nursing program desiring to conduct an experimental project, which requires a deviation from these educational standards, must submit a written proposal to the Board. Board approval is required prior to implementation of the experimental project.

C. Change in curriculum

A nursing program, that is not currently accredited by a Board approved accrediting body, desiring to make a substantive change in the length, design or pattern of the curriculum or methods for meeting Curriculum Standards set forth in R.91-11. F. or R.91-12. F. must submit a written proposal to the Board. Board approval is required prior to implementation of the change(s).

91-10. Program Changes Requiring Board Notification.

Written notification must be submitted to the Board when significant changes occur in administrative appointments and/or organizational structure that affect the nursing program.

91-11. Criteria for Initial and Continuing Approval of Basic Programs Preparing Registered Nurses.

A. Organization

1. The nursing program is either affiliated with or a part of an institution of higher learning approved by the appropriate state authority.
 - (a) An organizational chart reflects the reporting mechanism of the administrator of the nursing program to the administrator of the parent institution.
 - (b) The relationship of the nursing program to other programs within the parent institution is delineated in the institution's bylaws or organizational policies.
 - (c) Institutional policies pertaining to salary, rank, promotion, tenure, leave, benefits, professional development and service are applicable to the faculty of the nursing program.
 - (d) Written statements of philosophy or mission, purpose and objectives of the nursing program are consistent with those of the parent institution and are periodically reviewed.
 - (e) Financial resources are sufficient to give assurance of stability of the program, educational resources and qualified administrative and instructional personnel.

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(f) Criteria for budget allocation to the nursing programs are consistent with the criteria utilized for other programs.

(g) Nursing program faculty serve on the institution's central councils and committees.

2. The nursing program is organized with clearly defined authority, responsibility, and channels of communication.

(a) An organizational chart for the nursing program is available.

(b) Organizational policies, committee structure and corresponding minutes reflect how the business of the program is conducted.

3. The nursing program is administered by a qualified registered nurse licensed in the State or another Compact state.

(a) The nurse administrator meets parent institution requirements for administrative and faculty appointment.

(b) The nurse administrator meets Board requirements for nurse faculty appointment.

(c) A curriculum vitae indicates appropriate preparation and experience for administration.

(d) The nurse administrator is employed full time with adequate time designated for administrative responsibilities.

4. The position responsibilities of the nursing education program administrator are congruent in scope, authority and accountability with other administrative positions of the same level and are consistent with general institutional policies. There is a written position description that reflects the authority and responsibility for:

(a) Leadership within the faculty for the development and implementation of the curriculum;

(b) Creation and maintenance of an environment conducive to teaching and learning;

(c) Liaison with the central administration and other units of the parent institution;

(d) Participating in the preparation and administration of the budget;

(e) Facilitation of faculty development and performance review;

(f) Recommendation of faculty for appointment, promotion, tenure, and retention;

(g) Maintenance of relationships with central administration, other program administrators, clinical agencies, and appropriate state, regional, and national agencies.

B. Students

Student admission, readmission, progression and graduation are governed by the established policies and procedures of the parent institution and the nursing program.

1. The catalog and/or student handbooks of the institution and nursing program includes the admission, readmission, progression and graduation criteria.

2. Student admission, readmission, progression and graduation criteria policies are implemented and periodically reviewed.

3. The nursing program has written rationale for policies for admission, readmission, progression and graduation that differ from the parent institution.

C. Faculty

1. The number of qualified faculty is adequate to meet the goals and objectives of the nursing program.

(a) The maximum ratio of faculty to students in an acute inpatient setting where students are providing direct patient care is one faculty member to eight students (1:8). If the parent institution and the clinical affiliate determine that the safety of patients, nursing faculty and students can be insured, the maximum acceptable ratio in acute inpatient settings is no greater than one faculty to ten students (1:10).

(b) The maximum ratio of faculty to students in non-acute clinical settings where students are providing direct patient care is one faculty member to ten students (1:10).

(c) The maximum ratio of faculty to students in preceptored clinical learning experiences is one faculty to fifteen students (1:15).

(d) The majority of the faculty fulfill the full-time faculty role as defined by the parent institution and nursing program.

2. The academic and experience qualifications of the faculty are appropriate to support the goals and objectives of the nursing education program. Faculty appointed prior to June 30, 1992 and serving continuously since that time are recognized as meeting the academic and experience requirements of this section.

(a) All full and part-time faculty in the nursing program meet the parent institution's requirements for faculty appointment.

(b) Faculty teaching nursing courses must meet all the following requirements:

- (1) hold an unencumbered active license as a registered nurse in South Carolina or another Compact state;
- (2) have a minimum of a Master's (or higher) degree in nursing; and
- (3) have a minimum of two years of clinical experience as a registered or advanced practice nurse related to the primary area of responsibility.

(c) All non-nursing faculty teaching courses under the nursing designation have (1) a Doctor's or Master's degree in the teaching discipline or (2) Doctor's or Master's degree with a concentration in the teaching discipline (a minimum of 18 graduate credit hours in the teaching discipline).

3. Faculty personnel policies for the nursing program are written and, consistent with those of the parent institution and implemented.

(a) Faculty personnel policies for the nursing program include criteria for the following:

- (1) faculty qualifications;
- (2) faculty rights and responsibilities;
- (3) faculty appointment, reappointment, promotion and tenure requirements;
- (4) faculty workload;
- (5) continuing faculty professional development.

(b) There is a written rationale for faculty personnel policies or practices that differs from those of the parent institution.

4. The full time equivalent (FTE) of qualified clinical instructors will not exceed 30 percent of the full time equivalent faculty (FTE) filled positions for the nursing program.

(a) The clinical instructor must meet all the following:

- (1) hold an unencumbered active license as a registered nurse in South Carolina or another Compact state; and
- (2) hold a minimum of a Bachelor of Science degree in nursing; and
- (3) have a minimum of two years of clinical experience related to the area of assigned clinical teaching responsibilities.

(b) The clinical instructor functions under the supervision of a nursing faculty member who has overall course responsibility.

(c) The clinical instructor's responsibilities and guidelines for supervision are in writing.

5. The qualifications of clinical preceptors are appropriate to support the goals and objectives of the nursing program.

(a) The preceptor will be employed by the clinical agency in which the preceptored experience occurs.

(b) The preceptor will be currently licensed as a registered nurse according to the laws of the state in which employed.

(c) The preceptor will have a minimum of two years of clinical experience and demonstrated competencies related to the area of assigned clinical teaching responsibilities.

(d) Preceptors meet the nursing program's requirements for preceptor appointment.

(e) Appointments are determined collaboratively between administration of the nursing program and nursing administration of the clinical agency.

(f) The preceptor shall complete an orientation to the preceptor role and course objectives.

6. The nursing program and clinical agency policies governing the role and responsibilities of clinical preceptors are written and consistent.

(a) The preceptor will be assigned no more than two students for any preceptor experience.

(b) Preceptors will function according to course guidelines/criteria developed by nurse faculty. Faculty must be available in person or by telecommunication for consultation.

(c) The preceptor will have a written description of preceptor responsibilities.

(d) The preceptor will be physically present in the agency and available to the student at all times during the clinical assignment.

D. Support Services

1. Support services and facilities are appropriate to support the goals and objectives of the nursing program.

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(a) Learning resources include print, on-line and media materials which support the program of learning and are readily available to students and faculty.

(b) The physical environment is conducive to the use of the resources.

(c) The library has provisions to obtain in a timely manner those resources not available in the library.

(d) Policies and procedures allow for faculty participation in evaluation, selection and deletion of library holdings and other learning resources.

(e) Documentation reflects periodic reviews of learning resources by faculty.

2. Student services provided by the parent institution are available to nursing students and institutional documents reflect college-wide policies/procedures regarding student services.

3. The institution provides for a system, including policies and procedures, to maintain student records in a manner that is designed to prevent unauthorized access, use, loss, and/or destruction.

4. A system of permanent and cumulative records is maintained for each nursing student and each graduate commensurate with the policies of the parent institution.

(a) Policies and procedures governing compilation and use of student records are written and current.

(b) Permanent and cumulative records are complete.

(c) Permanent and cumulative records are accessible.

5. Secretarial/support services are sufficient to meet needs of nursing program, administrator and faculty.

E. Facilities

1. The facilities are adequate to meet the goals and objectives of the nursing program. The following facilities are provided:

(a) offices for administration, faculty and staff;

(b) classrooms, laboratories and conference rooms for nursing and nursing related courses;

(c) storage space for supplies, equipment and instructional materials;

(d) skills laboratory sufficient in size and equipment to meet the needs of students.

2. The nursing program has written agreements with all affiliating agencies used to achieve program objectives.

(a) Agreements are jointly developed with the affiliating agency and are current.

(b) Agreements are developed with clinical facilities that provide diverse clinical experiences with sufficient number and variety of patients to meet educational objectives.

(c) Affiliating agencies are licensed by the appropriate state or federal authorities.

3. Agreements reflect that faculty retain responsibility for student learning experiences.

F. Curriculum

1. The nursing education curriculum is logically organized and internally consistent.

(a) Curriculum requirements are published.

(b) The curriculum reflects the philosophy, conceptual framework, goals, and objectives of the nursing program.

(c) There is a rationale for the organization and sequencing of learning experiences for the progressive development of knowledge and skills.

(d) Preceptored learning experiences may be used after the student has successfully completed a fundamentals of nursing course and a medical/surgical nursing course as determined by the program nurse administrator.

(e) There is a rationale for the allocation of credit for clinical and non-clinical courses and for the ratio of nursing to non-nursing courses in the curriculum.

(f) There is rationale for the selection, organization and sequencing of the general education courses.

2. The curriculum is developed, implemented and evaluated by faculty with opportunity for input from students in a manner consistent with the policies of the parent institution.

(a) The process for curriculum decision making is clearly defined for the parent institution and the nursing program.

(b) There is documentation of student input into faculty decisions in curriculum matters.

3. The curriculum reflects and is consistent with the knowledge, skills, and abilities that are required for the practice of nursing.

(a) The curriculum includes learning experiences in the promotion, maintenance and restoration of health for clients across the life span.

(b) The curriculum provides learning experiences in the application of the nursing process, which includes the assessment and nursing diagnosis of human responses to actual or potential health problems and the planning, intervention and evaluation of care as utilized in nursing practice.

(c) The curriculum includes biophysical and social science principles basic to nursing practice.

(d) The curriculum includes the scope of practice for the registered nurse in South Carolina.

G. Program Evaluation

1. A written plan for the periodic evaluation of all components of the nursing program is developed and implemented.

(a) Written evaluations for the nursing education administrator(s), faculty and students are on file.

(b) Written evaluations from program graduates and their employers are on file.

(c) Records, reports and/or meeting minutes reflect evaluation of the curriculum and instruction.

(d) There is evidence that faculty and students participate in the evaluation of all major program components to include: clinical and campus facilities; learning resources and services; and instructional materials and equipment.

2. Findings from the evaluation of all components of the nursing program serve as the basis for program changes.

3. The nursing program prepares graduates that demonstrate competent practice at entry into nursing practice. The program's pass rate for first time takers of the National Council Licensure Examination for Registered Nurses (NCLEX-RN) will be maintained annually at no greater than 5 percent below the national pass rate.

91-12. Criteria for Approval of Basic Programs Preparing Licensed Practical Nurses.

A. Organization

1. The nursing program is part of a college, university or public school system approved by the appropriate state authority.

(a) An organizational chart reflects the reporting mechanism of the administrator of the nursing program to the administrator of the parent institution.

(b) An organizational chart is available delineating lines of authority, responsibility, communication and relationships within the institution and to the community.

(c) Financial resources are sufficient to give assurance of stability of the program, educational resources and qualified administrative and instructional personnel.

(d) Criteria for budget allocation to the nursing programs are consistent with the criteria utilized for other programs.

(e) Written statements of philosophy or mission, purpose and objectives of the nursing program are consistent with those of the parent institution and are periodically reviewed.

(f) Personnel policies for the faculty are the same as those in effect for other members of the parent institution with regard to salary and benefits; selection, appointment, evaluation and promotion; recognition of professional competencies, and rights and responsibilities.

(g) Nursing program faculty serve on the parent institution's central councils and committees.

2. The nursing program is organized with clearly defined authority, responsibility and channels of communication.

(a) An organizational chart for the nursing program is available.

(b) Organizational policies, committee structure and corresponding minutes reflect how the business of the program is conducted.

3. The nursing program is administered by a qualified registered nurse licensed in the State or another Compact State.

(a) The nurse administrator meets parent institution requirements for administrative and faculty appointment.

(b) The nurse administrator has a minimum of a Master of Nursing degree. Administrators appointed prior to January 1, 2009 and serving continuously since that time are recognized as meeting educational requirements of the Board.

(c) The nurse administrator has appropriate preparation and experience for assuming administrative responsibilities to include a minimum of two years of clinical experience as a registered or advanced practice nurse.

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(d) The nurse administrator is employed full time with adequate time designated for administrative responsibilities.

- (e) A written job description reflects responsibility for the administration of the nursing program to include:
- (1) Leadership within the faculty for the development and implementation of the curriculum;
 - (2) Creation and maintenance of an environment conducive to teaching and learning;
 - (3) Liaison with the central administration and other units of the parent institution;
 - (4) Participating in the preparation and administration of the budget;
 - (5) Facilitating faculty development and performance review;
 - (6) Recommendation of faculty for appointment, promotion and retention;
 - (7) Maintaining relationships with central administration, clinical agencies, and appropriate state, regional and national agencies.

B. Students

1. Student admission, readmission, progression and graduation are governed by the established policies and procedures of the parent institution and the nursing program.

- (a) Policies and procedures for admission, readmission, progression and graduation criteria are written, implemented, periodically reviewed, and provided to students.
- (b) The nursing program has written rationale for policies for admission, readmission, progression and graduation that differ from the parent institution.

C. Faculty

1. The number of qualified faculty is adequate to meet the goals and objectives of the nursing program.

- (a) The maximum ratio of faculty to students in an acute inpatient setting where students are providing direct patient care is one faculty member to eight students (1:8). If the parent institution and the clinical affiliate determine that the safety of patients, nursing faculty and students can be insured, the maximum acceptable ratio in acute inpatient settings is no greater than one faculty to ten students (1:10).
- (b) The maximum ratio of faculty to students in non-acute clinical settings where students are providing direct patient care is one faculty member to ten students (1:10).
- (c) Faculty are available to students for guidance/ referral.
- (d) The majority of the faculty fulfill the fulltime faculty role as defined by the parent institution and the nursing program.
- (e) There are provisions for a substitute instructor(s).

2. The academic and experience qualifications of the faculty are appropriate to support the goals and objectives of the nursing education program and meet the criteria of the parent institution.

- (a) Nurse faculty must meet all of the following requirements:
- (1) hold an unencumbered active license as a registered nurse in South Carolina or another Compact state;
 - (2) have a minimum of a Bachelor of Science degree in Nursing. A Master of Nursing degree is preferred. (Faculty appointed prior to October 1977 and serving continuously since that time shall be recognized as meeting the requirements of the Board);
 - (3) have a minimum of two years of clinical experience as a registered or advanced practice nurse.
- (b) The general education faculty meet or exceed the parent institution's requirements for appointment.

3. Faculty personnel policies for the nursing program are written, consistent with those of the parent institution and implemented.

- (a) There are written job descriptions that define the responsibilities for instructional personnel.
- (b) There are written policies related to salary, vacation, sick leave, leave of absence, continued competency, insurance and retirement.
- (c) All faculty will be responsible to the nurse administrator of the nursing program.
- (d) Faculty shall not have additional employment responsibilities during the hours in which they are charged with the education and supervision of students.
- (e) Participation in regularly planned faculty meetings is documented in minutes.
- (f) Participation in the activities of the parent institution in ways that benefit the institution, the nursing education program and the faculty is evidenced by committee membership and minutes.
- (g) Policies allow for continued faculty development and pursuit of academic study.

4. Faculty participate in activities which promote continuing professional development.

5. The full time equivalent (FTE) of qualified clinical instructors teaching students will not exceed 30 percent of the full time equivalent faculty (FTE) filled positions for the nursing program.

(a) The clinical instructor must meet all the following:

- (1) hold an unencumbered active license as a registered nurse in South Carolina or another Compact state; and
- (2) hold a minimum of a Bachelor of Science degree in nursing; and
- (3) have a minimum of two years of clinical experience related to the area of assigned clinical teaching responsibilities.

(b) The clinical instructor functions under the supervision of a nursing faculty member who has overall course responsibility.

(c) The clinical instructor's responsibilities and guidelines for supervision are in writing.

D. Support Services

1. Learning resource centers are equipped and managed to provide instructional and support services to students and faculty.

(a) Library holdings/learning resources are adequate in number, appropriate to the program and accessible to students and faculty.

(b) There is a regular schedule for evaluation and deletion of outdated books and audiovisual materials.

2. Student services provided (i.e. health services, counseling, financial aid) are available to nursing students based on established criteria of the parent institution.

3. The parent institution provides a system to maintain permanent and cumulative student records in a manner that is designed to prevent unauthorized access, use, loss, and/or destruction.

4. Policies governing release of information from records is documented.

5. Secretarial/support services are sufficient to meet the needs of the nursing program, administrator and faculty.

E. Facilities

1. The parent institution provides adequate facilities to conduct the nursing program.

(a) Offices for the nursing administration, faculty and staff are provided.

(b) Classrooms and conference rooms are sufficient to meet the needs of the program.

(c) Library/learning resource centers (audio/visual/computer technologies) are readily available to students and faculty.

(d) Storage space for equipment and instructional materials is provided.

(e) The skills laboratory is sufficient in size and equipment to meet the needs of students.

2. The nursing program has written agreements with all affiliating agencies used to achieve the program objectives.

(a) Agreements which delineate the responsibilities of the clinical agency and the nursing program are jointly developed and current.

(b) Agreements are developed with clinical facilities that provide diverse clinical experiences with sufficient number and variety of patients to meet educational objectives.

(c) Agreements reflect that faculty retain responsibility for student learning experiences.

(d) Clinical affiliating agencies are licensed by the appropriate state or federal authorities.

F. Curriculum

1. The nursing curriculum is logically organized and internally consistent.

(a) Curriculum requirements are published.

(b) The curriculum reflects the philosophy, conceptual framework, goals and objectives of the nursing program.

(c) The objectives of each course, module or segment reflect the philosophy and purpose of the program.

(d) There is rationale for the organization and sequencing of learning experiences for the progressive development of knowledge and skills.

(e) There is rationale for the allocation of credit for nursing, nursing related and general education courses in the curriculum.

(f) There are written behavioral objectives for each course.

(g) There is an evaluation system that reflects the students' ability in relationship to theoretical and clinical objectives.

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- (h) Appropriate clinical experiences are arranged for each student to develop the necessary skills and competencies to deliver safe, effective nursing care.
 - 2. The curriculum is developed, implemented and evaluated by faculty with opportunity for input from students.
 - (a) The process for curriculum decision making is clearly defined for the parent institution and the nursing program.
 - (b) There is documentation of student input into faculty decisions in curriculum matters.
 - 3. The curriculum reflects and is consistent with the knowledge, skills and abilities required for the practice of practical nursing.
 - (a) The curriculum includes selected learning experiences in the promotion, restoration and maintenance of health of clients across the life span.
 - (b) The curriculum includes learning experiences consistent with the practical nurses' role in assisting with assessment, planning, intervention and evaluation.
 - (c) The curriculum includes the scope of practice for the licensed practical nurse in South Carolina.
- G. General Education
- 1. The nursing curriculum includes general education content.
 - (a) The general education content is relevant to the practice of practical nursing.
 - (b) The general education content requirements are published.
 - (c) There is written documentation of periodic review of general education content.
 - 2. The general education component meets or exceeds the criteria for the institution.
- H. Program Evaluation
- 1. A written plan for the periodic evaluation of all components of the nursing program is developed and implemented.
 - (a) Written evaluations for the nursing education administrator(s), faculty and students are on file.
 - (b) Written evaluations from program graduates and their employers are on file.
 - (c) Records, reports and/or meeting minutes reflect evaluation of the curriculum and instruction.
 - (d) There is evidence that faculty and students participate in the evaluation of all major program components to include: clinical and campus facilities; learning resources and services; and instructional materials and equipment.
 - 2. Findings from the evaluation of all components of the nursing program serve as the basis for program changes.
 - 3. The nursing program prepares graduates that demonstrate competent practice at entry into practical nursing. The program's pass rate for first time takers of the National Council Licensure Examination for Practical Nurses (NCLEX-PN) will be maintained annually at no greater than 5 percent below the national pass rate.

91-13. Upon a satisfactory showing that the goals of these Regulations may be met by alternative means or methods, the Board may grant exceptions and waivers to these Regulations in its discretion.

Fiscal Impact Statement:

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

Statement of Rationale:

Regulations 91-23. through 91-30. need to be amended to conform to the Nurse Practice Act, 2004 Act 225. There was no scientific or technical basis relied upon in the development of this regulation.

Document No. 3063
PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
 CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140

26 S.C. Code Ann. Regs. 103-500, *et. seq.* Sewerage Utilities

26 S.C. Code Ann. Regs. 103-700, *et. seq.* Water Utilities

Synopsis: In 2004, the General Assembly passed Act No. 175 which restructured the Public Service Commission. This Act modified the structure of the Agency and its functions and created the Office of Regulatory Staff. Several duties of the Public Service Commission were transferred to the Office of Regulatory Staff on January 1, 2005. The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-500, *et. seq.* (1976 & Supp. 2005) and 26 S.C. Code Ann. Regs. 103-700, *et. seq.* (1976 & Supp. 2005) of the Public Service Commission's regulations is to amend Articles 5 and 7 to conform to the new standards set out by Act 175 of 2004.

Instructions: Print regulations in accordance with directions given below to show most current date of revised regulations:

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ARTICLE 5
SEWERAGE UTILITIES
SUBARTICLE 1
GENERAL

103-500. Authorization of Rules.

A. Section 58-5-210 of the Code of laws of South Carolina, 1976, provides: "That the Public Service Commission, is hereby, to the extent granted, vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the power, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, observed and followed by every public utility in this State, and the State hereby asserts its rights to regulate the rates and services of every public utility as herein defined." In accordance with the above provisions the Public Service Commission has adopted the following rules and regulations and fixed the following standards to govern sewer service by public utilities. All previous rules or standards are hereby revoked, annulled, and superseded.

B. The adoption of these rules shall in no way preclude the Public Service Commission from altering, amending, or revoking them in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, either upon complaint, upon the application of any utility, or upon its own motion. Furthermore, these rules shall not relieve either the commission or the Utilities of any duties prescribed under the laws of this State.

103-501. Application of Rules.

1. Jurisdiction. These rules shall apply to any person, firm, partnership, or association, establishment, corporation (except public utilities owned or operated by any municipality or agency thereof and/or any sewer authority specifically exempted by statute) which is now or may hereafter become engaged as a public utility in the business of collecting or treating sewerage for any sewerage customer within the State of South Carolina.

2. Purpose. These rules are intended to define good practice. They are intended to insure adequate and reasonable service. The Utilities shall assist the commission and the ORS in the implementation of these rules and regulations.

3. Waiver of Rules. In any case where compliance with any of these rules and regulations introduces unusual difficulty or where circumstances indicate that a waiver of one or more rules or regulations is otherwise appropriate, such rules or regulations may be waived by the commission upon a finding by the commission that such waiver is not contrary to the public interest.

103-502. Definitions.

103-502.1. Commission.

103-502.2. Customer.

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Any person, firm, partnership, or corporation, or any agency of the Federal, State, or Local Government, being supplied with service by a utility under the jurisdiction of this commission. Customers shall be classified for purposes of applying rates as "residential", "commercial", or "industrial".

103-502.3. Customer Main Extension Fee.

A fee paid by a customer under a contract entered into by and between the utility and its customer providing terms for the extension of the utility's mains to service the customer.

103-502.4. Customer Service Line.

The portion of pipe on the customer's premises which transports sewerage from the customer's premises to the "utility service line".

103-502.5. Homeowners Association.

An association of lot owners located in a particular subdivision or development incorporated under the laws of this State as a non-profit corporation, including as one of its purposes, the operation of a sewerage system to serve the particular subdivision or development. Each homeowners association, prior to the commencement of operations of a sewerage system, shall file with the commission and provide a copy to the ORS (a) a certified copy of its certificate of incorporation; (b) a copy of the corporation's bylaws; (c) a copy of any declaration of covenants, conditions and restrictions on real property in the subdivision or development filed in conjunction with the formation of the homeowners association; (d) a copy of the permit or authorization from the Department of Health and Environmental Control issued to the homeowners association to operate the system, and (e) copies of a statement signed by each lot owner disclosing that the sewerage services in the subdivision are provided by a non-profit homeowners association, in which each lot owner is a voting member, and that an appropriate assessment to meet operating expenses of the Utility must be paid by each lot owner.

103-502.6. Main.

103-502.7. Premises.

A piece or tract of land or real estate, including buildings and other appurtenances thereon.

103-502.8. Rate.

The term "rate", when used in these rules and regulations, means and includes every compensation, charge, toll, rental, classification, or availability fee, or any of them, including tap fee, or other non-recurring charges demanded, observed, charged, or collected by any utility for any service offered by it to the public, and any rules, regulations, practices, or contracts affecting any such compensation, charge, toll, rental, classification, or availability fee. An application for approval of any rate schedule will not be accepted for filing under S.C. Code Ann., § 58-5-240 unless accompanied by the information specified under 103-512(4).

103-502.9. The Office of Regulatory Staff.

The executive director and employees of the Office of Regulatory Staff.

103-502.10. Tap Fee.

A non-recurring, non-refundable charge related to connecting the customer to the utility's system which includes the cost of installing the utility's service line from the main to the customer's premises and a portion of plant capacity which will be used to provide service to the new customer. Plant capacity shall be computed by using the Guide Lines for Unit Contributory Loadings to Wastewater Treatment Facilities (1972) to determine the single family equivalency rating. Any privately-owned corporation, firm, partnership, or

individual empowered by contract, or otherwise, to collect a tap fee from a customer for the provision of sewerage service to that customer shall be considered a utility, and shall obtain commission approval prior to collecting tap fees, or any other rates for sewerage service. An application for approval of any rate change shall not be considered unless the filing contains appropriate exhibits setting forth all cost criteria justifying the tap fee, setting forth the portion of the tap fee related to installing the service line and the portion related to plant capacity.

103-502.11. Utility.

Every person, firm, partnership, association, establishment or corporation furnishing or supplying in any manner sewerage collection and/or sewerage disposal service to the public or any portion thereof, for compensation. A "homeowners association", as defined in 5 of this rule and subject to the requirements set forth herein, upon commission order, may be found not to be a utility.

103-502.12. Utility Service Line.

The portion of pipe which runs from the customer's premises to the main, and which receives sewerage from the "customer service line".

103-502.13. Sewerage or Wastewater Plant.

Plant and property owned by a utility, used in its business operations of providing sewerage collection and/or sewerage disposal service to its customers.

103-503. Authorization for Rates and Charges.

A. No schedule of rates, contracts, or rules and regulations, shall be changed until after the proposed change has been approved by the commission.

B. All rates, contract forms, and rules and regulations, proposed to be put into effect by any utility as defined in 103-502(11) shall be first approved by this commission before they shall become effective, unless they are exempt from such approval by statute or other provision of law.

C. No rate, contract, or rule and regulation of any utility under the jurisdiction of this commission shall be deemed approved or consented to by the mere filing of a schedule, or other evidence thereof, in the offices of the commission.

D. Each customer within a given classification (i.e., residential, commercial, or industrial) shall be charged the same approved rate, including tap fees, as every other customer within that classification, unless reasonable justification is shown for the use of a different rate, and a contract or tariff setting for the different rate has been filed and approved by the commission through the issuance of an order or directive.

103-504. Territory and Certificates.

No existing public utility supplying wastewater disposal to the public, or any individual, corporation, partnership, association, establishment, or firm undertaking the construction or acquisition of a utility, shall hereafter sell, acquire, transfer, begin the construction or operation of any utility system, or of any extension thereof, by the sale of stock or otherwise, without first obtaining from the commission a certificate that the sale, transfer, or acquisition is in the public interest, or that public convenience and necessity require or will require construction or operation of any utility system, or extension. Such certificate shall be granted only after the applicable information set forth in Subarticle 2, 103-510 et seq., has been filed with the commission and provided to the ORS, and after notice has been given to the Department of Health and Environmental Control and to other interested wastewater utilities, and to the public, and after due hearing. Provided, however, that this regulation shall not be construed to require any existing utility to secure a certificate for an extension

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within or to territory already served by it, necessary in the ordinary course of its business. But, if any utility in constructing or extending its lines, plant or system unreasonably interferes, or is about to unreasonably interfere, with the service or system of any other utility, the commission may make such order, and prescribe such terms and conditions, in harmony with this regulation, as are just and reasonable.

103-505. Utility Rules and Regulations.

Each utility shall adopt rules, regulations, operation procedure policies, terms and conditions, etc., as may be necessary in the operation of the Utility. Such service conditions and/or regulations shall be approved by and filed with the commission and provided to the ORS.

103-506. Security Issues.

A. No utility shall issue any securities without the approval of the commission. This rule shall not apply to any issue of securities payable within one year from the date of issue, except in case of subsequent issues made to refund such short-term obligations; but such short-term obligations may be renewed by similar obligations without the approval of the commission for an aggregate period not exceeding two years.

B. Any utility desiring to issue any securities may apply to the commission for approval of the proposed issue by filing an application with the commission and serving a copy on the ORS together with a statement verified by (1) its president and secretary or other appropriate officers; (2) two of its incorporators; or (3) by its owner or owners, if it is unincorporated, setting forth:

- (a) The amount and character of securities proposed to be issued;
- (b) The purpose for which they are to be issued;
- (c) The consideration for which they are to be issued;
- (d) The description and estimated value of the property, if any, to be acquired through the proposed issue;
- (e) The terms and conditions of the issuance; and
- (f) The financial condition of the utility and its operations so far as relevant.

C. The commission shall determine whether the purpose of the issue is proper; shall value the property or services, if any, to be acquired by the issue; shall find and determine the amount of such securities reasonably necessary for the purpose for which they are to be issued. This determination shall follow such investigation as may be necessary, wherein the utility and any other interested party shall be entitled to be heard.

D. To the extent that the commission may approve the proposed issue, it shall grant to the utility a Certificate of Authority stating the character of the securities, the amount reasonably necessary for the purpose for which they are to be issued, and the value of any property or services, if any, to be acquired. This certification shall not impose or imply any guaranty or obligation as to such securities on the part of the commission.

SUBARTICLE 2

RECORDS AND REPORTS

103-510. Location of Records and Reports.

All records required by these rules are necessary for the administration thereof, shall be kept within an office located in this State, unless otherwise specifically authorized by the commission. These records shall be available for examination by the ORS or its authorized representatives at all reasonable hours.

103-511. Retention of Records.

Unless otherwise specified by the commission, or by regulations or commission Orders governing specific activities, all records required by these rules shall be preserved according to the most current edition of *Regulations to Govern the Preservation of Records for Electric, Gas and Water Utilities*, published by the National Association of Regulatory Utility Commissioners (NARUC). Following are certain modifications to those record retention periods:

(A) Item 30. Plant ledgers:

a. Ledgers of utility plant accounts including land and other detailed ledgers showing the cost of utility plant by class for the life of the utility.

b. Continuing plant inventory ledger, book or card records showing description, location, quantities, cost, etc. of physical units (or items) of utility plant owned – life of the utility.

(B) Item 32. Retirement work in progress ledgers, work orders and supplemental records:

a. Work order sheets to which are posted the entries for removal costs, materials recovered and credits to utility plant accounts for cost of plant retired – life of the utility.

(C) Other – Records related to a test year used in a rate adjustment proceeding shall be preserved for a period of two years after the final order in such case or throughout the period that the Order by the Public Service Commission concerning the rate adjustment may be appealed, whichever is later. The utility shall maintain beyond this two-year period sufficient records to verify and substantiate all requirements included in these rules.

103-512. Data to be Filed with the Commission and Provided to the ORS.**103-512.1. Annual Report.**

Each utility operating in the State shall file an annual report with the commission and provide a copy to the ORS giving accounting and other information as the commission orders. The commission or the ORS will provide an annual report form upon request. If the utility's books are maintained on a calendar year, the annual report must be filed on or before April 1st of each year. If the utility uses a fiscal year other than December 31st, the annual report should be filed within three months after the end of the fiscal year.

103-512.2. Current Information and Documents.

The utility shall file with the commission and provide a copy to the ORS the following documents and information, and shall maintain such documents and information in a current status.

103-512.2. 1. Tariff.

A copy of each schedule of rates and charges for service, together with the applicable riders, including any rules and regulations, or terms and conditions describing policies and practices of rendering service shall be provided to the commission and the ORS.

103-512.2. 2. Special Contract Forms.

A copy of each special contract for service, including aid to construction agreements, and rate agreements shall be provided to the commission and the ORS.

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103-512.2. 3. Customer Bill.

A copy of each type of customer bill form, which shall include the information which is normally shown on a customer's bill for service shall be provided to the ORS.

103-512.2. 4. Operating Area Maps.

A map of the utility's operating area. This map shall be revised and submitted to the ORS annually unless such revision is unnecessary, in which event the utility shall notify the ORS that the map on file is current. The map should show:

- (a) Location of transmission lines, pumping stations, waste treatment plants and discharge points;
- (b) Mains by size;
- (c) Service area clearly drawn on operating area map using proper surveying standards;
- (d) Names of all communities (post offices) served; and
- (e) Capacity of the system.

103-512.2. 5. Authorized Utility Representative.

The utility shall advise the commission and ORS of the name, title, address, and telephone number of the person who should be contacted in connection with:

- (a) General management duties;
- (b) Customer relations (complaints);
- (c) Engineering operations; and
- (d) Emergencies during non-office hours.

103-512.3. Performance Bond.

Prior to operating, maintaining, acquiring, expanding or improving any utility system, for which commission approval is required, the utility shall have on file with the commission and provide a copy to the ORS a performance bond with sufficient surety using a format prescribed by the commission.

103-512.3. 1. Amount of Bond.

The amount of bond shall be based on, but not limited to, the total amount of the following categories of expenses for twelve months: Operation and Maintenance Expenses, General and Administrative Expenses, Taxes Other Than Income Taxes, Income Taxes, and Debt Service including Interest Expenses. The minimum amount of the bond shall be \$100,000 and the maximum amount of the bond shall be \$350,000 based on the verified expenses of the utility for the preceding twelve-month period. A bond shall be required for each water and wastewater provider under the jurisdiction of the Public Service Commission. A certification that the face amount of the bond on file with the commission complies with the provisions of 103-512.3.1 of this rule shall be filed with the annual report required by 103-512.1 of this rule. The ORS shall review the annual reports and certifications and determine whether the present bond of the utility accurately reflects the expenses of the utility. Based upon the expenses of the utility as submitted in the annual report and as reviewed and adjusted by the ORS, the ORS shall make recommendations for increasing or reducing the amount of the bond within the minimum and maximum limits as prescribed by statute.

103-512.3. 2. Sureties.**103-512.3. 3. Financial Statement.**

Upon order of the commission, when any individual acts as surety, he shall file with the commission and provide a copy to the ORS annually a financial statement verified by said surety showing the individual surety's personal assets, liabilities, and net worth. The commission may accept a verification of the financial statement in a format prescribed by the commission, including third-party verification.

103-512.4. Rate Applications.

A. When a utility makes application for an increase in existing rates and charges, such application shall not be accepted for filing unless it contains the following information:

- 1) A statement of reason justifying the need for the proposed rate adjustments;
- 2) Current income and expense statement for the preceding twelve months;
- 3) Proposed rate schedule;
- 4) Test year proposed to be used;
- 5) Pro-forma income and expense statement using proposed rates applied to proposed test year;
- 6) Balance sheet;
- 7) Depreciation schedule by categories of plant or average service lives;
- 8) Number of present and expected customers in the following twelve months;
- 9) Cost justifications for proposed rates and charges, including tap fees, with attached schedules depicting labor costs, materials costs, and miscellaneous costs;
- 10) Filing or updating of performance bond in accordance with 3 of this rule;
- 11) Current or updated service area map;
- 12) Statement of total plant investment;
- 13) Most recent letter of approval from the Department of Health and Environmental Control;
- 14) Customer bill form;
- 15) Annual Report on file and evidence of last period Gross Receipts paid; and
- 16) Any other pertinent or relevant information determined necessary by the commission.

B. When any utility makes application for establishment of a service area and rates and charges, such application shall contain the following information:

- 1) Copy of articles of incorporation or partnership agreement;
- 2) Plat of proposed area to be served;

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- 3) Copy of engineering plans and specification designed or certified to be in accordance with good engineering practices by a professional engineer registered in South Carolina;
- 4) Construction permit from the South Carolina Department of Health and Environmental Control approving the engineering plans and specifications;
- 5) Schedule of proposed rates and charges and cost justifications including tap fees with attached schedules depicting labor costs, materials costs, and miscellaneous costs;
- 6) Number of customers proposed to be served and the capacity of the system;
- 7) Financial statement showing proposed plant investment by categories;
- 8) Depreciation schedule by categories of plant or average service lines;
- 9) Pro-forma income and expense statement showing the effect of using the proposed rates based on plant capacity;
- 10) Filing of performance bond in accordance with 3 of this rule;
- 11) Statement by a professional engineer that the system was built and installed according to plans and specifications on file with the commission and will furnish adequate service for the area to be served;
- 12) Letter from the South Carolina Department of Health and Environmental Control approving the system for operation;
- 13) Customer bill form; and
- 14) Any other pertinent or relevant information determined necessary by the commission.

103-513. Inspection of Plant and Equipment.

A. Each utility shall, upon request of the ORS, provide to the ORS a statement regarding the condition of the waste treatment facility and the adequacy of the treatment provided by the facility as determined by the Department of Health and Environmental Control and any other information concerning the plant, equipment, facilities and service in such a form as the commission may require or as the ORS may request.

B. Each utility shall keep sufficient records to give evidence of compliance with its inspection program as set forth in Subarticle 6, 103-560 et. seq.

103-514. Interruption of Service/Violation of Rules.

A. Each utility shall keep a record of any condition resulting in any interruption of service affecting its entire system or major division thereof, or any single community or an important division of a community, including a statement of the time, duration, and cause of any such interruption. The commission and the ORS should be notified of any interruption lasting more than six hours as soon as it comes to the attention of the utility and a complete report made after restoration of service.

B. Each utility shall make all reasonable efforts to prevent interruptions of service and, when such interruptions occur, shall endeavor to re-establish service with the shortest possible delay consistent with the safety of its consumers and the general public. Scheduled interruptions shall always be preceded by adequate notice to all affected customers.

C. All Wastewater Utilities under the jurisdiction of the commission shall file with the commission and the ORS in writing a notice of any violation of PSC or DHEC rules which affect the service provided to its customers. This notice shall be filed within 24 hours of the time of the inception of the violation and shall detail the steps to be taken to correct the violation, if violation is not corrected at time of occurrence. The Company shall notify the commission and the ORS in writing within 14 days after the violation has been corrected.

103-515. Accidents.

Each utility shall, as soon as possible, report by telephone to the ORS each accident happening in connection with the operation of its property, facilities, or service, wherein any person shall have been killed or seriously injured or whereby any serious property damage shall have been caused. Such first report shall later be supplemented by a full statement provided to the ORS of the cause and details of the accident and the precautions, if any, which have been taken to prevent similar accidents.

103-516. Complaints.

103-517. Accounting Procedures.

All books and records of the utility shall be maintained in accordance with the NARUC Uniform System of Accounts for Class A, B and C Sewerage Utilities to the extent applicable. Such records must be made available for examination by the ORS or its authorized representatives at all reasonable hours. Full cooperation will be provided by the utility during rate adjustment audits or compliance audits conducted by the ORS or its representatives.

SUBARTICLE 3

METERS

103-520. Change in Character of Service.

SUBARTICLE 4

CUSTOMER RELATIONS

103-530. Customer Information.

Each utility shall:

A. Maintain up-to-date maps, plans, or records of its entire force main collection systems, with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers within its operating area.

B. Notify each affected customer in writing as prescribed by the commission of any proposed change in rates and charges. A certification that the above notice requirements has been met shall be furnished to the commission by the utility prior to the public hearing.

C. Provide that a complete schedule, contract forms, rules and regulations, etc., as filed with the commission and provided to the ORS, shall also be on file in the local offices of the utility and shall be open to the inspection by the public.

D. Assist prospective customers in selecting the most economical rate schedule applicable.

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E. Provide adequate means (telephone, etc.) whereby each customer can contact an authorized representative of the utility at all hours in cases of emergency or unscheduled interruptions of service.

F. Notify any customer making a complaint recorded pursuant to R.103-516 that the utility is under the jurisdiction of the commission and that the customer may notify the ORS of the complaint.

G. Inform each prospective customer from whom a deposit may be required of the provisions contained in R.103-531 and its subsections.

H. Inform each prospective customer that the customer's service line and plumbing shall conform to all local plumbing codes, and in the absence of such codes shall conform to the Southern Standard Plumbing Code.

103-531. Customer Deposits.

103-531.1. Amount of Deposit.

103-531.2. Interest on Deposits.

A. Simple interest on deposits at the rate as determined by commission Order shall be paid by the utility to each customer required to make such deposit for the time it is held by the utility, provided that no interest need be paid unless the deposit is held longer than six months.

B. The interest shall be accrued annually and payment of such interest shall be made to the customer at least every two (2) years and at the time the deposit is returned.

C. The deposit shall cease to draw interest on the date it is returned, on the date service is terminated, or on the date notice is sent to the customer's last known address that the deposit is no longer required.

103-531.3. Deposit Records.

103-531.4. Deposit Receipt.

103-531.5. Deposit Retention.

103-531.6. Unclaimed Deposits.

A record of each unclaimed deposit must be maintained for at least one year during which time the sewerage utility shall make a reasonable effort to return the deposit. Unclaimed deposits, together with accrued interest, shall be turned over to the South Carolina State Treasurer as prescribed by law.

103-531.7. Deposit Credit

103-532. Customer Billing.

103-532.1. Customer Bill Forms

103-532.2. Late Payment Charges.

103-532.3. Payment by Check.

The utility at its option for good cause may refuse to accept a check tendered as payment on a customer's account and require payment in cash or other certified funds. Good cause must be justified by a sewerage utility by evidencing a credit history problem or by evidencing insufficient funds of the utility customer or

applicant. For the purposes of this regulation, the sewerage utility may not consider indebtedness that was incurred by the customer or any member of his household more than six (6) years prior to the time of application.

103-532.4. Charges for Disconnection and Reconnection.

Whenever service is disconnected for violation of rules and regulations, nonpayment of bills or fraudulent use of service, or at the request of the customer the utility shall not be required to reconnect such service until any arrearages have been paid and a reconnection fee of two-hundred-fifty dollars (\$250.00) has been paid to the utility. A reconnection fee shall be reduced to thirty-five dollars (\$35.00) when disconnection has been made by the use of an elder valve or similar device.

103-532.5. Deferred Payment Plan.

The utility shall provide for the arrangement of a deferred payment plan to enable a residential customer to make payment by installments where such customer is unable to pay the amount due for service. The deferred payment plan shall require the affected customer to maintain his account current and pay not less than 1/6 of the outstanding balance for a period not to exceed six months. The outstanding balance may include the late payment charge authorized by R.103-532.2. Service to such customer shall not be terminated unless the utility has informed the customer that such deferred payment plan is available. A deferred payment plan is any agreement to extend or defer a payment cut-off date by more than 5 work days. If a customer fails to conform to the terms and conditions of such deferred payment plan, the utility may terminate service upon fifteen days written notice, with copies of such termination notice mailed to DHEC and the ORS.

103-533. Adjustment of Bills.

If it is found that a utility has directly or indirectly, by any device whatsoever, demanded, charged, collected or received from any customer a greater or lesser compensation for any service rendered or to be rendered by such utility than that prescribed in the schedules of such utility applicable thereto, then filed in the manner provided in Title 58 of the South Carolina Code of Laws; or if it is found that any customer has received or accepted any service from a utility for a compensation greater or lesser than that prescribed in such schedules; or if, for any reason, billing error has resulted in a greater or lesser charge than that incurred by the customer for the actual service rendered, then the method of adjustment for such overcharge or undercharge shall be provided by the following:

1. Customer Inadvertently Overcharged. If the utility has inadvertently overcharged a customer as a result of a misapplied schedule or any other human or machine error, the utility shall at the customer's option credit or refund the excess amount paid by that customer or credit the amount billed as provided by the following:

(a) If the interval during which the customer was overcharged can be determined, then the utility shall credit or refund the excess amount charged during the entire interval provided that the applicable statute of limitations shall not be exceeded.

(b) If the interval during which the customer was overcharged cannot be determined, then the utility shall credit or refund the excess amount charged during the twelve-month period preceding the date when the billing error was discovered.

2. Customer Inadvertently Undercharged. If the utility has undercharged any customer as a result of a misapplied schedule, or any human or machine error, then the utility may recover the deficient amount as provided as follows:

(a) If the interval during which a customer was undercharged can be determined, then the utility may collect the deficient amount incurred during that interval up to a maximum period of six months.

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(b) If the interval during which a consumer was undercharged cannot be determined, then the utility may collect the deficient amount incurred during the six-month period preceding the date when the billing error was discovered by the utility.

(c) The customer shall be allowed to pay the deficient amount, in equal installments added to the regular monthly bills, over the same number of billing periods which occurred during the interval the customer was subject to pay the deficient amount.

3. **Customer Willfully Overcharged.** If the utility has willfully overcharged any customer, the utility shall refund the difference, plus interest, as prescribed by the commission for the period of time that can be determined that the customer was overcharged.

4. **Customer Undercharged Because of Fraud or Willful Misrepresentation.** If the utility has undercharged any customer because of the customer's fraudulent actions or because the customer has willfully misrepresented a material fact resulting in an undercharge, or if it is shown that the customer is aware of any fraudulent or illegal action by another person such as tampering with the facilities owned by the utility and it is evident that such action benefits the customer, or if it is evident that a customer has knowledge of being undercharged without notifying the utility of such, then the utility may recover the deficient amount provided as follows:

(a) If the interval during which the customer was undercharged can be determined, then the utility shall collect the deficient amount incurred during that entire interval provided that the applicable statute of limitations is not exceeded.

(b) If the interval during which the customer was undercharged cannot be determined, then the utility shall collect the deficient amount incurred during the twelve-month period preceding the date when the billing error was discovered by the utility.

103-534. Application for Service.

A. All applications for sewerage service may be made orally or in writing.

B. The accepted application shall constitute a contract between the company and the applicant, obligating the applicant to pay for sewerage service in accordance with the utility's tariff currently on file with the Public Service Commission and the ORS, and to comply with rules and regulations

C. When a customer desires to have his service terminated, he must notify the utility and such notification may be orally or in writing. The utility shall be allowed a reasonable period of time after the receipt of such notice to terminate service.

103-535. Denial or Discontinuance of Service.

Service may be refused or discontinued for any of the reasons listed below. Unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued.

A. Without notice in the event of a condition determined by the utility, the commission by order, or the South Carolina Department of Health and Environmental Control to be hazardous or dangerous.

B. In the event of customer use of equipment in such a manner as to affect adversely the utility's service to others.

C. In the event of unauthorized use of the utility's service.

D. For customer tampering with equipment furnished and owned by the utility. The customer shall make every reasonable effort to prevent tampering and shall notify the utility immediately of any tampering with damage to, or removal of any equipment.

E. For violation of and/or non-compliance with these rules and regulations.

F. For failure of the customer to fulfill his contractual obligations for service and/or facilities subject to regulation by the commission.

G. For failure of the customer to permit the utility reasonable access to its equipment.

H. For non-payment of any amounts due for connection charges and/or for service rendered provided that the utility has made a reasonable attempt to effect collection and has given the customer the proper notice as required by R.103-535.1.

I. For molesting or tampering with any service or sewerage pipe, or for illegally making connection into any sewerage line for the disposal of drainage surface waters.

J. For failure of the customer to provide the utility with a deposit as authorized by R.103-531.

K. For failure of the customer to furnish permits, certificates, and/or rights of way, as necessary to obtaining service, or in the event such permissions are withdrawn or terminated.

L. No sewer utility shall be required to furnish its sewerage service or to continue its service to any applicant who, at the time of such application, is indebted or any member of his household is indebted, under an undisputed bill to such sewer utility company for sewerage service previously furnished such applicant or furnished any other member of the applicant's household. However, for the purposes of this regulation, the sewer utility may not consider any indebtedness which was incurred by the applicant or any member of his household more than six (6) years prior to the time of application.

M. The utility may discontinue a customer's service should that customer be in arrears on an account for service at another premises unless the customer pays a reasonable amount of his arrears account and makes reasonable arrangement with the utility to amortize the balance of such past due or arrears account over a reasonable length of time, not to exceed twelve months.

N. For the reason that the customer's use of the utility's service conflicts with, or violates, orders, ordinances or laws, of the State or any subdivision thereof, or of the commission.

O. In the case of a landlord/tenant relationship where the tenant is the customer, the utility may require the landlord to execute an agreement wherein such landlord agrees to be responsible for all charges billed to that premises in accordance with the approved tariffs for that utility and the Rules of the commission, and said account shall be considered the landlord's and tenant's account. In the event the landlord refuses to execute such an agreement, the utility may not discontinue service to the premises unless and until the tenant becomes delinquent on his account or until the premises are vacated. The utility may discontinue service pursuant to R.103-535.1 if the account is delinquent or may discontinue service at the time the premises are vacated and the utility shall not be required to furnish service to the premises until the landlord has executed the agreement, and paid any reconnection charges.

P. No utility shall be required to furnish, or continue to furnish its sewerage service to any premises to which the utility has not inspected the service connection, provided however, if the utility has waived its right to inspect the service connection, it may not refuse to furnish nor refuse to continue service to the premises.

Q. For nonpayment of any connection charge properly imposed by the utility and owed by the customer provided that the utility has made a reasonable attempt to effect collection and has given the customer 30 days

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written notice, sent by certified mail to the customer's billing address, with a copy forwarded to the commission. A connection charge owed by a third party or a previous occupant or owner of premises is not deemed to be owed by the current customer, and that current customer's service may not be disconnected under such circumstances.

103-535.1. Notice Prior to Discontinuance of Service.

Before any sewerage service may be discontinued, the utility must give thirty (30) days written notice to the customer, by certified mail, unless R.103-535.A is applicable, with copies forwarded to the appropriate county health department and the ORS. At the expiration of the thirty (30) day period, the utility shall post a second notice by certified mail to the customer advising that in not less than 10 days nor more than 30 days, his service may be discontinued at any time without further notice. After the physical disconnection of any sewerage service, the Division of Environmental Health of the South Carolina Department of Health and Environmental Control and the ORS shall immediately be notified of the action and the name and address of the customer. Service will be terminated only on Monday through Thursday between the hours of 8:00 A.M. and 4:00 P.M., unless provisions have been made to have someone available to accept payment and reconnect service. The utility must inform the customer in the notice that the customer can contact the ORS if the customer disputes the discontinuance of service.

103-536. Insufficient Reasons for Denying Service.

103-537. Right of Access.

A. The authorized agents of the utility shall have the right of access to the customer's premises, at reasonable hours, for the purpose of inspecting the customer's sewerage connections and for any other purpose which is proper and necessary in the conduct of the utility's business.

B. When a sewerage line which is property of a utility is on the property of a resident in the utility's service area which is on file with the ORS, the resident shall provide reasonable access to the utility for maintenance thereof. Any damage done to the property by the utility shall be corrected by the restoration of comparable grass, shrubbery, and trees from nursery stock to conform with the condition before the maintenance process began.

103-538. Customer Complaints.

A. Complaints concerning the charges, practices, facilities, or service of the utility shall be investigated promptly and thoroughly. The utility shall keep such records of customer complaints as will enable it and ORS to review and analyze the utility's procedures and actions. All customer complaints will be processed pursuant to R.103-516 and R.103-530.F.

B. When the ORS has notified the utility that an oral complaint has been received concerning a specific account and such complaint has been received by the ORS before service is terminated, the utility shall not discontinue the service of that account until the ORS's investigation is completed and the results have been received by the utility. Service shall not be discontinued if the complainant requests in writing a hearing before the commission.

103-539. Tariff's Rules and Regulations.

A copy of the utility's tariffs as filed with this commission and provided to the ORS will be on file in the local business offices of the utility and shall be available for public inspection.

103-540. System Which Utility Must Maintain.

Each utility, unless specifically relieved in any case by the commission from such obligation, shall operate and maintain in safe, efficient and proper conditions of all of its facilities and equipment used in connection with the services it provides to any customer up to and including the point of delivery from systems or facilities owned by the customer.

103-541. Contracts.

No utility shall execute or enter into any agreement or contract with any person, firm, partnership, or corporation or any agency of the Federal, State or local government which would impact, pertain to, or effect said utility's fitness, willingness, or ability to provide sewerage service, including but not limited to the collection or treatment of said wastewater, without first submitting said contract in form to the commission and the ORS and obtaining approval of the commission.

SUBARTICLE 5

ENGINEERING

103-550. Good Engineering Practice.

103-551. Design and Construction Requirements

The design and construction of the sewerage plant shall conform to the requirements of the Bureau of Water of the South Carolina Department of Health and Environmental Control.

103-552. Minimum Pipe Size.

103-553. Adequacy of Sewerage Plant.

The capacity of the utility's plant for the collection, transmission, treatment and disposal of sewage, sewage effluent and other removed substances must be sufficiently large to meet all normal demands for service and provide a reasonable reserve for emergencies.

The utility shall furnish the ORS with the following:

- 1) Statement by the South Carolina Department of Health and Environmental Control that the design has been approved;
- 2) Statement by the South Carolina Department of Health and Environmental Control that the utility was installed according to plans and specifications;
- 3) Statement by a professional engineer that the utility design meets his approval and the utility was installed with the approval of a professional engineer; and
- 4) Copy of "as built" plans and specifications approved by a professional engineer.

103-554. Inspection of Sewerage Plant.

103-555. Service Pipe Connections.

A. Utility's Service Pipe--The utility shall install and maintain that portion of the service pipe from the main to the boundary line of the property being served, public road, or street under which such main may be located. The connection of the service pipe to the main must be made using appropriate wyes, saddles, or other acceptable fittings.

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B. Customer's Service Pipe--The customer shall install and maintain that portion of the service pipe from the end of the utility's service pipe into the premises served. The portion of the service pipe installed and maintained by the customer shall conform to all reasonable rules and regulations of the utility. It must be constructed of approved materials and must be installed and maintained in accordance with accepted good practice and in conformance with applicable codes of governmental regulations. Each customer's service pipe shall serve no more than one customer.

C. Restrictions on Installation--A sewer service pipe shall not be laid in the same trench with water pipe unless the water service pipe is laid on a shelf on the side of the trench, not less than eighteen (18) inches above and not less than eighteen (18) inches horizontally away from the sewer pipe.

D. Inspection--If a governmental agency requires an inspection of the customer's plumbing, the utility shall not connect the customer's service pipe until it receives a notice from that governmental agency certifying that the customer's plumbing conforms to those standards set by the agency.

E. Service Pipe Connection--The utility shall be responsible for providing the location for the connection of the customer's service pipe to the utility's service pipe or the utility's main, whichever is applicable, at the utility's expense, and at no expense to the customer. The utility shall have the right to inspect the service connection to the utility service line at the time of the completion of connection, and the service may not be provided to such connection until the utility inspects the service line.

103-556. Engineering Analysis.

A. The ORS may survey anticipated extensions of sewer lines and the utility will assist in such survey and provide all pertinent data necessary to determine the cost and feasibility of extending such lines.

B. The utility shall provide the ORS access to all utility property when the ORS undertakes to verify the inventories of utility plant systems, or obtain other necessary information.

SUBARTICLE 6

INSPECTION AND TESTS

103-560. Utility Inspection and Test.

103-561. ORS Inspection and Test.

When tests are conducted by the ORS, to insure that, or determine if, the provisions of these rules are being adhered to, each utility shall assist with such tests as requested, provided such request is in accordance with all legal requirements and sanctions.

103-562. Testing Facilities.

Each utility shall make such tests as are prescribed under these rules with such frequency and in such manner and at such places as is herewith provided or as requested by ORS or as may be approved or ordered by the commission.

103-563. Trouble Reports.

A. Each utility shall provide for the receipt of customer trouble reports at all hours and make a full and prompt investigation of all complaints. Each utility shall maintain an accurate record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected the time, the date, and nature of the report, the action taken to alleviate the trouble or satisfy the complaint, and the date and time of trouble clearance or other disposition of the complaint. This record shall be available to the

commission and ORS upon request at any time within the period prescribed for retention of such records.

B. Provisions shall be made to clear trouble of any emergency nature at all times, consistent with the needs of customers and the personal safety of utility personnel.

C. Provisions shall be made to keep all commitments to customers. If unusual repairs are required, or other factors preclude clearing of reported trouble promptly, reasonable efforts shall be made to notify affected customers.

103-564. Maintenance of Plant and Equipment.

SUBARTICLE 7

STANDARDS AND QUALITY OF SERVICE

103-570. Quality of Service.

103-571. Interruptions of Service.

A. Each utility shall make reasonable efforts to avoid interruptions of service, but when such interruptions occur, service shall be re-established within the shortest time practicable, consistent with considerations of safety.

B. Scheduled interruptions shall be made at a time that will not cause unreasonable inconvenience to customers and shall be preceded by adequate notice to those who will be affected.

C. Each utility shall maintain records and notify the commission and the ORS of any interruption in its service in accordance with 103-514.

SUBARTICLE 8

SAFETY

103-580. Acceptable Standards.

As criteria of accepted good safety practice the commission will use the applicable provisions of the standards referred to in 103-551.

103-581. Protective Measures.

A. Each utility shall exercise reasonable care to reduce the hazards to which its employees, its customers, and the general public may be subjected.

B. The utility shall give reasonable assistance to the ORS in the investigation of the causes of accidents and shall give reasonable assistance to the commission and the ORS in the determination of suitable means of accident prevention.

C. Each utility shall maintain a summary of all reported accidents arising from its operations.

103-582. Safety Program.

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ARTICLE 7

WATER UTILITIES

SUBARTICLE 1

GENERAL

103-700. Authorization of Rules.

A. Section 58-5-210 of the Code of Laws of South Carolina 1976, provides: "That the Public Service Commission is hereby, to the extent granted, vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the power, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, observed and followed by every public utility in this State, and the State hereby asserts its rights to regulate the rates and services of every public utility as herein defined. In accordance with the above provisions the Public Service Commission has adopted the following rules and regulations and fixed the following standards to govern water service by public utilities. All previous rules or standards are hereby revoked, annulled, and superseded."

B. The adoption of these rules shall in no way preclude the Public Service Commission from altering, amending, or revoking them in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, either upon complaint, upon the application of any utility or upon its own motion. Furthermore, these rules shall not relieve either the commission or the utilities of any duties prescribed under the laws of this State.

103-701. Application of Rules.

1. Jurisdiction. These rules shall apply to any person, firm, partnership, association, establishment or corporation (except public utilities owned or operated by any municipality or agency thereof and/or any water authority specifically exempted by statute) which is now or may hereafter become engaged as a public utility in the business of furnishing water to any water consumer within the State of South Carolina.

2. Purpose. These rules are intended to define good practice. They are intended to insure adequate and reasonable service. The utilities shall assist the commission and the ORS in the implementation of these rules and regulations.

3. Waiver of Rules. In any case where compliance with any of these rules and regulations introduces unusual difficulty or where circumstances indicate that a waiver of one or more rules or regulations is otherwise appropriate, such rules or regulations may be waived by the commission upon a finding by the commission that such waiver is not contrary to the public interest.

103-702. Definitions.

103-702.1. Commission.

103-702.2. Curb Stop.

Valve controlling water flow located on the utility service line. Curb stops are for the exclusive use of the utility for control of the water supply to individual customers and should be located at or adjacent to the customer's property line but should not be located on the customer's premises. The control of the water supply by the customer shall be by means of a separate valve, installed by the customer, and located on his premises.

103-702.3. Customer.

Any person, firm, partnership or corporation, or any agency of the Federal, State or Local Government, being supplied with service by a utility under the jurisdiction of this commission. Customers shall be classified for purposes of applying rates as "residential", "commercial", or "industrial".

103-702.4. Customer Contribution in Aid of Construction.

A fee paid by a customer under a contract entered into by and between the utility and its customers providing terms for the extension of the utility's mains to serve the customer.

103-702.5. Customer Service Line.

The portion of the distribution line that transports water from the meter, to the place of consumption on the customer's premises, or, if there is no meter, from the curb stop to the place of consumption on the customer's premises.

103-702.6. Error in Registration.

The percentage by which the correct registration varies from the meter registration. The error is derived by stopping the meter test hand at the starting point and then determining the percentage variation in registration as indicated by the working standard. The formula for determining the error in registration is:

$$100 \quad \times \quad \frac{\text{(Meter Reading-Actual Volume)}}{\text{(Actual Volume)}}$$

A positive percentage indicates a fast meter and a negative percentage indicates the meter is slow.

103-702.7. Homeowners Association.

An association of lot owners located in a particular subdivision or development incorporated under the laws of this state as a non-profit corporation, including as one of its purposes, the operation of a water system to serve the particular subdivision or development. Each homeowners association, prior to the commencement of operations of a water system, shall file with the commission and provide a copy to the ORS (a) a certified copy of its certificate of incorporation; (b) a copy of the corporation's bylaws; (c) a copy of any declaration of covenants, conditions and restrictions on real property in the subdivision or development filed in conjunction with the formation of the homeowners association; (d) a copy of the permit or authorization from the Department of Health and Environmental Control issued to the homeowners association to operate the utility; and (e) copies of a statement signed by each lot owner disclosing that the water services in the subdivision are provided by a non-profit homeowners association, in which each lot owner is a voting member, and that an appropriate assessment to meet operating expenses of the utility must be paid by each lot owner.

103-702.8. Main.

A water pipe owned, operated or maintained, by a utility, which is used for the purpose of transmission or distribution of water, but does not include the "utility service line" or "customer service line".

103-702.9. Meter.

Any device, or instrument, which is used by a utility in measuring a quantity of water for billing purposes. The meter will be the property of, and will be maintained by, the utility.

103-702.10 The Office of Regulatory Staff.

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The executive director and employees of the Office of Regulatory Staff.

103-702.11. Premises.

A piece or tract of land or real estate, including buildings and other appurtenances thereon.

103-702.12. Rate.

The term "rate" when used in these rules and regulations means and includes every compensation, charge, toll, rental, classification, or availability fee, or any of them, including tap fees, or other non-recurring charges demanded, observed, charged, or collected by any utility for any water service offered by it to the public, and any rules and regulations, practices, or contracts affecting any such compensation, charge, toll, rental or classification. An application for approval of any rate schedule will not be accepted for filing under S.C. Code Ann., § 58-5-240 unless accompanied by the information specified under 103-712(4).

103-702.13. Tap Fee.

A non-recurring, non-refundable charge related to connecting the customer to the utility's system which includes the cost of installing the utility's service line from the main to the customer's premises and a portion of plant capacity which will be used to provide service to the new customer. Plant capacity shall be computed by using the Guidelines for Unit Contributory Loadings to Wastewater Treatment Facilities (1972) to determine the single family equivalency rating. Any privately-owned corporation, firm, partnership, or individual empowered by contract, or otherwise, to collect a tap fee from a customer for the provision of water service to that customer shall be considered a utility, and shall obtain commission approval prior to collecting tap fees, or any other rates for water service. An application for approval of any rate change shall not be considered unless the filing contains appropriate exhibits setting forth all cost criteria justifying the tap fee, setting forth the portion of the tap fee related to installing the service line and the portion related to plant capacity.

103-702.14. Utility.

Every person, firm, partnership, association, establishment or corporation furnishing or supplying in any manner water to the public, or any portion thereof, for compensation. A "homeowners association", as defined in these rules and regulations and subject to the requirements set forth herein, upon commission order, may be found not to be a utility.

103-702.15. Utility Service Line.

The portion of the distribution line that transports water from a main to a meter, or if there is no meter, up to and including the curb stop.

103-702.16. Water Plant.

All facilities owned by the utility for the collection, production, purification, storage, transmission, metering, and distribution of potable water.

103-703. Authorization for Rates and Charges.

A. No schedule of rates, contracts, or rules and regulations, shall be changed until after the proposed change has been approved by the commission.

B. All rates, contract forms, or rules and regulations, proposed to be put into effect by any utility as defined in 103-702(14), shall be first approved by this commission before they shall become effective, unless they are exempt from such approval by statute or other provision of law.

C. No rate, contract, or rules and regulations of any utility under the jurisdiction of this commission shall be deemed approved or consented to by the mere filing of a schedule, or other evidence thereof, in the offices of the commission.

D. Each customer within a given classification (i.e., residential, commercial or industrial) shall be charged the same approved rate, including tap fees, as every other customer within that classification unless reasonable justification is shown for the use of a different rate or toll, and a contract or tariff setting forth the different rate has been filed and approved by the commission through the issuance of an order or directive.

103-704. Territory and Certificates.

No existing public utility supplying water to the public, or any individual, corporation, partnership, association, establishment or firm undertaking the construction or acquisition of a utility, shall hereafter sell, acquire, transfer, begin the construction or operation of any utility system, or of any extension thereof, by the sale of stock or otherwise, without first obtaining from the commission a certificate that the sale, transfer or acquisition is in the public interest, or that public convenience and necessity require or will require construction or operation of any utility system, or extension. Such certificate shall be granted only after the applicable information set forth in Subarticle 2, 103-710 et seq., has been filed with the commission and provided to the ORS, and after notice has been given to the Department of Health and Environmental Control and other interested water utilities, and to the public, and after due hearing; provided, however, that this regulation shall not be construed to require any existing water utility to secure a certificate for an extension within or to territory already served by it, necessary in the ordinary course of its business. But, if any water utility in constructing or extending its lines, plant or system unreasonably interferes, or is about to unreasonably interfere, with the service or system of any other utility, the commission may make such order, and prescribe such terms and conditions, in harmony with this regulation, as are just and reasonable.

103-705. Utilities Rules and Regulations.

Each utility shall adopt rules, regulations, operation procedure policies, terms and conditions, etc., as may be necessary in the operation of the utility. Such service "conditions or regulations" shall be approved by and filed with the commission, along with certification that these rules are consistent with the rules of the commission and provided to the ORS.

103-706. Security Issues.

A. No utility shall issue any securities without the approval of the commission. This rule shall not apply to any issue of securities payable within one year from the date of issue, except in case of subsequent issues made to refund short term obligations; but such short term obligations may be renewed by similar obligations without the approval of the commission for an aggregate period not exceeding two years.

B. Any utility desiring to issue securities may apply to the commission for approval of the proposed issue by filing an application with the commission and serving a copy on the ORS, together with a statement verified by (1) its president and secretary or other appropriate officers; (2) two of its incorporators, or (3) by its owner or owners, if it is unincorporated, setting forth:

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- (a) The amount and character of securities proposed to be issued;
- (b) The purpose for which they are to be issued;
- (c) The consideration for which they are to be issued;
- (d) The description and estimated value of the property, if any, to be acquired through the proposed issue;
- (e) The terms and conditions of the issuance; and
- (f) The financial condition of the utility and its operations so far as relevant.

C. The commission shall determine whether the purpose of the issue is proper; shall value the property or services, if any, to be acquired by the issue, and it shall find and determine the amount of securities reasonably necessary for the purpose for which they are to be issued. This determination shall follow such investigation as may be necessary, wherein the utility and any other interested party shall be entitled to be heard.

D. To the extent that the commission may approve the proposed issue, it shall grant to the utility a certificate of authority stating the character of the securities and the amount reasonably necessary for the purpose for which they are to be issued; and the value of any property or services, if any, to be acquired. This certification shall not impose or imply any guaranty or obligation as to such securities on the part of the commission.

SUBARTICLE 2 RECORDS AND REPORTS

103-710. Location of Records and Reports.

All records required by these rules are necessary for the administration thereof, shall be kept within an office located in this state, unless otherwise specifically authorized by the commission. These records shall be available for examination by the ORS or its authorized representatives at all reasonable hours.

103-711. Retention of Records.

Unless otherwise specified by the commission, or by regulations or commission Orders governing specific activities, all records required by these rules shall be preserved according to the most current edition of *Regulations to Govern the Preservation of Records for Electric, Gas and Water Utilities*, published by the National Association of Regulatory Utility Commissioners (NARUC). Following are certain modifications to those record retention periods:

(A) Item 30. Plant ledgers:

a. Ledgers of utility plant accounts including land and other detailed ledgers showing the cost of utility plant by class for the life of the utility.

b. Continuing plant inventory ledger, book or card records showing description, location, quantities, cost, etc. of physical units (or items) of utility plant owned – life of the utility.

(B) Item 32. Retirement work in progress ledgers, work orders and supplemental records:

a. Work order sheets to which are posted the entries for removal costs, materials recovered and credits to utility plant accounts for cost of plant retired – life of the utility.

(C) Other – Records related to a test year used in a rate adjustment proceeding shall be preserved for a period of two years after the final order in such case or throughout the period that the Order by the Public Service Commission concerning the rate adjustment may be appealed, whichever is later. The utility shall maintain beyond this two-year period sufficient records to verify and substantiate all requirements included in these rules.

103-712. Data to be Filed with the Commission and Provided to the ORS.

1. Annual Report. Each utility operating in the State shall file an annual report with the commission and provide a copy to the ORS giving accounting, and other information as the commission directs.

The commission or the ORS will provide an annual report form upon request. If the utility's books are maintained on a calendar year, the annual report must be filed on or before April 1st of each year. If the utility uses a fiscal year other than December 31st, the annual report should be filed within three months after the end of the fiscal year.

2. Current Information and Documents. The utility shall file with the commission and provide a copy to the ORS the following documents and information, and shall maintain such documents and information in a current status.

2.1. Tariff. A copy of each schedule of rates and charges for service, together with the applicable riders, including any rules and regulations or terms and conditions describing policies and practices in rendering service shall be provided to the commission and the ORS.

2.2. Contract Forms. A copy of each special contract for service, including aid to construction agreements, and rate or toll agreements shall be provided to the commission and the ORS.

2.3. Customer Bill. A copy of each type of customer bill form, which shall include the information which is normally shown on a customer's bill for service shall be provided to the ORS.

2.4. Operating Area Maps. A map of the utility's operating area. This map shall be revised annually and provided to the ORS unless such revision is unnecessary, in which event the utility shall notify the ORS that the map on file is current. The map should show:

- (a) Location of pumping stations, purification plants and sources of supply;
- (b) Potable water storage facilities;
- (c) Mains by size;
- (d) Location of valves and fire hydrants;
- (e) Service area clearly drawn on operating area map utilizing proper surveying standards;
- (f) Names of all communities (post offices) served;
- (g) Location of blow off valves;
- (h) Capacity of the system and;
- (i) Location of cross-connection control devices

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2.5. Authorized Utility Representative. The utility shall advise the commission and ORS of the name, title, address, and telephone number of the person who should be contacted in connection with:

- (a) General management duties;
- (b) Customer relations (complaints);
- (c) Engineering operations;
- (d) Meter test and repairs; and,
- (e) Emergencies during non-office hours.

3. Performance Bond. Prior to operating, maintaining, acquiring, expanding or improving any water utility system, for which commission approval is required, the utility shall have on file with the commission and provide a copy to the ORS a performance bond with sufficient surety using a format prescribed by the commission.

3.1. Amount of Bond. The amount of bond shall be based on, but not limited to, the total amount of the following categories of expenses for twelve months: Operation and Maintenance Expenses, General and Administrative Expenses, Taxes Other Than Income Taxes, Income Taxes, and Debt Service including Interest Expenses. The minimum amount of the bond shall be \$100,000 and the maximum amount of the bond shall be \$350,000 based on the verified expenses of the utility for the preceding twelve-month period. A bond shall be required for each water and wastewater provider under the jurisdiction of the Public Service Commission. A certification that the face amount of the bond on file with the commission complies with the provisions of 103-712.3.1 shall be filed with the annual report required by 103-712.1 of this rule. The ORS shall review the annual reports and certifications and determine whether the present bond of the utility accurately reflects the expenses of the utility. Based upon the expenses of the utility as submitted in the annual report and as reviewed and adjusted by the ORS, the ORS shall make recommendations for increasing or reducing the amount of the bond within the minimum and maximum limits as prescribed by statute.

3.2. Sureties.

3.3. Financial statement. Upon order of the commission, when any individual acts as surety, he shall file with the commission and provide a copy to the ORS annually a financial statement verified by said surety showing the individual surety's personal assets, liabilities and net worth. The commission may accept a verification of the financial statement in a format prescribed by the commission, including third-party verification.

4. Rate Applications

A. When any utility makes application for an increase in existing rates and charges, such application shall not be accepted for filing unless it contains the following information:

- 1) A statement of reason justifying need for proposed rate adjustment;
- 2) Most current available income and expense statement for the preceding twelve months;
- 3) Proposed rate schedule;
- 4) Test year proposed to be used;
- 5) Pro forma income and expense statement using proposed rates applied to proposed test year;
- 6) Balance sheet;

- 7) Depreciation schedule by categories of plant or average service lives;
- 8) Number of present and expected customers in the following twelve months;
- 9) Cost justification for proposed rates and charges, including tap fees; with attached schedules depicting labor costs, materials costs, and miscellaneous costs.
- 10) Filing or updating performance bond in accordance with 103-712.3.
- 11) Current or updated service area map;
- 12) Statement of total plant investment by categories; and,
- 13) Most recent letter of approval from the Department of Health and Environmental Control, dated not more than six (6) months prior to date of application; and
- 14) Customer bill form;
- 15) Annual Report on file and evidence of last period Gross Receipts paid; and
- 16) Any other pertinent or relevant information determined necessary by the commission.

B. When any utility makes application for establishment of service area and rates and charges, such application shall contain the following information:

- 1) Copy of articles of incorporation or partnership agreement;
- 2) Plat of proposed area to be served;
- 3) Copy of engineering plans and specifications designed or certified to be in accordance with good engineering practices by a professional engineer registered in South Carolina;
- 4) Construction permit from the Department of Health and Environmental Control approving engineering plans and specifications;
- 5) Schedule of proposed rates and charges and cost justifications, including tap fees with attached schedules depicting labor costs, materials costs, and miscellaneous costs;
- 6) Number of customers proposed to be served and capacity of system;
- 7) Financial statement showing proposed plant investment by categories;
- 8) Depreciation schedule by categories of plant or average service lives;
- 9) Pro forma income and expense statement showing the effect of using the proposed rates based on plant capacity;
- 10) Filing of performance bond in accordance with 103-712.3.
- 11) Statement by a professional engineer that the system was built and installed according to plans and specifications on file with the commission and will furnish adequate service for the area to be served;

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12) Letter from Department of Health and Environmental Control approving system for operation, dated not more than six (6) months prior to date of application;

13) Customer bill form; and

14) Other pertinent or relevant information determined necessary by the commission.

103-713. Inspection of Plant and Equipment.

A. Each utility shall, upon request of the ORS, provide to the ORS a statement regarding the condition and adequacy of its plant, equipment, facilities, and service in such form as the commission may require or as the ORS may request.

B. Each utility shall keep sufficient records to give evidence of compliance with its inspection program as set forth in Subarticle 6, 103-760 et seq.

103-714. Interruption of Service.

A. Each utility shall keep a record of any condition resulting in any interruption of service affecting its entire system or major division thereof, or any single community or an important division of a community, including a statement of the time, duration, and cause of any such interruption. The commission and the ORS should be notified of any interruption lasting more than six hours as soon as it comes to the attention of the utility and a complete report will be made after restoration of service.

B. Each utility shall make all reasonable efforts to prevent interruptions of service and, when such interruptions occur, shall endeavor to re-establish service with the shortest possible delay consistent with the safety of its consumers and the general public. Scheduled interruptions shall always be preceded by adequate notice to all affected customers, and will be made at a time that will not cause unreasonable inconvenience to customers.

C. All Water Utilities under the jurisdiction of the commission shall file with the commission and the ORS in writing a notice of any violation of PSC or DHEC rules which affect the service provided to its customers. This notice shall be filed within 24 hours of the time of the inception of the violation and shall detail the steps to be taken to correct the violation, if violation is not corrected at time of occurrence. The Company shall notify the commission and the ORS in writing within 14 days after the violation has been corrected.

103-715. Accidents.

Each utility shall, as soon as possible, report to the ORS each accident happening in connection with the operation of its property, facilities, or service, wherein any person shall have been killed or seriously injured or whereby any serious property damage shall have been caused. Such first report shall later be supplemented by as full a statement provided to the ORS as is possible of the cause and details of the accident and the precautions, if any, which have been taken to prevent similar accidents.

103-716. Complaints.

103-717. Meter History Records.

103-718. Meter Test Records and Reports.

103-719. Accounting Procedures.

All books and records of the utility shall be maintained in accordance with the NARUC Uniform System of Accounts for Class A, B and C Water Utilities to the extent applicable, and such records must be made available for examination by the ORS or its authorized representatives at all reasonable hours. Full cooperation will be provided by the utility during rate adjustment audits or compliance audits conducted by the ORS or its representatives.

**SUBARTICLE 3
METERS**

103-720. Meter Requirements.

Service shall be measured by meters furnished by the utility, unless otherwise ordered by the commission and such meters shall maintain the degree of accuracy as set forth in 103-722.

103-721. Meter Readings.

103-722. Meter Accuracy and Condition.

103-723. Meter Seal.

103-724. Meter Location.

A. All meters will be furnished, installed, owned, and maintained by the utility, and shall remain its property and be accessible to and subject to its control. Meters shall be located in accordance with good utility practices on the delivery side of the curb stop so as to control the entire water supply furnished to the premises. No meter shall be installed in any location on or off the premises where it may be unreasonably exposed to heat or cold or other cause of damage, or in an inaccessible or hazardous location.

B. Where water is furnished to the customer in accordance with a flat rate, the utility may install and maintain a meter located in accordance with good utility practices. After all customers in the utility's service area have been metered, the utility may make application to the commission and provide a copy to the ORS to obtain approval to change from a flat rate to a metered rate. Upon such application, the ORS will conduct an investigation to determine if a utility should utilize meters and, after hearing, the commission may order the use of metered rates. If no meters are in place, the commission after hearing, may order the installation of meters and the implementation of a metered rate.

C. The utility shall make available to the customer sketches of standard meter installations to demonstrate the way in which the customer's portion of the installation should be made.

D. In the event the customer desires any change in the location or position of the meter, meter box or vault, after they have been installed, such change in location shall be made by the utility at the expense of the customer.

103-725. Change in Character of Service.

103-726. Meter Damage.

**SUBARTICLE 4
CUSTOMER RELATIONS**

103-730. Customer Information.

Each utility shall:

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A. Maintain up-to-date maps, plans, or records of its entire transmission and distribution systems, with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers within its operating area.

B. Notify each affected customer in writing as prescribed by the commission of any proposed change in rates and charges. A certification that the above notice requirements have been met shall be furnished to the commission by the utility prior to the public hearing.

C. Provide that a complete schedule, contract forms, rules and regulations, etc., as filed with the commission and provided to the ORS, shall also be on file in the local offices of the utility and shall be open to the inspection of the public.

D. Upon request, inform its customers as to the method of reading meters and as to billing procedures, and shall assist prospective customers in selecting the most economical rate schedule applicable.

E. Provide adequate means (telephone, etc.) whereby each customer can contact an authorized representative of the utility at all hours in cases of emergency or unscheduled interruptions of service.

F. Notify any customer making a complaint pursuant to 103-716 that remains unresolved after seven days, that the utility is under the jurisdiction of the commission and the customer may notify the ORS of the complaint.

G. Inform each prospective customer from whom a deposit may be required of the provisions contained in 103-731 and its subsections.

H. Inform each prospective customer that the customer's service line shall conform to all local plumbing codes, and in the absence of such codes shall conform to the Southern Standard Plumbing Codes.

103-731. Customer Deposits.

103-731.1. Amount of Deposit.

103-731.2. Interest on Deposits.

A. Simple interest on deposits at the rate as determined by commission Order shall be paid by the utility to each customer required to make such deposit for the time it is held by the utility, provided that no interest need be paid unless the deposit is held longer than six months.

B. The interest shall be accrued annually and payment of such interest shall be made to the customer at least every two (2) years and at the time the deposit is returned.

C. The deposit shall cease to draw interest on the date it is returned, on the date service is terminated, or on the date notice is sent to the customer's last known address that the deposit is no longer required.

103-731.3. Deposit Records.

103-731.4. Deposit Receipt.

103-731.5. Deposit Retention.

103-731.6. Unclaimed Deposits.

A record of each unclaimed deposit must be maintained for at least one year during which time the water utility shall make a reasonable effort to return the deposit. Unclaimed deposits, together with accrued interest, shall be turned over to the South Carolina State Treasurer as prescribed by law.

103-731.7. Deposit Credit.**103-732.** Customer Billing.**103-732.1.** New Service.**103-732.2.** Customer Bill Forms.**103-732.3.** Late Payment Charges.**103-732.4.** Payment by Check.

The utility at its option for good cause may refuse to accept a check tendered as payment on a customer's account, and require payment in cash or other certified funds. Good cause must be justified by a water utility by evidencing a credit history problem or by evidencing insufficient funds of the utility customer or applicant. For the purposes of this regulation, the water utility may not consider indebtedness that was incurred by the customer or any member of his household more than six (6) years prior to the time of application.

103-732.5. Charges for Discontinuance and Reconnection.

Whenever service is turned off for violation of rules and regulations, nonpayment of bills, or fraudulent use of service, or at the request of the customer, the utility may make reasonable charges to be approved by the commission for the cost incurred in discontinuing the service and reconnection and require payment for service billed and for service used which has not previously been billed.

103-732.6. Estimated Bills.**103-732.7.** Deferred Payment Plan.

The utility shall provide for the arrangement of a deferred payment plan to enable a residential customer to make payment by installments where such customer is unable to pay the amount due for water service. The deferred payment plan shall require the affected customer to maintain his account current and pay not less than 1/6 of the outstanding balance for a period not to exceed six months. The outstanding balance may include the late payment charge authorized by R.103-732.3. Service to such customer shall not be terminated unless the utility has informed the customer that such deferred payment plan is available. A deferred payment plan is any agreement to extend or defer a payment cut-off date by more than 5 work days. If a Customer defaults on a Deferred Payment Plan, the Utility may terminate service pursuant to 103.735.1 (H).

103-733. Adjustments of Bills.**103-733.1.** Fast or Slow Meters.**103-733.2.** Customer Inadvertently Overcharged.**103-733.3.** Customer Inadvertently Undercharged.**103-733.4.** Customer Willfully Overcharged.

If the utility has willfully overcharged any customer, the utility shall refund the difference, plus interest, as prescribed by the commission for the period of time that can be determined that the customer was overcharged.

103-733.5. Customer Undercharged Because of Fraud or Willful Misrepresentation.

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103-734. Applications for Service.

- A. All applications for water service may be made orally or in writing.
- B. The accepted application shall constitute a contract between the company and the applicant, obligating the applicant to pay for water service in accordance with the utility's tariff currently on file with the Public Service Commission and the ORS, and to comply with these rules and regulations.
- C. When a customer desires to have his service terminated, he must notify the utility and such notification may be orally or in writing. The utility shall be allowed a reasonable period of time after the receipt of such notice to take a final reading of the meter and to discontinue service.

103-735. Denial or Discontinuance of Service.

Service may be refused or discontinued for any of the reasons listed below. Unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued.

- A. Without notice in the event of a condition determined by the utility, the commission by Order, or the Department of Health and Environmental Control to be hazardous or dangerous.
- B. Without notice in the event of customer use of equipment or service in such a manner as to affect adversely the utility's service to others.
- C. Without notice in the event of unauthorized use of the utility's service.
- D. For customer tampering with equipment furnished and owned by the utility. The customer shall make every reasonable effort to prevent tampering, and shall notify the utility immediately of any tampering with, damage to, or removal of any equipment.
- E. For violation of and/or non-compliance with the commission's regulations governing service supplied by the utility.
- F. For failure of the customer to fulfill his contractual obligations for service and/or facilities subject to regulation by the commission.
- G. For failure of the customer to permit the utility reasonable access to its equipment.
- H. For failure of the customer to provide the utility with a deposit as authorized by 103-731.
- I. For failure of the customer to furnish permits, certificates, and rights-of-way as necessary to obtaining service, or in the event such permissions are withdrawn or terminated.
- J. For illegal willful misuse of utility's service by the customer.
- K. For failure of the customer to comply with reasonable restrictions on the use of water, as imposed under 103-772 provided that notice has been given to the customer and that written notice has been furnished to the ORS.
- L. No water utility shall be required to furnish its water service or to continue its service to any applicant who, at the time of such application, is indebted or any member of his household is indebted, under an undisputed bill to such water utility for water service previously furnished such applicant or furnished any other member of the applicant's household. However, for the purposes of this regulation, the water utility may not consider any indebtedness which was incurred by the applicant or any member of his household more than six (6) years prior to the time of application.

M. The utility may discontinue a customer's service should that customer be in arrears on an account for service at another premise, unless the customer pays a reasonable amount of his arrears account and makes reasonable arrangements with the utility to amortize the balance of such past-due account over a reasonable length of time, not to exceed 12 months.

N. The customer's use of the utility's service conflicts with, or violates order, ordinances or laws of the State, or any subdivision thereof or the commission.

103-735.1. Procedures for Termination of Service.

(A) Service may be terminated for non-payment of a bill, provided that the water utility has made a reasonable attempt to effect collection and has given the customer written notice, sent by regular mail to the customer's billing address, that he has ten days in which to make settlement on his account or have his service disconnected. Service will be terminated only on Monday through Thursday between the hours of 8:00 A.M. and 4:00 P.M., unless provisions have been made to have someone available to accept payment and reconnect service.

(B) Service may be terminated for non-payment of any connection charge properly imposed by the utility and owed by the customer provided that the utility has made a reasonable attempt to effect collection and has given the customer 30 days written notice, sent by certified mail to the customer's billing address, with a copy forwarded to the ORS. A connection charge owed by a third party or a previous occupant or owner of premises is not deemed to be owed by the current customer, and that current customer's service may not be disconnected under such circumstances. At the expiration of the 30 day period, the utility shall post a second notice by certified mail to the customer advising that in not less than 10 days nor more than 30 days, his service may be disconnected at any time without further notice. The utility must inform the customer in the notice that the customer can contact the ORS if the customer disputes the discontinuance of service.

103-736. Insufficient Reasons for Denying Service.

103-737. Right of Access.

1. The authorized agents of the utility shall have the right of access to the premises supplied with water, at reasonable hours, for the purpose of maintenance and reading of meters, examining fixtures, protective device and pipes, observing the manner of using water, and for any other purpose which is proper and necessary in the conduct of the utility's business.

2. When a water line which is property of a utility is on the property of a resident in the utilities' service area which is on file with the ORS, the resident shall provide reasonable access to the utility for the maintenance thereof. Any damage done to the property by the utility shall be corrected by the restoration of comparable grass, shrubbery and trees from nursery stock to conform the condition before the maintenance process began.

103-738. Customer Complaints.

A. Complaints concerning the charges, practices, facilities, or service of the utility shall be investigated promptly and thoroughly. The utility shall keep records of customer complaints as will enable it and the ORS to review and analyze its procedures and actions. All customer complaints shall be processed by the utility pursuant to 103-716 and 103-730.F.

B. When the ORS has notified the utility that an oral complaint has been received concerning a specific account and the ORS has received notice of the complaint before service is terminated, the utility shall not discontinue the service of that account until the ORS's investigation is completed and the results have been received by the utility. Service shall not be discontinued if the complainant requests in writing a hearing before the commission.

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103-739. Tariffs, Rules and Regulations.

A copy of the utility's tariffs as filed with the commission and provided to the ORS shall be on file in the local business offices of the utility and shall be available for public inspection.

103-740. System Which Utility Must Maintain.

Each utility, unless specifically relieved in any case by the commission from such obligation, shall operate and maintain in safe, efficient and proper conditions all of its facilities and equipment used in connection with the services it provides to any customer up to and including the point of delivery into systems or facilities owned by the customer.

103-741. Replacement of Meters.

103-742. Waste of Water.

103-743. Contracts.

No utility shall execute or enter into any agreement or contract with any person, firm, partnership, or corporation or any agency of the Federal, state, or local government which would impact, pertain to, or effect said utility's fitness, willingness, or ability to provide water service, including but not limited to the treatment of said water, without first submitting said contract in form to the commission and the ORS and obtaining approval of the commission.

SUBARTICLE 5 ENGINEERING

103-750. Requirement for Good Engineering Practice.

103-751. Acceptable Standards.

Unless otherwise specified by the commission, each utility shall use the guideline of the Department of Health and Environmental Control as minimum standards of good engineering practices.

103-752. Acceptable References.

Unless otherwise specified by the commission, the utility shall use the applicable provisions in the publications listed below as operational requirements, where applicable, and standards of accepted good practice.

(a) The most current edition of the Community Water Systems, Ameen

(b) The most current edition of the Manual of Individual Water Systems

103-753. Adequacy of Service.

103-754. Inspection of Utility Plant.

103-755. Temporary Service.

103-756. Engineering Analysis.

A. The ORS or its authorized representatives may survey anticipated extensions of water line and the utility will assist in such survey and provide all pertinent data necessary to determine cost and feasibility of extending such lines.

B. The utility shall assist in the verification of tests of water meters made by ORS or its authorized representative.

C. The utility shall provide the ORS and its representatives access to all utility property when the ORS undertakes to verify inventories of utility plant systems, or obtain other necessary information.

SUBARTICLE 6 INSPECTION AND TESTS

103-760. Utility Inspections and Tests.

A. Each utility shall, unless specifically excused by the commission, provide such laboratory, meter-testing equipment and other equipment and facilities as may be necessary to make the tests required of it by these rules or other orders of the commission. The apparatus and equipment so provided shall be subject to the approval of the commission, and it shall be available at all times for the inspection of any member or authorized representative of the ORS.

B. Upon request by a customer and at no charge, the utility shall make a test of the meter serving him, provided that such tests need not be made more frequently than once in 24 months.

1) The customer, or his representative, may be present when his meter is tested.

2) A report of the results of the test shall be made to the customer within a reasonable time after the completion of the test, and a record of the report, together with a complete record of each test, shall be kept on file at the office of the utility.

103-761. ORS Inspection and Tests.

The ORS shall make tests of meters as follows:

(a) Upon written application to the ORS by a customer or a utility, a test will be made of the customer's meter as soon as practicable.

(b) On receipt of such request the ORS will notify the utility and the utility shall not knowingly remove or adjust the meter until instructed by the ORS. The utility shall furnish to the ORS's representative such reasonable assistance as may be required to make the test.

(c) The customer, or his representatives, may be present when his meter is tested.

(d) The ORS will make a written report of the results of the test to the customer and to the utility.

103-762. Test Procedures and Accuracies.

103-763. Facilities and Equipment for Testing.

Each utility shall maintain or designate a meter shop for the purpose of inspecting, testing and repairing meters. The shop shall be open for inspection by authorized representatives of the ORS at all reasonable times, and the facilities and equipment, as well as the methods of measurement and testing employed, shall be subject to the approval of the commission. The accuracy of the test equipment and test procedures shall be such that the overall error will not exceed .03%.

1. Working Standards.

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A. Each meter shop maintained or designated by a utility shall have at least one calibrated tank available for volumetric measurement or a tank mounted upon scales for weight measurement. The tank shall be of sufficient capacity to insure an acceptable determination of the accuracy of the utility's meters.

B. The utility may use a portable test meter, approved by the commission for use as a standard, for the purpose of testing meters.

C. Reasonable care must be exercised in the use and handling of standards to assure that their accuracy is not disturbed. Each standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

2. Meter Prover. The accuracy of all provers and methods of operating them will be established from time to time by a representative of the ORS. All alterations, accidents, or repairs which might affect the accuracy of any meter prover or the method of operating it shall be promptly reported in writing to the ORS.

SUBARTICLE 7 STANDARDS AND QUALITY OF SERVICE

103-770. Quality of Service.

103-771. Interruptions of Service.

A. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be re-established within the shortest time practicable, consistent with considerations of safety.

B. Scheduled interruptions shall be made at a time that will not cause unreasonable inconvenience to customers and shall be preceded by adequate notice to those who will be affected.

C. Each utility shall maintain records and notify the commission and the ORS of any interruption in its service in accordance with 103-714.

D. If an interruption affects the service of any public fire protection system, the utility shall immediately notify the public official responsible for fire protection.

E. When the system pressure is provided through mechanical means, emergency standby pumping equipment or other adequate facilities shall be available to maintain pressure in the mains in the event of failure of the primary pumping facilities.

103-772. Restrictions of the Use of Service.

A. The utility may impose reasonable restrictions on the outdoor use of water during period of shortage of supply, excessive demand or other difficulty which jeopardizes the supply of water to any group of customers.

B. The utility may impose reasonable restrictions on the use of water by customers who use large quantities of water and thereby create conditions which prevent the company from supplying satisfactory service to that customer, or to other customers.

C. If a utility finds that it is necessary to restrict the use of water, it shall notify the customers, and give the commission and ORS written notice before such restriction becomes effective, except in the event of an emergency, when such notification may be made by telephone. Such notifications shall specify:

1) The reason for the restriction.

- 2) The nature and extent of the restriction, (e.g., on outdoor use of water, use by certain classes of customers, etc.).
- 3) The date such restriction is to go into effect.
- 4) The probable date of termination of such restriction.

103-773. Pressure Tests.

- A. Each utility having more than 100 customers must have at least one portable recording pressure gauge available.
- B. Pressure measurements should be made at the customer's meter, or if no meter, customer's curb stop. If no outlet is available at this point, then the measurement may be made at the nearest available outlet, making due allowance for any pressure differential between the point of measurement.
- C. Each utility shall make a sufficient number of pressure measurements in order to determine if pressures throughout the system are in compliance with the requirements of 103-774.
- D. Each utility shall keep records of each test of pressures. These records shall include, as a minimum, the date, time, and location where the test was conducted. Pressure records shall be retained by the utility for at least two years and shall be made available for inspection by the ORS at all reasonable times.

103-774. Pressure Limits.

**SUBARTICLE 8
SAFETY**

103-780. Acceptable Standards.

As criteria of accepted good safety practice the commission will use the applicable provisions of the standards referred to in 103-751.

103-781. Protective Measures.

- A. Each utility shall exercise reasonable care to reduce the hazards to which its employees, its customers, and the general public may be subjected.
- B. The utility shall give reasonable assistance to the ORS in the investigation of the cause of accidents and shall give reasonable assistance to the commission and the ORS in the determination of suitable means of accident prevention.
- C. Each utility shall maintain a summary of all reported accidents arising from its operations.

103-782. Safety Program.

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

Statement of Rationale: The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-500, *et. seq.* and 26 S.C. Code Ann. Regs. 103-700, *et. seq.* is to conform the Public Service Commission's sewerage and water utilities' regulations with Act No. 175 of 2004. There was no scientific or technical basis relied upon in the development of these regulations.